



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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Statement of
Chad K. Taniguchi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON FINANCE

April 1, 2009 11:00 a.m.
Room 308, Hawaii State Capitol

In consideration of
S.B. 1160, SD2, HD1
RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY

The Hawaii Public Housing Authority (HPHA) supports the intent of S.B. 1160, SD2, which would 1) assess a common expenses fee to all units in state public housing projects; and 2) streamline the eviction process for public housing. However, we can accomplish these goals in a more cost effective way by modifying this measure.

1) Assessing Common Expenses

The goal of assessing common expenses can be accomplished more efficiently within the framework of setting the rents for state public housing. For state housing projects, HPHA already has the ability under current law to set rents, and will be reviewing the current rent structure because HPHA has not raised the minimum rents since 2001 for state family units and since 2005 for state elderly units. When setting new rents, we will take into account HRS 356D-43(a) which requires HPHA to have the rents pay for all expenses of the state family and state elderly housing, which includes common area expenses.

Separately assessing common area expenses, on the other hand, would involve a separate and time-consuming process of defining "common area expenses" in administrative rulemaking, determining what those costs are through time studies and setting up separate record keeping, (they are not tracked separately now) and adding a separate monthly charge on each unit's rental billing. Building it into the rent increase process would be quicker and less costly.

2) Streamlining the Eviction Process

We strongly support the Section 3 streamlining of the eviction process to require only the federally required processes. This would allow us to evict non-paying or non-compliant tenants more quickly, and re-rent the units to those who will meet their responsibilities to pay rent and be good neighbors in the community.

However, we do not support the Section 4 elimination of the eviction boards and substituting a hearings officer. HPHA has found that the volunteer eviction boards are not only cost effective, but they lend credibility to the proceedings because they are made up of members of the community and include a resident of public housing. Having to hire a hearings officer would increase the cost of evictions to the agency, and eliminating the evictions board may reduce public confidence in the process.

For these reasons we ask that the bill be amended to eliminate the common area expense assessment, and retain the evictions board.

March 31, 2009

TESTIMONY IN OPPOSITION TO SB 1160 RELATING TO PUBLIC HOUSING

Finance Committee

April 1, 2009 11:00 a.m. Room 308

The Legal Aid Society of Hawai'i hereby provides testimony in opposition to SB 1160, relating to public housing.

The Legal Aid Society is the largest non-profit, private legal services organization in the State. We provide legal services to tenants of federal and state public housing. We provide the vast majority of legal representation to tenants in public housing.

356D- Assessments for common area expenses:

PHAs and project owners faced with increasing costs and sometimes inadequate subsidies often look for ways to collect extra revenues from tenants. Tenants in state-assisted housing have current rental agreements. This agreement is binding upon both parties. The current rental agreement includes a procedure which must be followed before a PHA can make future changes. Additional charges plus the proposed rent increase, may result in many tenants being unable to remain in state-assisted housing.

356D-91 Eliminating most procedural requirements for evictions

Federal statute and case law stress the seriousness of eviction for a public housing tenant. Most serious of these consequences is a life-time ban from public housing.

Because of the seriousness of eviction, federal law and regulations require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause. 42 U.S.C.A. §1473d(1)(4). The statutory language implemented by HUD regulations provide that: the PHA may terminate the tenancy only for serious or repeated violation of material terms of the lease, such as failure to make payments due under the lease or...other good cause. 24C.F.R. §966.4(1)(1).

It is well-established that unexcused and unjustified chronic nonpayment of rent is good cause for eviction. There are however, many situations in which a tenant may not have paid the rent that is allegedly due, but that fact alone will not constitute good cause to evict: (1) rent has been improperly calculated, (2) the tenant has lost income and the rent should have been reduced, (3) the tenant should have been provided additional subsidies that would have avoided the nonpayment, (4) the sums paid are not rent, but some other charges, (5) the amount that the

tenant has failed to pay is too small to justify eviction, (6) the nonpayment has been caused by factors beyond the tenant's control, and (7) the nonpayment has occurred only once. The current procedure of informal contact between a tenant and management prior to an eviction hearing provides a means to determine whether one of the above situations is responsible for non-payment. The informal process is a means to resolve a non-payment issue without the expense and trouble of an eviction hearing.

Tenants facing eviction from HUD-subsidized housing have numerous federal procedural rights in addition to the basic substantive protection of good cause for eviction. The Due Process clause of both the state and federal constitutions apply to the procedures that must be followed to evict a tenant.

Federal law mandates that the Grievance Procedure be attached as an addendum to the rental agreement. Current leases contain the Grievance Procedure promulgated in July 2006. Currently Section D of the grievance procedure covers delinquency in rent. HPHA must follow strict procedures to inform tenants of any changes to the grievance procedure. The current proposed bill makes no allowance for these required procedures.

Elimination of nearly all procedural protections for evictions due to failure to pay rent, will result in no unwarranted evictions and more frequent Chapter 91 Administrative Appeals. Modifying the procedures would be considerably more effective than total elimination.

§356-92 Section 4: Elimination of Eviction Board

Currently there is one appointed hearings officer in Honolulu. This hearings officer conducts formal eviction hearings. However, the Eviction Board is the final arbiter in a tenant's eviction. Under federal law, PHA may appoint a hearings officer, rather than a eviction board. However, PHA needs to appoint someone who has knowledge of the applicable laws and regulations. Failure, to do this will result in appeal of decisions.

Thank you for this opportunity to testify.

Sincerely,

Sheila P. Lippolt
Supervising Attorney
Housing Unit