

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)
)
FRANK F. FASI, Mayor of the)
City and County of Honolulu,)
)
Petitioner,)

and)

HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152,)
AFL-CIO,)

Exclusive)
Representative.)

CASE NOS.: S-03-36a
S-04-36b
S-13-36c

ORDER NO. 1044

ORDER CONSOLIDATING CASES
FOR DISPOSITION AND ORDER
APPROVING STIPULATION OF
PARTIES; EXHIBIT A

In the Matter of)
)
FRANK F. FASI, Mayor of the)
City and County of Honolulu,)
)
Petitioner,)

and)

HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152,)
AFL-CIO,)

Exclusive)
Representative.)

CASE NOS.: S-03-37a
S-04-37b
S-13-37c

In the Matter of)
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FRANK F. FASI, Mayor of the)
City and County of Honolulu,)
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Petitioner,)

and)

HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152,)
AFL-CIO,)

Exclusive)
Representative.)

CASE NOS.: S-03-38a
S-04-38b
S-13-38c

In the Matter of)
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FRANK F. FASI, Mayor of the)
City and County of Honolulu)
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Petitioner,)
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HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152,)
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CASE NOS.: S-03-39a
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HAWAII GOVERNMENT EMPLOYEES)
ASSOCIATION, AFSCME, LOCAL 152,)
AFL-CIO,)
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Exclusive)
Representative.)
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CASE NOS.: S-03-44a
S-04-44b
S-13-44c

ORDER CONSOLIDATING CASES FOR DISPOSITION
AND ORDER APPROVING STIPULATION OF PARTIES

On April 15, 1994, Petitioner FRANK F. FASI, Mayor of the City and County of Honolulu (Employer), by and through his counsel, filed a motion to consolidate the above-referenced petitions with the Hawaii Labor Relations Board (Board). Counsel for Petitioner indicates that the five petitions contain the Employer's entire requests to have certain of its employees declared essential to public health and safety.

As the Employer's petitions involve substantially the same parties and issues, the Board finds that consolidation of the proceedings would be conducive to the proper dispatch of business and the ends of justice and will not unduly delay the proceedings. Accordingly, the Board hereby grants the Petitioner's motion to consolidate the petitions in Case Nos.: S-03-36a, et. seq.; S-03-37a, et. seq.; S-03-38a, et. seq.; S-03-39a, et. seq.; and S-03-44a, et. seq. The petitions and the proceedings thereon are hereby consolidated for disposition.

In addition, the 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 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 immediate 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:

Arnold T. Abe, Deputy Corporation Counsel
Charles K.Y. Khim, Esq.
Noel Ono, HGEA
Michael Yuen, HGEA
Joyce Najita, IRC

FRANK F. FASI, Mayor of the
City and County of Honolulu

Petitioner

v.

HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION LOCAL 152, AFSCME,
AFL-CIO

Exclusive
Representative

Case No. S-03-38a,
S-04-38b,
S-13-38

FRANK F. FASI, Mayor of the
City and County of Honolulu

Petitioner

v.

HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION LOCAL 152, AFSCME,
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Case No. S-03-39a,
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FRANK F. FASI, Mayor of the
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HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION LOCAL 152, AFSCME,
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Exclusive
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Case No. S-03-44a,
S-04-44b,
S-13-44c

PARTIAL STIPULATION TO
DECLARE CERTAIN EMPLOYEES
ESSENTIAL WORKERS; EXHIBIT
A;

PARTIAL STIPULATION TO DECLARE CERTAIN
EMPLOYEES ESSENTIAL WORKERS

The HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, LOCAL 152, AFSCME, AFL-CIO, (hereinafter "HGEA"), and the CITY AND COUNTY OF HONOLULU, (herein after "City"), hereby stipulate and agree as follows:

1. The employees of the City and County of Honolulu, set forth in exhibit "A", attached hereto and incorporated by reference herein, are essential workers pursuant to Section 89-12, Hawaii Revised Statutes ["H.R.S."], and therefore are prohibited from participating in a strike against the City, and shall be to be the only employees deemed essential workers pursuant to Section 89-12, H.R.S., except as provided in paragraph 2, below;

2. This stipulation shall not constitute a complete agreement between the parties as to all employees deemed to be essential to the City and County of Honolulu under Petition Nos. S-03-44a, -44b, -44c, Relating to Facilities, and S-03-38a, -38b, -38c, Relating to Sanitation, which have not yet been negotiated between the parties.

