

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)
)
GEORGE R. ARIYOSHI, Governor)
of the State of Hawaii;)
FRANK F. FASI, Mayor of the)
City and County of Honolulu;)
HERBERT MATAYOSHI, Mayor of)
the County of Hawaii; ELMER F.)
CRAVALHO, Mayor of the County)
of Maui; EDUARDO E. MALAPIT,)
Mayor of the County of Kauai,)
)
Petitioners,)
)
and)
)
HAWAII FIRE FIGHTERS ASSOCIATION,)
LOCAL 1463, IAFF, AFL-CIO,)
)
Respondent.)
_____)

Case No. S-11-6
Decision No. 80

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDERS

Public employers George R. Ariyoshi, Governor, State of Hawaii; Frank F. Fasi, Mayor, City and County of Honolulu; Herbert Matayoshi, Mayor, Hawaii County; Elmer F. Cravalho, Mayor, Maui County; and Eduardo E. Malapit, Mayor, Kauai County (hereafter Petitioners or Employers) asked that this Board, pursuant to the authority conferred upon it by Subsection 89-12 of the Hawaii Revised Statutes (hereafter HRS) conduct an investigation or hearing to determine whether a strike by the Hawaii Fire Fighters Association (hereafter HFFA) exclusive representative of bargaining Unit 11 (firefighters), would present an imminent or present danger to the health or safety of the public, and to set requirements that must be complied with to avoid or remove any imminent or present danger.

Hearings on this petition were held on July 19, 20, 21, 22, and 25, 1977, with all parties duly notified and present. With the consent of the HFFA, an in camera investigation of the Employers' contingency plans for providing fire protection during a strike was held on August 10, 1977.

FINDINGS OF FACT

The Petitioners are public employers as defined in Subsection 89-2(9), HRS.

The Hawaii Firefighters Association (hereafter HFFA), respondent, is the exclusive representative, as that term is defined in Subsection 89-2(10), HRS, of all state and county employees who are in collective bargaining Unit 11 (firefighters).

There are approximately 1,454 such employees.

The number of such persons employed by each jurisdiction is:

State of Hawaii	188
City and County of Honolulu	918
Hawaii County	140
Maui County	111
Kauai County	98

Negotiations for a new contract for Unit 11 (firefighters) commenced on October, 1976. On April 27, 1977, the HFFA filed a Notice of Impasse with this Board. The Board, after investigation, found that an impasse existed in said negotiations.

In order to render assistance to resolve the impasse, and pursuant to Subsection 89-11(b)(1), this Board appointed a mediator. When these efforts did not result in a contract,

a fact-finding panel was appointed pursuant to Subsection 89-11(b)(2). The findings of the panel were made public after they were accepted by the Employers and rejected by the HFFA.

On July 8, 1977, Francis Kennedy, Jr., Business Manager of the HFFA, wrote this Board a letter, stating:

"Subject: NOTICE OF INTENT TO STRIKE

Notice is hereby given to the Hawaii Public Employment Relations Board and the public employers, consisting of the State of Hawaii, and the Counties of Hawaii, Honolulu, Kauai and Maui, that the Hawaii Fire Fighters Association, exclusive representative of bargaining Unit 11 (Firemen), intends to strike on September 1, 1977."

Said letter and the notice contained therein have not been rescinded or revoked.

Unit 11 members' (firefighters') work includes the following:

Dispatch

The dispatch operation of each fire department controls and coordinates the firefighting and rescue activities of each department. These bureaus receive all calls into the respective fire departments and dispatch the necessary firefighting apparatus and firefighter personnel or rescue units to the fire or emergency. In addition, these bureaus monitor emergency situations and deploy additional units when necessary, while rearranging inactive units to provide maximum fire protection for the rest of the affected island. Approximately 14,302 fire alarms throughout the State were handled by such bureaus in 1976.

Firefighting

A major activity in this category is fighting fires in high and low rise buildings, industrial areas, and residences, and preventing these fires from spreading to other structures.

Firefighters also fight forest and brush fires which must be contained to prevent their spread to populated areas and watersheds.

