

HB1660

HD1

LATE

TESTIMONY



OFFICE OF REPRESENTATIVE MARCUS R. OSHIRO

State Capitol, Room 424, Honolulu, Hawaii 96813

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Testimony to the Senate Committee on Judiciary and Labor

Wednesday, March 19, 2014; 10:00 a.m.

State Capitol, Conf. Room 016

RE: TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 1660, HOUSE DRAFT 1, RELATING TO SIDEWALKS

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

My name is Marcus R. Oshiro, and I am the Representative of the 46th District of the State of Hawaii (Wahiawa, Whitmore Village, Launani Valley). **I am submitting written testimony in OPPOSITION to House Bill No. 1660, House Draft 1, RELATING TO SIDEWALKS..**

This bill would alter the conditions constituting the offense of “obstructing” to include any person who obstructs any highway or public passage, or provides less than one meter of space for passage on any paved public sidewalk. “Obstructing” is a petty misdemeanor if the person persists in the conduct after a warning by a peace officer. Otherwise, it is a violation. A person convicted of a petty misdemeanor or a violation may be fined an amount not to exceed \$1,000.

According to House Standing Committee Report No. 61-14, the Pacific Alliance to Stop Slavery and a few individuals testified in opposition to this measure and the Department of Transportation provided comments. Conspicuously absent from the public hearing record in the House were the other “usual suspects” of government agencies and non-government organizations involved in law enforcement, criminal prosecution and defense, and civil and personal liberties and individual rights. The Democratic Party of Hawaii appears to also have not offered any comment.

Let’s not kid ourselves. This bill criminalizes being poor or homeless in urban Honolulu. This is just one of many bills that have been reported out of the House Judiciary Committee that attacks some of the most vulnerable and politically helpless citizens of our State. As if we’ve gone through a time warp back to the 1900s, the House Judiciary Committee and this body, the House of Representatives, the so called, “People’s House”, has made it a priority to write a whole new set of Jim Crow laws to pander to businesses, middle-class voters, and the privileged who shudder every time they walk down a lane or an alley in urban Honolulu.

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That the Chair of the Judiciary Committee disregarded the testimony of State Department of Transportation -- noting that many of the walkways, especially those in rural areas, are not one meter wide -- shows how this bill is intended to specifically address urban areas of the State. Most sidewalks in my district are less than one meter wide. Moreover, this substantive defect in this bill, if enacted into law, would make some walkways in our State and any person's use therein a per se violation. Imagine that. . . By mere presence alone, on these less-than-one meter sidewalks, a person could be told to move by a law enforcement officer or face sanction up to \$1,000. This is bad policy and does violence to the traditional notions of 1st amendment rights and freedoms and Hawaii's unique "Law of the Splintered Paddle" policy and Constitutional provision.

This bill outrages me because any rule against performing an act in a public place is tantamount to a comprehensive ban on that action so far as the homeless are concerned. If sleeping or putting up a tent on a sidewalk is illegal, where does a homeless person sleep? They can't sleep on the beach. They can't sleep in the parks? Where do they go?

Certainly, there is nothing particularly dignified about sleeping on a sidewalk. No reasonable person would want to do this. But if there is no choice at all, what is a person to do? What would you do?

Criminalizing basic human actions such as that proposed in this bill is cruel because it breaks the human spirit. Forcing people to think twice of petty restrictions imposed on the necessities of human life is mean-spirited, plain and simple. As a lawmaker, I am ashamed that we are allowing our laws to reduce thousands of our citizens to something approaching this level of degradation.

Furthermore, it is clear that measures like these are reactive to the very real problems experienced in urban Honolulu. Many of our citizens merely want to operate their businesses or use our sidewalks in peace. But the enactment of measures like those proposed by the House Judiciary Chair shifts the Legislature's guilt for not addressing homeless onto a group of citizens who have no voice in our political process.

So why don't we do something about it? Why not make ending homeless a priority this session?

But the poor and homeless don't vote, nor are they wanted in any community so let's just make it a crime to be poor or homeless and let the courts and jails deal with them.

How sad for our citizens. So much for Aloha in our State.

This bill is not the answer. It merely placates the affluent by sweeping the poor out of sight.

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On behalf of the citizens of the 46th District of the State of Hawaii (Wahiawa, Whitmore Village, Launani Valley), and as a lifelong Democrat, I urge you to file this bill.

Thank you for the opportunity to submit my written testimony. Should you have any questions, please do not hesitate to contact me at 586-6700.

