



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

January 16, 2014
Rm. 325, 2:00 p.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 676, H.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports H.B. No. 676, H.D.1, which amends the Landlord-Tenant Code (HRS Chapter 521) to prohibit housing discrimination against persons based on their source of income, including government or private assistance. While this new protection is different in kind from the protected bases under fair housing law, there is some correlation between the protected bases under federal and state fair housing law and those who receive rental assistance and other sources of income from government programs – many are people living with disabilities, families with children, single female heads of household, and members of racial minority groups.

In recent years a number of courts have held that other state discrimination laws which include protection for renters who have Section 8 vouchers as a source of income are not preempted by federal Section 8 law (which states that participation in the Section 8 program is voluntary), and that the burden of participating in the Section 8 program is not onerous.

The HCRC supports placing the proposed new protections in the Landlord-Tenant Code instead of in HRS Chapter 515 because the Commission cannot predict the potential impact of adding source of income as a protected basis to the housing discrimination law. This new protected basis is different in kind from others covered under Chapter 515, and would include not only recipients of welfare or AFDC, but also recipients of Social Security, Supplemental Security Income and other government and non-government benefits or income. The HCRC had concerns over the H.B. No. 676 in its original form, which placed the new protection in Chapter 515 and under HCRC jurisdiction in its original form, because of the potential impact on complaint caseload and processing, especially in light of the impact of lost investigation and enforcement capacity since 2008. The H.D.1 addresses the HCRC's concerns, placing these protections under HRS Chapter 521 with a private right of action for any violations. The HCRC supports H.B. No. 676, H.D.1.

January 16, 2014

The Honorable Karl Rhoads, Chair

House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, H.D.1, Relating to Discrimination

HEARING: Thursday, January 16, 2014, at 2:00 p.m.

Aloha Chair Rhoads, Vice Chair Har, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,300 members. HAR **opposes** H.B. 676, H.D.1 which prohibits discrimination in rental transactions based on lawful source of income, including advertisements for available rentals.

H.B. 676, H.D.1, makes it a discriminatory practice under the Landlord-Tenant Code, similar to Hawaii's Fair Housing law (Hawai'i Revised Statutes Chapter 515), to engage in a broad list of discriminatory practices based on source of income. Provisions under HRS Chapter 515 apply to appraisals, mortgages, mortgage lending, real estate contracts, inspection, and real estate services.

HAR is concerned that this measure proposes to add a prohibition against discrimination based on lawful source of income to the Landlord-Tenant code, despite the existence of Chapter 515 which already protects against other discriminatory practices under Hawaii's fair housing law. This measure also elevates the "source of income" factor in the Landlord-Tenant code, and essentially equates it to the level of a "protected class" under Hawaii's fair housing law.

Reviewing a rental applicant's financial background is an essential element of a landlord's decision making process when selecting a new tenant. By prohibiting discrimination based on the source of income, all landlords and property managers would be exposed to potential liability for engaging in normal business practices.

HAR believes that government subsidized programs, such as Section 8, are an important part of our community's social safety net. However, imposing this requirement on all landlords and property managers, even those outside of the Section 8 program, undermines their ability to perform basic responsibilities set forth in the Landlord-Tenant code.

For the foregoing reasons, we respectfully request that this committee hold this measure. Mahalo for the opportunity to testify.

January 14, 2013

Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

Hearing Date: **Thursday, January 16, 2014**

TIME: 2:00 p.m.

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

**Aloha Rep. Karl Rhoads, Chair,
Rep. Sharon E. Har, Vice Chair and Members of the Committee:**

I am Kristi Britto, a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to **oppose HB676** which prohibits discrimination in real property transactions based on lawful source of income.

While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, H.B. 676 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen.

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn.

Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes. And financial information has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony,
Kristi Britto (S)
Property Profiles, Inc.
98-030 Hekaha Street #26
Aiea, HI 96706

January 14, 2013

Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

Hearing Date: **Thursday, January 16, 2014**

TIME: 2:00 p.m.

