

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KEVIN R. WALSH, BLANE M.
WILSON, STEVEN M. ANNARELLI
and LYDIA R. HILL, as individuals
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

CITY AND COUNTY OF
HONOLULU, *et al.*,

Defendants.

CIVIL NO: 05-00378 DAE/LEK

[CLASS ACTION]

PERMANENT INJUNCTION
ORDER ENJOINING
ENFORCEMENT OF
H.R.S. § 78-1(c) AND THE
POLICIES AND PRACTICES
BASED THEREON

PERMANENT INJUNCTION ORDER ENJOINING
ENFORCEMENT OF H.R.S. § 78-1(c) AND THE POLICIES
AND PRACTICES BASED THEREON

On February 1, 2006, this Court entered its Order Granting Plaintiffs' Motion for Preliminary Injunction, which barred Defendants from enforcing the pre-employment residency requirement set forth in H.R.S. § 78-1(c) ("February 1 Order"). On February 13, 2006, this Court entered its Preliminary Injunction Order Enjoining Enforcement of H.R.S. § 78-1(c) and the Policies and Practices Based Thereon, which incorporated the reasoning of the February 1 Order. On April 18, 2006, this Court entered its Order approving of the Stipulation of the Parties Regarding Implementation of Preliminary Injunction Orders (the February

1, February 13 and April 18 Orders are referred to collectively as the “Preliminary Injunction Orders”).

On April 5, 2006, Plaintiffs filed an Amended Motion for Summary Judgment and for Entry of a Permanent Injunction and supporting papers. In that Motion, Plaintiffs sought summary judgment on the First through Sixth Causes of Action of the Third Amended Complaint and “a permanent injunction enjoining enforcement of H.R.S. § 78-1(c) and the policies and practices based thereon (the “pre-employment residency requirement”), as well as the Defendants’ policy and practice of favoring former residents for public employment, whether by exemption or preference.” (*See* Amended Motion at 2.)

On May 16, 2006, while Plaintiffs’ Summary Judgment Motion was pending, this Court approved and entered the Stipulation of the Parties Regarding Certification of Class and Appropriate Appointments and Order (“Class Certification Order”).

On June 14, 2006, this Court entered its Order Granting Plaintiffs’ Motion for Summary Judgment and Denying Defendants’ Counter Motion for Summary Judgment (“Permanent Injunction Order”).

In accordance with the Preliminary Injunction Orders, the Class Certification Order and the Permanent Injunction Order, this Court hereby permanently enjoins

Defendants from enforcing the pre-employment residency requirement set forth in H.R.S. § 78-1(c) and the policies and practices based thereon, which include without limitation:

1. Defendants shall not enforce the requirement that an applicant for public employment be a current legal resident of Hawaii at the time of application, as set forth in H.R.S. § 78-1(c);
2. Defendants shall not enforce any policies or practices based on the portion of H.R.S. § 78-1(c) that requires that an applicant for public employment be a current legal resident of Hawaii at the time of application, including but not limited to the City and County of Honolulu's Civil Service Rule 3-4;
3. Defendants shall remove any remaining language from the Internet and from future job postings and recruitments that provides that public employment applications can only be accepted from current legal residents of Hawaii.

This Permanent Injunction Order is limited to enjoining enforcement of the pre-employment residency requirement as set forth in H.R.S. § 78-1(c) and the policies and practices based thereon. This Permanent Injunction Order shall not be applicable to the residency requirements for elective and appointive officers of the State or the County, as set forth in H.R.S. §§ 78-1(a) and (b), or the requirement that employees be residents of the State to be eligible for continued employment

(“continuing residency requirement”). With respect to the continuing residency requirement, it is further ordered that:

1. Defendants are permanently enjoined from requiring that an applicant for a public employment position establish residency before hire;
2. Nothing precludes Defendants from requesting that a new hire on his or her first day of employment certify that he or she is a resident of Hawaii, provided, however, that such certification itself shall be sufficient to establish residency at the time of hire;
3. Defendants, in the event that documentary evidence of Hawaii residency is required, shall afford new hires a reasonable amount of time after beginning employment to provide any such document, *e.g.*, Hawaii voter registration, Hawaii driver license, etc.

This Permanent Injunction Order shall be binding on all those as provided in Fed. R. Civ. P. 65(d).

APPROVED AS TO FORM:

/s/ Charleen M. Aina

Charleen M. Aina
Deputy Attorney General
Attorney for Defendants Bennett and Laderta

/s/ Gordon D. Nelson

Gordon Nelson

Deputy Corporation Counsel

Attorney for Defendant City and County of Honolulu

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, July 13, 2006.





David Alan Ezra
United States District Judge

Walsh, et al. v. City and County of Honolulu, et al., USDC CV No. 05-00378, Permanent Injunction Order Enjoining Enforcement of H.R.S. § 78-1(c) and the Policies and Practices Based Thereon