

LATE TESTIMONY

STATEMENT ON SB 2408
to the Senate Human Services and Public Housing Committee
Relating to Banning Smoking in Public Housing

by
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January 29, 2008

I am totally opposed to SB 2408.

I cannot believe that Senators Hooser and Ihara were serious in proposing this bill. The bill presents no justification nor reason for its passage. It is not proper nor logical to propose a bill without any justification. Therefore, the only conclusion I can reach is that this is a hate bill aimed against smokers.

I am very disappointed that Senators Hooser and Ihara would stoop to this level. Isn't Hawaii supposed to be the land of Aloha where we all love one another? Hawaii has sure changed since I came here 40 years ago.

At least the other bills banning smoking claim their purpose is to protect the health of others from secondhand smoke, although these bills are based on faulty evidence. But that argument is not even present in this bill.

In my 40 years of living in Hawaii I have never seen a more hideous bill introduced. It strikes at the very basis of our precious freedom. I am reminded of Nazi Germany.

How would this bill be enforced. The fourth amendment to the constitution bars unreasonable searches. To get and execute a search warrant entails additional work on the police and courts and additional cost to the taxpayers. Would you not prefer to see the police attend to serious crime? All you have to do is read the newspapers to see the crime that is now running rampant in the streets. Last week we had two vicious killings in one day.

Another serious shortcoming in this bill is that it targets the economically depressed, those living in public housing. How can you be so mean-spirited?

If this bill passes, you will shame Hawaii! Truly, I believe the fact that this bill is even being introduced shames Hawaii!

THERE ARE 200,000 SMOKERS IN HAWAII THAT VOTE!

Better a free Hawaii than a smoke free Hawaii.

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Testimony to Senate Committee on Human Services and Public Housing

Hearing Tuesday January 29, 2008 1:30 p.m.

S.B.2408 Relating to Public Housing, Prohibition on Smoking in and around Public Housing

My name is Jill Friedman.

I am the public housing tenant who requested that Senator Hooser introduce legislation to provide smoke-free environments for public housing tenants. I got so sick from an extreme contamination of second hand smoke in and around my unit that I had to evacuate in May 2007. In spite of my efforts to resolve the problem HPHA has refused to do anything about it, and I am still unable to return or use my unit at all, making me effectively homeless even though I pay my rent every month. HPHA could have resolved the problem very easily simply by moving one tenant and designating the 4-unit building and yard smoke-free, but has refused to do so. My Project Manager informed me that she is not permitted to move tenants or to designate smoke-free areas even if tenants request it.

I am very appreciative of the Senator's response to my request and the time and effort he and others dedicated to drafting and introducing this legislation.

However, there are some fundamental differences between S.B. 2408 as it currently exists and the legislation that I requested and require.

My intent was and still is to empower public housing residents and safeguard their health by requiring HPHA to provide smoke-free units, buildings and outdoor areas for tenants who request them-- or possibly for all tenants-- and to respond to and resolve to the complaining tenant's satisfaction any and all complaints of fumes, including but not limited to tobacco smoke, that are causing problems for the tenant.

The bill as written puts all the burden on the tenants and none on HPHA, and does not adequately protect tenants from secondhand smoke, for the following reasons:

1-The 20 foot no-smoking zone around buildings is not sufficient to keep smoke out of the tenants' units and yards. Over time the smoke residue and fumes accumulate in the unit and create an unsafe and unhealthy situation for the tenant as well as damage to the tenant's belongings. I know this because when people smoke 20 feet from my building it blows into my unit and remains there. This is partly why I had to evacuate and cannot return. This is why I requested a smoke-free building with smoke-free outdoor area.

2-The only penalty for violation is eviction for tenants. There is no penalty for non-tenants, such as staff, guests or others who happen to be on the project grounds. Eviction is such a harsh penalty and such a time-consuming and cumbersome process that it is unlikely to be implemented, and rightly so. Low income tenants already have enough stresses and pressures in their lives without also being threatened with eviction. For the law to be effective, there needs to be an immediate fine for anyone who violates it--not only tenants-- as in the Smoke-free Workplace law. I recommend \$50 for a first offense and \$100 for a second offense.

