

STATE OF HAWAII

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of)	
)	
EDGAR H. W. LUM,)	CASE NOS. CE-13-65
)	CU-13-39
Complainant,)	
)	ORDER NO. 453
and)	
)	ORDER DENYING RESPON-
FRANK F. FASI, Mayor of the)	DENT'S MOTION TO REVOKE
City and County of Honolulu,)	SUBPOENAS DUCES TECUM
)	
and)	
)	
HAWAII GOVERNMENT EMPLOYEES')	
ASSOCIATION, LOCAL 152)	
AFSCME, AFL-CIO,)	
)	
Respondents.)	

ORDER DENYING RESPONDENT'S MOTION TO REVOKE SUBPOENAS DUCES TECUM

On August 25, 1982, Complainant EDGAR H. W. LUM [hereinafter referred to as Complainant], by and through his attorney, Rodney H. S. Kim, filed with this Board an Application to Take Deposition Upon Oral Examination and for Issuance of Subpoena Duces Tecum. By Order No. 450, dated September 1, 1982, said application was granted.

On September 3, 1982, Respondent Eileen R. Anderson, Mayor of the City and County of Honolulu (hereinafter referred to as Respondent), by and through her attorney, Charlotte J. Duarte, filed with this Board a Motion to Revoke Subpoenas Duces Tecum. By this motion, counsel requested this Board revoke, in whole or in part, the subpoenas duces tecum served upon Arlie Carson and Ernest Hara on August 31, 1982.

In a memorandum attached thereto, Respondent objected to the subpoenas duces tecum, as issued, because:

(1) Carson and Hara were not the proper parties to be subpoenaed for the material requested;

(2) Carson does not have such information, does not have access to such information, and has no knowledge as to where or from whom such information may be obtained; and

(3) Complainant's requests are extremely broad and general, with no particularity, and as such, it cannot be determined whether or not the material, as requested, is reasonably related to Complainant's allegations.

After a review of the written arguments, the Board concludes that the instant subpoenas are not subject to revocation because the named witnesses are not the proper parties or do not possess the requested information. At the deposition, Respondent's counsel can interpose the proper objections. If Complainant has subpoenaed the wrong persons, he will bear the consequences of his error.

Further, while Complainant's requests are broadly drafted, the Board finds that Respondent is in the best position to determine which of its records are properly discoverable. Recognizing the wide latitude of discovery proceedings, the Board concludes that Complainant's requests are not overbroad. Also, it is noted that Respondent has agreed to provide Complainant with relevant information and documentation relied upon by Respondent during the grievance process to support Complainant's termination. Finally, the parties have agreed to review exhibits prior to hearing in anticipation of arriving at stipulations as to facts or evidence.

Based upon the foregoing reasons, the Board hereby
denies Respondent's Motion to Revoke Subpoenas Duces Tecum.

DATED: Honolulu, Hawaii, September 10, 1982 .

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


MACK H. HAMADA, Chairperson


JAMES K. CLARK, Board Member


JAMES R. CARRAS, Board Member

Copies sent to:

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Joyce Najita, IRC