



HAWAII SUBSTANCE ABUSE COALITION

HB1519 County Zoning for Group Living : *Geographic Separation*

- COMMITTEE ON WATER & LAND: Representative Evans, Chair; Representative Lowen, Vice Chair
- COMMITTEE ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS: Representative Hanohano, Chair; Representative Cullen, Vice Chair
- Wednesday, Jan.22, 2014; 8:30 a.m.
- Conference Room 325

HAWAII SUBSTANCE ABUSE COALITION Opposes HB15196

Good Morning Chair Evans, Chair Hanohano, Vice Chairs Lowen, Cullen and Distinguished Committee Members. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than twenty non-profit treatment and prevention agencies.

For the last 2 years, a multi-department task force has meet to determine appropriate legislation to address effective use of the complex federal and state laws pertaining to clean and sober housing:

There are complex Fair Housing Act and ADA laws to protect individuals with disabilities such as alcoholics as well as individuals who are currently drug free and are involved in continuing professional rehabilitation and mentoring programs. Federal precedence has created increasingly protective measures to safeguard equal access to housing for people with disabilities, including changes in rules, and policies or procedures to access housing or housing-related services.

The task force is proposing legislation for clean and sober housing this session that does not violate federal law and yet establishes criteria to monitor performance:

1. Laws and definitions are changed to comply with federal laws thus clearly defining and ensuring federal protections are specifically applied only to housing that is subject to ADA and Federal Housing Act regulations.
2. The Department of Health will establish a registry that will:
 - a. Help clean and sober housing facilities obtain proper county permits and meet all zoning requirements.
 - b. Train registered clean and sober operators on policies and procedures for good management, including good neighbor practices.
 - c. Respond and enforce compliance for registered houses.
 - d. Provide a list to referring agencies that they refer to registered homes.

The task force included:

Sen. Espero, Sen. Tokuda
Rep. Carroll, Rep. Jordan
Other Sen. and Rep.
leadership offices.

Deputy Attorney General
Department of Health
County Planning and
Zoning from every County
Public Safety and Parole
Adult Client Services

Substance Abuse Treatment
Clean and Sober Houses
Homeless agencies
Halfway House agency
Community

The task force recognizes that there are complex federal and state laws that support clean and sober housing arrangements because they are a cost effective and valuable means to transition recovering individuals back into their chosen communities; however, quality and compliance would improve if government could establish and monitor performance criteria. New legislation is being proposed this session that we believe would accomplish this objective.

We appreciate the opportunity to provide testimony and are available for questions.

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 702 Honolulu, Hawaii 96813

Phone: (808) 531-2198 Fax: (808) 534-1199

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Daryl Selman, President
Judith F. Clark, Executive Director
Aloha House
American Civil Liberties Union of Hawaii
Bay Clinic, Inc.
Big Brothers Big Sisters of Honolulu
Big Island Substance Abuse Council
Blueprint for Change
Bobby Benson Center
Catholic Charities Hawaii
Child and Family Service
Coalition for a Drug Free Hawaii
Courage House Hawaii
Domestic Violence Action Center
EPIC, Inc.
Family Programs Hawaii
Family Support Hawaii
Hale Kipa, Inc.
Hale 'Opio Kauai, Inc.
Hawaii Behavioral Health
Hawaii Student Television
Healthy Mothers Healthy Babies Coalition
Hina Mauka Teen Care
Hui Malama Learning Center
Kaanalike
Kahi Mo'ohala Behavioral Health
KEY (Kualoa-Heeia Ecumenical Youth)
Project
Kids Hurt Too
Kokua Kalihi Valley
Life Foundation
Marimed Foundation
Maui Youth and Family Services
Palama Settlement
P.A.R.E.N.T.S., Inc.
Parents and Children Together (PACT)
Planned Parenthood of Hawaii
REAL
Salvation Army Family Intervention Svcs.
Salvation Army Family Treatment Svcs.
Sex Abuse Treatment Center
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YWCA of Kauai

January 21, 2014

To: Representative Cindy Evans, Chair
And members of the Committee on Water and Land

TESTIMONY IN OPPOSITION TO HB 1519 RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES.