Airport firefighters respond to airport crashes or fires involving aircraft, fuel tanks or airport facilities.

The fire boat companies of the Honolulu Fire Department fight fires on the waterfront and off shore.

The City and County of Honolulu also maintains an aircraft station, which utilizes a helicopter to provide aerial support to firefighters, to transport equipment and supplies to a fire or rescue scene, and to fight forest or brush fires in areas accessible only by air.

An integral part of firefighting is the rescue and evacuation of persons trapped in or threatened by a building, aircraft, or vessel fire.

Statewide fire statistics for 1976 show that there were approximately 7,200 fires which caused 6 deaths and \$14,000,524 in property damage.

Emergency Rescues

Firefighters perform surf and mountain rescues, which include responding to boats in distress, swamped, capsized or aground; swimmers and surfers in distress, and hikers overdue or in distress. Firefighters are also called to rescue persons trapped in automobiles involved in highway accidents.

Emergency Medical Service

Each firefighter is trained to administer first aid, when necessary, in fire and rescue emergencies pending the arrival of ambulance crews or other medical personnel.

Some fire stations have firefighters who are trained in advanced life support who may give intravenous injections and apply drugs on a doctor's orders in emergencies.

In the event of a Unit 11 strike, the Employers would not be able to perform the services described. In the City and County of Honolulu, for example, 918 firefighters are providing these essential services. A Unit 11 strike would leave only six excluded persons employed by the Honolulu Fire Department to perform the services performed normally by 918 individuals.

The parties do not dispute the number of persons required to maintain the services provided by the firefighters at the bare minimum. This number, as stipulated, is embodied in the Order herein.

The HFFA has also stipulated that:

" . . . Any curtailment of services, especially in the rural areas, where the response time becomes a geographical problem, creates a situation where the probability of loss of property and life in the event of a fire would be greatly increased." Board Exhibit 1, Exhibit 3 at page 6 (re: Hawaii County).

" . . . At each of these stations, the foregoing number of firemen is barely adequate to man and operate the fire apparatus assigned to such station, and without the aforesaid number of firemen, all such equipment cannot adequately be manned and operated. The quantity and quality of the equipment assigned to each of the aforesaid fire stations is the absolute minimum of (sic) effectively combat a residential dwelling house fire of any significant consequence, and reduction of the availability of any of such apparatus or any of such firefighters would cause a serious and imminent danger of destruction of the average dwelling house together with imminent danger of inability to perform rescue operations of any persons trapped within such dwelling house." Board Exhibit 1, Exhibit 5 at page 1 (re: Kauai County).

"8. That by reason of the necessity for expert and experienced personnel to handle the aforesaid equipment in time of emergency, any loss of trained fire personnel would necessarily idle a large proportion of the fire fighting and rescue equipment now available for fire, rescue and emergency use." Board Exhibit 1, Exhibit 2, Affidavit of Chief Aiu at page 2 (re: City and County of Honolulu).

Although the HFFA attempted to show that there was a possibility of training replacements for striking firefighters, the testimony which was elicited showed otherwise.

Assistant Honolulu Fire Chief Francis Sing, formerly head of the training bureau of the Honolulu Fire Department, testified that all three training officers in the Honolulu Fire Department were Unit 11 members (and very likely would themselves be on strike), and further stated that the training division was only capable of training a class of about 30 men during one six week training period. The HFFA strike is set for September 1, 1977.

Fire Chief Hiraga of Maui County testified that since a year of training as a team is necessary, if there were a one hundred percent turnover in his firefighting crew, the crew could not respond adequately to a fire, jeopardizing the safety of the community.

Airport Fire Chief, Frederick Thomas, testified that an inexperienced firefighter could not perform the complex tasks required of airport firefighters, including operation of the crash trucks and locating passengers in burning aircraft with different seating configurations.

Based on these facts, stipulations and the in camera inspection of the Employers' contingency plans, this Board is convinced that there is no alternative adequate to protect the

health and safety of the public in the event of a Unit 11 strike except to require the adequately trained incumbents of Unit 11 positions to provide the minimum manning (as stipulated to between the parties), necessary to remove the danger to the public health and safety.

