

TO: The Honorable Rida T.R. Cabanilla, the Honorable Pono Chong, Vice Chair and other Members of the Senate Committee on Housing

DATE: Wednesday, February 9, 2011
8:30 a.m., Room 325

RE: HB 46 Relating to Public Housing

POSITION: STRONG SUPPORT

My name is Fetu Kolio, and I am a resident of Mayor Wrights Homes. I also serve as a Neighborhood Board Member, and a Weed & Seed Resident participant in my community. My neighbors and I are testifying today in strong support of HB 46. We are asking for the safety of our families and all Public housing residents.

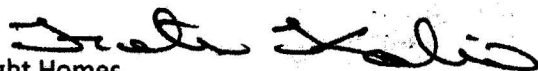
HB 46 would prohibit smoking in and around public housing projects or state low-income housing projects under the jurisdiction of the Hawaii public housing authority.

We have gangs, drugs, public drinking, shootings, and attacks on residents. While the federal weed and seed program was in effect, we had pretty good security at Mayor Wright Homes. Since that program ended, conditions have deteriorated which is why we are testifying today. We need to protect residents of public housing from secondhand smoke.

Please help us restore trust in the security of public housing of Mayor Wright Homes for all residents. Please pass HB 46 so that all the residents can live in safety and peace.

Thank you for hearing this bill and reading my testimony. I hope you will pass HB 46.

Fetu Kolio,
Mayor Wright Homes
1235 Pua Lane, 34-D
Honolulu, HI 96817



NEIL ABERCROMBIE
GOVERNOR



DENISE M. WISE
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
Denise M. Wise
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON HOUSING

February 9, 2011 8:30 A.M.
Room 325, Hawaii State Capitol

In consideration of
H.B. 46
RELATING TO PUBLIC HOUSING

Madam Chair and Members of the House Committee on Housing, thank you for the opportunity to provide you with comments regarding House Bill 46, relating to public housing.

The Hawaii Public Housing Authority (HPHA) appreciates the intent of this measure; however, we oppose enactment of the measure since it would be administratively difficult to enforce and would be more appropriately handled by the HPHA via existing administrative protocols. The HPHA, along with the Department of Health, agree that this is a positive bill, with respectable aims to improve the quality of living environment provided to the HPHA's residents. We wholeheartedly support the intent of the measure and philosophically agree with the policy it would be setting. We also appreciate legislative support for the issues involved, particularly with respect to preventing second-hand smoke exposure in environments that are home to children, the disabled, and other vulnerable low income populations. These populations need protection from the deleterious effects of tobacco smoke and should be able to enjoy their homes free from the impact of smoking.

However, we feel that this measure would be an administratively onerous policy for the agency to initiate and enforce. The HPHA is responsible for overseeing over 6,000 state and federal housing units and over 15,000 individuals. This measure would impact every unit and would initiate a dramatic change in policy that would require the revision of every lease to include a provision prohibiting smoking. It would also place a heavy monitoring burden on HPHA staff and could multiply the number of tenant complaints regarding lease violations that are already taxing our overburdened staff.

Further, this legislation proposes to make a policy change which is exactly the type of decision making the Legislature has entrusted to the HPHA's Board of Directors through its rulemaking and policy development powers. The HPHA feels that the determination

of a policy banning smoking on the HPHA's properties is one that is soundly within the Board's purview and would respectfully request the Legislature to allow the Board to exercise its governance in the development of such policies. The HPHA would prefer the development of such policy to be undertaken through an agency developed methodology that would allow us to incorporate participation from the Department of Health, our Resident Advisory Board, property management staff, public hearings, and the tenants that would be directly impacted by this measure.

The HPHA appreciates the opportunity to provide the House Committee on Housing with the agency's position regarding H.B. 46. We respectfully request the Committee to hold this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
ACTING DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

WRITTEN ONLY

HOUSE COMMITTEE ON HOUSING

H.B. 46, RELATING TO PUBLIC HOUSING

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

**February 9, 2011
8:30 a.m.**

1 **Department's Position:** The Department of Health supports the intent of H.B. 46 to prohibit smoking in
2 public housing, under Chapter 356D, Hawaii Revised Statutes but believes that a similar result can be
3 accomplished through the internal policy of the Hawaii Public Housing Authority (HPHA).

