



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

In reply, please refer to:
File:

HOUSE COMMITTEE ON JUDICIARY

HB2577,HD1, RELATING TO PUBLIC HOUSING

**Testimony of David Sakamoto
Deputy Director, Health Resources Administration**

**February 25, 2014
2:00 pm, Room 325**

1 **Department's Position:** The Department of Health (DOH) supports with suggestions HB2577,HD1
2 which prohibits smoking in and around public housing under the jurisdiction of the Hawaii Public
3 Housing Authority (HPHA). DOH agrees with the purpose of this measure to protect the residents of
4 public housing from exposure to tobacco smoke by prohibiting smoking and suggests providing a
5 definition of "common areas" as they relate to areas where smoking is permissible.

6 **Fiscal Implications:** None for DOH.

7 **Purpose and Justification:** This measure proposes to protect the residents in public housing from
8 involuntary exposure to secondhand smoke (SHS) by empowering the HPHA to require a provision in
9 any new or continuing tenancy agreements that prohibits smoking by any tenant or guest anywhere in a
10 public housing project. This measure also provides that failure to comply with the no smoking policy is
11 grounds for termination of legal contracts or agreements (e.g., lease, permit, etc.) as well as eviction
12 from a dwelling unit. This measure, as amended, will allow the HPHA to designate smoking areas and
13 requires that the authority create rules for administration of smoking prohibitions.

14 The DOH supports this measure as amended and respectfully suggests the inclusion of the
15 following language from SB651 for clarification of the term "common areas," to be added at the end of
16 Section (a), line 15, "Common areas" means roofs, halls, corridors, lobbies, stairs, stairways, fire

1 escapes, entrances, and exits of the building or buildings, basements, yards, gardens, recreational
2 facilities, parking areas, storage spaces, and other parts of the project or household normally in common
3 use or other areas designated by the authority.

4 The scientific findings and recommendations of the United States Surgeon General regarding the
5 hazards of involuntary exposure to tobacco smoke by nonsmokers disclosed that: 1) There is no safe
6 level or amount of exposure to SHS, and breathing even a little amount can be dangerous; 2) Children
7 are more likely to have lung problems, ear infections, and severe asthma from being around tobacco
8 smoke; 3) Breathing SHS is a known cause of sudden infant death syndrome; 4) SHS is a known human
9 carcinogen (cancer-causing agent); and 5) Inhaling SHS causes lung cancer and coronary heart disease
10 in nonsmoking adults.

11 Hawaii's current smoke-free workplace and public places law, Chapter 328J, Hawaii Revised
12 Statutes enacted in 2006, protects the public in enclosed and partially-enclosed areas, but does not cover
13 and excludes private residences. The federal Housing and Urban Development Authority actively
14 supports and encourages the creation of smoke-free residential public housing properties governed under
15 that authority.

16 The DOH supports this measure to improve the living conditions of the residents of public
17 housing projects and state low-income housing projects and suggests clarifying the definition of
18 common area for ease of enforcement and implementation.

19 Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
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
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON JUDICIARY

February 25, 2014 2:00 P.M.
Room 325, Hawaii State Capitol

In consideration of

House Bill 2577, House Draft 1
Relating to Public Housing

Honorable Chair Rhoads and Members of the House Committee on Judiciary, thank you for the opportunity to provide you with comments regarding House Bill (H.B.) 2577, House Draft (H.D.) 1, relating to public housing.

The Hawaii Public Housing Authority (HPHA) offers the following comments and amendments for this measure, which will prohibit the HPHA from entering into new leases or renewing leases unless the agreement prohibits the tenant and any guest from smoking anywhere in the housing project, including in the dwelling unit. This bill further provides that failure to comply with this no-smoking requirement is grounds for termination of the lease and eviction from the unit, upon following the requisite notice provisions.