Ho‘opae Pono Peace Project

(808)256-6637 nativepeace@gmail.com

Testimony of Laulani Teale, MPH
in Opposition to HB 1660, Relating to Sidewalks
COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

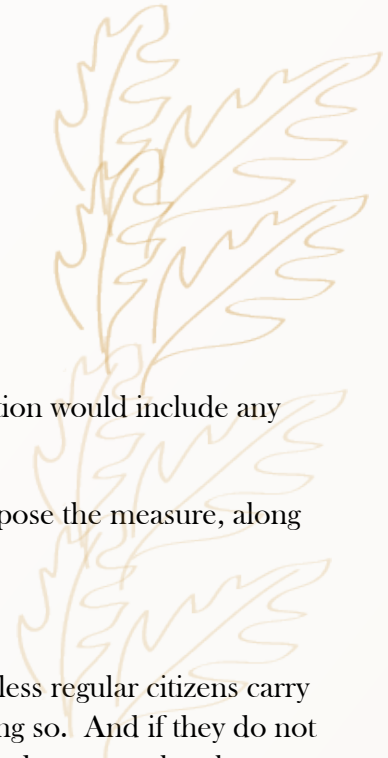
3/18/-2014

Aloha Kākou,

I am writing today in opposition to **HB 1660**, which specifies that the offense of Obstruction would include any activity that does not provide at least one meter of space on any public sidewalk.

While I certainly would not approve of deliberate or arbitrary blockage of this kind, I oppose the measure, along with **HB 1859**, for the following reasons:

- It is redundant. As it stands, the law already prohibits obstruction.
- It is too open to inadvertent breakage and lengthy battles over interpretation. Unless regular citizens carry a tape measure, they could easily break the law without knowing that they are doing so. And if they do not have a tape measure in their possession at the time of citation, it would be very hard to prove that the person “knowingly or recklessly” committed the offense at all.
- The measure is clearly directed at houseless persons and protesters, and enforcement would certainly be targeted in these directions. Criminalization of either or both of these groups is simply not a good solution to concerns that may exist with them. Please consider the following:
 - Criminalization of the houseless has been repeatedly proven both ineffective and costly in other areas (examples: Los Angeles, Boston, San Francisco), as well as extremely costly. Real solutions exist, and are proven by data (Utah is a great example). They do not necessitate either jails or sledgehammers. The concept is simple: Close the “front door” to houselessness, and open the “back door”. Address the real causes of houselessness head-on, and give them shelter that they will not lose through high compliance standards. Prioritize human rights first, as is mandated by Article 25 of the Universal Declaration on Human Rights. Generate the revenue for this by charging those entities that contribute to the problem, such as the military (which drives rental prices to impossible heights and creates constant streams of veterans who cannot function in regular society), and luxury real estate (which can well afford the cost, and would ultimately benefit from a good result).
 - Protesters are much better allies than enemies. Even when their tactics are disagreeable to some, these are people who care about making a better world – enough to fight for one. Although their vision of what a better world looks like may differ from yours, a lot of it, believe it or not, is probably the same. A world with less crime, less cruelty, less poverty, more creative expression, more access to education, justice, and social participation. They should be your allies in positive change, and not enemies. And protesters do not make good enemies. They, like the houseless, have a very persistent tendency not to go away. Unlike the houseless, they fight back, hard.



Additional citations mean additional court cases, which they will appeal again and again, until they win, at great expense to the State. And meanwhile, they will still be out on the streets, while the communication chasm between their efforts and yours grows. In the interest of peace, and for the sake of the public, I suggest that unnecessary battles with those who are fighting in their own way to protect human dignities and freedom be avoided.

Again, I would like to emphasize the need for cooperative solutions, creative thinking, and bold actions that actually work. The Ho‘opae Pono Peace Project is more than willing to provide support toward achieving these ends. I urge you to please consider and engage in courses of action that are proven to work, and that benefit everyone.

Mahalo nui loa for your time and consideration.

Please contact me at any time.

Me ke aloha ‘oia‘i‘o nō,

A handwritten signature in black ink that reads "Laulani". The signature is fluid and cursive, with a small flourish at the end.

Laulani Teale, MPH

Coordinator, Ho‘opae Pono Peace Project





HB1660

JDL

Wednesday, March 19, 2014

10:00 a.m.

