

For Hearing Date: Monday, January 28, 2013
8:45 a.m., House Conference Room 329

Testimony Submitted By: Daria A. Fand

To:

House Committee on Housing

The Honorable Representative Rida Cabanilla, Chair

The Honorable Representative Justin Woodson, Vice Chair

Subject: HB86, RELATING TO PUBLIC HOUSING

Position: Support, with Amendments

Honorable Chair Cabanilla, Vice Chair Woodson, and Members of this Committee, thank you for allowing me to submit testimony regarding the measure HB86.

This is a very important and timely bill. I am most gratified that overwhelming Legislative support for a comprehensive ban of smoking in public housing is continuing here. My hope is for this bill to keep the momentum alive, to eventual victory not just in the Legislative branch, as we saw last year with HB46, but in the Executive branch as well.

It is clear that HPHA has been working on an internal policy to ban smoking on its properties. This is all good and well. But it remains to be seen how soon these policies actually go into effect – and as daily exposure to second-hand smoking (SHS) is a very pressing health and life threat to people of all ages with many varied health conditions, this legislation is warranted.

However, the most important reason to keep this legislation alive does not involve strong-arming HPHA into their own policy. **While it may be motivating HPHA to act on this matter, the reason we need a legal mandate prohibiting smoking in public housing is as a social justice issue: meaning, that those with limited resources, choices, means, and mobility, who are socio-economically the most disadvantaged among us, deserve to have their rights recognized legally.** The birthright to live without the intrusion of tobacco smoke into one's primary environment, which is publicly subsidized, should be codified in our State law, just as State law has already codified the protections from SHS in other places of public accommodation. Of all environments where law protects citizens from the hazards of SHS, public housing may be the most dire and overlooked, given that many residents in public housing spend nearly all their waking (and even non-waking) hours exposed to SHS, exceeding time spent in workplaces and other legally smoking-prohibited areas. Social justice disparity exists for these populations because their status and lack of market options traps them in unhealthy environments.

Regarding smoking protection and social justice, the July, 2010 article in the New England Journal of Medicine's Health Law, Ethics, and Human Rights publication states:

“...a smoking ban in public housing would also promote social justice for this tenant group. Tobacco marketing and availability tend to be especially dense in low-income communities, and Americans living below the federal poverty level are 1.6 times as likely to smoke as are persons at or above this level. A permissive smoking policy perpetuates such disparities and also increases the tobacco-smoke exposure of non-smokers in public housing, a group that has few alternative housing options available. No-smoking policies also advance social justice for children in public housing by addressing one aspect of their social disadvantage.”
[footnotes removed]

It is the province of law to establish and guarantee parity in the form social justice that must exist in perpetuity, and extend beyond this particular HPHA administration tasked with adopting the non-smoking policy. It is for the law to remediate the current discrepancy in Hawaii’s SHS protections.

That said, my recommendations for amendments to this draft of HB86 are as follows:

1. Remove language that effectuates the law on July 1, 2013, and replace it with language that allows “NO MORE THAN” 6 months from the date of the measure’s approval. This would not restrict HPHA to the date of July 1, 2013, should they be able to implement policies before that date; it would also ensure that HPHA has up to, but not more than, 6 months to implement policy from the date of measure approval.
2. Regarding the language about non-compliance and evictions in Sections 1 and 2: return to the language of 2012’s HB46, stating that eviction will proceed “upon third violation” of the policy. Three violations is the standard by which most other PHAs administer due process. Three violations prevent an overly-zealous, hasty evictions process, and allows management to work more with a resident who is non-compliant, before this last resort.
3. Include language that mandates the existence of designated smoking areas which shall be determined by a flexible process of property-by-property resident, management, and community consensus that shall not be time-limited.

To sum up, the purpose of legislating a smoke-free policy for public housing is justice and responsibility on the part of our State, as the steward of public health and welfare. Therefore, whatever and notwithstanding HPHA’s plans, the goals and the commitments of the Legislature and the Executive branch regarding this very important mandate should remain.

I very strongly urge you to pass this measure, HB86, with the content amendments as I’ve recommended, which will protect both smokers from wanton administrative tactics and non-smokers from the lethal threats of SHS.

woodson2-Miho

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 25, 2013 4:50 PM
To: HSGtestimony
Cc: tinamoore@linuxmail.org
Subject: Submitted testimony for HB86 on Jan 28, 2013 08:45AM

HB86

Submitted on: 1/25/2013

Testimony for HSG on Jan 28, 2013 08:45AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Tina	Individual	Oppose	No

Comments: HB-86 is a disgrace to our freedoms as Americans.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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woodson2-Miho

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 25, 2013 6:13 PM
To: HSGtestimony
Cc: chevyriderhhh@gmail.com
Subject: *Submitted testimony for HB86 on Jan 28, 2013 08:45AM*

HB86

Submitted on: 1/25/2013

Testimony for HSG on Jan 28, 2013 08:45AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

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woodson2-Miho

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 25, 2013 4:39 PM
To: HSGtestimony
Cc: mauimoonflower@gmail.com
Subject: Submitted testimony for HB86 on Jan 28, 2013 08:45AM

HB86

Submitted on: 1/25/2013

Testimony for HSG on Jan 28, 2013 08:45AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina Spencer	Individual	Oppose	No

Comments: Respect a person's home!!!!!!

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COMMITTEE ON HOUSING

Rep. Rida T.R. Cabanilla, Chair

Rep. Justin H. Woodson, Vice Chair

DATE: Monday, January 28, 2013

TIME: 8:45 a.m.