Removal of any of the critical Unit 11 services described above, that is, dispatch, firefighting, emergency rescues or emergency medical services, would present a grave danger of an unpredictable, awesome nature to the health and safety of the public.

CONCLUSIONS OF LAW

This case has been brought under Subsection 89-12(c), HRS, which states:

"§89-12. Strikes, rights and prohibitions.

* * *

(c) Where the strike occurring, or is about to occur, endangers the public health or safety, the public employer concerned may petition the board to make an investigation. If the board finds that there is imminent or present danger to the health and safety of the public, the board shall set requirements that must be complied with to avoid or remove any such imminent or present danger."

The HFFA contends that there would be neither imminent nor present danger to the health and safety of the public in the event the Unit 11 employees go on strike. The Union proposes that this Board order the submission of the dispute in the negotiations with the Employers to the parties for arbitration or alternatively, require the Employers to devise and submit contingency plans which would provide a workable

alternative for the services of the Unit 11 employees in the event of a strike by such employees.

This Board lacks the power to order unwilling parties to submit interest disputes to arbitration. Under our law, arbitration of the dispute between the Union and the Employers would be possible only if they voluntarily agreed to it. Section 89-11, HRS. The Employers are not willing to submit to arbitration at this time. An order of this Board that the Employers submit to arbitration would be in excess of the authority of this agency and would very likely fail to pass statutory or constitutional muster.

The Union also asserts that the Employers have failed to carry their burden of proving, in a temporal sense, that a Unit 11 strike would present an imminent or present danger to the public health or safety. Obviously, at the time a hearing is being conducted under Subsection 89-12(c), HRS, no one can demonstrate more than the fact that if the anticipated strike occurs it will present such danger. This Board is of the opinion that, through their incidence data for the past, the Employers adequately carried their proof of the great likelihood of danger to health and safety a firefighters' strike would present should it occur. This Board is not required to sit passively by and wait for a strike to occur, fires to break out and be left unattended before it can reasonably conclude that a Unit 11 strike poses the kind of danger Subsection 89-12(c) was designed to remove or avoid.

Moreover, fires are everyday occurrences whose danger is commonly and readily understood throughout the community. This Board may and does take notice of the extraordinary danger unattended fires would create.

In New Brighton Authority v. Local 155, 86 LRRM 2551 (1973), the Pennsylvania Court of Common Pleas heard the union's arguments that the Employer had not proved that a strike by sewage plant employees would create a clear and present threat to the health of the community. The court stated at 86 LRRM 2551, 2553:

"However, we do not believe that the legislature intended that the threat must become a reality before action can be taken to protect the health and safety of the public. If the threat to the health and safety of the citizens in the area of the discharge and further downstream is present, we must take action to prevent that threat from ripening into a reality. This is in accordance with the expressed legislature policy that the guarantee of protection of the public's health, safety and welfare must be paramount."

We turn now to the HFFA's contention that a showing of imminent or present danger requires the Employers to prove they have no viable contingency plans or that there are no persons other than the incumbents (Unit 11 members) who can perform the necessary operations.

One can agree with the logic of the HFFA: If it were possible to find and utilize adequately trained persons to step into the positions occupied by Unit 11 personnel while the latter were on strike, then obviously a strike by Unit 11 personnel would not pose a threat to public health or safety.

The court which decided the New Brighton Authority case, supra, dealt with a similar argument:

"Defendants argue first, that in order to be eligible for the relief sought in this case, the public employer is required to show that it has exhausted all means of obtaining outside or nonunion employees to perform the duties in question and that it is absolutely necessary that the striking employees involved perform the necessary operations. No authority has been cited for this proposition and we do not understand such to be the law." 86 LRRM at 2552.

Moreover, the facts adduced at the hearing herein and common sense dictate the conclusion that the employers cannot in a period of a few weeks recruit and train some 1,400 competent, sufficiently able and experienced persons to fill the jobs held by the Unit 11 personnel. Poorly trained replacements, or well meaning volunteers may make matters worse. They could, in fact, be exposing themselves to harm, injury, even death, if they attempt to do the work of the experienced teams of men who comprise Unit 11.