Room 016

Hawaii's Voice for a Better Future

COMMITTEE ON JUDICIARY AND
LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice
Chair

March 18, 2014

Re: HB1660 Obstruction of public passage; sidewalks

In Opposition

Dear Sen. Hee, Sen. Shimabukuro and members of the Committee:

This bill, along with the other two bills on the Committee's agenda, has the effect of **criminalizing homelessness**. This bill would legislate **unconstitutional limits on freedom of speech and assembly**.

If passed into law, it would be possible for police to use it to clear sidewalks of demonstrators or protestors -- or anyone holding a sign on a sidewalk of 36 inches more or less. Such action would be a **clear violation of the First Amendment**.

Shouldn't the regulation of sidewalks be a municipal matter? If a legislator from Maui wanted to **prohibit spitting** on their sidewalks, should that matter come before the state legislature?

In fact, the City and County of Honolulu does not appear to care much about obstructing sidewalks--it does a considerable amount of obstruction all by itself. This presents a question of equity, that is, some people are allowed to obstruct while others would be cited.



Some sidewalks in Honolulu already allow less than 36 inches passage. Should the police be allowed to clear people from all of these sidewalks on a theory of "obstruction?"



The State should also not become entangled in a problem created by the City. **Where tents line the edges of sidewalks in Honolulu it is because City ordinances and HPD enforcement have left the homeless no choice.** With parks closed to them the only places left are the sidewalks.

The City Council failed to pass Bill 59 (prohibiting sleeping on sidewalks) in part because (taken from testimony): (1) the State Attorney General's office informed the Council that some say the bill directly violates Article IX, Section 10 of the State Constitution, and (2) HPD has submitted testimony that the bill, "may lead people to conclude that the City is focusing on the homeless," and if that's the case, "the City will have to deal with many suits alleging constitutionality claims..."

The City could not pass Bill 59, and there is no good reason the State should bail them out.

Instead, both the City and State should put in place evidence-based programs with measurable goals and objectives designed to reduce homelessness effectively.

Kokua Council recommends that the Committee reject this bill.

Larry Geller
President, Kokua Council

The **Kokua Council** is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves. "We embrace diversity and extend a special invitation to any senior or intergenerational minded individual interested in advocating for these important issues in Hawaii."

March 18, 2014

Dear Chair Hee, Vice Chair Shimabukuro, and members of the committee

Over the last few years I have watched in horror as the Honolulu City Council has enacted measure after measure criminalizing the very existence of homeless people in our public spaces. The Hawaii State Legislature must not follow the City's misguided lead by passing HB1660 or HB2409.

Being homeless does not render you less of a person. If anything, the vulnerability of homelessness should engender greater compassion and concern for the human beings who are without homes. Someone's need to sleep should not be prohibited or prevented because he or she does not have a private home in which to sleep.

I quote legal scholar Jeremy Waldron who has written with great insight and thought in his essay "Homelessness and the Issue of Freedom."

Since private places and public places between them exhaust all the places that there are, there is nowhere that these actions may be performed by the homeless person. And since freedom to perform a concrete action requires freedom to perform it at some place, it follows that the homeless person does not have the freedom to perform them. If sleeping is prohibited in public places, then sleeping is comprehensively prohibited to the homeless. If urinating is prohibited in public places (and if there are no public lavatories) then the homeless are simply unfree to urinate. These are not altogether comfortable conclusions, and they are certainly not comfortable for those who have to live with them.

Waldron goes on to note that many of the laws that we have enacted, for example against sleeping in the subway, stem from the fact that we do not want to be confronted with the sight of the homeless, that we are willing to deprive people of their sleep in order to protect ourselves from that discomfort. That these laws -- ones that prohibit sleeping in bus stops or on sidewalks -- are called for and promoted and passed by people who are secure in the knowledge that they themselves have some place where they are permitted to sleep. And that because we have some place to sleep and put our belongings, we are certain that our public spaces should not be for those activities, even if some people have no private space to sleep out of sight.

I am saddened by the introduction of these two bills and strongly urge the committee to oppose their passage.

