

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	CE-02-387a
	)		CE-03-387b
HAWAII GOVERNMENT EMPLOYEES	)		CE-04-387c
ASSOCIATION, AFSCME, LOCAL 152,	)		CE-09-387d
AFL-CIO,	)		CE-13-387e
	)		
Complainant,	)	DECISION NO.	394
	)		
and	)	FINDINGS OF FACT, CONCLU-	
	)	SIONS OF LAW, AND ORDER	
BENJAMIN J. CAYETANO, Governor,	)		
State of Hawaii; SAM CALLEJO,	)		
Comptroller, Department of	)		
Accounting and General Services,	)		
State of Hawaii; HERMAN AIZAWA,	)		
Superintendent, Department of	)		
Education, State of Hawaii;	)		
LORRAINE AKIBA, Director,	)		
Department of Labor and	)		
Industrial Relations, State of	)		
Hawaii; KAZU HAYASHIDA, Direc-	)		
tor, Department of Transporta-	)		
tion, State of Hawaii; SUSAN	)		
CHANDLER, Director, Department	)		
of Human Services, State of	)		
Hawaii; MARGERY S. BRONSTER,	)		
Attorney General, Department of	)		
the Attorney General, State of	)		
Hawaii; MICHAEL WILSON, Direc-	)		
tor, Department of Land and	)		
Natural Resources, State of	)		
Hawaii; LAWRENCE MIIKE, Direc-	)		
tor, Department of Health,	)		
State of Hawaii; and JAMES	)		
TAKUSHI, Director, Department	)		
of Human Resources Development,	)		
State of Hawaii,	)		
	)		
Respondents.	)		

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On February 27, 1998, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA or Union) filed a prohibited practice complaint with the Hawaii Labor

Relations Board (Board) against Respondents BENJAMIN J. CAYETANO, Governor, State of Hawaii; SAM CALLEJO, Comptroller, Department of Accounting and General Services, State of Hawaii; HERMAN AIZAWA, Superintendent, Department of Education, State of Hawaii; LORRAINE AKIBA, Director, Department of Labor and Industrial Relations, State of Hawaii; KAZU HAYASHIDA, Director, Department of Transportation, State of Hawaii; SUSAN CHANDLER, Director, Department of Human Services, State of Hawaii; MARGERY BRONSTER, Attorney General, Department of the Attorney General, State of Hawaii; MICHAEL WILSON, Director, Department of Land and Natural Resources, State of Hawaii; KALI WATSON, Director, Department of Hawaiian Home Lands, State of Hawaii; and JAMES TAKUSHI, Director, Department of Human Resources Development, State of Hawaii (collectively Employer or State).

Complainant alleges that Respondents failed to consult, negotiate, and reach mutual consent over the relocation of employees to the Kapolei State Office Building (KSOB). Complainant contends that Respondents thus violated the provisions of the collective bargaining agreements for bargaining units 02, 03, 04, 09, and 13, and further violate Sections 89-9(a) and 89-13(a)(5), (7), and (8), Hawaii Revised Statutes (HRS).

On March 16, 1998, Complainant filed a Motion to Amend Prohibited Practice Complaint filed on February 27, 1998 to delete references to Respondent Kali Watson, Director, Department of Hawaiian Home Lands, State of Hawaii, and to add LAWRENCE MIIKE, Director, Department of Health, State of Hawaii as an additional Respondent. Thereafter, on the same day, the Board issued Order No. 1602 granting Complainant's motion to amend complaint.

The Board conducted hearings on the instant complaint on April 20, 21, 22, 23, and 28, 1998. Both parties were afforded full opportunity to present evidence and argument before the Board. On May 26, 1998, Complainant filed a motion for interlocutory relief with the Board. On June 1, 1998, the State filed a memorandum in opposition to Complainant's motion for interlocutory relief with the Board. On June 19, 1998, the parties filed post-hearing briefs with the Board.

Based on a thorough review of the record, the Board makes the following findings of fact, conclusions of law, and order. In view of the Board's findings and conclusions herein, the Board deems it unnecessary to address the merits of Complainant's motion for interlocutory relief.

#### FINDINGS OF FACT

The HGEA is the exclusive representative, as defined in Section 89-2, HRS, of State employees in bargaining units 02, 03, 04, 09, and 13.

BENJAMIN J. CAYETANO is the Governor of the State of Hawaii, and a public employer, as defined in Section 89-2, HRS.

SAM CALLEJO (CALLEJO) was, for all times relevant, the Comptroller of the State of Hawaii and a representative of a public employer, as defined in Section 89-2, HRS.

HERMAN AIZAWA was, for all times relevant, the Superintendent of the Department of Education (DOE), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

LORRAINE AKIBA is the Director of the Department of Labor and Industrial Relations (DLIR), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

KAZU HAYASHIDA was, for all times relevant, the Director of the Department of Transportation (DOT), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

SUSAN CHANDLER is the Director of the Department of Human Services (DHS), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

MARGERIE S. BRONSTER is the Attorney General for the State of Hawaii and a representative of a public employer, as defined in Section 89-2, HRS.

MICHAEL WILSON is the Director of the Department of Land and Natural Resources (DLNR), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

LAWRENCE MIIKE is the Director of the Department of Health (DOH), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

JAMES TAKUSHI (TAKUSHI) is the Director of the Department of Human Resources Development (DHRD), State of Hawaii, and a representative of a public employer, as defined in Section 89-2, HRS.

At the onset of the hearing in this matter, the parties stipulated to the following:

1) At all material and relevant times herein, the HGEA was and is an employee organization within the meaning of Section 89-2, HRS.

2) At all material and relevant times herein, HGEA was and is the exclusive representative of bargaining units 02, 03, 04, 09, and 13 employees employed by the State of Hawaii within the meaning of Section 89-2, HRS.

3) At all material and relevant times herein, all named Respondents and their respective properly designated agents or personnel officers were and are public employers within the meaning of Section 89-2, HRS, and depending on the individual executive departments, may be public employers of bargaining unit 02, 03, 04, 09, and 13 employees. Employees of bargaining units 02, 03, 04, 09, and 13 who may be employed by Respondents are impacted by the proposed relocation of State programs to the KSOB.

