

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of
LEWIS W. POE,

Petitioner.

CASE NO. DR-03-85

ORDER NO. 2043

ORDER DENYING PETITION FOR
DECLARATORY RULING

ORDER DENYING PETITION FOR DECLARATORY RULING

A Petition for Declaratory Ruling was filed August 22, 2001 by LEWIS W. POE (POE) pursuant to Hawaii Administrative Rules (HAR) § 12-42-9, contending that the list of employee organizations and exclusive representatives maintained by the Hawaii Labor Relations Board (Board) does not meet the requirements of Hawaii Revised Statutes (HRS) § 89-17.¹

After considering this petition, the Board makes these findings of fact, conclusions of law, and order:

¹HRS § 89-17 states:

List of employee organizations and exclusive representatives. The board shall maintain a list of employee organizations. To be recognized as such and to be included in the list, an organization shall file with the board a statement of its name, the name and address of its secretary or other officer to whom notices may be sent, the date of its organization, and its affiliations, if any, with other organizations. No other qualifications for inclusion shall be required, but every employee organization shall notify the board promptly of any change of name or of the name and address of its secretary or other officer to whom notices may be sent, or of its affiliations.

The board shall indicate on the list which employee organizations are exclusive representatives of appropriate bargaining units, the effective dates of their certification, and the effective date and expiration date of any agreement reached between the public employer and the exclusive representative. Copies of the list shall be made available to interested parties upon request.

1. POE is a public employee and member of Bargaining Unit 3 (BU 03) and his exclusive representative is the Hawaii Government Employees Association, AFSCME, Local 152 AFL-CIO (HGEA).
2. On August 17, 2001, POE received the Board's "List of Employee Organizations Pursuant to HRS Section 89-17" (List). Based on his review of the List, his reading of HRS § 89-17 and HAR § 12-42-128,² POE contends that the List "is very incomplete/defective and doesn't comply with the provision of HRS § 89-17 because it only contains the effective date and expiration date of only one (so-called "master") collective bargaining agreement for each of Bargaining Units 01 through 13 (with BU 05's date already indicating "an expiration")."
3. POE contends that memoranda of understanding made in the interim, by and between the public employer and HGEA, are subject to the 30-day filing requirement under HAR § 12-42-128 and consequently, should be included in the List. Poe relies solely on his reading of HRS § 89-17 referring to the "effective date and expiration date of any agreement reached between the public employer and the exclusive representative." The Board does not interpret HRS § 89-17 so broadly.
4. POE's petition fails to provide "a memorandum of authorities, containing a full discussion of the reasons, including legal authorities, in support of such position or contention" as required in HAR § 12-42-9(c)(5).
5. The List of Employee Organizations Pursuant to Section HRS § 89-17 maintained by the Board contains the name of the employee organization, address, contact person, exclusive representative for bargaining units 01 through 13, date of certification, and effective date of the contract or collective bargaining agreement.
6. Considering POE's broad reading of HRS § 89-17, and absent a full discussion of the reasons and legal authorities, we find that the List of Employee Organizations Pursuant to Section HRS §89-17 is not incomplete, defective,

²HAR § 12-42-128 states:

Collective bargaining agreements. The public employer entering into a written collective bargaining agreement pursuant to chapter 89, HRS, shall file a copy of the agreement with the board within thirty days after execution and issuance.

nor does it fail to comply with the requirements of HRS § 89-17. Hence, there is good cause for refusing to issue a declaratory order in this matter.³

ORDER

The Board hereby denies the instant petition.

DATED: Honolulu, Hawaii, _____ October 31, 2001 _____.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

Lewis W. Poe
Joyce Najita, IRC

³HAR § 12-42-9(f) provides:

The board may, for good cause, refuse to issue a declaratory order. Without limiting the generality of the foregoing, the board may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts or facts which can reasonably be expected to exist in the near future.
- (2) The petitioner's interest is not of a type which would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief.
- (3) The issuance of the declaratory order may adversely affect the interests of the board or any of its officers or employees in a litigation which is pending or may be reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the board.