



Sierra Club Hawai'i Chapter

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Bill No. 1338

Support N

Date 3/16/09

Time 1841

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Type 1 WI

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION HOUSE COMMITTEE ON HOUSING

March 17, 2009, 9:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 1338 SD2

Aloha Chair Morita, Chair Cabanilla, and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports SB 1338 SD2, ensuring that Hawai'i homeowners have the choice to save money and save energy by using a clothesline to dry their clothes.

Electric clothes dryers can consume over 10% of a household's energy demand. Reducing the use of clothes dryers could substantially decrease the amount of fossil fuel electricity that Hawaii's households require. Unfortunately, many homeowner associations prohibit the use of using the sun to dry clothes—clotheslines—and some simply make it very difficult to use a clothesline. For example, the Declaration of Covenants, Conditions, and Restrictions for the Ewa by Gentry development state that "...no outside clothes line or other outside clothes drying or airing facilities shall be maintained on any lot unless the same are screened from view and are not visible from neighboring property."

The Sierra Club supports the amendments made to SB 1338, which ensure that clotheslines will actually be permitted and not unduly restrained by aesthetic concerns. The Sierra Club has been contacted by townhouse residents who have been forced to keep their clotheslines in a closed carport. Without the amendment incorporated in SD1, this bill would not prevent such absurd restrictions.

While we are searching for ways to reduce our dependency on fossil fuel, save residents' money, and decrease global warming pollution, let's not forget about the basic—and decidedly low-tech—approaches to energy conservation. **This bill, as amended, is a fair and balanced means to allow local residents to do the right thing for Hawaii's environment and economy.**

Thank you for the opportunity to testify.



Bill No. 1338

Support Y N

Date 3/11/09
P.O. Box 8000
Honolulu, HI 96802-8000

Time 1927

Cat AF AS AX B C

Type 1 2 WI

March 17, 2009

Testimony for SB 1338, SD 2 Relating to Household Energy Demand

Aloha Chair Morita, Vice Chair Coffman and Members of the Committee on Energy & Environmental Protection:

Aloha Chair Cabanilla, Vice Chair Chong and Members of the Committee on Housing:

My name is Stephanie Ackerman. I am Vice President Public Policy and Communications for The Gas Company. Thank you for the opportunity to provide testimony on SB 1338, SD 2 Relating to Household Energy Demand.

The Gas Company supports the intent of SB 1338, SD 2 which would allow homeowners to erect or use a clothesline and have reasonable access to sun and wind to dry their clothes.

The Gas Company supports the State's initiatives to promote renewable energy, energy efficiency, and the diversification of energy resources. The Gas Company therefore supports measures that promote consumer choices in adopting efficient alternative energy solutions included in SB 1338, SD 2.

Thank you for the opportunity to offer these comments.



Bill No. 1330

Support Y N

Date 3/17/09

Time 351

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Type 1 WI

Via Capitol Website

March 17, 2009

**House Committees on Energy and Environmental Protection and Housing
Hearing Date: Tuesday, March 17, 2009, 9:30 a.m. in CR 325**

**Testimony in Opposition SB 1338 SD2– Re Household Energy Demand
(Clothesline Bill)**

Honorable Chairs Hermina Morita and Rida Cabanilla, Vice Chairs Denny Coffman and Pono Chong and House Energy and Environmental Protection and Housing Committee Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

While LURF and its members support the intent of this bill and recognize the importance of reducing the use of fossil fuels, LURF must testify **in opposition to the current version of SB 1338 SD2**, because this bill is not the answer to a significant reduction in energy consumption; it is an unnecessary prohibition and mandate, as may homeowner associations already allow clotheslines; it will alter the existing and contractual terms and expectations of buyers in planned communities; it will impact aesthetics and decrease property values; and its terms are vague, ambiguous and subject to dispute and litigation.

SB 1338 SD2. The purpose of SB 1338 SD2 is to prohibit real estate contracts, agreements and rules from precluding or rendering ineffective the use of clotheslines on premises of single family dwellings and townhomes. Despite the fact that many planned communities allow clotheslines with certain restrictions, the purpose of this bill is to mandate a state-wide change in some existing contracts, agreements and rules, by prohibiting real estate contracts, agreements, and rules from precluding or rendering ineffective, the use of clotheslines on the premises of single-family dwellings. This bill

will unfairly change the current rules and regulations of private home associations, which are in place to protect property values and aesthetics of a planned community.

SB 1338 SD2 amends Section 196-7 of the Hawaii Revised Statutes by adding the following provision that no person shall be prevented from:

erecting and using a clothesline for the purpose of drying clothes on the premises of any detached single-family residential dwelling or townhouse that the person owns; provided that the board of directors or other private entity with responsibility for the single-family dwelling or townhouse may implement reasonable restrictions with regard to clotheslines; provided further that the restrictions do not prohibit the use of clotheslines altogether or deny access to air or sunlight requirements reasonably necessary for the effective use of the clothesline.