4) At all material and relevant times herein, the State of Hawaii, by and through BENJAMIN J. CAYETANO, its Governor, and through its respective agents, including but not limited to the named Respondents and each of them and the HGEA, have been parties to consecutive collective bargaining agreements as extended, which cover and extend to bargaining unit employees in Units 02, 03, 04, 09, and 13.

5) Accurate copies of relevant, existing and current collective bargaining agreements as which extend to covering bargaining units 02, 03, 04, 09, and 13 are stipulated into the record as Union Exhibits 1, 2, 3, 4, and 5.

6) Respondents admit that they have a duty to consult with HGEA on the relocation of certain State functions and personnel to the KSOB pursuant to Chapter 89, HRS.

7) Sometime in early 1996, Respondents commenced planning the relocation of certain State operations and functions and personnel to the KSOB.

8) After the planning stages, Respondents initiated the formal consultation process with HGEA on the proposed relocation of certain State operations and functions and personnel to the KSOB on or about April 14, 1997.

9) Respondents' planned consultation procedure included a general consultation request in a process with HGEA with Respondents assisted by the DHRD, and that the process further included a second phase of consultation between Respondents and each of them with HGEA on a local or department-by-department basis.

In June of 1994, the Department of Accounting and General Services (DAGS), established a policy on the occupation of State office space, entitled "DAGS Policies Governing Location of New State Office Building and Assignment of Space" (DAGS Policy). The DAGS Policy recognized two types of State offices - those which serve a statewide function and those which serve a regional function. Offices which serve statewide functions are generally at the top of the departmental organization chart and are "one-of-a-kind," whereas offices which serve regional functions are at the bottom of the chart are "one-of-many." The DAGS Policy also identified two State civic centers, the State Capitol Civic Center located in downtown Honolulu and the Kapolei Civic Center, located

on the Ewa plain and provided that all State offices serving a statewide function shall be located in either the State Capitol Civic Center or the Kapolei Civic Center. The DAGS Policy further provided that up to the year 2015, DAGS would be constructing or acquiring office buildings only in Kapolei and no further construction or acquisitions would be made in the State Capitol Civic Center, except for a visitor center facility. The DAGS Policy also provided that all permanent State offices would eventually be relocated from privately leased space to one of the two civic centers.

On August 3, 1995, CALLEJO revised the DAGS Policy to exclude an exemption previously recognized for departments with sufficient State-owned land and adequate design funds already encumbered. CALLEJO also removed the exception for a visitor center facility.

Ivan Nishiki (Nishiki), Leasing Program Manager at DAGS, was involved with the Kapolei relocation project since 1994. In July of 1996, Nishiki was assigned as the DAGS coordinator for the relocation of State offices to Kapolei and became involved in the day-to-day planning for the relocation. The DAGS planning branch worked on the master plan for Kapolei in 1990. According to Nishiki, the primary intent was not to create satellite offices. Nishiki initially identified offices which provided a regional function from Waipahu to Waianae and those programs which leased space from private entities. There is no evidence that the function of the particular program was considered in selecting the programs for relocation. After the initial selections were made,

affected departments were notified that certain agencies were assigned to participate in the relocation.

By memorandum dated June 27, 1996, CALLEJO notified KAZU HAYASHIDA, Director, DOT, that several programs were preliminarily identified as future occupants of the KSOB and since occupancy was anticipated around August 1998, DAGS wanted to begin discussions concerning the design, construction, and relocation of offices. Additionally, in order to coordinate an approach to this project, CALLEJO requested that HAYASHIDA designate a person to represent the department at the meetings. A list of agencies identified for relocation was attached to CALLEJO's memorandum.

According to an August 9, 1996 meeting agenda for departmental coordinators, the timetable indicated that space computations were required from the agencies by August 23, 1996. The individual department directors could request a change, if appropriate, and the department head could substitute other programs from leased space or from a State facility with the understanding that DAGS would fill that space with someone from leased space. Those space computations were due by August 30, 1996.

By letter dated September 11, 1996, Bruce Anderson, Deputy Director, Environmental Health Administration, DOH, State of Hawaii requested Russell Okata, Executive Director, HGEA, to consult on the plans to relocate the State Licensing and Federal Medicare Certification sections of the Hospital and Medical

programs on a statewide basis. Moving programs which would not serve the Leeward area would only cause more funds to be expended for that program to operate. The Union thus indicated that it awaited consultation as soon as possible.

By memorandum dated March 13, 1997, CALLEJO requested TAKUSHI to consult with the affected departments and their personnel offices in order to address potential grievance issues and to inform the Union accordingly. CALLEJO indicated that he had adopted several suggestions made by TAKUSHI's staff at the February 6, 1997 meeting in Kapolei, i.e., to have shower facilities and to provide office space for DHRD for employee assistance. CALLEJO admits that the departments whose employees would be moving to Kapolei had not yet apprised the Union and requested TAKUSHI's staff to discuss the kinds of assistance DHRD could provide with respect to the Union. CALLEJO also advised TAKUSHI that preventing changes in the assignment of agencies to Kapolei was critical for DAGS since they were already in the design phase of the project.

By memorandum dated March 19, 1997, TAKUSHI responded to CALLEJO that consultation meetings should be conducted by a designee from DAGS, the departmental relocation coordinator, the department head or designee, the managers of affected programs and the departmental personnel officers as these individuals should be able to respond to most of the questions on the specifics of the relocation and explain the decisions made. TAKUSHI also stated his concern that consultation with the unions and affected employees had not been initiated if the assignments of agencies had already been finalized. TAKUSHI indicated that if DAGS was still in the

process of finalizing the assignment of state agencies it might be understandable that consultation would not be initiated but once the agencies were identified, the lack of timely consultation would not be excusable. TAKUSHI further stated:

In our cursory check with the personnel officers of two affected departments, they indicated that they have received little or no information on the progress of the relocation. In fact, they were not even aware that assignment of agencies for the relocation have been finalized.

By memorandum dated April 1, 1997, CALLEJO advised TAKUSHI of the HGEA's March 10, 1997 letter to the Director of Health and requested DHRD's assistance in coordinating the effort to comply with applicable collective bargaining agreement requirements.