PLACE: Conference Room 329

State Capitol

415 South Beretania Street

Dear Honorable Committee Chair and Members,

The **Hawaii Smokers Alliance is Strongly Opposed to HB86**. It is an exceeding draconian bill that would ban the quiet enjoyment of an otherwise legal activity in the homes and bedrooms of your constituents.

The bill has dubious constitutionality at best since it violates a person's right to privacy. The bill as written makes NO effort to determine if smoke is going from unit to unit. From talking to actual residents of public housing we find that the major housing projects on Oahu do not have central air conditioning/ shared ventilation. Smoke cannot penetrate solid brick or concrete walls. Furthermore, family members of a smoker could also be evicted for one family member that refuses to have their civil rights unjustly taken away.

Claims about the need for such a ban based on "Multiple Chemical Sensitivities" are equally dubious. MCS is a controversial diagnosis and is not recognized as an organic, chemical-caused illness by the Academy of Allergy and Immunology, the American Medical Association, the California Medical Association, the American College of Physicians, and the International Society of Regulatory Toxicology and Pharmacology. Blinded clinical trials have shown MCS patients react as often and as strongly to placebos, including clean air, as they do to the chemicals they say harm them. This has led many experts to believe MCS symptoms are due to odor hypersensitivity or are mainly psychological. The fact that government health care programs are failing to give these people the psychological help they need is an issue in itself.

The Hawaii Smokers Alliance is not opposed to the Housing Authority creating certain floors or sections of non-smoking rooms as availability would dictate based on the discretion of the Housing authority for people that insist on having one.

What is clear that this bill is purely an attempt at social engineering the lifestyles of others, spearheaded by a tiny ring of professional lobbyists called "Tobacco Free Hawaii" who make their living primarily off the settlement agreement. Please let constituents decide this issue for themselves.

Respectfully, Michael Zehner, Co-Chair of the Hawaii Smokers Alliance
808-952-0275

Note: The Hawaii Smokers Alliance is a citizens group formed in 2006 to promote through education and advocacy the civil rights and liberties of those who enjoy tobacco. The group is self funded by its' members. Hawaiiismokersalliance.net



To: The Honorable Rida Cabanilla, Chair, Committee on Housing
The Honorable Justin Woodson, Vice Chair, Committee on Housing
Members, House Committee on Housing
From: Jessica Yamauchi, Executive Director
Date: January 26, 2013
Hrg: House Committee on Housing; Mon., January 28, 2013 at 8:45 a.m. in Rm 329
Re: **Support for HB 86, Relating to Public Housing**

Thank you for the opportunity to offer testimony in support of HB 86 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 an independent organization in Hawaii working 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 policy adoption.

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.

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 a chance to implement an administrative policy. The Coalition and Department of Health have been working with the Hawaii Public Housing Authority to develop a policy and assist with education and outreach to ensure a more successful outcome. However, these efforts have been slow and currently we still have no smoke-free public housing facilities.

Public Housing Authorities across the Country have been implementing smoke-free policies and have developed enforcement processes whereby residents are given multiple notices prior to eviction. Although there have been eviction cases due to smoking violations, they have been rare. The goal is not to punish residents but to encourage residents to have a healthier home free from the dangers of secondhand smoke and to protect all residents.

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.

A handwritten signature in black ink that reads "Jessica Yamauchi". The signature is written in a cursive, flowing style.

Jessica Yamauchi, M.A.
Executive Director

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 HOUSING

January 28, 2013 8:45 A.M.
Room 329, Hawaii State Capitol

In consideration of
House Bill No. 86
Relating to Public Housing

Honorable Chair and Members of the House Committee on Housing, thank you for the opportunity to provide you with comments regarding House Bill (H.B.) No. 86, relating to public housing.

The Hawaii Public Housing Authority (HPHA) supports the intent of this measure, which would 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.

The agency has been working for the past six months with stakeholders on revising the relevant administrative documents. This effort incorporated the input from tenants, the U.S. Department of Housing and Urban Development (HUD), and the Attorney General to ensure compliance with all relevant regulations.

Throughout this time, the HPHA has also been working diligently with, the Hawaii State Department of Health (DOH) and the Coalition for a Tobacco Free Hawaii (Coalition) to create a "No Smoking" policy that will cover all Federal and State low income public housing units under the HPHA.

We are currently waiting for our Resident Advisory Boards (RABs) to return comments from their open meeting regarding implementation of the "No Smoking" policy.

The HPHA has started the process of implementing this policy with a coordinated effort that includes three main factors:

1. We will start by distributing letters informing every household of the new “No Smoking” policy, and by posting the letter in common areas. During this time, the DOH will assist our AMP managers with creating “No Smoking” signage, and these signs will be distributed around the project common areas.
2. For the next two months, our AMP managers will remind our tenants that the “No Smoking” policy has taken effect, and inform tenants of the requirement to smoke in designated smoking areas, if any. The Coalition, with the help of the American Lung Association, will provide services to those tenants who need cessation assistance.
3. In the final month of the transition, our AMP managers will distribute warning citations to any tenant who violates the policy. They will also inform the tenant that smoking outside of designated smoking areas, if any, will count as a lease violation against them.

As you can see, the agency believes that this measure is unnecessary, although in support, as the HPHA is already in the process of implementing a “No Smoking” policy to provide a healthy, smoke-free environment for our residents, especially the children and disabled who are most vulnerable to second-hand smoke.

Finally, if this bill passes, the HPHA respectfully requests the requisite time to comply with federal regulatory requirements to provide tenants and resident organizations with notice of the proposed changes and an opportunity to make comments on proposed changes to the lease form.

The HPHA appreciates the opportunity to provide the House Committee on Housing with the agency’s position regarding H.B. No. 86. We respectfully request the Committee to hold this measure, and we thank you very much for your dedicated support.