

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.:	S-03-35a
	)		S-04-35b
COUNTY OF MAUI,	)		S-13-35c
	)		
Petitioner,	)	ORDER NO.	1043
	)		
and	)	ORDER APPROVING STIPULATION	
	)	OF PARTIES; EXHIBIT A	
HAWAII GOVERNMENT EMPLOYEES	)		
ASSOCIATION, AFSCME, LOCAL 152,	)		
AFL-CIO,	)		
	)		
Exclusive	)		
Representative.	)		
	)		

---

ORDER APPROVING STIPULATION OF PARTIES

Petitioner COUNTY OF MAUI (Employer) and Exclusive Representative HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) have stipulated and agreed that certain employees are essential pursuant to § 89-12, Hawaii Revised Statutes, and are therefore prohibited from participating in a strike against the Employer.

The Hawaii Labor Relations Board (Board), as part of its investigation, has reviewed the stipulation of parties and finds that the positions identified by the parties in their stipulation are essential to protect the health and safety of the public. Accordingly, the Board hereby orders that the positions identified in the stipulation of parties, attached hereto as Exhibit A, and incorporated by reference herein, are essential and are required to be staffed in order to avoid an imminent or present danger to the health and safety of the public.

## GENERAL ORDERS

The Board further orders the following in the event of a strike by Units 03, 04 and 13 employees:

1. The class or position titles identified in the foregoing portion of the order are designated as essential positions.

2. The Employer may designate any or all incumbents in the essential positions as essential employees. Each incumbent in an essential position, regardless of designation as an essential employee, shall notify the Employer of his or her current residence and mailing addresses and telephone number prior to the onset of a strike by Units 03, 04, and 13 employees. The Employer shall inform incumbents in essential positions that they may be designated as essential employees and that they are required to supply this information.

3. The Employer shall designate employees to fill essential positions. Each Employer shall give notice to an essential employee in accordance with Subsection 89-12(c)(2), HRS. It is the duty and responsibility of the essential employee to contact the Employer for his or her work assignment. This duty continues throughout the duration of any strike.

4. Essential employees required to be on-call shall keep the respective Employer apprised of his or her location during the on-call period to facilitate notification to report to work when the need arises. If no specific on-call period is stated, the position shall be deemed to be on-call 24 hours per day, and 7 days per week.

"On-call," as provided for in these orders, does not require compensation by the Employer nor does it require that the employee respond to any work requests made by the Employer.

5. Essential employees required to be on standby duty shall respond to requests for work when notified by the Employer. These employees must be available and shall provide the necessary telephone numbers and locations where they can be reached when needed. If no specific standby period is stated, the position shall be deemed to be on standby 24 hours per day, and 7 days per week.

"Standby," as directed by these orders, requires that the Employer compensate all such designated employees at the rate of 25% of the individual employee's current salary. The employee on standby shall respond to requests made by the Employer to work and shall provide the Employer with the necessary telephone numbers and the location where he or she can be contacted should the need arise.

6. The Employer may determine whether the failure or refusal of an incumbent to report to or perform the functions, duties, and responsibilities of positions designated as essential is premised on good cause. The Employer may presume that any such failure or refusal is not for good cause, unless the incumbent designated as an essential employee provides the Employer with a signed statement of the reasons and circumstances for such failure or refusal. In the event that such failure or refusal is based upon a medical disability, a signed statement by a physician

licensed to practice in the State of Hawaii must be submitted upon such forms to be provided by the Employer.

7. If an essential employee does not report to work as directed and there are additional incumbents to fill an essential position, the Employer shall designate another incumbent to perform such work. The Employer may notify such employee by whatever means practicable, including by telephone contact, to ensure the delivery of essential services.

If the Employer is unable to fill the essential position with an incumbent, the Employer may assign other employees who are capable of satisfactorily performing the functions, duties, and responsibilities of the essential position, and shall notify the Board accordingly.

8. The HGEA shall be responsible for taking all necessary steps to ensure that essential services required by this order are performed without interruption, slowdown, sick-out or other forms of interference.

9. Work sites, buildings, or facilities may be picketed, but persons on the picket lines shall permit anyone to cross the picket lines without interference. Picketers shall not harass or impede anyone from ingress or egress to the buildings.

10. To minimize confusion in communications between the parties, the Employer and the HGEA shall each designate one overall coordinator to be contacted. The coordinator shall be responsible for maintaining essential services and implementing any order issued by the Board at the close of this proceeding or during a strike. Prior to the onset of any strike, each party shall notify

the other and this Board, in writing, of the coordinator with his or her current address and business and residence telephone numbers at least 24 hours before the onset of a strike.

11. In the assignment of incumbents or other employees to essential positions, the Employer shall refrain from assigning persons designated as picket line captains, stewards, negotiation team members and HGEA Board of Directors members unless there are no other employees capable of satisfactorily performing the functions, duties and responsibilities of the essential positions. The HGEA shall furnish the Employer with the names of picket line captains, stewards, negotiation team members and Board of Directors members forthwith.

This order may be amended by the Board. Any questions of interpretation of this order shall be brought to the attention of the Board.

DATED: Honolulu, Hawaii, April 17, 1994.