The provision regarding the board of directors is vague and ambiguous provision, particularly where it provides that "...the board of directors.....may implement "reasonable restrictions" with regard to clotheslines, provided that the restrictions do not prohibit the use of clotheslines altogether." (emphasis added). This provision will lead to unnecessary disputes and litigation as to the "reasonableness" of any restrictions imposed by a board.

The definition of "clotheslines" also is open to broad interpretation and dispute. The bill provides that a "clothesline" means a rope, cord, or wire on which laundry is hung to dry. However, it does not define what type of equipment will be allowed, whether it be retractable, traditional two-pole type, umbrella style or four arm type. These umbrella or four-arm devices will utilize significant space and with town houses, space is not usually available.

LURF's Position. LURF is concerned with this bill for the following reasons:

- **Unnecessary prohibition and mandate.** This bill is an unnecessary prohibition and mandate, as many of the established communities already have existing Design Covenants, Codes and Restrictions (DCCRs) in place which allow clotheslines, as long as the hanging laundry is not within the view of neighbors or the public. Many existing developments and master-planned communities with single-family dwellings and multi-family townhouse developments which have been in existence for many years, have rules and regulations which allow clotheslines with some restrictions - - these restrictions recognize that the homes in the community were purchased by owners seeking a well-planned community that had rules that would protect their property values by maintaining the aesthetics around their property and ensure peace, health, comfort, safety and general welfare of the owners and their family members;
- **Issues relating to alleged "unreasonably restrictive clothesline regulations," should be resolved through the mediation or arbitration provisions of DCCRs, and not through a state-wide statute? Does the number of homes affected warrant a statewide statute?** The text of the bill includes a claim that "many homeowners' associations prohibit the use of clotheslines or render them ineffective through unreasonably restrictive

regulation” – What homeowner associations? What are the unreasonably restrictive regulations? How many homes are we talking about? Do the true facts warrant a statewide prohibition and mandate? Aren’t there arbitration and mediation provisions in the DCCRs to address any “unreasonably restrictive” regulations? Again, does this situation really warrant a statewide prohibition and mandate which would change existing contracts, reduce property values and result in litigation?

- **How will this proposed mandate be administered or monitored? What are the penalties for violation? Will the boards of community associations be subject to criminal prosecution?** The proposed legislation does not include an enforcement provision – thus, there are several important unanswered questions - - Who decides what is an “unreasonable restriction” under the new law – a criminal judge? Will there be a sliding scale of what is an “unreasonable restriction,” depending on the type of community or housing complex, or the location of the clothesline (say next to a golf course hosting a nationally televised tournament)? Does the proposed law anticipate the criminal prosecution of board of directors who believe they have crafted DCCRs which allow clotheslines with reasonable restrictions? Will homeowner associations need to hire attorneys to draft clothesline rules and regulations and attorneys to provide a criminal defense for board members?
- **Alteration of existing contractual terms and homeowner expectations.** The bill seeks to change the terms and conditions of the DCCRs of planned community associations, many of which banned clotheslines and hanging laundry in plain view of neighbors and the general public. These aesthetics and DCCRs were relied on by buyers and made a part of the deeds for those properties. The new law would alter these contractual terms – make clotheslines and hanging of laundry allowable anywhere – except that the board could impose “reasonable restrictions;
- **Adverse impact on aesthetics and decrease in property values.** This bill could adversely affect aesthetics and decrease property values, by allowing the view of hanging laundry throughout a development. It is important to realize that the reason many homeowners buy into planned communities is because DCCRs are in place to regulate and ensure proper uses for the good of the whole; and
- **Disputes and litigation.** The provision allowing Board of Directors to determine what type of clotheslines would be allowed could open the door to disputes by residents who challenge the “reasonableness” of the regulations, or by residents who fail to conform with clothesline guidelines implemented by the board. This bill may also trigger other internal conflicts between home associations and homeowners and could lead to **unnecessary litigation** among homeowners and community associations.

Conclusion. While we support energy efficiency, the reduction of fossil fuels and the voluntary implementation of renewable energy, we must respectfully recommend that **SB 1338 SD2 be held**, because it is an unnecessary prohibition and mandate, in light of the fact that many homeowner associations already allow clotheslines; the proposed bill may alter the existing and contractual terms and expectations of buyers in planned communities; the “reasonable regulation” provisions of the bill will result in disputes and

it could subject homeowner association board members to criminal prosecution if their rules or regulations relating to clotheslines were found to be “unreasonable;” it would adversely impact aesthetics and decrease property values; and the term “unreasonable restriction” is vague, ambiguous and subject to dispute and litigation. Instead of passing a bill with such a prohibition and mandate - - we would recommend that more incentives be implemented that encourage renewable energy installations that would reduce the consumption of fossil fuel generated electricity.

Thank you for the opportunity to testify on this matter.