By memorandum dated April 8, 1997, TAKUSHI wrote to the affected departmental personnel officers (DPOs) to advise them of the tentative plans to consult with the unions on the relocation of state agencies to Kapolei. TAKUSHI indicated that DHRD would assist DAGS and assured them that the DPOs were capable of assisting their departmental relocation coordinators on localized concerns. TAKUSHI informed the DPOs that the tentative plan was for DAGS to send out the letter of consultation to the unions; for DAGS to conduct briefing tours of Kapolei for the managers and the unions; for DAGS with DHRD's assistance to conduct consultation on general relocation concerns; for DAGS to schedule separate tours for the employees; and for the DPOs to consult on localized departmental matters with a notice to consult to the Union on behalf of the department head. TAKUSHI also advised the DPOs to:

ensure that your managers notify employees about the relocation if they haven't already done so and that consultation will be held in the near future at the general level and localized level at appropriate times.

By letter dated April 10, 1997, CALLEJO advised Russell Okata of the HGEA, that the State, through DAGS, will be relocating approximately 1,000 state workers to the new KSOB in August 1998. CALLEJO indicated that the relocation primarily involved state programs currently occupying leased office space from Honolulu to Waianae. CALLEJO indicated that the KSOB would be a leased facility consisting of six stories and approximately 200,000 leasable square feet. In order to comply with the consultation requirements, DAGS, with the assistance of DHRD, planned to consult with the Union in late April 1997. CALLEJO attached TAKUSHI's memorandum to the DPOs describing the two-step consultation process to the Union.

By letter dated April 15, 1997, CALLEJO invited the HGEA to participate in a briefing tour of Kapolei. The purpose of the tour was to provide a framework in which to begin the consultation process and provide a question and answer session concerning general relocation issues. CALLEJO attached a list of the affected agencies as well as the relocation coordinators, a meeting agenda, maps, information about carpool and vanpool and bus services.

By letter dated May 5, 1997, Randy Perreira, Field Services Officer for the HGEA and the lead HGEA person regarding the Kapolei move wrote to TAKUSHI regarding the Kapolei relocation. The letter states, in part:

At this time, we have been contacted by the Department of Accounting and General Services on the global aspects of the relocation, and

Facilities Branch<sup>1</sup> from the Queen Emma Building in downtown Honolulu to Kapolei. The letter identified an anticipated move date of November 1998 and included a list of staff members who would be impacted by the move.

In January 1997, DAGS identified a list of programs from the departments of the Attorney General, Education, Health, Transportation, Land and Natural Resources, Labor and Industrial Relations, and Human Services to be relocated to Kapolei. By memorandum dated January 30, 1997, DAGS Comptroller CALLEJO wrote to TAKUSHI and advised him of the construction of the Civic Center in Kapolei and the relocation of approximately 1,000 state employees was involved. CALLEJO informed TAKUSHI that the anticipated completion date was June 1998 and DAGS was in the process of finalizing the assignment of programs. CALLEJO requested DHRD's guidance for DAGS and the affected departments to prevent or minimize employee grievances. CALLEJO invited TAKUSHI and his staff to a meeting on February 6, 1998 in Kapolei.

Thereafter, by letter dated March 10, 1997, three HGEA business agents informed Director of Health LAWRENCE MIIKE that they had received a number of questions regarding the relocation to Kapolei and that it was the Union's position that consultation was required on the move. In addition, it was the Union's position that the criteria for the move was haphazard and that it would be in the best interests of the department to thoroughly study the need for services in the Kapolei area and assign the appropriate

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<sup>1</sup>DAGS designated eight DOH programs to relocate to Kapolei. The record does not contain references to similar letters to consult for the other DOH programs.

have had the opportunity to tour the Kapolei site. It is our understanding, however, that the consultation process is seriously lagging behind the reality of the move; specifically, the affected State agencies have already made determinations on what offices will move, and draft floor plans are already in circulation to determine space allocation for those offices.

Clearly, we feel that the Employer must initiate the second phase of the consultation process immediately; HGEA/AFSCME is currently facing a barrage of questions from those staff who have been chosen for relocation, yet we have not been contacted directly by any of the line agencies about their plans.

Perreira therefore requested that DHRD notify the affected agencies to contact HGEA immediately to begin their portion of the consultation process.

By memorandum dated May 5, 1997, TAKUSHI advised the DPOs of HGEA's request that affected departments initiate the second phase of the consultation process on localized departmental concerns because of the number of questions from employees. TAKUSHI advised the DPOs to initiate consultation meetings as soon as possible.

In response to TAKUSHI's memorandum, Patricia Fowler (Fowler), Personnel Specialist with the DOE contacted Perreira by telephone to offer the Union the opportunity to consult on the proposed relocation of employees to the KSOB. Perreira acknowledged that he was the Union's consultation coordinator for the Kapolei matter and would contact Fowler for a meeting. Perreira did not contact Fowler and she later contacted Perreira about the need to meet and consult, he indicated that he would focus his consultation efforts on either DAGS or DHRD, and that he was not requesting to meet individually with the DOE at that time.

Thereafter, by letter dated May 27, 1997, Donald R. Nugent, Assistant Superintendent, DOE, wrote to Perreira confirming his representations to Fowler.

Fowler indicated that normally when the DOE initiates consultations, the department tries to put together an informational package, as extensive as possible, as is necessary for the union to have meaningful input. If the union asks for information that the department had not thought of, the department makes every effort to provide that as well.

By letter dated, May 20, 1997, Lorraine H. Akiba, DLIR Director, wrote to Okata to invite consultation regarding the relocation of seven employees of the department's Workforce Development Division from their present office in Waipahu to the Kapolei Civic Center. Thereafter, Edwin Goto, DLIR DPO, spoke to Perreira and was advised that the affected employees in the Job Help Store did not appear to have any objections to the relocation plans and the Union did not have any specific concerns for DLIR at the time. However, the Union reserved its right to address further issues.

By letter dated May 27, 1997, Perreira responded to Akiba that he advised Goto that the HGEA was in the process of obtaining information from DAGS and for the present the Union was interested in certain "global" concerns that affected all of the staff being relocated and were not focusing on the individual agencies that have been directed to relocate. Perreira reserved the right to address any concerns as they arose and did not consider the consultation process to have been completed by his response.

