

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

BARBARA A. KRIEG¹, Director,
Department of Human Resources
Development, State of Hawaii,

Complainant,

and

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

Respondent.

CASE NOS. CU-01-271a
CU-10-271b

ORDER NO. 2989

ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS COMPLAINT

ORDER GRANTING RESPONDENT'S MOTION TO DISMISS COMPLAINT

On May 15, 2014, Respondent UNITED PUBLIC WORKERS, AFSCME, Local 646, AFL-CIO (Respondent or UPW) filed its Motion to Dismiss Complaint pursuant to Hawaii Administrative Rules (HAR) § 12-42-8(g)(3)(B), for failure to state a claim for relief and mootness. Respondent asserts that the question of the applicability of res judicata and collateral estoppel to issues and claims presented to arbitrators under the UPW agreements whose awards have been confirmed by court order and judgment has been resolved by two decisions and judgments of the Intermediate Court of Appeals, and accordingly, the controversy has been rendered moot.

On May 16, 2014, Complainant BARBARA A. KRIEG, Director, Department of Human Resources Development, State of Hawaii (Complainant) filed a response to Respondent's Motion to Dismiss Complaint, stating that the "State agrees to dismiss the complaint" as a show of good faith in the hopes that the parties will be able to resolve the underlying dispute through a settlement agreement.

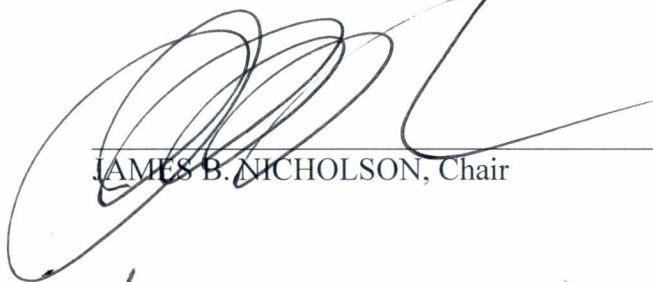
Based upon Respondent's Motion to Dismiss and Complainant's response thereto, the Board finds that there is no longer a live controversy between the parties, and

therefore the Board holds that the Complaint should be dismissed. Kona Old Hawaiian Trails Group v. Lyman, 69 Haw. 81, 87, 734 P.2d 161, 165 (1987) (“A case is moot if it has lost its character as a present, live controversy”).

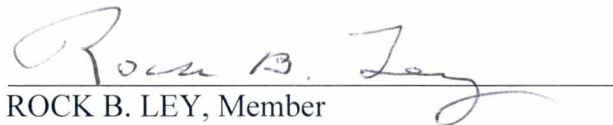
IT IS HEREBY ORDERED that the instant Complaint is dismissed.

DATED: Honolulu, Hawaii, May 20, 2014.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair


SESNITA A.D. MOEPONO, Member
ROCK B. LEY, Member

Copies sent to:

Herbert R. Takahashi, Esq.
Jeffrey A. Keating, Deputy Attorney General

ⁱ Complainant Marie C. Laderta is replaced by Barbara A. Krieg, Director, Department of Human Resources Development, State of Hawaii. See, e.g., Hawaii Rules of Appellate Procedure (HRAP) Rule 43(c)(1).