

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO,

Complainant,

and

AMADOR CASUPANG, Labor Relations
Specialist, Department of Transportation, State
of Hawaii; LISA DAU, Department of Trans-
portation, State of Hawaii; RODNEY
HARAGA, Director, Department of
Transportation, State of Hawaii; and LINDA
LINGLE, Governor, State of Hawaii,

Respondents.

CASE NO. CE-03-579

ORDER NO. 2307

ORDER DENYING RESPONDENTS'
MOTION TO REOPEN RECORD

ORDER DENYING RESPONDENTS' MOTION TO REOPEN RECORD

On January 24, 2005, the above-named Respondents, by and through their counsel, filed a Motion to Re-Open Record with the Hawaii Labor Relations Board (Board). Respondents seek to reopen the record to admit two letters into the record which purport to clarify the testimony Daniel J. Mollway (Mollway), Executive Director, Hawaii State Ethics Commission, who appeared before the Board and testified on January 6, 2005. Respondents move to admit a letter dated January 7, 2005 from Respondents' counsel to Mollway requesting clarification of Mollway's January 3, 2005 letter and Mollway's January 21, 2005 response. Respondents' counsel's declaration states that Mollway's January 21, 2005 letter clearly states what Mollway explained in his testimony and would assist the Board in understanding the position of the Hawaii State Ethics Commission on the issue of the union's posting of campaign materials on state office bulletin boards.

Thereafter, on January 31, 2005, Complainant filed a Memorandum in Opposition to Respondent's Motion to Reopen Record with the Board. Complainant argued that Respondents seek to submit cumulative evidence from their witness who already testified before the Board. In addition, Complainant contends that Respondents have made no showing that the additional evidence was not introduced because of inadvertence or mistake. Complainant further contends that it would be prejudiced by the admission of the letters because it would be required to recall witnesses on the effect of the January 21, 2005 letter

and because Mollway's letter was solicited by Respondents' counsel to be distributed to the unions to put them on notice.


After reviewing Respondents' motion, Complainant's opposition, and the record, the Board hereby denies Respondents' motion to reopen the record. In view of the reasons advanced for the proffered evidence, the Board believes the evidence is cumulative. Mollway appeared as a witness in this case on January 6, 2005 and in the Board's view, was clear in his testimony. Further clarification of Mollway's testimony is unnecessary given Complainant's arguments that it will be prejudiced by the admission of the exhibits into the record.

DATED: Honolulu, Hawaii, February 2, 2005.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

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