

under

STATE OF HAWAII

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
JOSEPH N. A. RYAN, JR.,)	Case Nos. CU-12-40
)	CE-12-74
Complainant,)	
)	
and)	Order No. 431
)	
STATE OF HAWAII ORGANIZATION)	
OF POLICE OFFICERS (SHOPO);)	
GEORGE R. ARIYOSHI, Governor)	
of the State of Hawaii;)	
EILEEN R. ANDERSON, Mayor of)	
the City and County of Hono-)	
lulu; HERBERT T. MATAYOSHI,)	
Mayor of the County of Hawaii;)	
HANNIBAL TAVARES, Mayor of)	
the County of Maui; EDUARDO E.))	
MALAPIT, Mayor of the County)	
of Kauai,)	
)	
Respondents.)	
)	

ORDER GRANTING RESPONDENTS'
MOTIONS FOR PARTICULARIZATION
AND NOTICE OF CONTINUANCE OF HEARING DATE

On September 21, 1981, Respondent Herbert T. Matayoshi, Mayor of the County of Hawaii, by his attorney, filed with this Board a Motion for Particularization of the Complaint. The affidavit of Respondent's attorney submitted in support of the motion indicates that the allegations of the Amended Complaint are so vague, indefinite and ambiguous that she is unable to determine what specific acts or statements of Respondent Matayoshi allegedly constitute a prohibited practice.

Also, on September 21, 1981, Respondent Eileen R. Anderson, Mayor of the City and County of Honolulu, by her attorney, filed a Motion for Particularization of the Complaint. The affidavit of Respondent Anderson's attorney

indicates that he is unable to prepare an adequate responsive pleading to the Amended Complaint because the allegations therein are so indefinite and uncertain so that the exact nature of the claim being asserted is uncertain. Respondent Anderson further contends that the Complainant should be required to comply with the forms and procedures set forth in Rule 10, Hawaii Rules of Civil Procedure.

On September 22, 1981, Respondent State of Hawaii Organization of Police Officers (hereafter SHOPO) also filed a Motion for Particularization. The affidavit of Respondent SHOPO's attorney indicates that he believes the complaint is vague and indefinite and is insufficient to notify Respondent of the basis for Complainant's claim. Respondent SHOPO also claims that the Complaint is somehow insufficient as it contains no prayer for relief.

On September 23, 1981, Respondent Hannibal Tavares, Mayor of the County of Maui, by his attorney, filed a Motion for Particularization of the Amended Prohibited Practice Complaint. Respondent Tavares' Motion sought an order directing Complainant to supply specific information detailing: the circumstances which give rise to the claim that Respondent Tavares knowingly participated in an unfair labor practice in violation of HRS §89-13(b)(1) and (4) and HRS §89-3 by signing the contract as alleged; the circumstances giving rise to the assertion that Article 9 of the previous collective bargaining agreement applied to the action as alleged; and the circumstances giving rise to the claim that Respondent Tavares discriminated against seniority rights of veteran employees in violation of HRS §89-13-(b)(1) and (4) and HRS §89-3 as alleged. Moreover,

Respondent Tavares sought the relief requested by Complainant.

Also, on September 23, 1981, Respondent Eduardo E. Malapit, Mayor of the County of Kauai and Respondent George R. Ariyoshi, through their respective attorneys, filed a Motion for Particularization of the Complaint. Respondents Malapit and Ariyoshi raised concerns nearly identical to those presented by Respondent Mayor Anderson.

Upon review of the aforesaid motions and affidavits and the charges set forth in the Amended Complaint, the Board concludes that particularization of the allegations in the Amended Complaint as requested by Respondents' motions should be granted.

In so ordering, the Board specifically finds that the absence of a formal prayer for relief does not render the Amended Complaint indefinite and vague. Any relief, if warranted, will be fashioned by the Board. Moreover, the Board is of the opinion that the strict rules of pleading embodied in the Hawaii Rules of Civil Procedure are not controlling in the proceedings before the Board. The Board believes that such a holding would be unduly restrictive and contrary to the policy which precipitated the creation of quasi-judicial administrative agencies such as this.

The Board directs the above-named Complainant to file with this Board the original and five (5) copies of the requested particularization, with proof of service on all parties, within five days after service of this order. If Complainant fails to timely file and serve the particularization, the Board will dismiss the Amended Complaint accordingly.

Respondents are directed to file with this Board, the original and five (5) copies of the answer, with certificate of service on all parties, no later than 4:30 p.m. of the fifth day after service of Complainant's particularization. Failure of any Respondent to timely file an answer, shall constitute an admission of the material facts alleged in the Amended Complaint and Particularization and a waiver of a hearing.

YOU ARE HEREBY NOTIFIED that in view of the above orders, the hearing in this matter, originally scheduled for September 25, 1981 at 9:30 a.m., is continued until further notice.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


James K. Clark, Board Member

Dated: September 30, 1981

Honolulu, Hawaii