This Board appreciates that property loss per se is not a criterion to consider in determining whether a Unit 11 strike presents an imminent or present danger to public health or safety. Buildings and open fields can and do burn without causing physical injury or death. Fires, possible drownings, possible airport crashes all have a unique characteristic. If they occur, they present an awesomely great and immediate threat of danger to human health and safety. A burning building, if the fire is unattended, can spread fire to an entire neighborhood. A plane crash can kill hundreds. If fires, crashes, near drownings and the like occur, and there are available experienced firefighters and rescue workers to attend to them in a skillful manner, then the danger they present to health and safety can be significantly lessened.

The work of the men in Unit 11 is to deal with disasters, accidents, catastrophes, as well as more routine, far less critical matters. Were it possible to control or predict the times when disasters, accidents, catastrophes would occur then obviously this Board's task would be simple: It could set requirements that there shall be no disasters, accidents or catastrophes or it could establish a schedule predicting when

such events would occur which would require the attention of Unit 11 personnel, excuse said personnel from performing routine work and require them only to work when disasters are expected to occur. The power to control or predict the timing of disasters, accidents, and catastrophes, however, has not been vouchsafed to this agency.

The kinds of events (such as fires, possible air crashes, accidents, acts of nature) which require a community such as ours to employ trained, skilled firefighters are unpredictable. This fact plus the stipulation of the HFFA¹ that the numbers of persons the Employers said were necessary to adequately perform firefighting services were in fact necessary to avoid danger to public health and safety compel the conclusion that the withdrawal of services by the employees in Unit 11, covered by the Order herein, would present an imminent or present danger to the health and safety of the public.

This conclusion in turn compels the Board to set the requirements which follow hereafter.

ORDERS

To avoid or remove any imminent or present danger to the health and safety of the public, this Board orders that each of the stations and units below be staffed during

¹The HFFA stipulated that all of the positions and functions contained in the Orders which follow constitute the minimum staffing requirements to provide necessary services to protect public health and safety. The HFFA, however, as discussed above did not stipulate that a strike by Unit 11 employees would present an imminent or present danger to public health or safety. It asserted, in effect, that there might be viable means of meeting these minimum staffing requirements rather than keeping Unit 11 people on the job. (II Tr. pp. 67-84) As discussed above, this Board is not satisfied that there are any such viable alternatives.

each shift with the number and class of personnel indicated in the display below, 24 hours a day, 7 days a week including holidays. The only exception to this schedule is that covering those stations in Hawaii County which are presently on an 8-hour, 7 days a week schedule. They shall maintain their current schedule.

Minimum staffing may not exceed normal staffing. If there are any vacant positions (other than those which might result from a strike) on September 1, 1977, and during any strike which may commence on or about that date arising out of the present dispute between the Employers and the HFFA, those vacancies should remain unfilled, even if the number of firefighters on any shift is less than the minimum staffing described in these Orders.

The positions listed below are to be filled by those people who are the incumbents of said positions on September 1, 1977, and during any strike which may commence on or about that date arising out of the present dispute between the Employers and the HFFA.

The tasks to be performed by said incumbents are:

1. dispatch in fire, rescue and emergency medical situations;
2. normal and customary firefighting operations;
3. normal and customary rescue operations;
4. normal and customary administration of appropriate first aid in fire and rescue and medical emergencies; and
5. normal and customary work to keep firefighting, rescue and first aid equipment operational.