4 **Fiscal Implications:** No appropriations requested.

5 **Purpose and Justification:** The Department of Health supports the scientific findings and
6 recommendations of the U.S. Surgeon General regarding the involuntary exposure of tobacco smoke to
7 nonsmokers. Those findings disclosed that: 1) There is no safe level or amount of secondhand smoke
8 (SHS) and that breathing even a little SHS can be dangerous; 2) Breathing SHS is a known cause of
9 sudden infant death syndrome (SIDS) and that children are more likely to have lung problems, ear
10 infections, and severe asthma from being around tobacco smoke; SHS causes heart disease and lung
11 cancer; separate "no smoke" sections do not provide protection from SHS, and neither does are
12 filtration.

13 Hawaii's current smokefree workplace and public places law, enacted in 2006, does not cover,
14 and excludes private residences. The federal Housing and Urban Development authority, (HUD) now

1 actively supports the creation of smoke free residential public housing properties governed under that
2 authority.

3 The Department of Health defers to the Hawaii Public Housing Authority and supports their
4 position that the intent of this bill can be accomplished through the internal policy of HPHA. Further,
5 DOH is willing to work closely with HPHA on both assessment of residents to determine need and on
6 smoking cessation efforts to help current smokers link up with the many available cessation services to
7 help smokers to quit.

8 Thank you for the opportunity to testify.



The Official Sponsor of Birthdays

February 8, 2011

Committee on Housing
Representative Rita T. Cabanilla, Chair
Representative Pono Chong, Vice Chair

Hearing:

8:30 A.M. Wednesday, February 9, 2011
Hawaii State Capitol, Room 325

HB 46: – Relating to Public Housing

Comments

Chair Cabanilla, Vice Chair Chong and members of the Committee on Housing. Thank you for the opportunity to offer these comments on HB 46 which would prohibit smoking in and around public housing.

The American Cancer Society Hawaii Pacific Inc. is a community-based, voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer. This mission includes advocating for strong anti-tobacco legislation.

Similar legislation has been proposed in the past. The Hawaii Public Housing Authority (HPHA) already possesses the ability to regulate smoking in public housing units or common areas and this has been recommended by the Department of Housing Development (see attached HUD NOTICE: PIH-2009-21 (HA)). Apparently the only element missing is the will of the HPHA to do so.

Because HPHA currently has the ability to regulate smoking on properties under their jurisdiction we see no reason to legislate this authority.

Thank you for the opportunity to provide comments on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "George S. Massengale".

George S. Massengale, JD
Director of Government Relations



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Healthy Homes and Lead Hazard Control**

SPECIAL ATTENTION OF:

Regional Directors; State and Area
Coordinators; Public Housing Hub
Directors; Program Center Coordinators;
Troubled Agency Recovery Center Directors;
Special Applications Center Director;
Public Housing Agencies;
Resident Management Corporations;
Healthy Homes Representatives

NOTICE: PIH-2009- 21 (HA)

Issued: July 17, 2009

Expires: July 31, 2010

Cross Reference:
24 CFR 903.7(b)(3)
24 CFR 903.7(e)(1)

Subject: Non-Smoking Policies in Public Housing

1. **Purpose.** This notice strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units. According to the American Lung Association, cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. This concern was recently addressed by the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31, signed by the President on June 22, 2009. Because Environmental Tobacco Smoke (ETS) can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, the Department is encouraging PHAs to adopt non-smoking policies. By reducing the public health risks associated with tobacco use, this notice will enhance the effectiveness of the Department's efforts to provide increased public health protection for residents of public housing. Smoking is also an important source of fires and fire-related deaths and injuries. Currently, there is no Departmental guidance on smoking in public housing.

2. **Applicability.** This notice applies to Public Housing.

3. **Background.** Secondhand smoke, which is also known as environmental tobacco smoke (ETS), is the smoke that comes from the burning end of a cigarette, pipe or cigar, and the smoke exhaled from the lungs of smokers. ETS is involuntarily inhaled by nonsmokers, and can cause or worsen adverse health effects, including cancer, respiratory infections and asthma. The 2006 Surgeon General's report on secondhand smoke identifies hundreds of chemicals in it that are known to be toxic. The report (*The Health Consequences of Involuntary Exposure to Secondhand Smoke*) is located at www.cdc.gov/tobacco/data_statistics/sgf/index.htm. Secondhand smoke causes almost 50,000 deaths in adult non-smokers in the United States each year, including approximately 3,400 from lung cancer and another 22,000 to 69,000 from heart disease.

Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke according to the U.S. Environmental Protection Agency (EPA) www.epa.gov/smokefree/healtheffects.html.

There are over 1.2 million residents who reside in public housing. Residents between the ages of 0-17 represent 39 percent of public housing residents. Elderly residents over the age of 62 represent 15 percent of public housing residents. That accounts for at least 54 percent of public housing residents that could be at increased risk to the adverse effects of cigarette smoking. There are also a considerable number of residents with chronic diseases such as asthma and cardiovascular disease who are particularly vulnerable to the effects of ETS. Secondhand smoke lingers in the air hours after cigarettes have been extinguished and can migrate between units in multifamily buildings.

Based on data from the U.S. Fire Administration (USFA) of the Department of Homeland Security, there were an estimated 18,700 smoking-material fires in homes in 2006. These fires caused 700 civilian deaths (other than firefighters'), and 1,320 civilian injuries, and \$496 million in direct property damage www.nfpa.org/assets/files/PDF/OS.Smoking.pdf. In multifamily buildings, smoking is the leading cause of fire deaths: 26 percent of fire deaths in 2005 www.usfa.dhs.gov/downloads/pdf/publications/Residential_Structure_and_Building_Fires.pdf.

4. **Policy Discretion.** PHAs are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law. Some PHAs have established smoke-free buildings. Some PHAs have continued to allow current residents who smoke to continue to do so, but only in designated areas and only until lease renewal or a date established by the PHA. Some PHAs are prohibiting smoking for new residents. According to a state-funded anti-smoking group, the Smoke-Free Environment Law Project of the Center for Social Gerontology, there are over 112 PHAs and housing commissions across the country that have implemented non-smoking policies. PHAs should consult with their resident boards before adopting non-smoking policies at their projects.

5. **PHA Plans.** PHAs opting to implement a non-smoking policy should update their PHA plans. According to 24 CFR 903.7(e), their plan must include their statement of operation and management and the rules and standards that will apply to their projects when the PHA implements their non-smoking policy. PHAs are encouraged to revise their lease agreements to include the non-smoking provisions. If PHAs institute non-smoking policies, they should ensure that there is consistent application among all projects and buildings in their housing inventory in which non-smoking policies are being implemented.

6. **Indoor Air Quality (IAQ).** According to the U.S. Green Building Council (USGBC), toxin-free building materials used in green buildings help combat indoor air pollution. Good IAQ includes minimizing indoor pollutants. As discussed above, ETS is known to be an indoor air pollutant; as a result it would be difficult for a PHA to achieve good IAQ in its buildings if residents are allowed to smoke, especially indoors. During construction or renovation of projects, PHAs should consider actions such as installing direct vent combustion equipment and fireplaces; providing for optimal, controlled, filtered ventilation and air sealing between living areas and garage or mechanical areas, and the use of paints and other materials that emit no or low levels of volatile chemicals (volatile organic compounds or VOCs). Since 65 percent of the public housing inventory was built prior to 1970, it would be hard for a PHA to implement retrofits that could improve IAQ significantly, unless renovation was scheduled. Also, if a PHA does conduct renovations to improve IAQ without also implementing a non-smoking policy, the IAQ benefits of the renovation would not be fully realized. A non-smoking policy is an excellent approach for those PHAs that are trying to achieve improved IAQ without the retrofit costs.

7. **Maintenance.** It is well known that turnover costs are increased when apartments are vacated by smokers. Additional paint to cover smoke stains, cleaning of the ducts, replacing stained window blinds, or replacing carpets that have been damaged by cigarettes can increase the cost to make a unit occupant ready. View the Sanford Maine Housing Authority case study at <http://www.smokefreeforme.org/landlord.php?page=Save+Money%2C%3Cbr%3E+Save+Your+Building>.

