

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.

CASE NOS.: 20-CE-03-946a  
20-CE-04-946b  
20-CE-13-946c

ORDER NO. 3631

MINUTE ORDER GRANTING, IN PART,  
AND DENYING, IN PART,  
RESPONDENT'S MOTION TO REVOKE  
THE FOUR SUBPOENAS SERVED ON  
RESPONDENT AND HIS THREE  
WITNESSES ON JULY 15, 2020, OR IN  
THE ALTERNATIVE, FOR AN ORDER  
TO CONTINUE HEARING ON THE  
MERITS

MINUTE ORDER GRANTING, IN PART, AND DENYING, IN PART,  
RESPONDENT'S MOTION TO REVOKE THE FOUR SUBPOENAS SERVED ON  
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ALTERNATIVE, FOR AN ORDER TO CONTINUE HEARING ON THE MERITS

On July 10, 2020, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME LOCAL 152, AFL-CIO (HGEA) filed a Request for Subpoenas for, among other individuals, Respondent DEREK KAWAKAMI, Mayor, County of Kaua'i (Respondent), Michael A. Dahilig, Managing Director, County of Kaua'i, Annette L. Anderson, Human Resources Director, County of Kaua'i, and Janine Rapozo, Human Resources Manager, County of Kaua'i (collectively, Kaua'i Witnesses), and the Hawai'i Labor Relations Board (Board) issued those subpoenas on the same date.

On July 16, 2020, Respondent filed Respondent's Motion to Revoke the Four Subpoenas Served on Respondent and His Three Witnesses on July 15, 2020, or in the Alternative, for an Order to Continue the Hearing on the Merits (Motion to Revoke). In the Motion to Revoke, among other things, Respondent stated that HGEA was mandating that the Kaua'i Witnesses appear in person, despite the Board's previous statement that witnesses and parties had the right to appear videographically due to the COVID-19 pandemic.

On July 17, 2020, HGEA filed Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO's Opposition to Respondent's Motion to Revoke Subpoenas (Opposition). In the Opposition, among other things, HGEA argues that it should be allowed to call witnesses in person in its case in chief.

On July 20, 2020, the Board held a Pretrial Conference in this case. At that time, among other things, the parties presented oral argument on the Motion to Revoke. After oral argument, the Board ordered that the Kaua'i Witnesses each submit a Declaration stating that they were unwilling to fly to O'ahu for the hearing.

On July 21, 2020, Respondent filed the Declaration of Derek Kawakami, Declaration of Michael A. Dahilig, Declaration of Annette L. Anderson, and Declaration of Janine M.Z. Rapozo (collectively, Declarations).

The Board, having reviewed the Motion to Revoke, the Opposition, the oral arguments, and the Declarations, and based on the full record herein, hereby GRANTS, IN PART, AND DENIES, IN PART, the Motion to Revoke as follows:

1. The Board declines to revoke the subpoenas to the Kaua'i Witnesses but clarifies that nothing in the subpoenas shall be read to require the Kaua'i Witnesses to appear in person;
2. As allowed for in the Pretrial Order and the Notices of Hearing on the Merits in this case, the Kaua'i Witnesses may appear at the Hearing on the Merits videographically;
3. Orders that while a witness appears videographically, they must be in a room by themselves, in front of a computer used solely for the purpose of the witness appearing by video. The remotely appearing witness must be given a copy of the exhibits for use during questioning and may not have access to any other documents, including notes, unless otherwise allowed by the Board. Remotely appearing witnesses may not be assisted by any other person while on the witness stand without prior Board approval and may not have any outside communication with third parties while they are on the stand and under oath.
4. The Hearing on the Merits will continue as scheduled, commencing on July 27, 2020.

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

DATED: Honolulu, Hawai'i, \_\_\_\_\_ July 24, 2020 \_\_\_\_\_.

HAWAI'I LABOR RELATIONS BOARD



*Manu O. Oshiro*

MANU O. OSHIRO, Chair

*Sesnita A. D. Moepono*

SESNITA A.D. MOEPONO, Member

*J.N. Musto*

J.N. MUSTO, Member

Copies sent to:

Stacy Moniz, HGEA

Mark L. Bradbury, Deputy Corporation Counsel

HGEA v. DEREK KAWAKAMI

CASE NOS. 20-CE-03-946a, 20-CE-04-946b, 20-CE-13-946c

MINUTE ORDER GRANTING, IN PART, AND DENYING, IN PART, RESPONDENT'S MOTION TO REVOKE THE FOUR SUBPOENAS SERVED ON RESPONDENT AND HIS THREE WITNESSES ON JULY 15, 2020, OR IN THE ALTERNATIVE, FOR AN ORDER TO CONTINUE HEARING ON THE MERITS

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