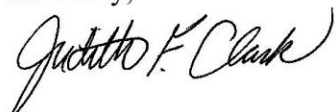
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, opposes HB 1519 Relating To County Zoning For Group Living Facilities

The proposed definition of geographic separation as 2,000 feet is unreasonable and would be impossible for any residential facility to meet. No government or non-profit operator could afford to purchase or lease a property that large, nor is it likely that any properties in Hawaii would be large enough to allow for a 2,000 set back.

This bill discriminates against persons with developmental disabilities, seniors, and others in need of residential care by establishing zoning requirements that do not apply to other residents in the community. Residents of group homes and other residential programs should be held to the same standards relating to noise, disruptive or illegal behavior, and maintenance of facilities as any other homeowner or tenant in the community. We should welcome and care for our disabled and elderly neighbors in the spirit of aloha.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 20, 2014 11:25 AM
To: waltestimony
Cc: prentissc001@hawaii.rr.com
Subject: Submitted testimony for HB1519 on Jan 22, 2014 08:30AM

HB1519

Submitted on: 1/20/2014

Testimony for WAL on Jan 22, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss		Support	No

Comments: The Kailua Neighborhood Board strongly urges the adoption of this bill. It is the board's position that the location of State licensed group living facilities be consistent with county zoning in order to provide for these needed facilities while still providing for compatibility with residential neighborhoods. The provisions of this bill, especially the geographical separation between facilities, will provide that compatibility by not concentrating them in one block or small area. This will help to keep our neighborhoods safe and livable, and also reduce the opposition to the provision of these needed facilities. His bill is truly a win-win proposition. Thank you for your support. Chuck Prentiss, Chair, Kailua Neighborhood Board

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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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

H.B. NO. 1519, RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES.

BEFORE THE:

HOUSE COMMITTEES ON WATER AND LAND AND ON
OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS

DATE: Wednesday, January 22, 2014 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Andrea J. Armitage, Deputy Attorney General

Chairs Evans and Hanohano and Members of the Committees:

The Attorney General opposes certain provisions of this bill because they violate federal law.

This bill amends section 46-4(d), Hawaii Revised Statutes (HRS), by adding traffic safety and congestion, noise levels, commercial deliveries, and geographic separation to the list of county requirements that group living facilities with eight or fewer residents that are licensed by the State must abide by. The bill also amends section 46-4(f), HRS, by defining “geographic separation” to mean a distance of at least 2,000 feet. Thus, it appears the bill mandates the counties to require that all group living facilities with eight or fewer residents that are licensed by the State be located at least 2,000 feet apart from one another.

The geographic separation provision of this bill would violate the federal Fair Housing Amendments Act of 1988 (FHAA), codified in 42 U.S.C. sections 3601 to 3631. Generally, the FHAA prohibits discrimination against persons with any “handicap” (now referred to as a “disability”). This term is defined very broadly to mean any person who has “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment. . .” 42 U.S.C. § 3602(h). The FHAA’s purposes include ending segregation of the housing available to people with disabilities and giving people with disabilities the right to choose where they wish to live.

This measure applies specifically to “group living in facilities with eight or fewer residents and that are licensed by the State as provided for under section 321-15.6,^[1] or in an intermediate care facility for individuals with intellectual disabilities in the community for persons, including mentally ill, elder, disabled, developmentally disabled, or totally disabled persons, who are not related to the home operator or facility staff;” (Page 1, line 16, through page 2, line 4, of the bill.) These are exactly the types of group homes for disabled persons to which the FHAA applies.

Both the United States Department of Justice (DOJ) and the United States Department of Housing and Urban Development (HUD) have determined that the FHAA applies to state and local zoning and licensing laws, and both departments take an active role in enforcing the FHAA. Because of the substantial litigation in this area over the years and across the country, in 1999 the federal government issued a “Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and the Fair Housing Act.” It is very informative and can be found in its entirety at:

http://www.justice.gov/crt/about/hce/final8_1.php

The Joint Statement directly addresses the issue of state and local governments enacting laws requiring a minimum distance between group homes. It provides:

Q. When, if ever, can a local government limit the number of group homes that can locate in a certain area?

A concern expressed by some local government officials and neighborhood residents is that certain jurisdictions, governments, or particular neighborhoods within a jurisdiction, may come to have more than their “fair share” of group homes. There are legal ways to address this concern. The Fair Housing Act does not prohibit most governmental programs designed to encourage people of a particular race to move to neighborhoods occupied predominantly by people of another race. A local government that believes a particular area within its boundaries has its “fair share” of group homes, could offer incentives to providers to locate future homes in other neighborhoods.