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

**Aloha Rep. Karl Rhoads, Chair,
Rep. Sharon E. Har, Vice Chair and Members of the Committee:**

I am Darcie Y. Kaneshiro, a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to **oppose HB676** which prohibits discrimination in real property transactions based on lawful source of income.

While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, H.B. 676 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen.

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being $\frac{1}{4}$ inch too high or louver cranks too hard to turn.

Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes. And financial information has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony



Darcie Y. Kaneshiro

CALLAHAN REALTY, LTD.
98-211 PALI Momi Street #822
Aiea, HI 96701
(808)487-0788
callahanrealtyhawaii.com

The Honorable, Karl Rhoads, Chair

Senate Committee on Consumer Protection & Commerce
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

HEARING: Thursday, January 16, 2014 @ 2:00 P.M.

Aloha Chair Rhoads, Vice Chair Har, and Members of the Committee:

I am Catherine Matthews (B). I have been professionally managing properties for others for almost 30 years. I am active in our local Board of Realtors. I have also served as a past president and board member for the National Association of Residential Property Managers – Oahu Chapter (NARPM), with over 230 members on island.

I oppose H.B. 676, Relating to discrimination. Although the Section 8 Housing program is important; the process is very cumbersome. When renting to a non- Section 8 tenant, when an application is received, reviewed and verified. A lease is signed and Landlord can do the inspection with the tenant and they can move in within a couple of days.

With an application for a Section 8 tenant coming in on the same day, it can often take up to two months for the Landlord to begin receiving rent. The Section 8 tenant once approved must bring the paperwork to the office for completion, the next day the tenant brings the paperwork back to the Landlord and the tenant submits it to Section 8. Then, Section 8 begins processing the paperwork which can take up to two weeks. When the paperwork is accepted an inspection is scheduled within 1-3 days. The inspector submits the results to Section 8; if there are no discrepancies found during the inspection, Section 8 advises the Landlord that the rental agreement is accepted and the tenant may be checked into the unit.

An average Section 8 application takes 12-24 days. I represent many clients (owners) who cannot afford this length of vacancy. They are relying on me to keep their properties occupied to help avoid them going into financial distress. Many would like to sell but owe more than the property is worth, their mortgage payment exceeds the rental amount and they should not have to be forced to endure the lack of income during this lengthy process.

Individual owners who manage their own properties have a very difficult time trying to get through this process, it is too complex time consuming and confusing for the average Landlord. I have heard this time and time again at the Annual Seminar that NARPM hosts to

help teach, provide forms and educate individual owners who manage their own properties (we have sold out with over 225 individuals every year since we have been doing this, I believe 6 years).

Even Professional Property Managers who accept Section 8 on a regular basis have trouble with the procedure. There are many inconsistencies from case worker to case worker and inspector to inspector. There have been instances where a repair was deemed necessary and when a different inspector comes out he approves the repair but adds other things to the list, very minor items, window cranks too hard to turn in a 25 year old unit; the windows open and close, just too hard to turn. This further delays the owner from collecting income, pushing him further into financial hardship. As we are trying to help one group of people we are pushing another group into distress.

Determining whether a person is discriminating based on source of income is very subjective and ambiguous. This being the case, one's innocence or guilt would be very hard to prove. Landlords, whether individuals or professionals, who try are diligent and honest may find themselves involved in an expensive fair housing complaint.

Source of income is a much different category than any other protected class. Financial information and length of forced vacancy while one navigates the Section 8 process has a legitimate place in a Landlords right to make a business decision with whom to place within their property. I strongly feel that a streamlining of the Section 8 process would make many more Landlords welcome the recipients; but until that time, this bill is not the solution to the problem.

I appreciate your time and the opportunity to testify.

Very Respectfully,

Catherine Matthews (B) GRI

January 14, 2013

Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

Hearing Date: **Thursday, January 16, 2014**

TIME: 2:00 p.m.