3. This stipulation is a final binding resolution of the dispute and the underlying facts and circumstances which form the subject matter of the above-entitled cases, except as otherwise provided herein;

4. The number and classifications of essential workers which are provided for herein can be modified only upon the expressed written consent of the parties herein, and only for the purpose of ameliorating an imminent or present danger to the health and safety to 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 specifically identifiable harm that will directly cause or is very likely to cause physical harm to a person;

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

6. The HGEA shall furnish the City with the names of picket line captains, stewards, negotiating team members and members of the Board of Directors forthwith.

DATED: Honolulu, Hawaii, April 17, 1994.

CITY AND COUNTY OF HONOLULU

by 
CYNTHIA M. BOND, DIRECTOR
DEPARTMENT OF PERSONNEL

HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION

by 
CHARLES K.Y. KHIM

BOARD OF WATER SUPPLY

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO</u>	<u>WHEN REQUIRED</u>
VI. <u>Plant Operations</u> (Islandwide)			
BU 13	Civil Engineer V	(1)	M-F, 8-hour day; on-call after hours
BU 04	Telecommunications Supvr.	(1)	M-F, 8-hour day; on-call after hours
BU 03	Telemetering & Supervisory Control Technician II	(1)	M-F; 8-hour day; on-call after hours

FINANCE

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
I. <u>Accounting</u> (Claims Pre Audit)			
BU 03	Controls Accounts Bookkeeper II	(1)	One 8-hour day per week
II. <u>Accounting</u> (Payroll Section)			
BU 03	Pre Audit Clerk II	(2)	M-F; 8-hour day
BU 03	Pre-Audit Clerk III	(4)	M-F; 4-hour day
III. <u>Fiscal Services</u> (Housing Fiscal)			
BU 13	Accountant III	(2)	8-10 days/mo. (middle to latter part of each month, 8-hour day)
BU 13	Accountant III	(1)	M-F; 4-hour day

EX. "A"

HOUSING & COMMUNITY DEVELOPMENT

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO</u>	<u>CONDITIONS</u>
BU 13	Hous.Com.Dev.Spec. VII	(1)	M-F; 8-hour day
BU 13	HCDS V	(1)	M-F; 8-hour day
BU 13	HCDS III	(5)	M-F; 8-hour day
BU 03	Urban Rehab. Inspector II	(1)	M-F; 8-hour day
BU 03	Urban Rehab. Inspector I	(1)	M-F; 8-hour day
BU 03	Supervising Clerk	(1)	M-F; 8-hour day
BU 03	Sr. Clerk Typist	(1)	M-F; 8-hour day
BU 03	Clerk Typist	(8)	M-F; 8-hour day

PARKS AND RECREATION

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
I. WATER SAFETY DIVISION (<u>WATER SAFETY OPERATION BRANCH</u>)			
BU 03	Water Safety Officer I-II	(62)	10-hour day; 7 days/week
BU 03	Water Safety Officer III	(9)	10-hour day; 7 days/week
BU 04	Water Safety Officer IV	(6)	10-hour day; 7 days/week
BU 04	Water Safety Officer V	(1)	10-hour day; 7 days/week
II. HONOLULU ZOO DIVISION (<u>ANIMAL EXHIBIT BRANCH</u>)			
BU 13	Zoo Veterinarian II	(1)	On-call

HONOLULU POLICE DEPARTMENT (HPD)

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
I. Vehicle Maintenance Section:			
BU 04	Vehicle Dispatching Supvr.	(1)	M-F; 8-hour day
BU 03	Vehicle Dispatching/Serviceing Writer	(3)	M-F, 8-hour day
II. Telecommunications Systems Section:			
BU 13	Radio Engineer	(1)	M-F; 8-hour day; 0700 hrs - 1545 hrs
BU 03	Radio Technician II	(2)	M-F; 8-hour day; 0700 hrs - 1545 hrs or 1515 hrs - 2400 hrs
BU 03	Radio Technician I	(7)	M-F; 8-hour day; 0700 hrs - 1545 hrs or 1515 hrs - 2400 hrs
III. Scientific Investigation Section:			
BU 13	Police Evidence Specialist III	(1)	24-hour operation; 7 days/week
BU 13	Police Evidence Specialist II	(2)	24-hour operation; 7 days/week
BU 13	Criminalist IV	(1)	M-F; 8-hour day; on-call after hours
BU 13	Criminalist II	(2)	M-F; 8-hour day; on-call after hours