For the past year and a half, the HPHA has been working with stakeholders on revising the relevant administrative rules, and a public hearing will be held on February 28, 2014 to gather comments on the proposed administrative rule changes. This effort incorporated the input from tenants, the U.S. Department of Housing and Urban Development (HUD), the Hawaii State Department of Health, the Coalition for a Tobacco Free Hawaii, and the Attorney General's office to ensure compliance with all relevant regulations. Highlights of the proposed administrative rules allow the HPHA to designate smoking areas, evict tenants on the 4th violation (includes their guests), and provides for reasonable accommodations.

The HPHA would like to offer the following amendments:

Section 1, Page 1, Line 11 – unit of the tenant, other than a designated smoking area [.]
if any are located on the public housing project as defined in 356D-1, or state low-
income housing project, as defined in section 356D-51.

Section 1, Page 2, Line 1 – served with notice as required, notice may be given to the
tenant.

The HPHA appreciates the opportunity to provide the House Committee on Judiciary with the agency's comments regarding H.B. 2577, H.D. 1. We thank you very much for your dedicated support.



P.O. Box 976
Honolulu, Hawaii 96808

February 22, 2014

Honorable Angus L.K. McKelvey, Chair
Honorable Derek S.K. Kawakami, Vice Chair
Consumer Protection and Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2577 / OPPOSE**

Dear Chair McKelvey and Vice-Chair Kawakami and Committee Members:

I am the Chair of the Community Associations Institute's Legislative Action Committee ("CAI"). CAI, which represents the association industry in this State, **opposes HB 2577**.

This Bill is unnecessary. There have been no industry wide complaints to the property managers, boards and/or association attorneys about associations not recognizing some amounts as credit to an owner, and ignoring this credit and proceeding with a non-judicial foreclosure. If that happened, the owner would likely allege a violation of the Federal Fair Debt Collection Practices Act. So this "remedy" as proposed in the Bill is unnecessary.

The Bill will result in unnecessary litigation. The Bill assumes that associations owed money to their owners and, thus, if that is the case, they must first offset such amounts before proceeding with a non-judicial foreclosure. This is almost never the case. However, someone could "argue" or "allege" that they are owed money by the association, and thus, use the current language of the Bill to "stall out" the foreclosure process. In addition, Hawaii law requires an owner that disputes their debts to "pay first" and then dispute later as associations operate on a "zero based budget". The current Bill could be read to undermine the current law.

For these reasons we respectfully request the Committee not pass out HB 2577. Thank you for your consideration.

Very truly yours,

Christian P. Porter



To: The Honorable Karl Roads, Chair, Committee on Judiciary
The Honorable Sharon E. Har, Vice Chair, Committee on Judiciary
Members, House Committee on Judiciary
From: Tiffany Gourley, Policy & Advocacy Director
Date: February 24, 2014
Hrg: House Committee on Judiciary; Tues., February 25, 2014 at 2:00 p.m. in Rm 325
Re: **Support and comments for 2577, Relating to Public Housing**

Thank you for the opportunity to offer testimony in support of HB 2577 which prohibits smoking in and around public housing or State low-income housing projects as defined in Section 356D.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program of the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. The Coalition consists of over 100 member organizations and 2,000 advocates that work 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 policy adoption.

The Coalition recommends adding a definition for “common area.”

For clarity, the Coalition recommends including the definition for “common area” from SB 651.

“Common areas” means roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project or household normally in common use or other areas designated by the authority.

The Coalition recommends amending HB 2577 to allow for a three-strike policy before eviction.

The Coalition recommends the following language:

SECTION 1, subsection (c):

(c) A third violation by failure of a tenant or any guest of the tenant to comply with the no smoking provision pursuant to subsection (a) constitutes a ground for termination of the lease, rental agreement, permit, or license, including a month-to-month tenancy, and eviction from the dwelling unit.

SECTION 2, subsection (a):

(a)(6): ~~Smoking anywhere other than a designated smoking area in the public housing project, including a dwelling unit or other premises located within a public housing project, when smoking is prohibited pursuant to section 356D-. Upon a third violation of section 356D- ; provided that a violation of any of these terms by a non-resident, a guest who is visiting a resident, or by any member of the resident’s household, shall be deemed a violation by the resident.~~



The U.S. Department of Housing and Urban Development encourages Public Housing Authorities to implement non-smoking policies.

