

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of

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

Complainant,

and

KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P. NEVES, Fire Chief, Honolulu Fire Department, City and County of Honolulu; HONOLULU FIRE DEPARTMENT, City and County of Honolulu; WILLIAM P. KENOI, Mayor, County of Hawaii; DARREN ROSARIO, Fire Chief, Hawaii Fire Department; HAWAII FIRE DEPARTMENT, County of Hawaii; BERNARD P. CARVALHO, JR., Mayor, County of Kauai; ROBERT WESTERMAN, Fire Chief, Kauai Fire Department, County of Kauai; KAUAI FIRE DEPARTMENT, County of Kauai; ALAN ARAKAWA, Mayor, County of Maui; JEFFREY A. MURRAY, Fire Chief, Department of Fire and Public Safety, County of Maui and DEPARTMENT OF FIRE AND PUBLIC SAFETY, County of Maui,

Respondents.

CASE NO. CE-11-846

ORDER NO. 3017

ORDER GRANTING THE CITY AND COUNTY OF HONOLULU'S MOTION TO CONTINUE DEADLINE TO FILE WRITTEN ANSWER AND TO CONTINUE PREHEARING/ SCHEDULING CONFERENCE SCHEDULED FOR FRIDAY, SEPTEMBER 26, 2014; NOTICE OF RESCHEDULED PREHEARING/ SETTLEMENT CONFERENCE

ORDER GRANTING THE CITY AND COUNTY OF HONOLULU'S  
MOTION TO CONTINUE DEADLINE TO FILE WRITTEN  
ANSWER AND TO CONTINUE PREHEARING/SCHEDULING  
CONFERENCE SCHEDULED FOR FRIDAY, SEPTEMBER 26, 2014

On September 5, 2014, Complainant HAWAII FIREFIGHTERS ASSOCIATION, IAFF, LOCAL 1463, AFL-CIO (Complainant) filed the Prohibited Practice Complaint in this matter against Respondents KIRK CALDWELL, Mayor, City and County of Honolulu; MANUEL P.

NEVES, Fire Chief, Honolulu Fire Department, City and County of Honolulu; HONOLULU FIRE DEPARTMENT, City and County of Honolulu (collectively, City and County of Honolulu); WILLIAM P. KENOI, Mayor, County of Hawaii; DARREN ROSARIO, Fire Chief, Hawaii Fire Department; HAWAII FIRE DEPARTMENT, County of Hawaii (collectively County of Hawaii); BERNARD P. CARVALHO, JR., Mayor, County of Kauai; ROBERT WESTERMAN, Fire Chief, Kauai Fire Department, County of Kauai; KAUAI FIRE DEPARTMENT, County of Kauai (collectively, County of Kauai); ALAN ARAKAWA, Mayor, County of Maui; JEFFREY A. MURRAY, Fire Chief, Department of Fire and Public Safety, County of Maui and DEPARTMENT OF FIRE AND PUBLIC SAFETY, County of Maui (collectively, County of Maui).

On September 8, 2014, the Board issued its Notice to Respondent(s) of Prohibited Practice Complaint; Notice of Prehearing/Settlement Conference; and Notice of Hearing on the Prohibited Practice Complaint, which notified all Respondents that they are directed to file a written answer to the Complaint within ten days after service of the Complaint, and further notified all Respondents that the Board would conduct a prehearing/settlement conference on September 26, 2014, and a hearing on the Complaint on October 13, 2014.

On September 18, 2014, the City and County of Honolulu filed a motion to continue the deadline to file written answers<sup>i</sup> and to continue the prehearing/settlement<sup>ii</sup> conference scheduled for Friday September 26, 2014 (Motion). Counsel for the City and County of Honolulu asserted in an affidavit that counsel for the Complainant “is willing to allow the County Respondents additional time to file their written answers” and “has agreed to allow a continuance of the Prehearing/Scheduling Conference scheduled for September 26, 2014.” The City and County of Honolulu further asserted in its memorandum in support of the Motion that all the parties, including counsel for Complainant, have agreed to additional time and agreed that the written answers “from all Respondents should be filed no later than October 14, 2014.”