CITY AND COUNTY OF HONOLULU

ENGINE COMPANIES

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 1 Central	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 2 Pawaa	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 3 Makiki	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 4 Kuakini	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 5 Kaimuki	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 6 Kalihi	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 7 Waikiki	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 8 Iwilei	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 9 Kakaako	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 10 Aiea	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2

No. 11 Sunset Beach	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 12 Waipahu	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 13 Kahuku	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 14 Waialua	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 15 Hauula	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 16 Wahiawa	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 17 Kaneohe	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 18 Kailua	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 19 Aikahi	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 20 Pearl City	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 21 Kaaawa	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 22 Manoa	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2

No. 23 Wailupe	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 24 Ewa Beach	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 25 Nuuanu	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 26 Waianae	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 27 Waimanalo	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 28 Nanakuli	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 29 McCully	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 30 Moanalua	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 31 Kalihi-Kai	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3
No. 32 Kalihi-Uka	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 33 Palolo	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 34 Hawaii Kai	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2

No. 35 Makakilo	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 36 Mililani-Waipio	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2
No. 37 Kahaluu	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	2

LADDER COMPANIES

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 2 Pawaa	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	3
No. 4 Kuakini	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	3
No. 7 Waikiki	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	3
No. 12 Waipahu	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	3
No. 16 Wahiawa	Fire Equipment	
	Operator II	1
	Fire Fighter.	1
No. 18 Kailua	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Fighters	3

No. 29 McCully	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	3
No. 30 Moanalua	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Fire Fighters	3
No. 31 Kalihi-Kai	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	2
No. 34 Hawaii Kai	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Operator I.	1
	Fire Fighters	2

SNORKEL COMPANY

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 9 Kakaako	Captain	1
	Fire Equipment	
	Operator II	1
	Fire Equipment	
	Fire Fighters	3

RESCUE COMPANIES

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 1 Pawaa	Captain	1
	Fire Equipment	
	Operator II	1
	Rescue Specialists	3
No. 2 Kalihi	Captain	1
	Fire Equipment	
	Operator II	1
	Rescue Specialists	3

TANKER COMPANIES

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 3 Makiki	Fire Equipment Operator II	1
No. 15 Hauula	Fire Equipment Operator II	1
No. 28 Nanakuli	Fire Equipment Operator II	1
No. 30 Moanalua	Fire Equipment Operator II	1

FIRE BOAT COMPANY

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
Waterfront	Captain	1
	Fire Boat Pilot	1
	Fire Boat Engineer.	1
	Fire Equipment Operator II	1
	Fire Fighters	5

AIRCRAFT STATION

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
1st Battallion Honolulu International Airport	Helicopter Pilot.	1

FIRE ALARM BUREAU

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
Honolulu Municipal Building	Fire Alarm Shift Supervisor.	1
	Fire Alarm Operators.	3

STATE AIRPORTS DIVISION

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
Honolulu International Airport	Assistant Airport Fire Commander	1
	Airport Fire Equipment Operator.	4
	Airport Fire Fighter II	5
General Lyman Field (Hilo Airport)	Airport Fire Equipment Operator.	3
	Airport Fire Fighter II	3
Ke-ahole Airport	Airport Fire Equipment Operator.	2
	Airport Fire Fighter II	1
Kahului Airport	Airport Fire Equipment Operator.	2
	Airport Fire Fighter II	2
Lihue Airport	Airport Fire Equipment Operator.	3
	Airport Fire Fighter II	1

MAUI COUNTY

<u>Station</u>	<u>Position</u>	<u>Minimum Staffing</u>
Wailuku	Captain	1
	Fire Apparatus	
	Operator.	2
	Fire Fighters	6
Paia	Captain	1
	Fire Apparatus	
	Operator.	1
	Fire Fighters	3
Lahaina	Captain	1
	Fire Apparatus	
	Operator.	1
	Fire Fighters	4
Makawao	Captain	1
	Fire Apparatus	
	Operator.	1
	Fire Fighters	3
Kihei	Captain	1
	Fire Apparatus	
	Operator.	1
	Fire Fighters	3
Kaunakakai, Molokai	Captain	1
	Fire Apparatus	
	Operator.	1
	Fire Fighters	3
Hoolehua, Molokai (substation)	Fire Apparatus	
	Operator.	1
	Fire Fighter.	1

KAUAI COUNTY

<u>Station</u>	<u>Position</u>	<u>Minimum Staffing</u>
Waimea	Fire Fighters	4
Hanapepe	Fire Fighters	5
Kalaheo	Fire Fighters	4
Koloa	Fire Fighters	5
Kapaa	Fire Fighters	5
Hanalei	Fire Fighters	4
Lihue	Fire Fighters	5