However, some state and local governments have tried to address this concern by enacting laws requiring that group homes be at a certain minimum distance from one another. The Department of Justice and HUD take the position, and

¹ Section 321-5.6, HRS, refers to the licensing of adult residential care homes (ARCHs). ARCH residents are typically persons with mental illnesses, the elderly, and persons with disabilities. The homes are usually single family residences in residential neighborhoods.

most courts that have addressed the issue agree, that density restrictions are generally inconsistent with the Fair Housing Act. We also believe, however, that if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community. Especially in the licensing and regulatory process, it is appropriate to be concerned about the setting for a group home. A consideration of over-concentration could be considered in this context. This objective does not, however, justify requiring separations which have the effect of foreclosing group homes from locating in entire neighborhoods.

The federal government and federal and state courts have nearly unanimously found that distance requirements between housing for persons with disabilities, persons suffering from mental illness or substance abuse, and elderly persons violate the FHAA. Some of these cases are:

1. Larkin v. State of Michigan Dep't of Soc. Servs., 89 F.3d 285 (6th Cir. 1996), wherein the U.S. Circuit Court of Appeals for the Sixth Circuit held that the FHAA preempts spacing and notice requirements and struck down a statute that prohibited an adult foster care home with four disabled adults from locating within 1,500 feet of another group living facility.
2. Oconomowoc Residential Programs v. City of Milwaukee, 300 F.3d 775 (7th Cir. 2002), wherein the U.S. Circuit Court of Appeals for the Seventh Circuit held that denying a zoning variance to operate a community living facility for brain injured and developmentally disabled persons that was within 2,500 feet of another community living facility violated the FHAA. It cited Larkin, above.
3. U.S. v. Vill. of Marshall, Wisconsin, 787 F. Supp. 872 (W.D. Wis. 1991), wherein the U.S. District Court for the Western District of Wisconsin held that a municipality violated the FHAA when it failed to grant an exception to a Wisconsin statute prohibiting community living facilities from being established within 2,500 feet of each other, to a group residential facility for up to six persons suffering from mental illness. The court held that the municipality should have granted the facility a reasonable accommodation to allow it to be within 1,619 feet of another group living facility, and its failure to do so constituted unlawful discrimination under the FHAA.

4. Horizon House Dev. Servs. v. Twp. of Upper Southampton, 804 F. Supp. 683 (E.D. Pa. 1992), wherein the U.S. District Court for the Eastern District of Pennsylvania held an ordinance to be invalid as violating the Equal Protection Clause of the U.S. Constitution and the FHAA. The facts in this case involved the request for two group homes of three intellectually disabled residents each to be located 800 feet apart, in violation of a law that required 1,000 feet between group living facilities. The court in this case cited a number of Attorney General Opinions across the country in support of its decision. Those opinions were from Maryland, Delaware, Kansas, and North Carolina. Id. at page 694, n. 4.
5. U.S. v. City of Chicago Heights, 161 F. Supp. 2d 819 (N.D. Ill. 2001), wherein the U.S. District Court for the Northern District of Illinois held that denying a request for a special use permit for a group home for persons with mental illness due to a zoning law requiring 1,000 feet between “community family residences” violated the FHAA.
6. Tellurian U.C.A.N., Inc. v. Vill. of Marshall, Wisconsin, 178 Wis. 2d 205, 504 N.W.2d 342 (1993), wherein the Wisconsin Court of Appeals held that the FHAA required that the government make an exception to the law prohibiting community living arrangements from locating within 2,500 feet of another community living arrangement, and allow a home for ten elderly people to locate within that distance of another facility. To not give the exception would be to fail to make a reasonable accommodation for persons with disabilities in violation of the FHAA.

Given the position of the DOJ and HUD, and the plethora of cases filed against states or local governments by the federal government and private entities that find distance requirements similar to that proposed in S.B. No. 1519 violate the FHAA, we respectfully recommend that the addition of geographic separation on page 2, line 9, and the definition of geographic separation on page 4, lines 1-2, be deleted.



