

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-01-611
)	
UNITED PUBLIC WORKERS, AFSCME,)	ORDER NO. 2359
LOCAL 646, AFL-CIO,)	
)	ORDER GRANTING, IN PART, RESPOND-
Complainant,)	ENTS' MOTION FOR PARTICULARIZA-
)	TION OF COMPLAINT
and)	
)	
DEPARTMENT OF ENVIRONMENTAL)	
SERVICES, City and County of Honolulu;)	
RAY MUMFORD, and WAYNE HAMADA,)	
Department of Environmental Services,)	
City and County of Honolulu,)	
)	
Respondents.)	
)	

ORDER GRANTING, IN PART, RESPONDENTS'
MOTION FOR PARTICULARIZATION OF COMPLAINT

On January 24, 2006, Respondents DEPARTMENT OF ENVIRONMENTAL SERVICES, City and County of Honolulu; RAY MUMFORD, and WAYNE HAMADA, Department of Environmental Services, City and County of Honolulu (collectively CITY), by and through their counsel, filed a Motion for Particularization of the Complaint with the Hawaii Labor Relations Board (Board). The CITY contends that Complainant failed to provide certain basic salient information rendering the complaint so vague and indefinite that Respondents are unable to frame an answer thereto. The CITY requests that the Complainant particularize its complaint by specifying 1) the names of "other employees similarly situated to Mr. Delapena" who were allegedly denied temporary assignments to Equipment Operators positions; 2) the dates, times, and places of such alleged denials of temporary assignments; and 3) the names of the CITY's "agents" who allegedly denied Mr. Delapena and "other employees similarly situated" the temporary assignments to Equipment Operator positions. The CITY contends it cannot reasonably be expected to frame an answer without further particularization.

After reviewing the complaint and the arguments raised, the Board finds that the complaint is vague in that Complainant fails to specify the names of similarly situated employees who were allegedly denied temporary assignments to Equipment Operator positions; the dates of the alleged denials; and the names of agents other than the named Respondents who allegedly denied the employees the temporary assignments.

The Board therefore grants the CITY's motion, in part, and directs Complainant to file a particularization of the complaint with the Board setting forth specific facts as to when, who and by whom the CITY denied temporary assignments to Equipment Operator positions culminating in the commission of the prohibited practices alleged.

Specifically, Complainant shall state:

1. The names of the "other employees similarly situated to Mr. Delapena" who were allegedly denied temporary assignments to Equipment Operators positions;
2. The dates of such denials of temporary assignments; and
3. The names of the CITY's agents who allegedly denied the employees the temporary assignments to Equipment Operator positions.

The Board hereby directs Complainant to file the original and five copies of the requested Particularization, with proof of service upon Respondents' counsel, no later than 4:30 p.m. of the fifth working day after service of this Order. If Complainant fails to file and serve the requested Particularization in a timely manner, the Board shall dismiss the subject Prohibited Practice Complaint.

The CITY is directed to file with this Board the original and five copies of its Answer addressing the Complaint and Particularization, with proof of service upon Complainant no later than 4:30 p.m. of the fifth working day after service of Complainant's Particularization. Failure by the CITY to file its Answer in a timely manner may constitute an admission of the material facts alleged in the Complaint and Particularization and a waiver of a hearing.

DATED: Honolulu, Hawaii, February 1, 2006.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


EMORY J. SPRINGER, Member


KATHLEEN RACUYA-MARKRICH, Member

UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO v. DEPARTMENT OF
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COMPLAINT

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