

STATE OF HAWAI‘I
HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,

Complainant,

and

ROSS S. SASAMURA, P.E.,
Director and Chief Engineer,
Department of Facility Maintenance,
City and County of Honolulu;
CAROLEE C. KUBO, Director,
Department of Human Resources,
City and County of Honolulu; and
KIRK CALDWELL, Mayor, City
and County of Honolulu,

Respondents.ⁱ

CASE NO. CE-01-724

ORDER NO. 3505

ORDER GRANTING, IN PART, AND
DENYING IN PART, RESPONDENTS’
MOTION TO CONTINUE HEARING
ON THE MERITS AND ALL
DEADLINES

ORDER GRANTING, IN PART, AND DENYING, IN PART, RESPONDENTS’
MOTION TO CONTINUE HEARING ON THE MERITS AND ALL DEADLINES

On August 13, 2009, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed a prohibited practice complaint with the Hawai‘i Labor Relations Board (Board) alleging that City and County of Honolulu (City) Respondents JEOFFREY S. CUDIAMAT, Director and Chief Engineer for the Department of Facility Maintenance; KENNETH NAKAMATSU, Director of the Department of Human Resources, City and County of Honolulu; and MUFU HANNEMANN, Mayor, City and County of Honolulu (Respondents),ⁱⁱ committed violations of Hawai‘i Revised Statutes (HRS) § 89-13(a)(5), (7), and (8) for their refusal to negotiate over the terms and conditions of all supplemental agreements or to provide requested information requested by UPW.

On April 30, 2019, the Board issued Order No. 3490A1 First Amended Pretrial Order and Notices; (1) Notice of Filing Requirements; (2) Notice of Access; (3) Notice of Pretrial Conference; (4) Notice of Continued Hearing on the Merits; and (5) Schedule of Hearings, Conferences, and Deadlines, which, among other things, set dates in the above-referenced case to continue with the hearing on the merits (HOM) on June 19, 20, 26, and 27, 2019 and other required deadlines.

On May 16, 2019, Respondents filed Respondents' Motion to Continue Hearings on the Merits and All Deadlines (City Motion to Continue), requesting a continuance of the "hearing on the merits (and all deadlines) for a period of three (3) months from June 19, 2019 to September 2019, or as soon thereafter based on the Board's and counsels' calendars...so that the parties have the time and flexibility to enter into good faith discussions to resolve the pending complaint."

In their Memorandum in Support of Motion, Respondents represented that, "It appears that counsel for the Union is also committed to engage in good faith negotiations to seek an amicable resolution of this case and would not object to this Motion." The Declaration of Ernest H. Nomura (Nomura), counsel for Respondents, in support of the City Motion to Continue, contained an Exhibit B, a May 15, 2019 letter from UPW's counsel Herbert R. Takahashi to Nomura, stating that:

I will recommend to my client that UPW not object to a motion to be filed by the employer for such a continuance provided the following conditions are acceptable.

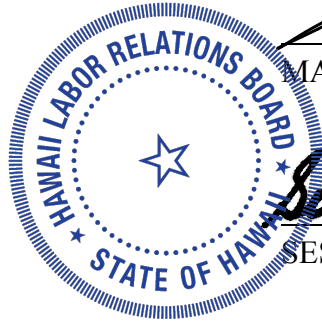
1. You will file a written motion with the Board to extend all deadlines and the hearing on the merits by May 17, 2019;
2. The purpose of the extension is to negotiate in good faith a mutually acceptable resolution of the controversy; and
3. The employer will submit a counter-proposal to UPW in writing by July 15, 2019.

On May 17, 2019, UPW filed UPW's Position on Respondents' Motion to Continue Hearing on the Merits and All Deadlines Filed May 16, 2019 (UPW's Position). In its Position, UPW states that it "does not object to respondents' motion provided the Board's order granting the motion sets forth the conditions referred to in Exhibit B (the May 15, 2019 letter sent to Ernest Nomura) as the basis for granting Respondents' motion."

After considering the parties' positions and that this case has been pending for almost ten years, the Board will grant, in part, and deny, in part, the City Motion to Continue by allowing for a continuance of the HOM, but only for a period of sixty (60) days. The Board will issue a separate amended pretrial order setting forth the specific date(s) for the HOM and the remaining deadlines.

DATED: Honolulu, Hawai'i, May 22, 2019.

HAWAI'I LABOR RELATIONS BOARD




MARCUS R. OSHIRO, Chair


SESNITA A.D. MOEPONO, Member

EXCUSED

J N. MUSTO, Member

Copies sent to:

Ernest H. Nomura, Esq.

Herbert R. Takahashi, Esq.

UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO and ROSS S. SASAMURA, P.E., Director
and Chief Engineer, Department of Facility Maintenance, City and County of Honolulu; et al.

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CONTINUE HEARING ON THE MERITS AND ALL DEADLINES

ⁱ The Hawai'i Labor Relations Board has applied the Hawai'i Rules of Civil Procedure (HRCPP) where its administrative rules are silent. Dep't of Safety, State of Hawaii v. United Public Workers, AFSCME, Local 646, AFL-CIO, Board Case No, CU-10-322, Order No. 2944 at *2 n. 2 (2013). HRCPP Rule 25(d)(1) provides that "When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded." The current City officials are Respondents ROSS S. SASAMURA, P.E., Director and Chief Engineer, Department of Facility Maintenance, City and County of Honolulu; CAROLEE C. KUBO, Director, Department of Human Resources, City and County of Honolulu; and KIRK CALDWELL, Mayor, City and County of Honolulu. Accordingly, these named Respondents have been substituted for the originally named Respondents JEOFFREY S. CUDIAMAT, Director and Chief Engineer for the Department of Facility Maintenance; KENNETH NAKAMATSU, Director of the Department of Human Resources, City and County of Honolulu; and MUFU HANNEMANN, Mayor, City and County of Honolulu.

ⁱⁱ See endnote 1, *supra*.