HAWAII LABOR RELATIONS BOARD

  
BERT M. TOMASU, Chairperson

  
RUSSELL T. HIGA, Board Member

  
SANDRA H. EBESU, Board Member

Copies sent to:  
Guy A. Haywood, Corporation Counsel  
Charles K.Y. Khim, Esq.  
Joyce Najita, IRC

GUY A. HAYWOOD 1575  
Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No. 243-7740

'94 APR 17 P4:23

Attorneys for Petitioner  
COUNTY OF MAUI and RAYMOND. Y. KOKUBUN,  
in his capacity as Director of  
Personnel Services

HAWAII  
LABOR RELATIONS BOARD

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS. S-03-35a
	)	S-04-35b
COUNTY OF MAUI,	)	S-13-35c
	)	
Petitioner,	)	STIPULATION TO DECLARE
	)	CERTAIN EMPLOYEES ESSENTIAL
and	)	WORKERS; EXHIBIT A
	)	
HAWAII GOVERNMENT EMPLOYEES	)	
ASSOCIATION, AFSCME, LOCAL 152,	)	
AFL-CIO,	)	
	)	
Exclusive	)	
Representative.	)	
_____	)	

STIPULATION TO DECLARE CERTAIN  
EMPLOYEES ESSENTIAL WORKERS

The HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO, (hereinafter "HGEA"), and the COUNTY OF MAUI, (herein after "COUNTY"), hereby stipulate and agree that the following employees of the County of Maui, set forth in exhibit "A", attached hereto and incorporated by reference herein, are essential workers pursuant to Section 89-12, Hawaii Revised Statutes, and therefore are prohibited from participating in a

EXHIBIT A

strike against the COUNTY. It is further agreed that the following employees shall be the only employees deemed to be essential workers pursuant to the foregoing statute. It is further agreed that the stipulation is a final and binding resolution of the dispute and the underlying facts and circumstances which form the subject matter of the above-entitled case.

The number and types of essential workers which are provided for herein can be modified only upon the express written consent of the parties herein only for the purpose of ameliorating an imminent or present danger to the health or safety of the public, with such consent not being unreasonably withheld. As utilized herein, the phrase "imminent or present danger to the health or safety of the public" shall mean a specific and directly identifiable harm that will cause or is very likely to cause physical harm of a person.

Dated this 17th day of April, 1994,

COUNTY OF MAUI

by

  
\_\_\_\_\_  
GUY A. HAYWOOD  
CORPORATION COUNSEL

HAWAII GOVERNMENT EMPLOYEES'  
ASSOCIATION

by

  
\_\_\_\_\_  
CHARLES K.Y. KHIM

MAUI COUNTY

<u>B.U. NO.</u>		<u>NO. OF POS.</u>	<u>TIME OF SERVICE</u>
<u>POLICE</u>			
03	Supervising Police Radio Dispatcher	5	8 hr/day; 7 day wk.
03	Police Radio Dispatcher II	28	" " "
13	Communications Coordinator	1	8 hr/day; M-F(on call)
03	Public Safety Aide	4	8 hr/day; M-F
03	Police Warrants Clerk	1	8 hr/day; M-F
03	Police Evidence Custodian	1	" "
13	Criminalist II	1	" "
<u>PARKS AND RECREATION</u>			
03	Water Safety Officer	20	8 hr/day; 7 day wk.
04	Supervising Water Safety Officer	1	8 hr/day; 7 day wk.
<u>PUBLIC WORKS/WASTE MGT.</u>			
13	Wastewater Plant Operations Supervisor	1	8 hr/day; M-F
04	Wastewater Collections System Supervisor	1	8 hr/day; M-F
13	Sanitary Chemist	2	8 hr/day; M-F
13	Civil Engineer IV	1	8 hr/day; M-F(On-call)
13	Mechanical Engineer IV	1	8 hr/day; M-F(On-call)
03	Construction Inspector II	1	8 hr/day; M-F(On-call)
<u>WATER SUPPLY</u>			
13	Chemist I	1	8 hr/day; M-F
03	Laboratory Technician II	1	8 hr/day; M-F(on call)
03	Laboratory Technician I	2	8 hr/day; M-F
<u>PROSECUTORS</u>			
03	Legal Clerk II	3	8 hr/day; M-F
03	Legal Clerk III	3	" " (3 on call)
03	Legal Clerk III	3	8 hr/day; M-F
03	Legal Clerk IV	2	" "
03	Law Technician I	1	" "
03	Law Technician II	2	" "
04	Supervising Legal Clerk	1	" "
04	Supervising Law Technician	1	" "
13	Investigator III	2	" "
13	Investigator V	1	" "
13	Victim-Witness Counselor II	3	" "

EXHIBIT "A"



HUMAN CONCERNS

Meal Service

03	Senior Services Program Assistant I (Molokai)	1	8 hr/day; M-F
03	Senior Services Program Assistant II	1	" "
13	Senior Services Program Specialist III	1	" "
03	Nutrition Aide	4	4 hr/day; M-F
03	Nutrition Aide (Lanai)	1	8 hr/day; M-F

Escort Program

03	Senior Services Program Assistant II	1	8 hr/day; M-F
13	Senior Services Program Specialist III	1	" "
03	Senior Services Aide II	2	4 hr/day; 1 M-F

Housing Division

13	Housing Program Specialist III	1	8 hr/day; M-F
----	--------------------------------	---	---------------

Civil Defense

13	CD Manpower and Training Officer	1	8 hr/day; M-F
----	----------------------------------	---	---------------