

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Complainant,

and

KENNETH NAKAMATSU, Director,
Department of Human Resources, City and
County of Honolulu and MUI
HANNEMANN, Mayor, City and County of
Honolulu,

Respondents.

CASE NO. CE-01-627

ORDER NO. 2441

ORDER DENYING RESPONDENTS'
MOTION FOR RECONSIDERATION
AND/OR FOR CLARIFICATION OF
ORDER GRANTING UPW'S MOTION
FOR SUMMARY JUDGMENT,
ISSUED MARCH 6, 2007, FILED ON
MARCH 19, 2007

ORDER DENYING RESPONDENTS' MOTION FOR RECONSIDERATION
AND/OR CLARIFICATION OF ORDER GRANTING UPW'S MOTION FOR
SUMMARY JUDGMENT, ISSUED MARCH 6, 2007, FILED ON MARCH 19, 2007

On March 19, 2007, Respondents, by and through their counsel, filed a Motion for Reconsideration and/or Clarification of Order Granting UPW's Motion for Summary Judgment, Issued on March 6, 2007 with the Board. Respondents requested reconsideration of the Board's order based upon the Intermediate Court of Appeals' Order Granting Stay of Enforcement Pending Appeal dated March 7, 2007 and/or to clarify the order indicating that the order does not require the City departments employing Unit 01 employees to provide documents which are confidential under federal law and cannot be disclosed without an employee's specific written consent.

Thereafter, on March 27, 2007, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO ("UPW"), by and through its counsel, filed a Memorandum in Opposition to Respondents' Motion for Reconsideration and/or Clarification with the Board. Complainant contends, *inter alia*, that the Board no longer has jurisdiction over the case because a final decision has been issued and an appeal has been filed in the Circuit Court. In addition to filing a notice of appeal to the Supreme Court contesting the Intermediate Court of Appeals' order granting a stay in Case No. 27962, the UPW filed a notice of appeal from Order No. 2432 to the First Circuit Court in Civil No. 07-1-0529-03 EEH. Accordingly, the UPW argues that the Board no longer retains jurisdiction over this case. Further, the UPW argues that the relief requested by Respondents is

tantamount to issuing a stay of Order No. 2432; the Board has no statutory basis or administrative rule which permits reconsideration; and the City failed to establish a basis for reconsideration by not establishing why its arguments could not have been raised previously.


After careful consideration of the record and the arguments of counsel, the Board agrees with the UPW's arguments that the Board no longer has jurisdiction over this case as an appeal of the Board's final order has been filed in the First Circuit Court. See TSA Intern. Lmtd. v. Shimizu Corp., 92 Hawai'i 243, 990 P.2d 713. Accordingly, the Board hereby denies Respondents' Motion for Reconsideration and/or Clarification of Order Granting UPW's Motion for Summary Judgment, issued on March 6, 2007.

DATED: Honolulu, Hawaii, April 3, 2007.


HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

Copies sent to:

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