Goto indicated that he had previously touched bases with the division or branch staff of the Job Help Store and was told essentially that there was no real concern expressed by any of the employees. They were temporary workers in a temporary program and the move involved approximately ten miles difference in location.

Edwin Nose, Personnel Management Specialist, DHS, was assigned to consult with the Union over the Kapolei move. Nose contacted the Union agents to arrange for a pre-consultation meeting to have the Union submit written comments in advance so that when the official consultation took place the department would be better prepared to provide information. Nose wanted to know if there were other proposals that the Union wanted considered and if they wanted to meet with all affected division administrators. On July 9, 1997, Nose and others from DHS met with HGEA agents Willie Chai and Harlow Urabe and waited for written questions from the Union. Thereafter, Nose contacted Chai and Urabe to schedule a meeting and submit the written questions that were discussed previously but nothing more was submitted.

By letter dated November 20, 1997, DHS Director SUSAN CHANDLER informed the HGEA that the DHS would be relocating 11 administrative and line program offices to Kapolei, involving 300 employees. CHANDLER indicated that information was shared previously in a pre-consultation meeting held on July 9, 1997 and invited the Union to consult on the Kapolei move. By letter dated December 4, 1997, Perreira notified CHANDLER that the HGEA had informed CALLEJO, by letter dated October 9, 1997, that the relocation was, in part, subject to negotiation. Perreira stated that a meeting was held on October 30, 1997 and concerns had yet to

be resolved. Perreira requested CHANDLER to provide, inter alia, information from the department, including a complete list of employees by work unit, information on employees' personal hardships and any remedial action, and the department's justification in determining which units would be relocated. Nose obtained some of the information requested, but never provided the information to the Union. Nose was also aware that the MedQuest employees wanted the Director to reconsider her decision to relocate them. Nose believes that the consultation process is still open since he is still waiting to meet with the Union.

In May 1997, Cherille Ng, Administrative Services Manager, Kapolei departmental coordinator, and others from the Department of the Attorney General met with Union agents Carolee Kubo and Royden Kotake to discuss the proposed relocation of the Child Support and Enforcement Agency (CSEA) to Kapolei. The Union raised concerns regarding parking and transportation. By letter dated June 9, 1997, DPO Glennis Kiyota provided the information to the Union. By letter dated July 2, 1997, the HGEA requested more information relating to parking, alternate transportation, security, air conditioning and work hours. By letter dated October 30, 1997, Kiyota provided the information on the questions raised. The information was obtained from DAGS through the CSEA administrator and transmitted by Kiyota. The HGEA did not submit further correspondence. Ng testified that the employees of the unit were notified by their administrator in a newsletter in mid-1997 and by the Attorney General. Ng also testified that prior to the end of December 1997, no list of employees with position numbers was created.

Melvin H.C. Young, DLNR DPO, assigned Labor Relations Specialist Kenneth Miyabara to work with the DLNR move coordinator Don Hibbard to initiate consultation for the Historic Sites Preservation Division. On May 8, 1997, Perreira informed Miyabara that the Union would inform DLNR when the Union was prepared to meet. DLNR never sent a letter inviting consultation to the Union and was not contacted by the Union requesting information regarding the Kapolei relocation.

As stated supra, DOH Deputy Director Bruce Anderson initiated consultation with Union agents, by letter dated September 11, 1996 regarding the relocation of the State Licensing and Federal Medicare Certification Sections<sup>2</sup> to Kapolei. Anderson met with Union agents on September 30, 1996. Thereafter, after receiving TAKUSHI's memorandum to start phase two of the consultation, Corrine Yazawa, Personnel Management Specialist, DOH, contacted Perreira to schedule a consultation meeting for May 21, 1997. At that time, Perreira basically wanted to know who made the decision to move. Valerie Ako, Administrative Services Officer, indicated that the selection was made on DAGS' direction relating to lease programs and when Yazawa informed Perreira, he indicated that since the decision was being made at a higher authority than the line agencies, that they did not have to meet. On or about May 6, 1997, Yazawa sent a list of affected DOH programs to Union agent Nora Nomura.

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<sup>2</sup>Other DOH programs designated to relocate to Kapolei include DOH/CAMDH - Leeward Childrens' Team & Adult Mental Health, DOH/Alcohol & Drug Abuse, DOH/Develop. Disabil. Div., Community Service Branch, and DOH/Preventative Health Svcs. Ex. 2, attached to Amended Affidavit of Ivan Nishiki.

Yazawa also provided information upon request to the United Public Workers union including, the affected employees' names, position titles, where the employees are located and where they were being relocated to. The HGEA made no further informational requests to the DOH. In response to HGEA's request for information dated December 8, 1997, the information regarding the DOH employee concerns was not provided by Yazawa but probably by the departmental relocation coordinator.

By letter dated October 2, 1997, Hugh Y. Ono, Highways Division Administrator, DOT, notified HGEA of the specific branches involved in the Kapolei move and DOT's intention to consult on the matter. By memorandum dated December 5, 1997, George Rezens, DOT Kapolei coordinator, provided Perreira with a list of employees, including position titles and numbers, who were scheduled to relocate pursuant to Perreira's request during the week of October 19, 1998. Rezens testified that the DOT knew of the four specific branches involved in the Kapolei move in August 1996. Rezens also testified that he had asked the branches to self-survey to determine if the employees wanted to go to Kapolei and two-thirds said they did not want to go. Since the results were not supportive of the move, he discarded the results.

By letter dated October 9, 1997, Keith W. Ahue (Ahue), Deputy Director of the HGEA wrote to CALLEJO indicating that after receiving information and concerns from affected employees, the HGEA considered the matter of the relocation to require, in part, bargaining on the impact of the decision on the employees and not simply consultation on the relocation. Ahue further stated that,

It is not the intent of our organization to question the authority and rights of the Employer to relocate operations to different work locations; rather, the impact on those employees affected by the relocation is negotiable.

CALLEJO responded by letter, dated October 20, 1997, and suggested that prior to considering negotiations on the issue, that the parties meet to identify the issues as well as the problems and concerns of the affected employees. CALLEJO emphasized that it was critical that the project be kept on schedule.