8. **Smoking Cessation National Support.** Because tobacco smoking is an addictive behavior, PHAs that implement non-smoking policies should provide residents with information on local smoking cessation resources and programs. Local and state health departments are sources of information on smoking cessation; see the American Lung Association's (ALA's) Web page on State Tobacco Cessation Coverage www.lungusa2.org/cessation2 for information on cessation programs, both public and private, in all States and the District of Columbia. The National Cancer Institute's Smoking Quit Line can be called toll-free at 877-44U-QUIT (877-448-7848). Hearing- or speech-challenged individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. PHAs that implement non-smoking policies should similarly be persistent in their efforts to support smoking cessation programs for residents, adapting their efforts as needed to local conditions.

9. **Further Information.** For further information related to this notice, please contact Dina Elani, Director, Office of Public Housing Management and Occupancy Division at (202) 402-2071.

/s/


Sandra B. Henriquez
Assistant Secretary for Public and Indian
Housing

/s/

Jon L. Gant,
Director, Office of Healthy Homes and
Lead Hazard Control



COALITION FOR A
TOBACCO-FREE HAWAII

To: The Honorable Rida T. Cabanilla, Chair, Committee on Housing
The Honorable Pono Chong, Vice Chair, Committee on Housing
Members, House Committee on Housing
From: Trisha Y. Nakamura, Policy and Advocacy Director 
Date: February 7, 2011
Hrg: House Committee on Housing; Wed, February 9, 2011 at 8:30 a.m. in Rm 325
Re: **Comments on HB 46, Relating to Public Housing**

Thank you for the opportunity to offer comment in support of the intent of HB 46 which prohibits smoking in and around public housing or State low-income housing projects. We urge the Hawaii Public Housing Authority to provide smoke-free housing for residents, action they lawfully can take now without legislation.

The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. Our organization is a small nonprofit organization of over 100 member organizations and 2,000 advocates that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts. The Coalition also supports the public through its Smoke-Free Homes Initiative, designed to create smoke-free apartments and condos through voluntary action.

A 2007 letter from the Honolulu HUD office indicates that “[r]egulating smoking in public housing units or in common areas is a local decision. In addition, according to the Fair Housing and Equal Opportunity Civil Rights analyst, smokers are not a protected class under the Fair Housing Act.” Going smoke-free is lawful and promotes health. Housing units can already adopt their own rules to prohibit smoking.

Secondhand smoke is dangerous; the **U.S. Surgeon General in 2010 notes that any level of exposure to secondhand smoke is dangerous and can be harmful.** The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

The Coalition receives calls from residents who reside in public housing units and who have asthma and other health issues affected by secondhand smoke exposure. There is little assistance the Coalition can provide them. It is clear, however, that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

All families deserve to live free of second-hand smoke. The only way to ensure this is to prohibit smoking in units. The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) adopted a position that states, “[a]t present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity. . . No other engineering approaching, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs.”

Thank you for the opportunity to testify on this matter.

COMMITTEE ON HOUSING
Rep. Rida T.R. Cabanilla, Chair
Rep. Pono Chong, Vice Chair

Rep. Mele Carroll	Rep. Ken Ito
Rep. Jerry L. Chang	Rep. Hermina M. Morita
Rep. Denny Coffman	Rep. Mark M. Nakashima
Rep. Sharon E. Har	Rep. Kymberly Marcos Pine
Rep. Robert N. Herkes	Rep. Cynthia Thielen

NOTICE OF HEARING

DATE: Wednesday, February 09, 2011
TIME: 8:30 a.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

Testimony in STRONG OPPOSITION to HB-46
Michael Zehner
Hawaii Smokers Alliance
750 Amana Street, Honolulu, HI 96814

The government has no right to violate a person's constitutional right to privacy in their own home. This is indeed a very dangerous precedence that an intolerant few are trying to impose on many. What justification does the government have to enter someone's bedroom were adults are quietly and privately enjoying a legal product? - People that are enjoying it in a private manner and in a way that is respectful of other residents.

On Feb. 3rd the Senate Human Services Committee deferred the sister bill SB908 due to serious flaws and concerns by the Housing authority.

I can tell this committee that there is no way in hell I'd abide by this brazenly unconstitutional insult to human dignity. I know for a fact based on the current smoking ban and its' untold tens of thousands of open violations every day that it won't be respected. Is the state willing to throw a family and its' children and elderly on the streets because one or more family members refuses to have their constitutional right to privacy be abridged? Are we willing to do this because the family member believes in the words of Thomas Jefferson?:

"If a law is unjust, a man is not only right to disobey it, he is obligated to do so."