The U.S. Department of Housing and Urban Development (HUD) states that “Public Housing Authorities (PHAs) are permitted and strongly encouraged to implement a non-smoking policy at their discretion, subject to state and local law.”¹ Just this month, the Houston Housing Authority, one of the largest housing authorities in the country, joined Seattle, Boston, San Antonio, Detroit, and 250 other PHAs to implement a smoke-free policy.²

During the 2012 session, a law was passed to prohibit smoking in public housing. The Governor vetoed the bill allowing the Hawaii Public Housing Authority (HPHA) a chance to implement an administrative policy. Since then, the Coalition and Department of Health have been working with the HPHA to develop a policy and assist with education and outreach to ensure a successful outcome, however more than eighteen months after the veto, we still do not have an official policy in place.

Secondhand smoke has killed 2.5 million Americans and should be eliminated.

Secondhand smoke is dangerous; the 50th Anniversary U.S. Surgeon General Report released on January 17, 2014 states that any level of exposure to secondhand smoke is dangerous and can be harmful and over 2.5 million people have died from secondhand smoke.³ 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.

Thank you for the opportunity to testify on this matter.



Tiffany L. Gourley, esq.
Policy and Advocacy Director

¹U.S. Department of Housing and Urban Development (2009). “Non-Smoking Policies in Public Housing” Notice. <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf>

² <http://www.pr.com/press-release/539721>

³ U.S. Department of Health and Human Services. (2014). “The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General.” Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

**DRAFT PROPOSAL
SUBMITTED BY: DARIA FAND**

**H.B. NO. 2577
H.D. 2**

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2014
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO PUBLIC HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§356D- Prohibition on smoking in and around public housing; designated smoking areas. (a) Smoking shall be prohibited in any public housing project, elder or elderly household, as defined in section 356D-1, or state low-income housing project, as defined in section 356D-51, within:

- (1) Each individual housing unit;
- (2) All common areas;
- (3) Community facilities; and
- (4) Twenty feet from each individual building of the public housing project, and from any entrance, exit, window, and ventilation intake that serves an enclosed or partially enclosed area.

(b) Notwithstanding subsection (a), the authority may designate one or more permissible smoking areas at least twenty feet away from any residential or other building, or any greater distance away as may ensure that the secondhand smoke does not infiltrate any dwelling unit.

(1) The authority shall place and maintain clearly visible identifying signage at the locations of any designated smoking areas where they exist.

(2) The authority shall place and maintain receptacles for the disposal of cigarette litter at the locations of any designated smoking areas where they exist.

(c) The authority shall place and maintain "No smoking" signage at all entrances and exits of the property. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "Non Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be posted in or at any main entryway or face of each individual building on the property, and at any other appropriate location. The authority may display additional "No smoking" signage at residential and community facilities at their entrances and exits, offices, and

in or at enclosed, partially enclosed, or open common areas for the purpose of conspicuous notice.

(d) For purposes of this section:

"Common areas" means roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, sidewalks, and other parts of the project normally in common use or other areas designated by the authority.

"Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form.

(e) Failure of a tenant or any guest of the tenant to comply with the no smoking provision pursuant to subsection (a) constitutes a ground for termination of the lease, rental agreement, permit, or license, including a month-to-month tenancy, and eviction from the dwelling unit.

(f) The authority shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 2. Section 356D-92, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided, the authority may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises located within a public housing project and evict from

any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
 - (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
 - (3) Violation of any of the rules of the authority;
 - (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; [~~or~~]
 - (5) Upon a third violation of section 356D- ; provided that a violation of any of these terms by a non-resident, a guest who is visiting a resident, or by any member of the resident's household, shall be deemed a violation by the resident; or
- [~~5~~](6) The existence of any other circumstances giving rise to an immediate right to possession by the authority."

SECTION 3. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Public Housing; Smoking; Ban

Public Housing; State Low-income Housing; Elder or Elderly
Households; Smoking Prohibited

Description:

Requires inclusion of a prohibition on smoking anywhere in a public housing project except designated smoking areas as a condition of any agreement for the occupancy or use of premises within a public housing project.