HAWAII COUNTY

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
No. 1 Central	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighters	2
No. 2 Waiakea	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Rescue Specialists	3
No. 3 Kawailani	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1
No. 4 Kaumana	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1
No. 5 Keaau	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1
No. 6 Capt. Cook	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1
No. 7 Kailua	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Rescue Specialists	2
No. 8 Honokaa	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1
No. 9 Waimea	Captain	1
	Fire Equipment	
	Operator.	1
	Fire Fighter.	1

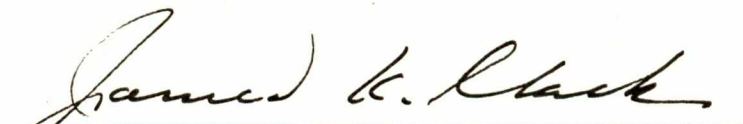
EIGHT HOUR STATIONS, HAWAII COUNTY

<u>Company</u>	<u>Position</u>	<u>Minimum Staffing</u>
Pahala	Fire Equipment Operator	1
Naalehu	Fire Equipment Operator	1
Pahoa	Fire Equipment Operator	1
Laupahoehoe	Fire Equipment Operator	1
Kawaihae	Fire Equipment Operator	1
Kohala	Fire Equipment Operator	1

The Public Employers shall monitor the compliance with these Orders in their respective jurisdictions and shall report immediately any violations of said Orders to this Board.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member

Dated: August 26, 1977

Honolulu, Hawaii

DECISION CONCURRING IN PART, DISSENTING IN PART

I concur in part with my colleagues in some aspects; however, I disagree with the scope of the orders in this Decision.

I agree that firefighters must stay on duty and respond to the normal alarms to make certain, to the best of their ability, that there is no danger of accident or threat to health or safety, which they could prevent in the normal course of their duties.

I do not believe the Board has the authority to set requirements beyond that limit.

Chapter 89, HRS, first, authorizes employees to strike. The Board's authority is limited to setting forth requirements which striking employees shall follow to prevent a danger to health and safety if and when they strike. It says nothing about the economics of a strike. It is presumed that a strike will disrupt normal operations; otherwise, it would be ineffective.

It is my conviction that firefighters are permitted, under the law, to withhold their services and disrupt such operations as will, in their judgment, bring about the economic pressure a strike is designed to apply, to the end of forcing settlement of their dispute with the employer. It is the Employers' role to withstand such pressure as best they can to sustain their position in the negotiating environment.

Specifically, I dissent with the majority in the following respects:

1. Mr. Owen Miyamoto, Airport Chief for the Department of Transportation, testified that major airports would be closed to flying if fire-fighting capability fell below F.A.A. minimum standards. If flying were stopped, except for emergency medivac flights, then the danger to the health and safety of passengers would be eliminated.

This is, in my judgment, a legitimate disruption of normal operations that was intended to be allowed by a strike.

Firefighters should be allowed to withhold service to aircraft so long as specific notice is given of such withholding in sufficient time to allow flights enroute to land while service is available, and so long as service is provided for medivac flights.


2. In the order on page 12, the majority lists the tasks to be performed by said incumbents.

I agree with all of these tasks except #2 which reads: "normal and customary firefighting operations." Chapter 89 speaks only of "health and safety of the public." I find no authority to order firefighters to perform duties beyond the prevention of danger to health and safety. I agree they must respond to all alarms and must make certain that a fire does not create or allow such danger. They must then stand by to see that no new danger arises, but I find no authority to order them to protect property.

Obviously, this could cause enormous economic loss, but this is a problem for the Legislature, not this Board.

Finally, under this Order as it now stands, unless the firefighters violate the Order, there will be no incentive whatsoever for the Employers to settle the dispute. The Employers can assume a take-it-or-leave-it attitude and maintain it indefinitely and sustain no harm whatsoever, leaving the firefighters no bargaining position at all. In effect, this Order cancels collective bargaining for firefighters.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


John E. Milligan, Board Member

Dated: August 26, 1977

Honolulu, Hawaii