The parties met on October 30, 1997 and the Union complained about the lack of information provided even upon request, the failure of the employer to adequately plan the move, the problems with the notification of employees, operational problems, the personal impacts and hardships of the employees, and the lack of attempt by the State to identify or remedy the impact on the employees. The Union did not present specific proposals but identified general areas of concern. The DOT's Right-of-Way Branch's concerns that the agents spent 70% of the worktime in downtown Honolulu and DOH MedQuest's concerns for their downtown clientele were raised. When questioned as to the purpose for the relocation, CALLEJO told the Union that the purpose was to seed the Second City, reduce traffic, and provide a government presence at Kapolei. The meeting ended with CALLEJO promising to forward information to the Union.

On November 24, and 26, 1997, DOH and DOT submitted their respective information to Nishiki. DOH had solicited a list of concerns from its employees. DOT provided an informal poll which showed that the work time spent downtown was 27%, rather than 70%.

DOT also provided a budget request for a fiber optic cable to assure that the Traffic Branch would continue to be connected with the City and County of Honolulu for traffic surveillance.

Perreira, by letter dated December 3, 1997 requested that CALLEJO provide the information which was previously requested in their October 30, 1997 meeting, including reasons why certain organizational segments were being sent to Kapolei even if they did not provide direct service to the Leeward area. CALLEJO provided information regarding the employee concerns to the HGEA, by letter dated December 8, 1997. CALLEJO specifically addressed the DOH employee concerns, including transportation, change in worksite, work hour flexibility, office space in downtown, mileage, security, and the availability of conference rooms. CALLEJO also indicated that the DOT conducted a survey revealing that the Right-of-Way Branch spent approximately 27% of their time downtown which the DOT did not consider significant. In addition, CALLEJO indicated that the assignments to Kapolei included agencies located in surrounding districts providing regional services as well as agencies located in downtown Honolulu. CALLEJO stated that the "birth" of the Civic Center was purposely intended to house agencies with statewide, as well as regional functions.

After CALLEJO's December 3, 1997 response to the HGEA, Nishiki believed that all of the Union's concerns were addressed. The Union had also requested a copy of an executed lease document for the occupation of the KSOB but the State submitted a commitment letter between the State and the developer, Kobayashi Partnership, because the lease had not yet been executed. CALLEJO did not respond to the Union's request to negotiate over the impacts of the

relocation to Kapolei and did not provide a complete list of employees designated to relocate.

Perreira testified that CALLEJO's April 10, 1997 letter was the first notice he received from the State requesting consultation on the relocation to Kapolei. He was unaware of the November 1996 letter from DOH Deputy Director Bruce Anderson as well as the March 10, 1997 letter from the three Union agents to MIIKE. After requesting to consult on localized concerns with the DPOs in early May 1997, Perreira became aware that the line agencies had little or no authority in making decisions regarding the move and that DAGS was the decision-maker. Thus, the departments were not able to respond to any specific questions regarding what functions were being relocated. After contacting the departments, Perreira talked with DAGS personnel but felt that the impact of the move was being oversimplified. In personal contacts with CALLEJO, Perreira was rebuffed and did not obtain any meaningful responses.

Perreira recognized that the employer has some right to relocate operations and if the State had an overriding public interest to seed the Second City of Kapolei, the State should assess the functions of the services to be offered and relocate services which were essential to the area. Here, it appeared to the Union that the State had not conducted a functional assessment of the programs being located and therefore could not justify why these programs were selected to be relocated. It appeared as if the State had not attempted to think through who would be moved and for what purpose other than to fill the leased building in Kapolei with 1,000 people from leased buildings in downtown Honolulu.

The employees affected complained of the adverse impacts caused by the move, including additional automobile expenses because of the longer commute, e.g., gas, insurance, second car, etc., increase in mileage reimbursement, loss of second jobs, educational opportunities, longer commute time, operational inefficiency, job swapping, childcare, eldercare, geographic location as a condition of work, etc. Thus, the Union requested bargaining because of the adverse impacts on the employees.

With regard to the geographic restriction of certain jobs to the downtown business district, Norman Ohara (Ohara), Personnel Program Manager, Recruitment Branch, DHRD, testified that in appropriate cases, if DHRD anticipates a current vacancy in a particular area, DHRD restricts the recruitment of the vacancy to the downtown business district to lessen the number of applicants for consideration. DHRD considers the restriction a recruitment tool to match the applicant with the job vacancy. If the job is restricted to the downtown area and the applicant indicates that he or she is unavailable, DHRD will give the applicant an opportunity to make himself or herself available. The restriction is not considered a condition of employment but a referral tool which describes the parameters or characteristics of the position at the time. According to Ohara, management will decide how to use the position after it is filled.

With respect to information needed by the Union, Perreira testified that the State did not provide information attendant to the consultation which should have included the names and position numbers of the employees affected, the impact of the proposal from the employer's perspective, the authority which necessitated the

change, and any other documentation that the employer could provide to justify the employer's request. Perreira further testified that the Union usually receives the information in advance of the consultation to review in the event further information will be needed. In this case, the Union specifically requested a list of all affected employees, a copy of the lease agreement, and additional information regarding what functions the employees would perform. According to Perreira, the list of employees was not provided by CALLEJO but was obtained from the individual departments.

With regard to the timing of the consultation process, the record is clear that DAGS had the details of the Kapolei move in 1996 but offered to consult with the Union in 1997. Perreira testified that by that time the State contacted the Union<sup>3</sup> to consult on the relocation, the decisions on who was to move had been finalized and DAGS was already in the design phase of the project.

#### DISCUSSION

The HGEA contends that Respondents failed to consult, negotiate, and reach mutual consent on the issues concerning the State's relocation of certain programs to the KSOB. The HGEA contends that the Respondents violated Sections 89-9(c), and 89-13(a)(5), (7), and (8), HRS. Section 89-13, HRS, refers to prohibited practices, provides, in pertinent part:

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<sup>3</sup>According to the timetables in the Meeting Agenda, dated August 9, 1996, space computations from the agencies were due on August 30, 1996 and construction on the KSOB would start in October 1996.

(a) It shall be a prohibited practice for a public employer or its designated representative wilfully to:

\* \* \*

(5) Refuse to bargain collectively in good faith with the exclusive representative as required in section 89-9;

\* \* \*

(7) Refuse or fail to comply with any provision of this chapter;

(8) Violate the terms of a collective bargaining agreement; . . . .

