

Late

HAWAII DISABILITY RIGHTS CENTER

900 Fort Street Mall, Suite 1040, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2010

**Committee on Transportation, International and Intergovernmental Affairs
Committee on Human Services
Testimony On S.B 2287
Relating to County Zoning For Group Living Facilities**

**Tuesday, February 23, 2010, 2:30 P.M.
Conference Room 016**

Chair English, Chair Chun-Oakland and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying on this bill.

With due respect to the sponsors of the bill and while not unsympathetic to the concerns expressed therein, we do have reservations about the approach taken by this measure.

If we are to achieve the capacity to care for our elderly and disabled, then it is essential that we have the ability to site suitable residential settings. The legislature is well aware of the need to care for an ever increasing aging population. Additionally, the Olmstead decision of the US Supreme Court mandates that individuals with disabilities be able to reside in community based, integrated settings. As the number of all these individuals increases, locating residences will become even more important.

We are concerned that the amendments proposed in this bill could be utilized to deny permits to such facilities based on community opposition as opposed to other genuine land use criteria. The current zoning laws provide that these are allowable uses so long as they conform to other typical zoning requirements such as lot size and setback and building height. These are clearly defined and easily measurable criteria by which a permit can be approved or disapproved.

The addition of less measureable factors creates a potential that permits may be denied simply because residents in the immediate vicinity do not welcome their new neighbors. Not only would this be wrong and inappropriate from a public policy point of view. It could also lead to decisions that violate federal anti discrimination laws such as the ADA and the Fair Housing Act.

We prefer the approach adopted by the Senate Committee on Human Services in SB 2805, SD1, and would suggest that a similar one be taken here. While that bill dealt specifically with clean and sober houses, the concerns expressed were similar in nature to those in this bill. In fact, if the Legislature is inclined to create a Task Force as delineated in SB 2805, SD1, it makes sense to adopt a more comprehensive approach and direct the Task Force to examine those issues in the context of all group living facilities as opposed to just clean and sober houses. We would propose that instead of advancing this measure, the legislature address the issue via Concurrent Resolution.

Thank you for the opportunity to testify on this measure.

Late

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



COMMITTEE ON TRANSPORTATION, INTERNATIONAL & INTERGOVERNMENTAL AFFAIRS

Sen. J. Kalani English, Chair

Sen. Mike Gabbard, Vice Chair

COMMITTEE ON HUMAN SERVICES

Sen. Suzanne Chun-Oakland, Chair

Sen. Les Ihara, Jr., Vice Chair

Tuesday, February 23, 2010

2:30 p.m.

Room 016

Comments on SB 2287 - County Zoning for Group Living Homes

TIATestimony@capitol.hawaii.gov

Aloha Chairs English and Chun-Oakland and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 2287 requires counties to consider in zoning for group living facilities impacts of traffic safety and congestion, elevated noise levels, and disruption of commercial deliveries upon the residents in the surrounding area.

Community Alliance on Prisons offers comments on this measure, which can become a minefield as it clashes with federal law.

Below is a summary of Specific Fair Housing and Disability Laws from **FAIR HOUSING FOR PEOPLE WITH DISABILITIES - A guidance manual for emergency shelter and transitional housing providers, February 2007, Mental Health Advocacy Services, Inc., www.mhas-la.org:**

Federal Fair Housing and Other Laws Protecting Housing Opportunities for People With Disabilities

- *The Rehabilitation Act of 1973 - Section 504*
- *The Fair Housing Amendments Act of 1988*
- *The Americans with Disabilities Act (ADA) - Titles II and III*

Community Alliance on know the legislature understands the need for transitional housing in our community for those in various treatment programs. This bill, however, presents another barrier to reintegration for individuals working to change their lives and address their problems in addition to the serious legal problems it presents.

Fair housing is a right. We are Hawai'i. We care for and about each other. Let's work together to build an inclusive community.

Mahalo for this opportunity to share our thoughts.

LATE

From: Janice H. Taketa [janicehtaketa@hawaii.rr.com]
Sent: Monday, February 22, 2010 4:37 PM
To: TIATestimony
Cc: Schneider Sharon; Saari, Jim and Flynn, Mary Saari & Mary Flynn
Subject: Testimony in Support of SB2287 RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES.

DATE: TUESDAY, February 23, 2010
TIME: 2:30 PM

RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES.

Requires counties to consider in zoning for group living facilities impacts of traffic safety and congestion, elevated noise levels, and disruption of commercial deliveries upon the residents in the surrounding area.

Dear Sens. Oakland and English and members of the COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS AND COMMITTEE ON HUMAN SERVICES,

I wish to testify in support of SB 2287 RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES.

We live very close to the most recent ARCH at the top of Wilhelmina Rise. There have been numerous incidences of truck deliveries, ambulances, police cars, and other interferences in an otherwise quiet single family neighborhood. The employee of the facility walk their clients up the middle of our street around a sharp curve. We are always concerned someone might be injured by a vehicle turning the corner and not seeing the patient in the middle of the road. The facility treats the neighborhood as a continuation of their facility.

Thank you
Janice H Taketa

5089 Maunalani Circle
Honolulu, Hawaii 96816
808 734-2825