

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Petitioner,

and

TED H.S. HONG and CITY AND COUNTY
OF HONOLULU,

Intervenors.

CASE NOS.: DR-01-100a
DR-02-100b
DR-03-100c
DR-04-200d
DR-05-100e
DR-06-100f
DR-07-100g
DR-08-100h
DR-09-100i
DR-10-100j
DR-11-100k
DR-12-100l
DR-13-100m

ORDER NO. 2695

ORDER GRANTING PETITIONS FOR
INTERVENTION; AND NOTICE OF
PREHEARING CONFERENCE

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On March 3, 2010, Petitioner UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed a Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). Petitioner seeks a determination whether Ted H.S. Hong (Hong) should be removed from the Board's List of Mediators and Arbitrators (List) because Petitioner alleges, *inter alia*, that Hong filed a prohibited practice complaint against the UPW in November 2009; that Hong acted in concert with his clients and took adverse action against the UPW at its business premises in Hilo, Hawaii; that Hong was referred to the UPW and the City and County of Honolulu on a list of arbitrators from the Board by letter dated January 14, 2010; that Hong is no longer neutral and unbiased and he appears to be in a conflict of interest or biased against the UPW and any labor organization. Thus, Petitioner alleges Hong is not a qualified person within the meaning of Hawaii Revised Statutes (HRS) § 89-5(b)(6) and requests that Hong be removed from the List when the UPW is a party or entirely from the List maintained by the Board.

On March 10, 2010, the Board issued a Notice of Receipt of Petition for Clarification or Amendment of Appropriate Bargaining Unit and Notice of Deadline for Filing Petitions for Intervention setting March 29, 2009 as the deadline for interested parties to file Petitions for Intervention in these proceedings.

On March 25, 2010, Hong filed a Petition for Intervention in these proceedings alleging, inter alia, that he has a statutory right under HRS § 89-18 not to be harassed, intimidated, or interfered with as a mediator, fact-finder or arbitrator by the UPW; that Petitioner seeks to infringe upon Hong's property rights to his own law practice; that Hong has an interest in protecting his professional reputation and his ability to freely contract concerning the practice of his profession; and that his intervention would serve the public interest because he seeks to protect the integrity of the Board's list of mediators and arbitrators from intimidation tactics.

On March 29, 2010, the City and County of Honolulu (City) filed a Petition for Intervention in the proceedings because as a public employer, the exclusion of any person from the Board's list of Mediators and Arbitrators impacts the provisions of the collective bargaining agreement between the UPW and the City. The City alleges, inter alia, that the collective bargaining agreement contains an arbitrator selection process that includes obtaining a random list of arbitrators from the Board and that the exclusion of any one person from the list would greatly affect the City.

Based on the foregoing, the Board finds that Hong and the City have alleged sufficient interests to intervene in this case. Accordingly, the Board grants the respective Petitions for Intervention pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(14).

NOTICE IS HEREBY GIVEN that the Board, pursuant to HRS § 89-5(i)(1) and HAR § 12-42-8, will conduct a prehearing conference on the instant petition by conference call on **April 15, 2010 at 9:00 a.m.** in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. Petitioner and Intervenor City shall appear in the Board's hearing room at the designated time and Intervenor Hong shall call the Board at 974-4000 6-8615 at the designated time. The purpose of the prehearing conference is to arrive at a settlement or clarification of issues and to the extent possible, reach an agreement on facts, matters or procedures which will facilitate and expedite the 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 Nora Ebata (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 seven working days prior to the needed accommodation.

UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO and TED H.S. HONG, et al.
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DR-07-100g; DR-08-100h; DR-09-100i; DR-10-100j; DR-11-100k; DR-12-100l; DR-13-100m
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DATED: Honolulu, Hawaii, April 1, 2010.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member

Copies sent to:

Charles K.Y. Kim, Esq.
Ted H.S. Hong, Esq.
Duane W.H. Pang, Deputy Corporation Counsel