

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME LOCAL 152,
AFL-CIO,

Complainant,

and

DEREK KAWAKAMI, Mayor, County of
Kaua'i,

Respondent(s).

CASE NO(S). 20-CE-03-946a
20-CE-04-946b
20-CE-13-946c

ORDER NO. 3609

MINUTE ORDER DENYING UNITED
PUBLIC WORKERS' PETITION FOR
INTERVENTION AND DENYING STATE
OF HAWAII ORGANIZATION OF POLICE
OFFICERS' PETITION FOR
INTERVENTION

MINUTE ORDER DENYING UNITED PUBLIC WORKERS' PETITION FOR
INTERVENTION AND DENYING STATE OF HAWAII
ORGANIZATION OF POLICE OFFICERS' PETITION FOR INTERVENTION

On May 1, 2020, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME LOCAL 152, AFL-CIO (HGEA) filed a Prohibited Practice Complaint (Complaint) with the Hawai'i Labor Relations Board (Board) against Respondent DEREK KAWAKAMI, Mayor, County of Kaua'i (Respondent, County, or Mayor).

On May 7, 2020, HGEA submitted to the Board a First Amended Prohibited Practice Complaint (First Amended Complaint) against the County. The First Amended Complaint alleges, among other things, that the County committed prohibited practices in violation of Hawai'i Revised Statutes (HRS) §§ 89-1(b)(2), 89-9(a) and (c), 89-13(a)(1), (5), (7), and (8) arising out a movement reduction scheduling directive, which, among other things, implemented 4 day, 10 hours a day (4-10) work schedule for County of Kaua'i offices during the period of the Mayor's emergency proclamation effective April 27, 2020.

The County filed an Answer to the First Amended Complaint on May 12, 2020ⁱ.

On June 9, 2020, United Public Workers (UPW) filed a Petition for Intervention (UPW's Petition for Intervention). UPW's Petition for Intervention, among other things, argues that, if the Board adopts the County's position and arguments, it would "have widespread, devastating, and far reaching effects on all unions and their members across the State of Hawaii, including UPW and its members...[; and] ...confer on Respondent a license to run roughshod and trample over the rights of any public union...[.]" (Emphasis added)

On June 10, 2020, State of Hawaii Organization of Police Officers (SHOPO) filed a Petition for Intervention (SHOPO’s Petition for Intervention). SHOPO’s Petition for Intervention, among other things, argues that, if the Board adopts the County’s position and arguments, it would “have widespread, devastating, and far reaching effects on all unions and their members across the State of Hawaii, including SHOPO and its members...[; and] ...confer on Respondent a license to run roughshod and trample over the rights of any public union...[.]” (Emphasis added)

On June 10, 2020, the County filed Respondent’s Memorandum in Opposition to Petitioner United Public Workers’ Petition for Intervention. Among other things, the County argues that UPW’s Petition for Intervention “does not provide and explanation why HGEA’s representation of their mutual interests...would, as a practical matter, impair and impede UPW’s ability to protect those rights...[and] has not explained why it believes that UPW is inadequately represented in this matter.”

That same day, the County filed Respondent’s Memorandum in Opposition to Petitioner State of Hawai‘i Organization of Police Officers’ Petition for Intervention. The County argues, among other things, that SHOPO’s Petition for Intervention “does not provide and explanation why HGEA’s representation of their mutual interests...would, as a practical matter, impair and impede SHOPO’s ability to protect those rights...[and] has not explained why it believes that SHOPO’s interests are inadequately represented in this matter.”

MINUTE ORDER

After consideration of the full record herein and the arguments of the Parties and the proposed intervenors, the Board hereby:

- 1) Denies UPW’s Petition for Intervention; and
- 2) Denies SHOPO’s Petition for Intervention.

The findings of fact and conclusions of law regarding this Minute Order will be incorporated into the final Decision and Order issued in this case after a hearing on the merits, as previously scheduled.

DATED: Honolulu, Hawai‘i, June 15, 2020.

HAWAII LABOR RELATIONS BOARD



Manu R. Oshiro

MANU R. OSHIRO, Chair

Sesnita A. D. Moepono

SESNITA A.D. MOEPONO, Member

J.N. Musto

J.N. MUSTO, Member

Copies sent to:

Stacy Moniz, HGEA Advocacy Chief
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HGEA v. KAWAKAMI
CASE NOS. 20-CE-03-946a; 20-CE-04-946b; and 20-CE-133-946c
MINUTE ORDER DENYING UNITED PUBLIC WORKERS' PETITION FOR
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ⁱ The Board notes that the First Amended Complaint would generally be considered procedurally defective, as HGEA neither asked for nor received leave to amend the Complaint prior to filing the First Amended Complaint in accordance with Hawaii Administrative Rules (HAR) § 12-42-43. Accordingly, the Board did not Notice the First Amended Complaint. However, the County, by answering the First Amended Complaint, acknowledged receipt of the First Amended Complaint. Therefore, the Board, in its discretion under HAR Section 12-42-43, will allow the First Amended Complaint to serve as the charging document in this case.