

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NOS.: DR-02-58a
	)	DR-03-58b
HAWAII GOVERNMENT EMPLOYEES	)	DR-04-58c
ASSOCIATION, AFSCME, LOCAL 152,	)	DR-09-58d
AFL-CIO,	)	DR-13-58e
)	
Petitioner,	)	ORDER NO. 1202
)	
and	)	ORDER GRANTING PETITIONS
	)	FOR INTERVENTION; NOTICE OF
JEREMY HARRIS, Mayor of the	)	PREHEARING CONFERENCE AND
City and County of Honolulu;	)	HEARING ON PETITION FOR
COUNTY OF KAUAI; and OFFICE OF	)	DECLARATORY RULING
INFORMATION PRACTICES, State of)	
Hawaii,)	
)	
Intervenors.)	
)	

ORDER GRANTING PETITIONS FOR INTERVENTION;
NOTICE OF PREHEARING CONFERENCE AND
HEARING ON PETITION FOR DECLARATORY RULING

On May 30, 1995, JEREMY HARRIS, Mayor of the City and County of Honolulu (HARRIS), filed a Petition for Intervention with the Hawaii Labor Relations Board (Board) in Case Nos.: DR-02-58a, et seq. HARRIS alleges, inter alia, that he has a statutory right to intervene in the subject case as the employer for the City and County of Honolulu. In addition, HARRIS alleges that he has a significant statutory interest in the outcome of the instant case, because a declaratory ruling by the Board will have a substantial effect on HARRIS' position in the prohibited practice complaint currently pending before the Board in Case Nos.: CE-02-245a, et seq. HARRIS further alleges that any declaratory ruling by the Board may set a precedent for HARRIS and other public employers to

follow with regard to disciplinary information required to be disclosed pursuant to Chapter 92F, Hawaii Revised Statutes (HRS).

Also on May 30, 1995, the COUNTY OF KAUAI, by and through its attorneys, filed a Petition for Intervention with the Board. COUNTY OF KAUAI alleges, inter alia, that it has a valid interest in the subject proceedings as a party to the collective bargaining agreements in question. In addition, COUNTY OF KAUAI alleges that it will be directly affected by any decision on the issues before the Board.

Finally, on May 30, 1995, the OFFICE OF INFORMATION PRACTICES, State of Hawaii (OIP), by and through its attorneys, filed a Petition for Intervention with the Board. OIP alleges, inter alia, that the Board must necessarily consider Chapter 92F, HRS, the Uniform Information Practices Act (Modified) (UIPA), to determine whether § 89-13(a)(8), HRS, prohibits HARRIS from disclosing disciplinary information concerning employees covered by the applicable collective bargaining agreements. In this regard, OIP alleges that it is the agency charged with implementing the provisions of the UIPA, and OIP has standing pursuant to § 92F-42(16), HRS, to appear in cases where the provisions of the UIPA are called into question.

OIP also alleges that the Board's ruling in this case may affect OIP's interests as a Defendant-Intervenor in State of Hawaii Organization of Police Officers (SHOPO), et al. v. City and County of Honolulu, et al., Civil No. 94-0547-02, since the issues in that case are similar to the ones presently before to the Board. Furthermore, OIP alleges that a declaratory ruling in this

proceeding could conceivably affect OIP's interests as an amicus curiae in the prohibited practice complaint before the Board in Case Nos.: CE-02-245a, et seq.

On June 2, 1995, Petitioner HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA), by and through its attorney, filed a memorandum in opposition to OIP's petition for intervention. The HGEA contends, inter alia, that the Board does not have jurisdiction over OIP, and OIP could not appear as a party in a prohibited practice proceeding pursuant to § 89-13, HRS. Therefore, the HGEA contends that OIP should not be permitted to intervene in these proceedings. In addition, the HGEA contends that OIP does not have a statutory or other right in the subject of the instant proceedings, and the Board need not and cannot consider provisions of Chapter 92F, HRS, in determining the issues in this case.

On June 8, 1995, OIP filed a memorandum in reply to the HGEA's memorandum in opposition to OIP's petition for intervention. OIP argues that it should be permitted to intervene in these proceedings, because (1) this is a declaratory ruling proceeding pursuant to § 91-8, HRS, and not a prohibited practice proceeding pursuant to § 89-13, HRS; (2) the Board's Administrative Rules § 12-42-9 permit any interested person or organization to petition the Board for a declaratory ruling and provide that any party may intervene in such proceedings; and (3) the Board must necessarily consider whether provisions of the applicable collective bargaining agreements are illegal and unenforceable, prior to determining

whether a violation of such provisions constitute a prohibited practice.

Based upon the foregoing, a Board majority finds that HARRIS, COUNTY OF KAUAI and OIP (collectively Petitioners for Intervention) timely filed their petitions for intervention and have individually alleged sufficient interest to participate in the instant proceedings. The Board majority further finds that the Petitioners for Intervention will assist the Board in developing a sound record in this case. Accordingly, the Board majority hereby grants the Petitions for Intervention filed by the Petitioners for Intervention pursuant to Administrative Rules § 12-42-8(g)(14).


YOU ARE HEREBY NOTIFIED that the Board will conduct a prehearing conference on the above-entitled petition for declaratory ruling on June 29, 1995 at 10:00 a.m. in the Board's hearings room, Room 203, 550 Halekauwila Street, Honolulu, Hawaii. The purpose of the prehearing conference is to arrive at a settlement or clarification of issues, to identify and exchange witness and exhibit lists, if any, and to the extent possible, reach an agreement on facts, matters or procedures which will facilitate and expedite the hearing or adjudication of the issues presented. The parties shall file a Prehearing Statement, with proof of service upon opposing parties, which addresses the foregoing matters with the Board two days prior to the prehearing conference.

YOU ARE ALSO NOTIFIED that the Board will conduct a hearing pursuant to Administrative Rules § 12-42-9(h)(1) on the

instant case on July 10, 1995 at 9:00 a.m. in the above-mentioned hearings room.

DATED: Honolulu, Hawaii, June 15, 1995.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member

OPINION CONCURRING IN PART AND DISSENTING IN PART

While I agree with the Board majority that HARRIS and COUNTY OF KAUAI should be permitted to intervene in this case, I do not believe that OIP should be allowed to participate in these proceedings. In my view, the Board need only consider and interpret provisions of Chapter 89, HRS, in rendering a decision in this case. I would therefore find that OIP does not allege a sufficient interest in these proceedings and that OIP's participation in these proceedings would unduly broaden the issues in this case. Accordingly, I would deny OIP's petition for intervention.


SANDRA H. EBESU, Board Member

Copies sent to:

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