STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

| In the Matter of |) CASE NOS.: DR-01-87a |
|---|---|
| CITY AND COUNTY OF HONOLULU, Petitioner, and UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO; STATE OF HAWAII; AND COUNTY OF MAUI, Intervenors. | DR-10-87b ORDER NO. 2049 ORDER GRANTING UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO, STATE OF HAWAII, AND COUNTY OF MAUI'S PETITIONS FOR INTERVENTION; AND DEAD- LINE FOR RESPONSES TO UPW'S MOTION TO DISMISS FILED ON 12/5/01 |
| | <i>)</i> |

ORDER GRANTING UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO, STATE OF HAWAII, AND
COUNTY OF MAUI'S PETITIONS FOR INTERVENTION; AND NOTICE OF
DEADLINE FOR RESPONSES TO UPW'S MOTION TO DISMISS FILED ON 12/5/01

On November 26, 2001, the CITY AND COUNTY OF HONOLULU (CITY) filed the instant Petition for Declaratory Order with the Hawaii Labor Relations Board (Board). On November 28, 2001, the Board issued a Notice of Filing of Petition for Declaratory Ruling which set December 12, 2001 as the deadline for the filing of Petitions for Intervention.

On December 3, 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 Units 01 and 10 employees and negotiated the deferred compensation plans which are the subject of this petition, as well as other pending cases.

Also, on December 3, 2001, the STATE OF HAWAII (STATE) filed a Petition to Intervene with the Board. The STATE alleges that pursuant to Hawaii Revised Statutes (HRS) § 89-6(b), the governor has four votes in negotiations so that no majority or decision can be reached by the employer group without the STATE's consent. The STATE further alleges that the CITY's petition involves the terms of collective bargaining agreements to which the STATE is a party and contends that any ruling by the Board upon the legality of terms contained in the agreements will affect the STATE as a party to those agreements and as the largest vote holder within the employer group.

On December 12, 2001, the COUNTY OF MAUI (MAUI COUNTY) filed a petition for intervention with the Board. MAUI COUNTY alleges that it is a public employer and a party to the collective bargaining agreements containing the provision being challenged by the CITY in this petition. MAUI COUNTY further alleges that its Mayor signed the agreements with reservations and his vote constituted the fifth vote from the employer group.

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

On December 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; Petitioner lacks standing to maintain the action; the issuance of a declaratory order may adversely affect the interests of the Board in pending litigation; and Petitioner failed to establish proof of "good cause" to issue a declaratory ruling on matters resolved in negotiations. Responses to the UPW's motion to dismiss shall be filed with the Board by the close of business on January 14, 2002.

| December 14, 2001 |
|-------------------|
|-------------------|

HAWAII LABOR RELATIONS BOARD

BRIAN K. NAKAMURA, Chair

CHESTER C. KUNITAKE, Member

KATHLEEN/RACUYA-MARKRICH, Member

Copies sent to:

Jeffrey S. Harris, Esq.
Paul T. Tsukiyama, Deputy Corporation Counsel
Herbert R. Takahashi, Esq.
Sarah R. Hirakami, Deputy Attorney General
John D. Kim, Deputy Corporation Counsel
Joyce Najita, IRC