

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. RA-EM-194
	)	
COUNTY OF HAWAII,	)	DECISION NO. 344
	)	
Petitioner.	)	FINDINGS OF FACT, CON-
	)	CLUSIONS OF LAW AND
	)	ORDER

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FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

On June 29, 1993, the County of Hawaii (County or Employer) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit with the Hawaii Labor Relations Board (Board). In its petition, the County requested the exclusion of Position No. 0262, Executive Assistant EM-01. The County contends that the incumbent of the position will assist and/or formulate and effectuate management policies and procedures in the area of employee-employer relations and should be excluded from bargaining pursuant to Subsection 89-6(c), Hawaii Revised Statutes (HRS).

The County submitted the following documents with the petition:

1. Affidavit of Michael R. Ben, Director of Personnel, Department of Civil Service, County of Hawaii, regarding Position No. 0262, dated June 25, 1993;
2. Letter dated June 15, 1993, from Michael R. Ben to Russell Okata, Executive Director of the Hawaii Government Employees Association (HGEA), requesting concurrence with the

continued exclusion of the Executive Assistant, EM-01, Position No. 0262 (Exhibit A);

3. Position description for Executive Assistant to the Mayor and/or the Managing Director (Exhibit B);

4. Class specifications for Executive Assistant I and II to the Mayor and/or the Managing Director (Exhibit C);

5. Table of Organization, Office of the Mayor (Exhibit D);

6. Amended affidavit of Michael R. Ben, Director of Personnel, County of Hawaii, regarding Position No. 0262, dated July 26, 1993; and

7. Amended position description for Executive Assistant to the Mayor and/or the Managing Director (Exhibit B-1).

Based on the affidavit of Michael R. Ben and the documents submitted in support of the petition, the Board makes the following findings of fact, conclusions of law and order.

#### FINDINGS OF FACT

The County of Hawaii is the public employer, as defined in Section 89-2, HRS, of employees of the County of Hawaii.

The HGEA is the certified exclusive representative of the employees in bargaining units 2, 3, 4, 6, 8, 9 and 13.

The HGEA concurs with the County's continued exclusion of Position No. 0262 and is deemed to have waived the right to a hearing thereon. Exhibit D.

According to the position description, the incumbent works in the Office of the Mayor, and performs the following duties in the approximate percentage of worktime:

1. Conducts research, gathers data, compiles statistics and other essential information relating to administrative functions as assigned; confers with other governmental officials and reports back to the Mayor and/or Managing Director. (15%)
2. Serves as liaison between the Mayor's Office and the various boards, commissions, and civic organizations; attends meetings to ascertain their concerns, interest and/or problems; reports back to Mayor and/or Managing Director with recommendations as appropriate. (20%)
3. Reviews current policies and procedures and recommends changes; formulates, implements and provides explanation of new administrative policies; prepares and issues memoranda, directives, notices, and other material as required. (20%)
4. Investigates complaints of alleged violations of laws, ordinances, codes, regulations, fraud and malfeasance against government officers and employees, County departments and agencies, or boards and commissions; ascertains the extent and nature of the violations; obtains substantiating information, evidence, and facts; interviews and interrogates witnesses, complainants and suspects; makes

recommendations as appropriate. Researches laws, ordinances, codes, regulations, and precedent cases to determine action necessary to alleviate violation(s); prepares reports on findings with recommendations. Maintains files of complaints and reports; assists in the preparation of the cases; testifies in court or at other administrative hearings. (25%)

5. Conducts background investigations for the Mayor on applicants for appointments. (10%)
6. Coordinates and monitors special projects as assigned. Assists in planning and arranging educational and information forums. Performs other related duties as required. (10%)

According to the specifications for the Executive Assistant class, positions in this class perform under general direction of the Mayor and/or the Managing Director with wide latitude for independent judgment in the field of specialization to carry out assigned functions and routine duties competently and supervise clerical help. Exhibit B.

#### DISCUSSION

Section 89-6, HRS, establishes 13 public employee bargaining units and provides in part:

- (a) All employees throughout the state within any of the following categories shall constitute an appropriate bargaining unit:

\* \* \*

- (3) Nonsupervisory employees in white collar positions;

\* \* \*

Section 89-6, HRS, however, specifies which employees are to be excluded from any appropriate bargaining unit and coverage under Chapter 89 and provides in part:

No . . . employee in the executive office of the Mayor . . . shall be included in any appropriate bargaining unit or entitled to coverage under this Chapter.

After a review of the duties and responsibilities of Position No. 0262, the Board concludes that the incumbent of the position is responsible for the formulation and implementation of policies and procedures to provide executive assistance to the Mayor and/or the Managing Director. While the instant petition requests a top-level managerial or confidential exclusion under Section 89-6, HRS, the Board finds that the position is located in the Office of the Mayor and is properly excluded from collective bargaining on that basis.

#### CONCLUSIONS OF LAW

The Board has jurisdiction over this matter pursuant to Section 89-6, HRS.

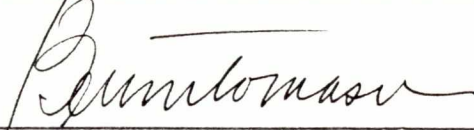
Position No. 0262 is located in the executive office of the Mayor and should be excluded from collective bargaining.

ORDER

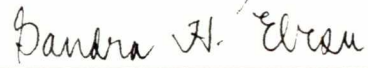
Position No. 0262, Executive Assistant, is an employee in the Office of the Mayor and pursuant to Section 89-6, HRS, is hereby excluded from collective bargaining.

DATED: Honolulu, Hawaii, October 1, 1993.

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

  
SANDRA H. EBESU, Board Member

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