'ĀINA HAINA COMMUNITY ASSOCIATION

c/o 'Āina Haina Library, 5246 Kalaniana'ole Highway, Honolulu, HI 96821
ainahainaassoc@gmail.com; www.ainahaina.org

Jeanne Ohta, President • Anson Rego, Vice-President • Art Mori, Treasurer • Kathy Takemoto,
Secretary • Directors At Large: Wayson Chow, Devon James, Melia Lane-Kanahele, Gregg Kashiwa

January 22, 2014

To: Representative Cindy Evans, Chair
Representative Nicole Lowen, Vice Chair and
Members of the Committee on Water and Land

From: Jeanne Y. Ohta, President
'Āina Haina Community Association

RE: HB 1519 Relating to County Zoning for Group Living Facilities
Hearing: Wednesday, January 22, 2014, 8:30 a.m., Room 325

Position: Support Intent

The Board of Directors of the 'Āina Haina Community Association write in support of the intent of HB 1519 Relating to County Zoning for Group Living Facilities.

Residents have expressed concern over the number of facilities that are located within the same block. They have also expressed concern over locating facilities on small narrow streets or short dead-end streets making it difficult for ambulances to turn around; and over group facilities which have little or no on-site parking.

Other resident concerns which are not addressed under the current procedures are:

- location of facility in a tsunami evacuation zone
- high traffic streets
- parking density on streets
- commercial vehicle traffic
- removal of waste material
- 24/7 visitor traffic

The impacts on the neighborhood, traffic, parking, noise and safety should be taken into consideration. Thank you for the opportunity to provide testimony on this measure.



HAWAII DISABILITY RIGHTS CENTER

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE HOUSE OF REPRESENTATIVES THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2014

Committee on Water & Land Testimony in Opposition To H.B. 1519 Relating to County Zoning for Group Living Facilities

**Wednesday, January 22, 2014, 8:30 A.M.
Conference Room 325**

Chair Evans and Members of the Committee:

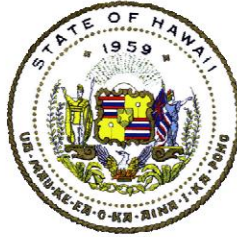
The Hawaii Disability Rights Center testifies in opposition to this bill. While we understand that communities may have some concerns about certain group homes, the provision in this bill which imposes a geographic separation of two thousand feet between such homes violates the Federal Fair Housing Act in our opinion. That is because the federal law precludes the imposition of conditions upon individuals with disabilities that would not otherwise be applicable to all individuals at large. Here it is obvious that only such homes are subject to this requirement, while other residential homes are not. This appears on its face to be a clear violation.

In addition to the illegality of the measure, we think it is not appropriate as a matter of policy. The United States Supreme Court in the Olmstead decision declared the right of individuals with disabilities to live in the most integrated setting in the community. If that Court ruling is to be realized, then it is vital that the community develop sufficient capacity to house and care for these individuals with disabilities. Placing an onerous, arbitrary restriction upon homes for these individuals is clearly counter to the goal of integrating them into the community.

Thank you for the opportunity to testify in opposition to this measure.



NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

TED SAKAI
DIRECTOR

Martha Torney
Deputy Director of
Administration

Max Otani
Deputy Director
Corrections

Shawn Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL (HB) 1519
A BILL FOR AN ACT RELATING TO
COUNTY ZONING FOR GROUP LIVING FACILITIES

by
Ted Sakai, Director
Department of Public Safety

House Committee on Water and Land
Representative Cindy Evans, Chair
Representative Nicole E. Lowen, Vice Chair

House Committee on Ocean, Marine Resources and Hawaiian Affairs
Representative Faye P. Hanohano, Chair
Representative Ty J. K. Cullen, Vice Chair

Wednesday, January 22, 2014, 8:30 am.
State Capitol, Conference Room 325

Chairs Evans and Hanohano, Vice Chairs Lowen and Cullen, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** HB 1519.

The apparent intent of this legislation is to relieve certain communities of the problems associated with group living facilities, such as traffic congestion, noise, and commercial deliveries. We are concerned that this legislation will have an adverse effect on offenders who are trying to reintegrate back into the community.

Group living facilities provide accommodations for a wide range of residents which include offenders, the developmentally disabled, and the mentally ill. Group living facilities must already comply with existing county zoning codes.

We are concerned that further restrictions will increase the difficulty of operating such group living facilities, thereby reducing the already limited supply of such homes. Offenders ready for reentry back into the community already face daunting hurdles to a successful reentry. Limiting an offender's housing options reduces the offender's chances for a successful reentry.