Prohibits smoking in and around public housing projects and state low-income housing projects under the jurisdiction of the Hawaii public housing authority and in and around elder or elderly households. (HB2577 HD1HD2)

**COMMENTARY IN SUPPORT OF DESIGNATED SMOKING AREAS IN
PUBLIC HOUSING**

Excerpts from "Request for Information on Adopting Smoke-Free Policies in PHAs and
Multifamily Housing", HUD call for testimony, 2013

(from Providence Housing Authority, the National Center for Healthy Housing, and
ChangeLab Solutions).

Consensus:

**Establish AT LEAST a 25-foot smoke-free buffer around buildings (25 feet being
the minimally-effective distance)**

- **Custom approach designated areas: do not apply a one-size-fits-all policy**
(standards for office buildings should not apply, since they have more limited
entrances/windows)
- **Unilateral application of distance standard or expectation that residents go off-
premises in a campus-wide ban can increase the likelihood that residents will
smoke in their units**

*Matthew Moore, JD, MPH, Staff Attorney, ChangeLab Solutions; specializing in legal
issues involving tobacco product use, exposure to secondhand smoke, and in
particular, multi-unit housing (telephone consultation):*

-- As we know, there are PHAs that DO NOT have designated smoking areas;
HOWEVER these are usually in rural areas with very small properties/populations; for
instance, if you have a small property in a small town where there's a park across the
street, you don't need to make a smoking area on-campus; however, within urban areas
and greater density of smokers, the designated areas become more critical to compliance
with the policy

-- The more smokers on a property, the more important it is to have a designated area

-- Designated areas are especially important when a policy is first being implemented, to
help transition residents

*Anne Pearson, JD, MA, Vice President of Programs, managing ChangeLab Solutions'
tobacco control program (<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0096>):*

From page 3, "i. *Where smoking Is prohibited*":

Research shows that levels of SHS exposure outdoors can reach levels attained indoors

depending on the direction and amount of wind, and the number and proximity of smokers. [footnote] To escape SHS exposure in outdoor places, a person may have to move nearly 25 feet away from the source of the smoke — about the width of a two-lane road. [footnote] Therefore, outdoor smoke-free "buffer zones" should extend at least 25 feet from any doorway, window, or opening into an enclosed area where smoking is prohibited, *as well as* any unenclosed area primarily used by children or improved to facilitate physical activity (e.g., playgrounds, tennis courts, swimming pools, school campuses). [footnote] Buffer zone perimeters should be clearly marked, with conspicuous signage, to help prevent confusion and ensure consistent enforcement.

From page 3-4, "iii. *Designated Smoking Areas and Additional Support*":

Recognizing that residents of subsidized housing have fewer housing choices due to limited income, we recommend providing a designated smoking area on the premises to facilitate compliance with the smoke-free policy and reduce housing instability. **In our work with communities throughout California, landlords and property managers have consistently noted that providing designated smoking areas is instrumental in their efforts to seek compliance with smoke-free policies from tenants who smoke. [emphasis mine]**

Any designated smoking area should be located beyond the buffer zone described above, far enough away from any windows or doors that individuals in nonsmoking areas will not be exposed to the drifting smoke. Outdoor designated smoking areas must also be accessible to persons with disabilities. [footnote]

Melissa Sanzaro, Special Projects Officer, Providence Housing Authority
(<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0012>)

Establishing Designated Smoking Areas was a key element in the implementation of the □Smoke-Free policy. While we encouraged smokers to seek help quitting with our smoking □cessation program, it was also important to understand that not all smokers would seek □help. For this reason having Designated Smoking Areas (DSA) was imperative to fulfill the □main goal of having a Smoke Free policy which was not to expose non-smokers to the □danger of second hand smoke.

