

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)
 MARYANNE KUSAKA, Mayor, County of)
 Kauai,)
 Petitioner,)
 and)
 UNITED PUBLIC WORKERS, AFSCME,)
 LOCAL 646, AFL-CIO and COUNTY OF)
 HAWAII,)
 Intervenors.)

CASE NO. DR-01-86
 ORDER NO. 2044
 ORDER GRANTING UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO AND COUNTY OF HAWAII'S PETITIONS FOR INTERVENTION; DEADLINE FOR FILING RESPONSES TO UPW'S MOTION TO DISMISS FILED ON 11/5/01; NOTICE OF HEARING ON UPW'S MOTION TO DISMISS FILED ON 11/5/01; AND NOTICE OF PREHEARING CONFERENCE

ORDER GRANTING UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO AND COUNTY OF HAWAII'S PETITIONS FOR INTERVENTION; DEADLINE FOR FILING RESPONSES TO UPW'S MOTION TO DISMISS FILED ON 11/5/01; NOTICE OF HEARING ON UPW'S MOTION TO DISMISS FILED ON 11/5/01; AND NOTICE OF PREHEARING CONFERENCE

On October 15, 2001, MARYANNE KUSAKA, Mayor, County of Kauai (KUSAKA) filed the instant Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). On October 18, 2001, the Board issued a Notice of Filing of Petition for Declaratory Ruling which set October 30, 2001 as the deadline for the filing of Petitions for Intervention.

On October 29, 2001, the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) filed a Petition for Intervention with the Board. The UPW alleges that it is the exclusive representative for Unit 01 employees and the Union filed a grievance on or about June 27, 2001 which is the subject of KUSAKA's declaratory ruling petition.

Also, on October 30, 2001, the COUNTY OF HAWAII (HAWAII COUNTY) filed a Petition to Intervene as a Party Respondent with the Board. HAWAII COUNTY alleges that as an employer of approximately 447 Unit 01 members, it has an interest in the instant declaratory ruling petition and believes that matters of classification and reallocation are specifically excluded from negotiations. Thus, HAWAII COUNTY contends that it has a right to challenge any proposal which may interfere with its management rights.

Based on the foregoing, the Board finds that the UPW and HAWAII COUNTY have alleged sufficient interest to intervene in this case. Accordingly, the Board grants the UPW and HAWAII COUNTY's respective petitions for intervention pursuant to Hawaii Administrative Rules (HAR) §§ 12-42-8(g)(14) and 12-42-9(e).

On November 5, 2001, the UPW filed a Motion to Dismiss with the Board. The UPW contends that the petition is barred by the 90-day statute of limitations; the Board has no authority to determine the arbitrability of a grievance; the Board lacks authority to issue declaratory rulings on interpretations of contract, and Petitioner has failed to establish "good cause" for issuance of a declaratory ruling on a promotional dispute. The certificate of service indicates that UPW's counsel served Petitioner's counsel with the motion.

The Board hereby orders the UPW to serve Intervenor HAWAII COUNTY with its Motion to Dismiss forthwith. Any written responses to UPW's Motion to Dismiss shall be filed with the Board by the close of business on November 19, 2001.

NOTICE IS HEREBY GIVEN that the Board, pursuant to Hawaii Revised Statutes (HRS) § 89-5(b)(5) and HAR § 12-42-8(g)(3), will conduct a hearing on the UPW's Motion to Dismiss filed on November 5, 2001 on November 21, 2001 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

NOTICE IS ALSO GIVEN that the Board will conduct a prehearing conference on the instant petition following the hearing on the foregoing motion. 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 which addresses the foregoing matters with the Board two days prior to the prehearing conference.

All parties have the right to appear in person and to be represented by counsel or other representative.

Auxiliary aids and services are available upon request, call Mrs. Ebata at (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodation.

MARYANNE KUSAKA, Petitioner and UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,
AFL-CIO, et al., Intervenor
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DATED: Honolulu, Hawaii, November 5, 2001.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

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