Section 89-9, HRS, refers to the scope of negotiations and provides, in part, as follows:

(a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer's budget-making process, and shall negotiate in good faith with respect to wages, hours, . . . and other terms and conditions of employment which are subject to negotiations under this chapter . . . .

\* \* \*

(c) Except as otherwise provided herein, all matters affecting employee relations, including those that are, or may be, the subject of a regulation promulgated by the employer or any personnel director, are subject to consultation with the exclusive representatives of the employees concerned. The employer shall make every reasonable effort to consult with the exclusive representatives prior to effecting changes in any major policy affecting employee relations.

Applicable contract provisions providing for consultation and negotiation over personnel policy changes are identical for Units 02, 03, 04, 09, and 13 and provide as follows:

#### ARTICLE 4 - PERSONNEL POLICY CHANGES

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are

subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

The HGEA contends that the Respondents unilaterally decided to implement its decision to relocate government operations and employees to the KSOB on January 30, 1997. Notwithstanding its formal request for consultation on April 10, 1998, the HGEA contends that the record reflects that the employer refuses to alter any of its prior decisions concerning the selection of government agencies and a poor record of consultation. After limited contact with the Union, the HGEA contends that the Respondents refused HGEA's request for bargaining dated October 9, 1997.

The HGEA contends that the relocation or programs to Kapolei will have a substantial and significant impact on the ability of employees to perform their current duties, and include the following:

- . Loss of actual work time due to extended travel time between downtown and Kapolei during work hours.
- . Loss of downtown parking privileges and a concomitant increase in mileage and parking cost reimbursements provided under contract and personnel rules.
- . Difficulty in completing work duties and responsibilities assigned and contained in position descriptions.
- . Decrease to public access to certain agencies.
- . Inability to respond quickly to working situations that require coordinated responses from more than one agency.
- . Inability to respond to court presence immediately.
- . Inability to be present at hearings with file records.

- . Mileage reimbursements are capped at \$100 per month. No indication from employer if that amount will be increased because of relocation.
- . Starting times may impact the ability of certain employees to attend hearings in the morning.
- . Change in location of position for which employee was initially hired.

The HGEA also argues that the relocation will have a substantial and significant personal impact on employees, which include the following:

- . Additional personal expenses, like purchases of vehicles, gas, mileage, wear and tear on these vehicles, auto insurance, etc.
- . Unreimbursed business related expenses like parking downtown, Kapolei.
- . Lack of early bus service for those who require or need the bus system.
- . Inability to timely respond to personal emergencies.
- . Hardship and difficulty in getting to and from Kapolei.
- . Lack of flex time as an alternative to these employees.
- . Lack of early and late building security.
- . Inconvenience of travel to and from home to Kapolei. (Increase in travel time in excess of hours).
- . Lack of concomitant increase in wages to offset additional personal expense incurred to now perform their employment duties.
- . Lack of employer alternatives to accommodate relocation.
- . Inability and difficulty in child and adult care. May include increased child/adult care costs.
- . Loss of second jobs.
- . Elimination of opportunity for further education.
- . General changes to decisions in personal life based on location of present employment, i.e., children's schools, day-care, adult-care, spouses' employment opportunities, etc.)

Complainant also contends that in a limited effort to respond to employee concerns, the employer has condoned activities, i.e., job swapping, which impacts on the collective bargaining agreements. The HGEA contends that mileage reimbursement, car allowances, parking, hours of work, changes in job location,

impacts on collective bargaining agreements. The HGEA contends that the additional expenses reduces the employees' net income and affects wages.

Respondents contend that the impact of the relocation to Kapolei on employees is not negotiable and that the State recognizes, and did in fact fulfill, its duty to consult with the HGEA on the relocation. Respondents contend that work hours and wages are unchanged by the move to Kapolei and there is no material and significant effect on the terms and conditions of employment which warrant negotiations over the relocation to Kapolei in this case.

Section 89-9(d), HRS, sets forth those matters which are excluded from the subjects of negotiations, and provides in part:

The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to Sections 76-1, 76-2, 77-31, and 77-33, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies; . . . .

The Board has traditionally applied a balancing test to determine whether a subject is a condition of employment and therefore a mandatory subject of bargaining. Lingle v. United Public Workers, AFSCME, Local 646, AFL-CIO, Order No. 1333,

(8/30/96); Hawaii Government Employees Association, 1 HPERB 63 (1977). The Board has relied upon the analysis used in Decision No. 26, Department of Education, 1 HPERB 311 (1973) and Decision No. 102, Hawaii Fire Fighters Association, 2 HPERB 207 (1979) to determine whether an issue is negotiable where the employer claims an interference with management rights. The test is determined by the nature of the impact of the matter on terms and conditions of employment, i.e., whether it has a material and significant effect on terms and conditions of employment.

The record includes testimony from employees concerned with the inconvenience of the additional 17-mile commute from downtown Honolulu to Kapolei and the resulting impact on the employees in the nature of additional expenses for the purchase of another vehicle, gas, insurance, maintenance; disruption to child care or elder care activities; and the possible loss of second jobs and the loss of educational opportunities. While the Board appreciates the impact of these hardships on the employees, these concerns are personal in nature and do not impact upon working conditions.

While the Union raised the issue of negotiating additional mileage reimbursement before the Board, there is nothing in the record to establish that the Union requested bargaining over increased mileage reimbursement and that the State refused to bargain over the matter. Further, the Board agrees with the State that mileage reimbursement for additional non-work commutes is not covered in the applicable contracts. One employee testified that her employer placed a \$100 cap on monthly mileage reimbursement but the record is also clear that the improper denial of mileage

reimbursement is grievable since there is no limit on reimbursements under existing contractual provisions.

The Union contends that some employees were hired upon the condition that the job was located in the downtown business district. Norman Ohara, DHRD's Recruitment Manager, testified that the geographic restriction is a recruitment tool which sets forth a characteristic of the vacancy at the time and does not create a condition of employment. Ohara further testified that once the vacancy is filled, management will decide how to use the position. The State contends that the restriction in the vacancy announcement does not create an express condition or an expectation that the position will remain in that location forever. It merely sets forth the characteristic of the position at the time of recruitment. Based upon the record here, the Board finds that the geographic restrictions in the vacancy announcements are recruitment tools and do not create a condition of employment or an expectancy that the position will forever remain in that location. A finding to the contrary would bind the employer in a manner which would interfere with its right to direct its employees and manage its operations.