I recommend the following language be included in S.B. 2408

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In order to protect the health of Public Housing tenants and ensure their right to the full enjoyment of their living space:

HPHA residents shall have a right to safe, clean smoke free air in their units, yards, parking spaces and cars as well as in common areas that they must pass through to access the aforementioned areas.

HPHA shall respond to, investigate and resolve to the complaining tenant's satisfaction all complaints of fumes, including but not limited to tobacco smoke, that are causing problems for such tenant immediately upon being notified of such fumes and problems.

Public Housing Project Managers shall be empowered to move tenants and to designate buildings and outdoor areas as smoke-free as the need or request arises.

HPHA shall provide smoke-free units, buildings and outdoor areas to all tenants who request them within 30 days of such request

Or

Smoking shall be prohibited inside all buildings, including within individual units as well as common areas, and within 50 feet of any building in any HPHA project.

Any individual violating this law by smoking in such prohibited areas including, but not limited to tenants, staff, managers, guests and any other individuals on the project grounds or inside project buildings for any reason shall be fined \$50.00 for a first offense, \$100.00 for a subsequent offense and \$150.00 for a third offense.

The Hawaii Public Health Department shall be empowered to investigate complaints and enforce this law.

Testimony to Senate Committee on Human Services and Public Housing
Hearing Tuesday January 29, 2008 1:30 p.m
Concerning SB 2408 Relating to Public Housing, Prohibition on Smoking in and around

I lived in Unit 14B in Kekaha Ha'ae, an HPHA project since December 2000. My tenancy was uneventful with no significant problems. My unit inspections were always satisfactory. Beginning in or around April, 2007, following the arrival of a new tenant in Unit 14A, which is next door to and usually upwind of my unit, my unit, 14B as well as my yard and surrounding area became contaminated with fumes that caused me illness and pain and suffering, and eventually forced me to evacuate the unit completely on May 3, 2007. The next day, May 4, 2007, I was examined by a doctor and found to have bronchitis in addition to the other symptoms I was experiencing. The doctor and I determined that my illness was caused by exposure to secondhand smoke coming from Unit 14A. The doctor issued a statement to HPHA that it was medically necessary for me to live in a smoke-free environment and that I should not live next to a smoker, which I submitted to the Project Manager. I was treated with antibiotics for the bronchitis and bought and used over-the-counter pain relievers and decongestants for the other symptoms. I obtained a camping permit and slept in a tent on the beach. My health gradually began to improve, but every time I returned to Unit 14B to get belongings I needed, to clean the

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unit or to care for the yard, I became sick and painful again, even if I returned for only a short time (about 15-30 minutes) and even if I did not enter the unit but remained in the yard. The resulting illness would last from several days to several weeks. Over time, some of the symptoms became chronic and I became exhausted and emotionally distressed. I developed stress-related physical problems including gastro-intestinal symptoms and increased heart rate. I also became much more sensitive to smoke as well as other fumes and chemicals than I had been previously. This was a result of the chronic recurrent inflammation of my respiratory system which was caused by the fumes inside and outside Unit 14B.

Over the intervening months I attempted to contact and work with HPHA Management and other HPHA personnel to resolve the problem, with no success. The only attempt HPHA made was to instruct me to apply for a Reasonable Accommodation. This was not the appropriate avenue, because I was not asking for a special accommodation, like a wheelchair ramp, that only a disabled person would need. I was simply requesting that my unit be restored to its previous normal, safe, habitable state with normal, safe, clean air in the unit and surrounding area. However, I did fill out and return the forms with the requested information in the hopes that it would resolve the problem. Not surprisingly, the Reasonable Accommodation request was denied because the doctor determined that I was not disabled, and the Reasonable Accommodations are only for disabled tenants.

I also called HPHA Management repeatedly but was never allowed to speak to the appropriate person. They kept telling me he was unavailable and would return my call but he never did. However I did explain the problem to the person I spoke with, so I know that HPHA Management is aware of the problem but has chosen to ignore it.

I also called the State Ombudsman but they also refused to do anything about the problem.

