

**SCR 235**



## **HAWAII DISABILITY RIGHTS CENTER**

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### **THE SENATE THE TWENTY-FIFTH LEGISLATURE REGULAR SESSION OF 2010**

**Committee on Health  
Testimony in Support of SCR 235  
Monday, March 22, 2010, 2:45 P.M.  
Conference Room 016**

Chair Ige and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of SCR 235.

There was bill heard earlier this session (SB 2805) which would have required the licensure of clean and sober homes. It was recognized at that hearing that a Task Force of this nature was a sound approach.

If we are to achieve the capacity to care for these individuals, then it is essential that we have the ability to find and site suitable residential settings. Additionally, the Olmstead decision of the US Supreme Court mandates that individuals with disabilities be able to reside in community based, integrated settings.

Despite the fact that the ADA and the Fair Housing Act provide legal protection, some communities are concerned about a proliferation of homes of this nature. We understand that and recognize that these are complex issues that affect a variety of competing interests. For that reason, convening a Task Force is a worthwhile idea. It can explore ways to address community concerns without compromising federal law or the ability of these individuals to receive the help and treatment they need.

Thank you for the opportunity to testify in support of this measure.

**For: SCR235 REQUESTING THE ESTABLISHMENT OF A CLEAN AND SOBER HOME AND HALFWAY HOUSE TASK FORCE.**

**To: SENATE COMMITTEE ON HEALTH: Senator David Ige, Chair, Senator Josh Green M.D., Vice Chair**

**Time: Monday Mar. 22<sup>nd</sup>, 2010, 2:45: PM, Conference Room 016**

## **HAWAII SUBSTANCE ABUSE COALITION**

Good morning Chair Ige, Vice Chair Green and Distinguished Committee Members: My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than 20 non-profit treatment and prevention agencies.

### **HSAC supports SCR 235 and offers recommendations:**

Before implementing any legislation, we recommend that legislators be aware of the legalities on how the laws to protect individuals with disabilities are applied.

#### **Recommendations:**

BE IT FURTHER RESOLVED that the Department of Health is requested to chair and convene the task force, which shall include:

- (1) The Director of the City and County of Honolulu Department of Planning and Permitting or the Director's designee;
- (2) The Director of each of the County Planning Departments or the Director's designee;
- (3) The Director of Department of Health or the Director's designee;
- (4) The Chair of the Hawaii Paroling Authority or the Chair's designee;
- (5) Homeless advocates, as determined by the convener;
- (6) Representation from clean and sober homes and halfway houses, as determined by the convener;
- (7) Legislative representation, as determined by the convener; and
- [(8) Legal representation regarding discrimination, as determined by the convener, and]

(8[9]) Others as appropriate, as determined by the convener; and

BE IT FURTHER RESOLVED that all relevant agencies, including but not limited to the Hawaii Paroling Authority, consult with the appropriate county agencies [and legal representation regarding discrimination] to ensure that they only refer clients to clean and sober homes and halfway houses that meet the zoning requirements and definitions under section 46-4, Hawaii Revised Statutes [subject to Federal Fair Housing and Other Laws Protecting Housing Opportunities for People with Disabilities, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, Titles II and III]; and

**Another Recommendation:** *One of the first steps may be to get a legal definition of 'sober house' before deciding how to regulate them.*

**Neighborhood Concerns:** While there are well-managed clean and sober housing, there are several who are not. The biggest issues seem to be no apparent accountability for the landlords, primarily about parking, traffic and noise concerns.

**Legalities:** “Clean and sober housing” are a basic human right and generally considered independent living because the key components include “no conditions of tenancy that exceed the normal conditions under which any leaseholder would be subject.”<sup>1</sup> The question is whether this is an issue of housing involving people with disabilities or a program that requires licensure.

Alcoholism and past illicit drug use are considered disabilities under the Federal Fair Housing and Other Laws Protecting Housing Opportunities for People with Disabilities. In addition, two additional federal laws that may apply to emergency shelters and transitional housing are Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, Titles II and III.<sup>1</sup>

Many cities throughout the country have tried to implement regulations on sober homes, only to see them struck down in court. In recent times, litigation has been markedly increasing, challenging any State laws that could be construed as discriminatory. As the

laws currently stand, people in recovery are people with disabilities and they have the same right to live in single-family zones as anyone else.

**Trends:** Independent landlords are interested because of rental capacity and profitability. According to the DOH: ADAD surveys, over 100,000 people in Hawaii need substance use disorder treatment.<sup>2</sup> While most are not in treatment, there are literally thousands of individuals in Hawai'i who are choosing recovery due to improved treatment outcomes and the reduction in stigma.

### **Summary:**

One thing for certain is that more and more people with disabilities are going to seek recovery using clean and sober houses. Over the years, many treatment agencies have considered sober housing a prerequisite for effective psychiatric, substance abuse, and/or other disabilities treatment. And landlords are receptive due to the rental potentials.

We need a balance between those seeking to reenter their communities of choice with the needs of their neighbors to enjoy peaceful neighborhoods. Given the legal concerns, this resolution is our best opportunity to accomplish that.

We appreciate the opportunity to testify and are available for testimony.

### **References:**

- 1) Mental Health Advocacy Services, Inc., *FAIR HOUSING FOR PEOPLE WITH DISABILITIES: A guidance manual for emergency shelter and transitional housing providers* February 2007 <http://www.mhas-la.org/FH%20Manual%20rev.4-07.pdf>
- 2) Department of Health: Alcohol and Drug Abuse Division: *Alcohol and Other Drug Use in Hawai'i – Surveys*, <http://hawaii.gov/health/substance-abuse/prevention-treatment/survey/adsurv.htm>

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**From:** Claire W. Woods [cww@hawaii.rr.com]  
**Sent:** Friday, March 19, 2010 4:17 PM  
**To:** HTHTestimony  
**Subject:** Opposition to SCR 235

Aloha. My name is Claire Woods, and I am a volunteer member of the Salvation Army Advisory Board.

I have reservations about this resolution, as it duplicates a previous bill, Senate bill SB2805 SD1.

In my "first life" I was the Executive Director of the Salvation Army Family Treatment Services, an alcohol and drug treatment program for pregnant women and women with young children. Securing safe clean and sober housing for our graduates was always a challenge. In my tenure at FTS, I came to know the struggles of establishing and maintaining clean and sober housing

As a resident of Kailua., I have first hand experience with clean and sober houses, as a clean and sober house for women has just opened up two doors down from me. They have had a very frustrating time being welcomed into the neighborhood, as the neighbors are wary of these "addicts", and the fact that these homes are not "licensed" in any way..

I see the need for standardization of these homes, and the development of guidelines that seek to ensure the safety and well-being of the residents and those who reside nearby -- but I oppose "licensure" as we know it. In looking over the resolution, I find it to be a duplicate effort to that of SB. 2805 SD1 . 2805 requires a task force and the makeup of the task force is pretty sound and realistic. Perhaps the recommended member compositions could be merged.

SB 2805 SD1 It is still before WAM and yet to be heard

The testimony of SB 2805 was pretty compelling. I urge you to review the pros and cons, as well as the reservations about "licensing" clean and sober homes. I would prefer the bill over this resolution, but if the bill is not alive, I would support this resolution.

Thank you

Claire Woods  
member, Salvation Army Advisory Board