Jane Malone, Policy Director, National Center for Healthy Housing [in conjunction with Rebecca Morley, Executive Director, former policy analyst for HUD]
(<http://www.regulations.gov/#!documentDetail;D=HUD-2012-0103-0100>)

Smoke-free policies that prohibit smoking inside the rental units and common areas should factor □in alternatives for smokers who may not quit immediately. Property-wide bans could exempt □smoking in cars parked in a parking lot or other land owned by the

PHA. Policies can permit smoking outside in areas a reasonable number of feet away from a door, window or other opening. The layout of dwellings in the property may warrant a custom approach rather than applying one-size-fits-all formulae (e.g. 25 feet) that have been devised for office buildings with a very limited number of entrances. Unilateral application of a distance standard can result in increasing the likelihood that residents will smoke inside their rental units. For example, where a large PHA complex has multiple separate buildings and grass and trees around each building, the designation of areas somewhat near the buildings should be considered, as opposed to expecting a smoker to walk off-campus to smoke. A western US public housing authority (PHA) instituted a broad smoking ban on all property owned by the PHA, including all common areas, yards and parking lots. This broad ban may have had the unintended consequence of increasing exposure to secondhand smoke within the apartment. The following anecdote describes what happened to one family:

Jo had a small baby, and didn't want to hold the baby while she smoked, and didn't want to leave the baby alone in the apartment while she walked far away to have a cigarette. Before the enactment of a smoke-free policy, Jo would walk just outside her apartment door to smoke -- which kept the smoke away from her child and didn't affect any of the other neighbors. After the policy, Jo would sometimes smoke inside her apartment, since she knew she was not likely to be caught. A child-advocacy worker in her community became very concerned about children's health after the smoking ban was implemented, because many parent/residents were much more likely to smoke inside their units and the children were more exposed to smoke than they had been before the smoking ban.

For Hearing Date: Tuesday, February 25, 2014, 2:00 p.m., House Conference Room 325

Testimony Submitted By: Daria A. Fand
Honolulu, Hawaii

To: House Committee on Judiciary
The Honorable Representative Karl Rhoads, Chair
The Honorable Representative Sharon Har, Vice Chair
Members of the House Committee on Judiciary

Subject: HB2577 HD1, RELATING TO PUBLIC HOUSING

Position: Support, with Amendments

Honorable Committee Members:

Thank you for this opportunity to submit testimony for this very important measure, HB2577 HD1, **and my draft proposal for HD2, attached.**

In 2012, Hawaii Public Housing Authority (HPHA) asked the Governor to veto a similar measure, prohibiting smoking in public housing to protect residents endangered by secondhand smoke (SHS), on the promise that they would administer such a program themselves. Two years later, absolutely nothing has changed on public housing properties. When this current measure (formerly HB86) was introduced in 2013, HPHA testified before the previous Committee that there was no need for a law, as various implementation provisions — including signage throughout the property in common areas, Designated Smoking Areas (DSA's), and warnings for violations -- would imminently be put in place. None of this occurred, despite letters going out to residents in January, 2013, officially announcing that a no-smoking policy was hereby en force. There was no follow-up or follow-through, leaving residents in limbo, and the educational momentum deflated. And those who have been gravely afflicted by SHS — such as myself — have continued to suffer for another year and up to the present.

Furthermore, during this past year, HPHA corrupted their original draft Administrative Rules, capitulating to a dissenting, vocal minority of smokers, to include various loopholes that would render the no-smoking policy unenforceable and a continued hazard to non-smokers. Their current stand is to enjoin the Legislature to enable these and other deviant corner-cutting strategies, which will lead to a third-rate policy that doesn't stand a chance of doing what it was conceived to do.

What is the "take-home" lesson of this? That Hawaii State law is the proper vehicle through which to ensure public housing residents' welfare and health protections, over and above any given HPHA administrative process, potential neglect, or whim, present or future. **The State has an obligation, a duty of care, to protect all its citizens equally from the threats of SHS**, especially as a steward of the most vulnerable, frail, socioeconomically immobile demographic, its public housing population. **This law is an**

overdue corrective measure which would bring parity to those populations who are involuntarily exposed to SHS where they can't escape it, in alignment with Hawaii's existing smoke-free laws for workplaces and other public establishments recognizing such an indisputable safety hazard.