In addition, the Union contends that employer's proposal for job swapping or the simultaneous exchange of positions to accommodate the adverse effect of the move for individual employees impacts upon contractual provisions and is therefore negotiable or subject to consultation. The evidence in the record, however, indicates that while job swaps were raised in discussions between the DPOs and Union agents, there is no evidence of any actual exchanges or contemplated exchanges. Thus, the Board finds that

the record is insufficient to base a finding whether the job swaps significantly impact on working conditions or existing contractual provisions to warrant negotiation. The Board, however, understands that the State explored the issue with the Union in order to accommodate the individual employees concerned and their anticipated hardships.

Thus, while it is clear that the relocation of government offices to Kapolei will create hardships and pose a substantial inconvenience to certain employees in terms of commuting to and from work, there is no evidence that the move will have a significant and substantial impact on their terms and conditions of employment. No one will be displaced and the duties and responsibilities of those individuals designated to relocate will remain the same. With respect to the State's purpose in relocating to Kapolei, the State expressed its interest in seeding the Second City of Kapolei by creating a governmental presence there. The movement of 1,000 State employees is evidence of the State's commitment to the development of that vision. The Union acknowledged that the employer has the right to relocate its operations and requiring the State to negotiate the impact of the Kapolei move in this case would deny the employer the flexibility to relocate its offices. Applying the balancing test to determine negotiability then, the Board therefore concludes that the record does not support a finding that the proposed move will have a significant and substantial impact on terms and conditions of employment to require negotiations.

However, while the Board finds that the relocation in this case is nonnegotiable, the Board also finds that the State

failed to properly consult with the HGEA over the relocation in this case. Section 89-9(c), HRS, as well as the applicable collective bargaining agreements provide that the employer is required to make every reasonable effort to consult or shall consult with the Union prior to effecting changes in any major policy affecting employee relations.

In Hawaii Nurses Association, 2 HPERB 218 (1979), the Board discussed the duty to consult in Section 89-9(c), HRS. The Board stated:

The primary reason for a consultation provision is to facilitate employee participation in joint decision making on substantial and critical matters affecting employee relations which are normally determined by management alone. Matters of consultation do not require a resolution of differences. "All that is required is that the employer inform the exclusive representative of the new or modified policy and that a dialogue as to the merits and disadvantages of the new or proposed policy or policy change take place."

Consultation is not required for each and every employer action. However, consultation is required for major or "substantial and critical" matters affecting employee relations. Hawaii Firefighters Association, Local 1263, IAFF, AFL-CIO, 1 HPERB 650 (1977) (Firefighters case). In the Firefighters case, the Board considered whether the creation of a Fire Fighter Trainee class was a proper subject of consultation. The Board held that it was not a major policy change affecting employee relations insofar as present employees in the class were not affected. However, the Board found that it was a substantial matter affecting employee relations because it introduced a separate entry-level class into

the firefighter series and modified existing job requirements for the Fire Fighter Class.

Clearly, the relocation of 1,000 State employees from approximately 35 programs is a major policy change which affects employee relations and requires consultation prior to effecting any changes. Matters requiring consultation include the manner in which offices were selected for the relocation and working to resolve or minimize the impact on employees as a result of the relocation action.

In Jahne Hupy, 1 HPERB 689 (1977), the Board discussed the consultation process and stated:

Consultation ordinarily requires more than mere notice. Consultation contemplates asking for (and listening to) the advice or opinion of the union, it contemplates, short of requiring negotiation, deliberating together and comparing views. The purpose of consultation obviously is to require management to hear union input even on matters about which unions are not able to negotiate.

In the Arbitration between Department of Water, County of Kauai and United Public Workers, AFSCME, Local 646, AFL-CIO (9/11/87), Arbitrator Ted T. Tsukiyama considered the requirements of the consultation provisions of the Unit 01 contract which is similar to provisions before the Board and stated:

From the foregoing, the Arbitrator infers the requirement upon management "to consult" includes: (1) notice to the union, (2) of proposed personnel practices and policies of a major, substantial and critical nature, other than those requiring negotiations, (3) in reasonable completeness and detail, (4) requesting the opinion, advise or input of the Union thereto, (5) listening to, comparing views and deliberating together thereon (i.e., "meaningful dialog"), and (6) without requirement of either side to concede or agree

on any differences or conflicts arising or resulting from such consultation.

The evidence in the record establishes that DAGS was responsible for the logistical aspects of the relocation action, including the initial selection of agencies to be relocated and the development of the policy that determined how the selections were made. Although department heads were allowed input in the selection process, no effort was made to consult with the HGEA during this process regarding the selection procedure followed or criteria applied. The record indicates that at the outset, the HGEA, by the three business agents, were concerned that the programs were selected without regard to the function of the program, the needs of the area, or cost-effectiveness. When later queried by the Union concerning the selection process, most departments involved in the relocation could not provide a meaningful response and elected to state simply that the decision had already been made by DAGS. It is evident from the finalized list of programs that substitutions were made in the various departments but there is no evidence regarding the factors considered or why the substitutions were made<sup>4</sup>.

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<sup>4</sup>The record indicates that the DOT Transportation Planning Office, Business Management Office, and Computer Systems Office occupying leased space were initially selected to relocate to Kapolei. Later, the Design Branch and the Highways Division which are located in the State DOT building were substituted to move and the Planning, Business Management, and Computer Systems Offices will move into the State DOT building's vacated office space.

In another instance, an office was selected for relocation from leased space but because of substantial penalties for early termination, another office from leased space will move to replace the program selected to relocate.

As late as January 1998, the Department of Hawaiian Home Lands was removed from the list of agencies to be relocated because the department intends to acquire and build its own building to house other Hawaiian groups within the next five years. Under the

While DAGS may argue that the Union has no right to inquire as to the process and the reasons for the selections, the lack of opportunity for informed dialog with the employer suggests a lack of accountability and perceived arbitrariness in the selections. Perreira indicated that the Union recognized that the employer has a right to relocate operations but was unable to determine how the selection of programs was made because it appeared that program function, efficiency of operations, and cost were not compelling factors. Thus, from the outset, the Union was interested in who selected the agencies and how the selections were made.