Thank you for the opportunity to testify on this bill.

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 22, 2014 12:00 AM
To: waltestimony
Cc: fajotinacare@aol.com
Subject: Submitted testimony for HB1519 on Jan 22, 2014 08:30AM

HB1519

Submitted on: 1/22/2014

Testimony for WAL on Jan 22, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia P. Fajotina	Individual	Oppose	Yes

Comments: I Strongly Opposed HB 1519. Thank you for allowing me to testify! Lilia Fajotina

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ADULT FOSTER HOMES OF THE PACIFIC

P.O. BOX 971450 WAIPAHU, HI 96797

Testimony in Strong Opposed HB1519

January 22, 2014 Room 325 @ 8:30 am

RELATING : RELATING TO COUNTY ZONING FOR GROUP LIVING FACILITIES
Authorizes continues to require group living facilities to meet zoning requirements regarding traffic safety and congestion, elevated noise levels, and commercial deliveries. Defines geographic separation as at least 2,000 feet.

To: Honorable Rep. Cindy Evans, Committee Chair on Water and Land
Honorable Rep. Nicole Lowen, Vice Chair
Honorable Committee Members

From: Margie Agliam, Vice President Adult Foster Homes of the Pacific (AFHOP)

My name is Margie Agliam , Vice President of Adult Foster Homes of the Pacific under DHS Department of Human Services, I serve as volunteer leader in this organization for over 14 years and representing 1,500 caregivers statewide.

I, strongly opposed HB1519 relating to county zoning for group living facilities. In behalf of my co-adult foster caregivers who believes that this house bill is not affecting our business due to following reason: adult foster homes only serves for 2 or 3 residents per home. According to Hawaii Rev. Statutes 46-6 County Zoning (d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities with eight or fewer residents and that are licensed by the State as provided from under section 321-15.6 or in an intermediate care facility/mental retardation-community for persons, including mentally ill, elder, disabled, developmentally disabled, or totally disabled persons who are not related to the home operator or facility staff; provided that those group living facilities meet all applicable county requirement not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor are requirements.

Moreover, pertaining to elevated noise level, and traffic safety commercial, businesses such as handicapped transportation, durable medical suppliers that delivers equipment at our home using a small van or small truck to transport our clients to their appointments, and likewise with the equipments. I do not see that we are causing traffic for the outgoing and incoming vehicles in our street. We are providing our own driveway for our business. The group homes meets the definition of a family care homes and foster homes serves 6 or less resident and must be allowed without special review in any single-family zoning district. While it will have to meet

setback, height limit, and all other zoning requirements applicable to other residences in this district, it must not be treated any more restrictively than any other single family home.

Please I would like to ask the joint committee to strongly opposed HB 1519.
Thank you for giving me the opportunity to testify.

Yours Truly,

Margie Agliam (Vice President and Founder Adult Foster Homes of the Pacific (AFHOP))

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 22, 2014 9:01 AM
To: waltestimony
Cc: cariagacora@yahoo.com
Subject: Submitted testimony for HB1519 on Jan 22, 2014 08:30AM

HB1519

Submitted on: 1/22/2014

Testimony for WAL on Jan 22, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Corazon E. Cariaga	Big Island Adult foster home operators	Oppose	No

Comments: Good morning on behalf of the Big Island Adult Foster Home Operators , we don't agree with this measure because the service is already in place in that area serving the aged , blind and disabled population of our community . And these group living facilities are helping our state to save million of dollars comparing from a higher fee in a bigger facilities. Thank you for giving me this opportunity to submit my testimony.

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From: mailinglist@capitol.hawaii.gov
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To: waltestimony
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HB1519

Submitted on: 1/22/2014

Testimony for WAL on Jan 22, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia P. Fajotina	Individual	Oppose	Yes

Comments: I Strongly Opposed HB 1519. Thank you for allowing me to testify! Lilia Fajotina

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TO: Committee on Water and Land & Finance

DATE: January 22, 2014, Wednesday

TIME: 8:30 am

PLACE: Conference Room 325

TESTIFIER: Wannette Gaylord

BILL: HB 1519

POSITION: IN STRONG OPPOSITION

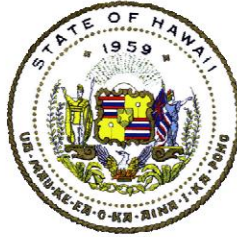
Aloha Chairs Cindy Owens and Sylvia Luke,
And Vice Chair Nicole Lowen, Aaron Johanson and Scott Nishimoto and members of
the committees,

