

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-12-319
)	
STATE OF HAWAII ORGANIZATION)	ORDER NO. 1501
OF POLICE OFFICERS,)	
)	ORDER DISMISSING PROHIBITED
Complainant,)	PRACTICE COMPLAINT
)	
and)	
)	
BENJAMIN J. CAYETANO, Governor,)	
State of Hawaii; JEREMY HARRIS,)	
Mayor, City and County of)	
Honolulu; LINDA CROCKETT LINGLE,)	
Mayor, County of Maui; STEPHEN)	
YAMASHIRO, Mayor, County of)	
Hawaii and MARYANNE KUSAKA,)	
Mayor, County of Kauai,)	
)	
Respondents.)	

ORDER DISMISSING PROHIBITED PRACTICE COMPLAINT

After the close of Complainant's case at the hearing held on June 12, 1997, Respondent LINDA CROCKETT LINGLE, Mayor of the County of Maui (LINGLE), by and through her attorney, orally moved to dismiss the instant complaint on the grounds that there was no evidence in the record that there was a demand for negotiations regarding transfer policies and a refusal to negotiate. LINGLE also contended that the complaint should be dismissed because criteria for transfers are not negotiable under § 89-9, Hawaii Revised Statutes (HRS). Respondents BENJAMIN J. CAYETANO, Governor, State of Hawaii (CAYETANO); JEREMY HARRIS, Mayor, City and County of Honolulu (HARRIS); STEPHEN YAMASHIRO, Mayor, County of Hawaii (YAMASHIRO); and MARYANNE KUSAKA, Mayor, County of Kauai (KUSAKA), joined LINGLE's motion to dismiss the complaint.

After hearing argument on the motion, the Board, based upon a review of the record in this case, found that Complainant STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS (SHOPO) had failed to present proof that it made a demand for negotiations over the issue of transfers and the counties refused to negotiate over the subject. Thus, SHOPO failed to present a prima facie case of Respondents' alleged refusal to bargain over the transfer issue. The Board also found, however, that Respondent HARRIS admitted in his answer that he had refused to negotiate over the transfer criteria.

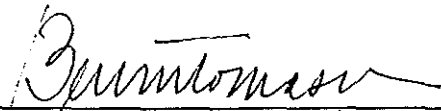
The Board therefore dismissed the complaint with prejudice as to Respondents LINGLE, CAYETANO, YAMASHIRO, and KUSAKA. As Respondent HARRIS admitted that he refused to negotiate over transfers, the Board denied the motion to dismiss as to Respondent HARRIS. SHOPO thereupon asked for leave to reopen the case for the taking of further evidence. Respondent LINGLE, who was joined by the other Respondents, objected to SHOPO's request since the Board had granted the motion to dismiss and Complainant should not be permitted to reopen the record as a matter of fairness. LINGLE also contended that there was no notice of the additional witness.

After considering the arguments presented, the Board denied SHOPO's request to reopen the record as a matter of fairness to Respondents who would be prejudiced by the reopening of SHOPO's case in light of the Board's ruling.

SHOPO subsequently moved to dismiss or withdraw its complaint against Respondent HARRIS without prejudice. Hearing no objections, the Board granted SHOPO's motion.

DATED: Honolulu, Hawaii, July 23, 1997.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member


CHESTER C. KUNITAKE, Board Member

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