Bear in mind that a policy which is badly designed and therefore can't be enforced costs residents as well as taxpayers — so avoiding violations through proper rule is a wise investment. Also bear in mind that all these guidelines have been nationally-recognized as vital tools for compliance, in smoke-free public housing/multi-unit housing precedents on the Mainland.

For a no-smoking policy to be successful, certain standards and provisions must be established uncompromisingly; and given the unpredictable nature of the current and future administrations, it is vitally important for this measure to establish and ensure such provisions. Though some of these recommendations may seem like "details," they in fact define the difference between a successful policy and a failure in enforcement, compliance, and efficacy. National protocols are unanimous in these recommendations, and thus they should be adopted by law as I'm suggesting in **MY ATTACHED PROPOSED HD2 DRAFT, WHICH IS BASED ON THE TEMPLATE OF THE BILL THAT PASSED THE LEGISLATURE IN 2012, HB46 2011, AS INTRODUCED BY REPRESENTATIVE RHOADS. That language was clear and specific, though this is the right opportunity for important and beneficial amendments as follows:**

SECTION 1 (a):

-- Refines language defining housing and areas of smoking prohibition.

SECTION 1 (b):

-- Clarifies and defines terms of the Designated Smoking Areas (DSAs), an important transitional accommodation for smokers, especially at the beginning of implementation. [PLEASE SEE ATTACHED DOCUMENT OF AUTHORITATIVE COMMENTARY SUPPORTING DSA'S.] I strongly recommend subsections (1) and (2), which respectively mandate the placement of proper identifying signage for DSA's and litter-preventive receptacles at their locations. HPHA has resisted these measures, even while agreeing with the concept that they may install DSA's, where necessary. If HPHA is serious about establishing these areas on campuses where warranted, why would they not want to commit to appropriate signage and litter control for sanitation purposes? This is only common sense: IF a property has smoking-allowed areas (which is not being mandated), residents should not be wondering where they are, or dropping butts around the grounds. This is not a cost-prohibitive demand for any public place where smoking is prohibited, as these amenities can be modest, and HPHA should be held by law to these basic requirements. Doing otherwise would be unacceptable practice and IRRESPONSIBLE.

-- Regarding DSA's in general, I strongly recommend AGAINST restrictive language about where to locate such sites on a property, such as "not in a parking lot." With all

due respect to agencies concerned about the concentration of SHS in parking lots, there is nothing inherently better about one location or another, and in fact, parking lots may be ideal locations because they are the furthest away from buildings, which would minimize drifting smoke into dwellings (the priority!). In some cases, arbitrarily prohibiting DSA's in certain areas may preclude some properties from having them altogether, which as I've mentioned would be detrimental to compliance. A 100% smoke-free policy that may be appropriate for beaches, parks, etc. does not translate well to public housing, where physically, psychologically, and socially challenged populations live, 24/7. It all depends on property layout, so DSA placement should be handled on a case-by-case, project-by-project basis.

SECTION 1 (c):

-- THE IMPORTANCE OF "NO-SMOKING" SIGNAGE: AS VISUAL REMINDERS/WARNINGS TO RESIDENTS, THIS CAN'T BE OVERESTIMATED AS A TOOL FOR COMPLIANCE. As Serena Chen, Regional Advocacy Director with the American Lung Association in California states, "Signage is the first line of defense." There should be absolutely no compromising on this, as they are a low-cost tactic widely espoused by policy educators. My draft proposal supplies language for non-compulsory signage, as well as mandatory placement of "**No-smoking**" **signage on the property, adapted from existing language contained in HRS for other smoke-free public places, which would achieve consistency with recognized State standards.** The statute I've borrowed from is as follows:

§328J-9 Signs. Clearly legible signs that include the words "Smoking Prohibited by Law" with letters of not less than one inch in height or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in and at the entrance to every place open to the public and place of employment where smoking is prohibited by this chapter by the owner, manager, or other person in control of that place.

SECTION 1 (d):

-- Adds defining language of "common areas" and "smoking".