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

**Aloha Rep. Karl Rhoads, Chair,
Rep. Sharon E. Har, Vice Chair and Members of the Committee:**

I am Sheri R.Y. Marquina, RA, ABR a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to **oppose HB676** which prohibits discrimination in real property transactions based on lawful source of income.

While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, H.B. 676 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen.

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.

While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being ¼ inch too high or louver cranks too hard to turn.

Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes. And financial information has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony
Sheri R.Y. Marquina, RA, ABR

Young Hawaii Homes, Inc.

2131 South Beretania Street, Suite 204 • Honolulu, Hawaii 96826-1405

Office: (808) 941-4016 • Fax: 942-7146 • Cell: 754-3635

The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

HEARING: Thursday, January 16, 2013 @ 2:00 p.m.

Aloha Chair Rhoads, Vice Chair Har, and Members of the Committee:

My name is Laurene Young and I am a property manager for Young Hawaii Homes, Inc. I am also a member and past President of NARPM (National Association of Residential Property Managers)-Oahu Chapter. The Oahu Chapter is currently one of the largest chapters in the nation with 215 members.

I am writing in opposition to HB 676 which prohibits discrimination in real property transactions based on lawful source of income.

While our company rents to Section 8 tenants occasionally, there are some situations where it is not possible to consider a Section 8 tenant. The Section 8 process is very time-consuming and there are many owners who cannot wait a couple weeks or months for the first rent check. They may not be able to spend the money to fix all the minor problems that the Section 8 inspector requires. It also takes at least 3-4 weeks for a Section 8 tenant to get all the paperwork done, have the inspection done and finally move in. That is 3-4 weeks of lost rent.

In order to avoid discrimination allegations, our company runs credit checks on all applicants. We run the risk that other applicants with bad credit will allege discrimination since we did not rent to them even if they have paystubs to prove they make enough money to pay the rent. As a rental business, financial information is vital to our ability to find the best tenant for our owners, who we have a fiduciary duty to.

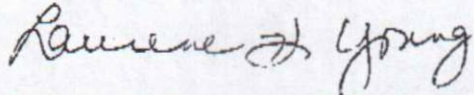
I believe that many landlords will have trouble negotiating the Section 8 process. It is too complicated, time-consuming and expensive. The paperwork alone may take a new Section 8 landlord several hours to complete.



All other protected classes prevent discrimination against groups of people that should not be prevented from renting housing of their choice. Financial ability to pay is a vital part of our business decision in selecting a new tenant.

Once again, I urge you to oppose HB 676. Thank you for your time and consideration.

Respectfully,



Laurene H. Young, (B), MPM® RMP®

January 14, 2013

Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 676, Relating to Discrimination

Hearing Date: **Thursday, January 16, 2014**

TIME: 2:00 p.m.

PLACE: Conference Room 325

State Capitol

415 South Beretania Street

**Aloha Rep. Karl Rhoads, Chair,
Rep. Sharon E. Har, Vice Chair and Members of the Committee:**

I am Robert Nakagawa, a member of the National Association of Residential Property Managers (NARPM) Hawaii Chapter submitting testimony to **oppose HB676** which prohibits discrimination in real property transactions based on lawful source of income.

While we agree that the Section 8 Housing program is an important part of Hawaii's social safety net, H.B. 676 is likely to create more problems than it solves. When you compare the procedure for renting a unit to a non-Section 8 tenant, to a Section 8 tenant, the added cost, time, and liability exposure can be seen.

If a non-Section 8 tenant's application is cleared and accepted, the tenant is contacted and a meeting is scheduled to sign the rental agreement, conduct the inspection of the unit and for the tenant to pay the prorated rent and security deposit. The landlord then has a rent paying tenant in the unit within days.


While professional property managers may possess the experience and knowledge necessary to navigate safely through this process, this process is likely too complex, expensive and time-consuming for the average landlord.