I

In August, 2007 I received a letter from the Project Manager stating that I was in violation of my rental agreement because my yard was overgrown, and threatening to evict me if I did not correct the problem. I informed the manager in writing that I had been unable to care for the yard because I was unable to spend any time at all in the yard due to the fumes in the yard, but that I would do my best to

correct it in time for the re-inspection. Then, under threat of eviction, I spent several hours in the yard

and restored it as best I could to its usual orderly state. I left the area after experiencing dizziness, itching and a rash. I then suffered a painful sore throat and other respiratory infection symptoms which lasted about 2 weeks. I also, immediately after receiving that eviction threat developed painful gastro-intestinal symptoms that prevented me from functioning normally for several weeks. Those symptoms were caused by stress as a result of Management's action.

After that I had to stay away from the unit completely in order to safeguard my health. In a state of exhaustion, depression and despair, I had no idea what to do, and so I did nothing.

On Thursday, January 10, 2008 I received a notice from Management stating that I was in violation of my rental agreement because my unit was found to be "unsanitary" and my yard overgrown during the yearly inspection. Management is well aware that I have been unable to care for these areas because I have been unable to enter or use these areas at all, but instead of

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trying to resolve the problem, Management threatened me with "serious action." Since receiving this notice I have been in a state of shock and extreme stress and anxiety.

All this has transpired because of HPHA's refusal to provide a normal, safe, smoke-free environment to a good tenant whose health and tenancy depends on it.

This is why I requested that my Senator, Senator Gary Hooser introduce legislation to Require that HPHA provide smoke-free environments for Public Housing tenants who need or request them; and to require that HPHA Managers investigate and resolve to the tenant's satisfaction all complaints about fumes, including but not limited to tobacco smoke, that are causing problems for the tenant.

Effects of fumes in Kekaha Ha'aheo Unit 14B and surrounding outdoor area.

Exposure to fumes inside and outside Unit 14B beginning around April 2007 after a new tenant moved into Unit 14A, have caused the following symptoms which prevent me from entering or using the unit or yard at all.

burning and itching eyes
nosebleed
painful sore throat
bronchitis
earache
coughing
wheezing
chest congestion
shortness of breath
headache
loss of appetite
insomnia
sleep disturbance
increased heart rate
inability to focus, concentrate or function normally
nausea
pain and burning inside mouth
strange, metallic taste in mouth
dizziness
itching skin
rash

The respiratory effects, including sore throat, chest congestion, coughing, wheezing and cold symptoms can last for weeks after even a short visit (10-30 minutes) to the unit to get things or care for the yard. Because of this I had to completely stop going to the unit several months ago. My health has improved but has not returned to normal.



COALITION FOR A
TOBACCO-FREE HAWAII

LATE TESTIMONY

Email to: Senate Committee on Human Services & Public Housing, testimony@capitol.hawaii.gov

RE: Committee Human Services & Public Housing, hearing schedule, January 29, 2008, 1:30 P.M.,
Conference Rm. 016

Senator Suzanne Chun Oakland, Chair & Senator Les Ihara, Jr., Vice Chair

RE: Testimony in support of intent with comments of SB2408, Relating to prohibiting smoking in public housing units.

Chair Chun Oakland, Vice Chair Ihara, and members of the Committee on Human Services & Public Housing.

Thank you for the opportunity to submit testimony and comments that support the intent of SB2408, which if passed would prohibit smoking in public housing units throughout the State of Hawaii. My name is George Massengale, I am the Policy Director, for the Coalition for a Tobacco-Free Hawaii, a statewide association of over 140 member organizations, businesses and more that 2,000 individuals committed to working together to reduce the negative impact of tobacco on the health of Hawaii's children, adults, and visitors.

Two years ago the Coalition, its organizational members and thousands of individuals from all over the State vigorously advocated for the passage of Hawaii's Smoke-Free Law. This law now provides comprehensive protections to all of Hawaii's employees, residents, and visitors from the hazards of secondhand smoke in both the workplace and public places.

Last year the Coalition began developing a smoke-free homes initiative to reduce secondhand smoke exposure in condominiums, and apartments. This initiative focuses on voluntary adoption of policies in multi-unit dwellings. It is part of a larger public education campaign to educate home owners, landlords, and management companies of the health impact and the cost savings of smoke-free homes. Our statistics show that slightly over 70% of all people in Hawaii report they live in a home with a smoke-free policy.