SECTION 2 (a) (5):

-- Defines terms of lease termination, which sets more objective standards than HD1 and allows for due process.

I hope this Committee will adopt these amendments. They place no unreasonable burdens upon HPHA financially or otherwise, while serving to maximally hold HPHA accountable to residents, as an investment in a viable smoke-free policy according to recognized models. It is very important that we create a law and policy to last, and stand as highly functional on the ground, not just an injunction on paper.

Thank you.

House Committee on Housing

February 13, 2013 6:00 P.M.
Room 329, Hawaii State Capital

In consideration of
House Bill 2577
Relating to Public Housing

Honorable Chair Members Rhoads and Members of the House Committee on the Judiciary, thank you for the opportunity to provide you with comments regarding the House Bill (HB) 2577, relating to public housing.

I am in favor of this bill and fully support the passage of the project for numerous reasons. For one, this project has been implemented in numerous counties across the nation, including Harrisonburg (VA), Glendale (CA), Oakland (CA), Berkeley (CA), Walnut Creek (CA), Marin (CA), Omaha (NE), Chicago (IL), Houston (TX) , El Paso (TX), Miami-Dade County (FL), and more.

Cancer is one of the leading causes of deaths in the United States. Second-hand smoke can cause more than just cancer. In children, it can cause lung problems (asthma), ear infections, and even sudden infant death syndrome. Although it is the choice of the individuals who smoke to do so, it is not the choice of those they affect with second-hand smoke. For this reason, and several of the medical and financial reasons, I support this bill.

Also, by implementing a standard of housing that guides people away from smoking and towards healthier living, Hawaii is able to assist preventative health care. With the Affordable Care Act in progress, this will help build the community and hopefully help financial burdens that are caused by chronic diseases from second-hand smoke.

Thank you for the opportunity to testify.

Kelly Soler

Testimony Submitted By: Hannah L. Hedrick, PhD

Fern Forest Subdivision

Hawaii County

To: House Committee on Judiciary

The Honorable Representative Karl Rhoads, Chair

The Honorable Representative Sharon Har, Vice Chair

Members of the House Committee on Judiciary

Subject: HB2577 HD1, RELATING TO PUBLIC HOUSING

Position: Support, with Amendments

Honorable Committee Members:

Thank you for this opportunity to submit testimony for HB2577 HD1, and for the draft submitted by Daria Fand, with whom I have been working on smoke-free public housing legislation for the past three years.

In 2012, Hawaii Public Housing Authority (HPHA) asked the Governor to veto a similar measure, prohibiting smoking in public housing to protect residents endangered by secondhand smoke (SHS), on the promise that they would administer such a program themselves.

I regret that I did not cancel a trip to the mainland so that I could have marshalled smoke-free advocates, including individuals with life-threatening illnesses due to exposure to second-hand smoke, to protest the Governor's veto. Even had the HPHA been moderately successful in drafting a viable process and Administrative Rules, legislation was still essential to ensure implementation over time.

I have followed every step of HPHA efforts to develop its policy and have participated in efforts to educate the HPHA about standard practices across the nation, including similar efforts in multiple unit public housing in Alaska and Washington State (both of which are successful).

I see no evidence that the HPHA has made any effort to educate and support residents or even to prepare them for the eventual prohibition of smoking except perhaps in designated smoking areas. Daria Fand's suggestions for amendments reflect nationally-recognized vital tools for compliance, including "lessons learned" with regard to smoke-free public housing/multi-unit housing precedents on the Mainland.

1. I especially support the option of providing well-equipped, clearly identified designated smoking areas where possible, with no restrictions about locations (unless residents promote a smoke-free facility).
2. I equally support visible signage throughout the facility as the first implementation step. I live in the county with the most progressive smoke-free legislation IN THE NATION, and signage is still an issue for us.
3. While my emphasis in 50 years of tobacco-free advocacy has been on education and support, loss of lease must be a clear outcome of multiple violations of the law, with clearly defined terms that include due process for complainers and violators. While some of this detail can be included in Administrative Rules, the guiding language must be in the law.