



HAWAI'I CIVIL RIGHTS COMMISSION

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LATE

February 4, 2009
1:15 p.m.

To: The Honorable Norman Sakamoto, Chair
and Members of the Senate Committee on Education and Housing

From: Livia Wang, Acting Chief Counsel
Bill Hoshijo, Executive Director

Re: S.B. No. 663

The Hawai'i Civil Rights Commission (HCRC) staff submits this memorandum to inform the Committee that the HCRC will not be able offer testimony on S.B. No. 663 at the hearing scheduled for the afternoon of February 4, 2009, because the HCRC Commissioners have not completed their review of legislation and taken positions on a number of bills including this measure. During the 2008 session, the HCRC testified in opposition to a similar bill, S.B. No. 2318, which would have required written consent of a child's parent in order to bring a non-parent individual cohabiting with a minor child under the protection of H.R.S. chapter 515 familial status protection.

The Commissioners are in the process of reviewing legislative proposals. This process should be completed by the end of this week, and the HCRC position on this and other bills will be decided.

The HCRC takes its role and authority to testify and make recommendations to the legislature very seriously, and will do everything possible to assist you in your consideration of bills that affect HCRC jurisdiction and civil rights. We hope the temporary constraints we face will not cause inconvenience or difficulty for the Senate Committee on Education. Please let us know if we can provide you any background information or answer any questions. Thank you for your understanding and patience.

L A T E

Wednesday February 4, 2009

Support of SB No.663 Relating to Discrimination in Real Property Transactions.

Aloha,

My name is Charlene Kelesoma and I would like to support Senate Bill 663. I was hanai by my grandmother and if written documents were needed to prove that my grandmother had permission to hanai me, my family would have been glad to put a letter in writing. It is not offensive to our culture to ask for proof of hanai in writing.

I feel that that they should remove the word "unwritten" from the definition of "Familial Status" and have everyone who hanai a family member secure written documents. In the Hawaiian community everyone hanai's one another's children. But if you are living in another type of housing complex, even a stranger can say he has unwritten permission to hanai a child that is with him – what if his wife or someone else has custody, no one will know this.

I work in affordable housing and there are many families that should not be granted these house because they have "unwritten" permission just verbal permission to hanai these children whereas if they have "written" documents, then this will justify the families position in securing affordable housing. Therefore I support SB 663 in removing the word "unwritten".

Charlene Kelesoma



MARK DEVELOPMENT, INC.

February 5, 2009

Testimony in Support of SB 663 – Relating to Discrimination in Real Property Transactions
Committee on Education and Housing

Dear Senator Sakamoto,

Thank you for allowing me to verbally testify at the hearing yesterday on SB663. If it is not too late, I would like to submit the following in writing to recap my verbal testimony. I would like to bring to your attention a small matter that has big consequences.

In our work as affordable housing developers and property managers, we have discovered that one of the key differences between the State and Federal definitions of “familial status” is that our HRS and HAR allows an adult to claim custody of a minor child with nothing more than verbal authorization.

I speculate that this law was written this way to reflect the Hawaiian practice of hanai. However cultural, we have found that this law has made enforcement of federal and state affordable housing rules very difficult.

As you know, households qualify for subsidized housing from their income based on household size. The household size includes children that they have custody of. This is to prevent more than one household from claiming the same child. The larger your household size, the larger income you are allowed to make and still be eligible for rental housing subsidies.

Without written proof of custody of a child, households can lie about who is in their family and get housing subsidies when they don't really qualify for it. Besides depriving truly needy families of affordable housing, I realized that this law is not looking out for the best interest of children. Allowing custody with anything less than written proof allows abductors of children to rent government subsidized homes without fear of being caught.

In this day and age of missing children and affordable housing shortages, is it really too much to ask that familial status custody of children be evidenced in writing? The “hanai” traditions can still be respected in writing. I would think it a simple thing for the legislature to amend HRS 515 and the HAR to delete the words “or unwritten” (permission...) from the definitions of “domiciled” and “familial status”.

The HRS is 515-2. That is the section on definitions and reads:

"Familial status" means the status of: a parent having legal custody of and domiciled with a minor child or children, a person who is domiciled with a minor child or children and who has **written or unwritten** permission from the legal parent, a person who is pregnant, or any person who is in the process of securing legal custody of a minor child or children.

(Support for SB 663, continued)

I believe that simply deleting words “or unwritten” would do the job. The administration would have to be sure that the HAR 12-46-301 reflects this in the HAR definitions of “domiciled” and “familial status”. I don’t do that much work with law, but what I have done I often find material differences between the administrative rules and the law. I don’t know how that kind of housekeeping gets done.

The ACLU and Legal Aid would have you think that children will not be able to get services or benefits but in every example they give, it is one in which the Courts should be awarding custody to a responsible adult. All Federal benefits and even our schools require some kind of written proof of custody. Should a stranger be able to say, “I have custody of this child. The parents are missing, but before they disappeared they gave me verbal custody of the child. I am authorizing you to perform brain surgery on this child.” Of course any hospital would ask for written proof of custody. **It should be no different for housing subsidies.**

Thank you for considering this.

Craig Y. Watase

President - Mark Development, Inc.

2002 President - BIA Hawaii, National Association of Home Builders Executive Board

4x Winner of the Governor’s Affordable Housing Award

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