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
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IV. Communications:

BU 03	Tele. Switchboard Optr. II	(12)	24-hour operation; 7 days/week
BU 04	Tele. Switchboard Optr. III	(5)	24-hour operation; 7 days/week
BU 03	Police Radio Dispatcher II	(86)	24-hour operation; 7 days/week
BU 03	Police Radio Dispatcher I	(17)	24-hour operation; 7 days/week

V. Property & Supply Section:

BU 13	Property & Supply Manager	(1)	Regular duty
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VI. Finance:

BU 13	Accountant V	(1)	M-F; 8-hour day
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PROSECUTING ATTORNEY

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
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I. ADMINISTRATION

BU 03	Legal Clerk IV	1	M-F; 8-hour day
BU 03	Legal Clerk II	1	M-F; 8-hour day

II. FELONY PROSECUTION DIVISION

BU 04	Sup. Legal Clerk II	1	M-F; 8-hour day
BU 03	Legal Clerk IV	4	M-F; 8-hour day
BU 03	Legal Clerk III	2	M-F; 8-hour day
BU 03	Legal Clerk II	3	M-F; 8-hour day
BU 03	Legal Clerk I	1	M-F; 8-hour day
BU 03	Paralegal Asst. II	1	M-F; 8-hour day
BU 13	Investigator IV	1	M-F; 8-hour day
BU 13	Investigator III	3	M-F; 8-hour day
BU 13	Investigator II	1	M-F; 8-hour day

III. SPECIAL PROSECUTION DIVISION

BU 04	Sup. Legal Clerk II	1	M-F; 8-hour day
BU 03	Legal Clerk IV	5	M-F; 8-hour day
BU 03	Legal Clerk III	2	M-F; 8-hour day
BU 03	Legal Clerk II	2	M-F; 8-hour day
BU 13	Investigator IV	1	M-F; 8-hour day
BU 13	Investigator III	4	M-F; 8-hour day
BU 13	VW Counselor II	1	M-F; 8-hour day

IV. MISDEMEANOR PROSECUTION DIVISION

BU 04	Sup. Legal Clerk II	1	M-F; 8-hour day
BU 03	Legal Clerk IV	2	M-F; 8-hour day
BU 03	Legal Clerk III	7	M-F; 8-hour day
BU 03	Legal Clerk II	5	M-F; 8-hour day
BU 13	Investigator IV	1	M-F; 8-hour day
BU 13	Investigator III	4	M-F; 8-hour day

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
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V. LEGAL SUPPORT SERVICES DIVISION

BU 03	Legal Clerk IV	1	M-F; 8-hour day
BU 03	Legal Clerk II	1	M-F; 8-hour day

V. VICTIM/WITNESS ASSISTANCE DIVISION

BU 03	Secretary II	1	M-F; 8-hour day
BU 03	Legal Clerk III	2	M-F; 8-hour day
BU 03	Legal Clerk II	1	M-F; 8-hour day
BU 13	VW Counselor IV	1	M-F; 8-hour day
BU 13	VW Counselor III	4	M-F; 8-hour day
BU 13	VW Counselor II	7	M-F; 8-hour day

OAHU CIVIL DEFENSE

<u>BU</u>	<u>CLASS TITLE</u>	<u>NO.</u>	<u>WHEN REQUIRED</u>
BU 13	Civil Defense Staff Officer II	(1)	M-F; 8-hour day; on-call during weekdays, non-work hours, weekends and holidays
BU 13	Civil Defense Staff Officer I	(3)	M-F; 8-hour day; on-call during weekdays, non-work hours,

BU 04	Fire Equipment Superintendent	(1)	M-F; 8-hour day; standby after hours and weekends
BU 13	Radio Engineer	(1)	On-call
BU 04	Radio Technician III	(1)	M-F; 8-hour day; standby after hours and weekends