With regard to its consultation efforts, the State recognizes that it has a duty to consult over the Kapolei relocation but contends that it has fulfilled its duty to consult. The State argues that it offered to consult and the HGEA failed to conscientiously pursue the consultation offered. As stated previously, the State offered to consult with the Union in mid-April 1997 when the selection of programs was essentially finalized, construction had begun several months earlier, and the project was in the design phase. According to Nishiki, the initial selection of programs was made in mid-1996 when meetings were held with departmental relocation coordinators, approximately nine months prior to the offer to consult. The Union, therefore, was effectively foreclosed from engaging in meaningful dialog with the employer over its concerns because there was no coordinated

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previously-referenced DAGS Policy, it appears that this new building will also be located in Kapolei.

consultation effort at that time. Respondents may argue that the effective date of the policy change is the date of the move. However, in this case, the Board finds that the dialog should have been sought when the selections were in the process of being made.

While Nishiki admits that he is unfamiliar with the requirements of the various contracts, this does not excuse the failure of the Respondents to properly consult with the Union. Nishiki had hoped to rely upon DHRD to handle all of the employee concerns but as DHRD did not have the information or authority to conduct the consultation, it referred the matter back to DAGS and the various departments to respond to the Union and accommodate the employees' concerns. Although the record establishes that the various departments offered to consult with the Union and it appeared that the Union did not fully participate in any consultation, the Union contends that it became apparent in time that DAGS was the principal decision-maker regarding the relocation and that the individual departments were unable to respond to the Union's concerns. Therefore, after Perreira's request for consultation on localized concerns and the departments' offers to consult, the HGEA's focus again shifted to DAGS and an interest to discuss the global concerns. Thus, the global/local consultation process proposed by the State in this case served to further fragment the consultation process. In any event, after meeting with the Comptroller, the Union still was not satisfied that its concerns and the concerns of its members were being seriously considered.

Moreover, the Board finds that Respondents failed to provide the Union detailed information in its possession at the

onset of its consultation efforts, and also failed to comply with the further requests of the Union for information in order to conduct the consultation. Although Nishiki testified that he felt that all of the information had been given to the Union by December 1997, the comprehensive listing of employees was still outstanding. The Union was able to obtain the listing from the various departments but had specifically requested the information from the Comptroller during the October 30, 1997 meeting and he agreed to supply it. In addition, other than convening the meeting in October and providing some information addressing the concerns of the DOH and DOT, the Respondents never formally responded to the Union's request for negotiations.

With respect to resolving or minimizing the impact on employees, some departments undertook efforts to place employees in positions not designated for relocation due to personal hardships. While these efforts demonstrate a degree of sensitivity, the employer was obligated to consult and work with the Union to mount a coordinated effort to address the concerns of these employees. The record demonstrates a general lack of concern on the part of the employer with regard to such issues. The Board therefore finds that no meaningful consultation occurred between the parties.

In United Public Workers, AFSCME, Local 646, AFL-CIO, 3 HPERB 507 (1984), the Board held that wilfulness can be inferred from the circumstances of the case and can be presumed where the violation occurred as a natural consequence of the party's actions. Thus, based on the evidence in the record, the Board finds that the natural consequence of the State's failure to engage in meaningful

consultation constitutes a prohibited practice in violation of Sections 89-13(a)(5), (7), and (8), HRS.

#### CONCLUSIONS OF LAW

The Board has jurisdiction over the subject complaint pursuant to Sections 89-5 and 89-13, HRS.

An employer commits a prohibited practice in violation of Section 89-13(a)(5), HRS, when it refuses to bargain in good faith with the union.

An employer commits a prohibited practice in violation of Section 89-13(a)(7), HRS, when it fails to comply with any provision of Chapter 89.

An employer commits a prohibited practice in violation of Section 89-13(a)(8), HRS, when it violates the terms of a collective bargaining agreement.

The relocation of certain State offices to the new civic center in Kapolei is a valid exercise of management's right to direct employees and determine methods, means, and personnel by which the employer's operations are to be conducted, subject to consultation with the Union.

The State wilfully violated its duty to bargain in good faith, Section 89-9(c), HRS, and the contract article on Personnel Policy Changes covering Units 02, 03, 04, 09 and 13 when it failed to consult with the HGEA over the process by which agencies were selected for relocation, and further failed to consult and work with the Union to resolve or minimize the concerns of employees involved in the relocation.

The State's failure to consult with the HGEA constitutes violations of Sections 89-13(a)(5), (7), and (8), HRS.

ORDER

The State is ordered to cease and desist from committing the instant prohibited practices and shall comply with the requirements prescribed under the appropriate articles of the contracts and Section 89-9(c), HRS, which require consultation. The State shall conduct meaningful consultation with the HGEA over the process in which agencies are to be selected for the relocation and consult with the Union in an effort to resolve or minimize the concerns and issues raised by the relocation of employees.

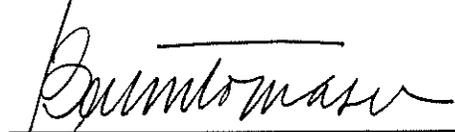
Until such time as the requirements of this Order are met, the State is ordered to cease and desist from proceeding with the relocation of offices and agencies to Kapolei.

The State shall immediately post copies of this decision in conspicuous places at its work sites where employees of the bargaining units assemble, and leave such copies posted for a period of sixty (60) days from the initial date of posting.

The State shall notify the Board of the steps taken by the employer to comply herewith within thirty (30) days of receipt of this order.

DATED: Honolulu, Hawaii, July 16, 1998.

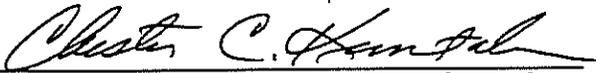
HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO  
and BENJAMIN J. CAYETANO, Governor, State of Hawaii; et al.; CASE  
NOS.: CE-02-387a, et seq.  
DECISION NO. 394  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

  
\_\_\_\_\_  
RUSSELL T. HIGA, Board Member

  
\_\_\_\_\_  
CHESTER C. KUNITAKE, Board Member

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