My name is Wannette Gaylord and I **OPPOSE** HB 1519 that authorizes counties to establish geographic separation for group living facilities. We as community based care facilities/homes are small business' that save the State of Hawaii upwards of \$200 million a year. Establishing unreasonable limits on separation would create a hardship on current homes and will make it harder for future homes to be opened in areas where it is more affordable for our kupuna to live. As the aging population increases the demand for community based care facilities/homes increases. Where will our kupuna age? This bill, how it is currently written, is detrimental to both current and future owners, families, and employees of the facilities/ homes, as well as the kupuna who have the need for good care during their golden years.

Mahalo nui loa for allowing me to testify in **OPPOSITION** of HB 1519.

Wannette Gaylord

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

TED SAKAI
DIRECTOR

Martha Torney
Deputy Director of
Administration

Max Otani
Deputy Director
Corrections

Shawn Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL (HB) 1519
A BILL FOR AN ACT RELATING TO
COUNTY ZONING FOR GROUP LIVING FACILITIES

by
Ted Sakai, Director
Department of Public Safety

House Committee on Water and Land
Representative Cindy Evans, Chair
Representative Nicole E. Lowen, Vice Chair

House Committee on Ocean, Marine Resources and Hawaiian Affairs
Representative Faye P. Hanohano, Chair
Representative Ty J. K. Cullen, Vice Chair

Wednesday, January 22, 2014, 8:30 am.
State Capitol, Conference Room 325

Chairs Evans and Hanohano, Vice Chairs Lowen and Cullen, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** HB 1519.

The apparent intent of this legislation is to relieve certain communities of the problems associated with group living facilities, such as traffic congestion, noise, and commercial deliveries. We are concerned that this legislation will have an adverse effect on offenders who are trying to reintegrate back into the community.

Group living facilities provide accommodations for a wide range of residents which include offenders, the developmentally disabled, and the mentally ill. Group living facilities must already comply with existing county zoning codes.

We are concerned that further restrictions will increase the difficulty of operating such group living facilities, thereby reducing the already limited supply of such homes. Offenders ready for reentry back into the community already face daunting hurdles to a successful reentry. Limiting an offender's housing options reduces the offender's chances for a successful reentry.

Thank you for the opportunity to testify on this bill.

January 22, 2014

HB1519, Relating to County Zoning for Group Living Facilities

Chair, Co-Chair and Members of the WAL Committee:

My name is Myriam Tabaniag, a Registered Nurse and First Vice-President of the Alliance of Residential Care Administrators (ARCA). I am currently operating and managing two Care Homes in Kaneohe. (One Type I and one Type II).

I STRONGLY OPPOSE HB1519 for the following reasons:

1. **THIS IS A VERY ANTI-BUSINESS BILL** The proposed rules to separate group living facilities such as Community-based Foster Family Homes and Care Homes within 2000 feet from each other will close numerous living facilities especially where they are really needed in the Kooli and Waipahu areas.

These living group facilities that you are about to close down are saving the State millions of dollars each year. These smaller facilities charge the State \$1200 to \$2500 per resident a month depending on the level of care. Nursing Homes charge from \$7500 to \$12000 per month.

2. It is a **Federal offense** to discriminate especially to the physically and mentally disabled, blind and the frail elderly.
3. **This proposed Bill is a disservice to all the physically disabled and mentally-challenged, blind and the fragile elderly citizens of the State of Hawaii.**

According to the Executive Office on Aging, "The elderly population in Hawaii is one of the fastest growing in the country." (The population in Hawaii was already almost 2,000,000 in 2010). The elderly population will grow exponentially in the coming years to come. Studies conducted by the Executive Office on Aging and the four county area agencies on aging have indicated that the elderly in Hawaii have a significant need for assistance in the various areas and this need is outpacing the ability to provide assistance. One of the needs is the community-based housing facilities. Closing these facilities and not able to build more of these low-cost facilities because of the constraint to limit the distance between them, where will these citizens who need them live? Or go? Whatever happened to the ALOHA Spirit? Please let us NOT forget that our parents are now entering the care homes and foster homes. **AND WE ARE NOT FAR BEHIND!!!**

Thank you for this opportunity to testify.