As we noted, we support the intent of this bill and commend Senator Hooser for wanting to address this issue in our state's public housing. However, we would note that the Hawaii Public Housing Authority already possesses the regulatory authority to implement a smoke-free housing policy.



I have attached two letters to our testimony which address this issue. The first letter is from Jordan Y. Furutani, Field Office Director, U.S. Department of Housing and Urban Development, dated March 26, 2007. In his letter, Mr. Furutani notes;

“There are no statutory or regulatory provisions governing smoking in assisted housing. HUD assisted properties are required to comply with applicable state laws, which would include any laws governing smoking in residential units. Owners are free to adopt reasonable rules that must be related to safety and habitability of the building and comfort of the tenants.”

The second letter, from Attorney General Mark Bennett, dated March 28, 2007, addresses the issue of **“Adopting a smoke-free policy for a complex or condominium, including individual units and lanais.”** Attorney General Bennett concludes that the owners of apartment complexes and condominiums **can adopt a smoke-free policy which would include individual units.**

The Coalition believes that it is important to work on smoke-free policies in public housing and other affordable housing. The residents of public housing are among the disparate populations that are so frequently missed by public health interventions, including smoking prevention and cessation efforts, as well as smoke-free environment efforts.

According to the 2006 Hawaii Department of Health’s Behavioral Risk Factor Surveillance Survey (BRFSS), the smoking rates for the unemployed is at 35.9% and for low income individuals (with incomes less than \$15,000) at 30.6%, both of these rates are significantly higher than the adult statewide smoking rate of 17.5%.

Focusing our efforts toward public housing and affordable housing can make an especially significant impact. Currently, about 65 public housing authorities in the U.S. have adopted smoke-free policies for some or all their buildings. In the past 2 years, the U.S. has been averaging about one housing authority per month adopting a smoke-free policy, as well as an unknown number of other affordable housing buildings in which smoke-free policies are being adopted.



COALITION FOR A
TOBACCO-FREE HAWAII

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Thank you for the opportunity for allowing me to testify here today. I would be happy to answer any questions the committee may have.

Respectfully,
George Massengale, JD
Policy Director

Attachments

LATE TESTIMONY

Elaine M. Heiby, Ph.D.
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Honolulu, HI 96826
Phone: 808-942-0738
Email: heiby@hawaii.edu

1/29/08

Senator Chun-Oakland, Chair
Senator Ihara, Vice-chair
Committee on Human Services and Public Housing (HSP)
<testimony@capitol.hawaii.gov>

RE: ~~OPPOSE SB 2408~~ Relating to smoking in one's home (public housing)

(Hearing scheduled Jan. 29, 2008 at 1:30pm)

Dear Honorable Senators:

There may be good intentions to SB 2408, but I fail to see them. This bill is designed to treat the people of Hawaii who live in public housing as less than human.

Since when does being poor in Hawaii justify blatant discrimination? Since when has Aloha been extended only to those who can afford their own home?

It is already difficult for those living in poverty to feel a sense of self-respect and freedom of choice. To legislatively remove the freedom to chose whether or not to smoke in one's home can do nothing but further demoralize those who are scraping to survive in our state's economy.

I urge you to kill SB 2408 in committee. Doing so gives you the opportunity to take a public stand that Hawaii does not discriminate against any sector of society.

Sincerely,

Elaine M. Heiby, Ph.D.
Professor of Psychology

1/29/08

Chad Middlesworth
2550 Kuhio Avenue
Honolulu HI 96815
cmkailua@gmail.com
808.351.9510

Hawaii State Legislature

1-26-2008

Re: opposing SB2408 (Smoking ban in Public Housing)

Aloha Senators,

I would like to voice my opinion in strong opposition to bill SB2408. I realize that smoking is not exactly healthy but I feel it is not the place of government to regulate society's personal habits. Designated smoking areas are implemented to give respect for non smokers and free choice for those who wish to smoke. This is clearly another step in an attempt for the government to invade our free choice by attacking those without means of defending their constitutional rights. Please scrap this bill, it is wrong!

Sincerely,

Chad Middlesworth