Property managers who accept Section 8 housing applicants on a regular basis often express their frustration with the program's procedures and implementation. There is inconsistent application of paperwork requirements. Successful completion of forms may depend on which case worker is reviewing them and property inspection requirements are applied differently by different inspectors. At times, defects are reported by the inspector and corrected by the landlord, only to have a different inspector sent to check on the corrections who finds others, not noted by the first inspector. These defects are sometimes as small as a dining room ceiling light hanging three inches too low or the space under a bedroom door being $\frac{1}{4}$ inch too high or louver cranks too hard to turn.

Another issue with this measure is that determining whether someone is engaged in a discriminatory practice based on source of income is very subjective and ambiguous. This makes it very difficult to enforce. As a result, even the most diligent and scrupulous landlord could find himself or herself the subject of a fair housing complaint. In such cases, the difficult task of proving one's "innocence" and the time, expense and distraction associated with defending a discrimination claim can easily overwhelm the typical law abiding landlord.

Finally, "source of income" is clearly in a different category from the protected classes. And financial information has a legitimate place in business decisions, such as that of a landlord-tenant relationship.

Mahalo for the opportunity to submit testimony



Robert Nakagawa, RA, Property Manager
Property Profiles, Inc.

Sunny Isles Properties, Inc

January 15, 2014

The Honorable Karl Rhoads, Chair
The Honorable Sharon E. Har, Vice Chair
The State House of Representatives – Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

Re: HB 676, Relating to Source of Income

HEARING: Thursday, January 16, 2014 at 2:00 pm

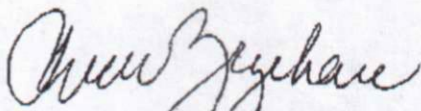
Aloha or Dear Chair Rhoads, Vice Chair Har, and Members of the Committee:

Sample wording: My name is Rosanne F. Uyehara and I am a property manager for about 200 properties. I have been a property manager for 23 years and I am also a member of NARPM (National Association of Residential Property Managers) Oahu Chapter.

I am writing in opposition to HB 676 or I oppose HB 676 because I do not feel that owners should be forced to rent to Section 8 tenants. The financial burden to repair units at times does not equal the rent paid. In the past my dealing with Section 8 tenants have not been positive they do not like to follow the rules and are not good neighbors to the other tenants.

I urge you to oppose HB 676. Thank-you for your time and consideration.

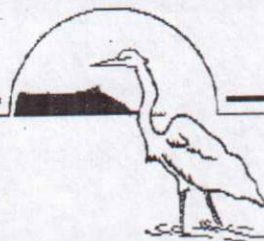
Respectfully,



Rosanne F. Uyehara, REALTOR®
Sunny Isles Properties, Inc.

ARLLC 1-14-14

WOODSTOCK
PROPERTIES, INC.



To: The Honorable, Karl Rhoads, Chair
Resident Manager

From: Claudia Host – RA, RMP

Date: January 14, 2014

Re: HB 676 Relating to Discrimination

Aloha,

I am Claudia Host (RA). I have been a realtor/property manager for 5 years. I am writing to provide testimony regarding HB 676.

I am not opposed to the Section 8 Housing Program. Woodstock Properties, Inc. manages several Section 8 properties.

I am, however, opposed to adding "Source of Income" to the list of protected classes. If this were added, it would make it very difficult to verify income without placing myself and my professional practice in jeopardy of a discrimination claim. Right now, as an example, we never ask how old someone is and we don't ask for their birthdate. We don't ask how many children someone has. I don't ask if they are married. By avoiding these questions we demonstrate our efforts at non-discrimination. But, we have a fiduciary responsibility to the owners of the properties for whom we manage to be sure that the tenant applicant we place will be able to pay the rent. In our due diligence, we are required verify income i.e. salary, BAH, pension, trust fund payments, tax returns etc.

If the legislators add "source of income" to the protected classes, it will be very onerous on property managers to verify income without placing ourselves in jeopardy of a discrimination lawsuit. Please do NOT add "source of income" to the protected classes.

Thank you in advance for considering my testimony.

Mahalo,

Claudia Host - RA, RMP

Claudia Host – RA, RMP