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STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII FIRE FIGHTERS ASSOCIATION,
IAFF, LOCAL 1463, AFL-CIO,

Complainants,

and

CHARMAINE TAVARES, Mayor, County
of Maui; JEFFREY A. MURRAY, Chief,
Fire Department, County of Maui; and
DERRICK ARRUDA, Battalion Chief, Fire
Department, County of Maui;

Respondents.

CASE NO. CE-11-760

ORDER NO. 2736

STIPULATED ORDER CLOSING
CASE

STIPULATED ORDER CLOSING CASE

Pursuant to the Stipulation, filed on September 2, 2010, the above-named parties agreed that the Hawaii Labor Relations Board (Board) would issue the following order:

1. The Board has exclusive jurisdiction of the prohibited practice complaint filed herein on June 7, 2010.
2. The HAWAII FIRE FIGHTERS ASSOCIATION, IAFF, Local 1463, AFL-CIO (HFFA/IAFF) was and is an employee organization within the meaning of Section 89-2, Hawaii Revised Statutes (HRS).
3. The HFFA/IAFF has been the exclusive certified representative of all employees within Bargaining Unit 11 since February 4, 1972.
4. CHARMAINE TAVARES, Mayor, County of Maui, JEFFREY A. MURRAY, Chief, Fire Department, County of Maui, and DERRICK ARRUDA, Battalion Chief, Fire Department, County of Maui, Respondents herein, were, on or about May 24, 2010, for purposes of this Prohibited Practice Complaint, employers or public employers pursuant to Section 89-2, HRS. Respondents further recognize and agree that as employers or public employers they are required to know and comply with their statutory obligations under Chapter 89, HRS.

5. Respondents recognize that HFFA/IAFF is the Board certified exclusive employee representative of all Bargaining Unit 11 employees employed by the County of Maui pursuant to Section 89-8, HRS, and has the right to act for and negotiate agreements covering all employees in Bargaining Unit 11 and is responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership.
6. Respondents recognize they have a duty to consult on all matters affecting employee relations as defined within Section 89-9(c), HRS.
7. Respondents recognize that pursuant to Section 89-9, HRS, they have a duty to negotiate in good faith with respect to wages, hours, and other terms and conditions of employment that are subject to collective bargaining and that are to be embodied in a written agreement as specified in Section 89-10.
8. Respondents agree and stipulate that, except for reasonable differences of interpretation, they are required to comply with the terms and conditions of the Bargaining Unit 11 Collective Bargaining Agreement.
9. Respondents recognize that Chapter 89, HRS, and the Bargaining Unit 11 Collective Bargaining Unit (sic) Agreement prohibits unilateral modification or amendment to existing terms and conditions of employment contained within the Unit 11 Agreement, and that unilateral modification of amendment could constitute a prohibited practice pursuant to Chapter 89, HRS.
10. Respondents recognize that joint decision-making is the modern way of administering government, that the policy of the State of Hawaii is to promote harmonious and cooperative relations between government and its employees, and that this policy is best effectuated by allowing public employees to organize for the purpose of collective bargaining through representatives of their own choosing, pursuant to Chapter 89.
11. The May 24, 2010 memorandum/communication announcing a policy that would provide additional compensation to certain Unit 11 employees sent by Respondent Derrick Arruda to all County of Maui Department of Fire and Public Safety Bargaining Unit 11 employees was a matter requiring consultation with the HFFA/IAFF prior to publication and dissemination of Bargaining Unit 11 employees pursuant to Chapter 89, HRS and Section 27B of the Unit 11 Bargaining Agreement.

12. Respondents' failure to consult with HFFA/IAFF prior to the publication and dissemination of the May 24, 2010 memorandum/communication from Respondent Arruda to all County of Maui Department of Fire and Public Safety Bargaining Unit 11 employees was a violation of Section 27B of the Unit 11 Bargaining Agreement which could have resulted in a finding by the Hawaii Labor Relations Board that Respondents committed a prohibited practice had the matter proceeded to hearing.
13. The May 24, 2010 memorandum/communication from Respondent Arruda is hereby rescinded by Respondents with the concomitant agreement by Respondents to immediately initiate at least a request for consultation with HFFA/IAFF of the issues identified and contained within the May 24, 2010 memorandum/communication.
14. In consideration of the foregoing stipulations and agreements contained herein the Parties further agree to the resolution of Prohibited Practice Complaint Case No. CE-11-760, and that the Board shall issue an Order consistent herewith.
15. The Parties agree that the HFFA/IAFF will post for no more than 60 days a copy of the Stipulation and any Order issued by the Board in all locations where Bargaining Unit 11 employees may gather and read.


Based on the foregoing Stipulation, the Board hereby closes this case.

DATED: Honolulu, Hawaii, September 22, 2010

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member



NORMAN K. KATO II, Member

Copies sent to:

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Cheryl Tipton, Deputy Corporation Counsel