Pursuant to Hawaii Administrative Rules (HAR) § 12-42-45(a), a “respondent shall file a written answer to the complaint within ten days after service of the complaint.” Pursuant to HAR § 12-42-45(d), “[i]n extraordinary circumstances as determined by the [B]oard, the [B]oard may extend the time within which the answer shall be filed.” Additionally, pursuant to Hawaii Revised Statutes (HRS) § 377-9(b), which is made applicable to prohibited practice proceedings by HRS § 91-14<sup>iii</sup>, the Board shall affix a time for the hearing on the Complaint which shall be “not less than ten nor more than forty days after the filing of the [C]omplaint or amendment thereof.”

However, pursuant to HRS § 91-9(d), “[a]ny procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default” (emphasis added).



On September 19, 2014, Complainant filed its Statement of No Objection to Respondents Kirk Caldwell, Manuel P. Neves and Honolulu Fire Department's Motion to Continue Prehearing/Settlement Conference Scheduled for Friday September 26, 2014, stating, in part, "Complainant waives its right to a speedy hearing on this matter under Section 12-42-24(b)" and that the motion applies to all Respondents.

On September 19, 2014, the County of Kauai filed its Joinder to the City and County of Honolulu's Motion to Continue Prehearing/Scheduling Conference Scheduled for Friday, September 26, 2014. On September 22, 2014, the County of Maui filed its own Joinder to the City and County of Honolulu's Motion.

Accordingly, based upon the City and County of Honolulu's assertion that all parties including counsel for the Complainant agreed to the additional time in order to discuss settlement, and that written answers "from all Respondents should be filed no later than October 14, 2014[.]" and the pleadings filed by the Complaint and the County of Kauai, the Board hereby finds good cause to grant the City and County of Honolulu's Motion, pursuant to the provisions of HRS § 91-9(d).

Therefore, IT IS HEREBY ORDERED that the City and County of Honolulu's Motion, and the County of Kauai's Joinder thereto, be GRANTED, and that the deadline for all Respondents to file an answer to the Complaint is hereby extended to **October 14, 2014**.

#### NOTICE OF RESCHEDULED PREHEARING/SETTLEMENT CONFERENCE

PURSUANT TO HRS § 89-5(i)(4) and (i)(5), and HAR § 12-42-47, NOTICE IS HEREBY GIVEN that the Board will conduct a prehearing/settlement conference in this matter on **November 7, 2014, at 11:00 a.m.**, in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. All parties shall appear in the Board's hearing room at the designated time.

The purpose of the prehearing/settlement conference is to arrive at a settlement or clarification of the issues, if any, and, to the extent possible, reach an agreement on facts, matters, or procedures which will facilitate and expedite the hearing or adjudication of the issues presented. The Board encourages the parties to have a representative with settlement authority, and/or who is familiar with the dispute, appear at the prehearing/settlement conference. The Board will further establish deadlines to identify witnesses, file applications for the issuance of subpoenas, exchange witness and exhibit lists, and file exhibits. The parties shall file a Prehearing Statement which addresses the foregoing matters with the Board two days prior to the prehearing conference.

The Board will reschedule the hearing on the Complaint at the Prehearing/Settlement Conference, and the parties are therefore encouraged to bring their calendars to the Prehearing/Settlement Conference.

Any party not residing on the island of Oahu may appear telephonically at the prehearing/settlement conference by calling Ms. Nora Ebata, Board Secretary at (808) 586-8610, (808) 586-8847 (TTY), or 1 (888) 569-6859 (TTY islands of Hawaii, Kauai or Maui) to make the necessary arrangements no later than ten (10) days prior to the prehearing/settlement conference.

DATED: Honolulu, Hawaii, September 22, 2014.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



ROCK B. LEY, Member

Copies sent to:

Peter L. Trask, Esq.  
Duane W.H. Pang, Deputy Corporation Counsel  
Molly A. Stebbins, Corporation Counsel  
Alfred B. Castillo, Jr., County Attorney  
Patrick Wong, Corporation Counsel

<sup>i</sup> The caption on the City and County of Honolulu's motion did not include the motion to continue the deadline to file a written answer; however, the text of the motion itself and the accompanying memorandum in support of motion include such request.

<sup>ii</sup> The City and County of Honolulu's motion refers to the conference as the "Prehearing/Scheduling" conference.

<sup>iii</sup> HRS § 89-14 provides in relevant part:

Any controversy concerning prohibited practices may be submitted to the [B]oard in the same manner and with the same effect as provided in section 377-9[.]

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