Annette Koh

Ph.D. student in Urban & Regional Planning at UH Manoa

Resident of Birch St, Honolulu 96814

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: islekisses@yahoo.com
Subject: *Submitted testimony for HB1660 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 1:40:52 PM

HB1660

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ken Burch | Individual | Oppose | No |

Comments:

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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To: [JDLTestimony](#)
Cc: Projectdate@lthawaii.org
Subject: Submitted testimony for HB1660 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 2:56:43 PM

HB1660

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Skye Moore | Individual | Oppose | No |

Comments: I oppose any such measure that criminalizes the homeless community & demands to take orders from a public worker that has had no sensitivity training what so ever without the ability to determine the sociological differences between a mentally ill person or a degenerate person & not properly advise them to the proper service agencies. Homelessness must be approached by caring social workers that are qualified to deal with such said people to create a positive outcome, instead of criminalizing, which ranks Hawaii in top 5 in the country the last 8yrs by the American Bar Assoc.(DC)for the unlawful treatment of the poor & indignant of our Ohana's homeless community. Where I say, is the ALOHA in what you are creating with this bill. It would cost less to go North Shore & reopen the mental facility that you closed & put some of those people in need of help there with less cost than any 1st housing program or over timed police salaries, cause you already have & are not using that building. Just Saying, where's the Aloha. Think smarter, not bad.

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To: [JDLTestimony](#)
Cc: dave.mulinix@juno.com
Subject: Submitted testimony for HB1660 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 6:45:39 PM

HB1660

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| David Mulinix | Individual | Oppose | No |

Comments: Hawaii and the city of Honolulu need to abandon their policy of punishing the houseless for being poor—it hasn't worked, has wasted taxpayers' money that could have been used to assist the houseless, and hurts both tourism and our reputation as the "Aloha State."

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: paulakomarajr@yahoo.com
Subject: *Submitted testimony for HB1660 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 9:37:11 PM

HB1660

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Paul A. komara, Jr. | Individual | Oppose | No |

Comments:

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March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 1660 Relating to Sidewalks

This bill makes clear that a sidewalk is considered obstructed if less than a meter of space is left clear for people to walk on or ride in a wheelchair. I see sidewalks almost every day that are completely blocked by homeless people and their tents. I wish they had a place to go off the street, but I need to use the sidewalk too. This will allow me to share the sidewalk with the homeless instead having to walk in the street and risk being hit by a car.

Mahalo for reading my testimony. I hope committee will support HB 1660.

KIM M TRAM

Name: 

Address: 2281 KALANAI AVENUE
HONOLULU, HI 96815

March 17, 2014

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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: Mary Nguyen
Address: 174 N. Hotel St
Hon, HI 96817

March 17, 2014

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Name: Dava Long
Address: 159 N. Hotel St
Honolulu, HI 96817

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Name: Jason Lai
Address: 1016 Maunaloa St Apt B207
Hon. HI 96817

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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: Luanne Leung
Address: 1039 Kekaulike St
Honolulu HI 96816

March 17, 2014

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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name:


RAMIRO SERIL

Address:

1039 Kekaulike ST, #117
Hon. Hi 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: Margaret J. Apostel
Address: 1144 Manawa Dr.
Honolulu HI 96819

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: Emelita Wright
Address: 1155 Pines St, Apt 101
Honolulu, Hawaii 98617

March 17, 2014

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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: Clare Ann Rongullo
Address: 1155 River St. #212
Hon. Hl. 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: GINA TIBAYAN
Address: 1011 MAUNAKA ST. B308
HON. HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Name: Shirley Bony
Address: 1089 Ahiahi Pl. 5A
Hon. HI 96817

March 17, 2014

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Conference Room 016

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Name: Alfonso Ronguillo
Address: 1155 River St. #212
Hon. HI. 96817

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Name: Diana Riquilto
Address: 1155 River St. #212
Hon. HI. 96817

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Name: MAI JIZ SHAN
Address: 1039 KAKAWIKA ST A407
HONOLULU HI 96817

March 17, 2014

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Name: Ernie Mewison
Address: 1155 RIVER ST APT 213
HONOLULU HI 96817

March 17, 2014

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Name: Hua Mei He
Address: 1654 OLONA LN #E
HONO HULL HI 96817

March 17, 2014

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Name: MERLYN P. ALMASCO
Address: 1247 GULICK AVE
Hon. H. 96819

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 1660 Relating to Sidewalks

This bill makes clear that a sidewalk is considered obstructed if less than a meter of space is left clear for people to walk on or ride in a wheelchair. I see sidewalks almost every day that are completely blocked by homeless people and their tents. I wish they had a place to go off the street, but I need to use the sidewalk too. This will allow me to share the sidewalk with the homeless instead having to walk in the street and risk being hit by a car.

Mahalo for reading my testimony. I hope committee will support HB 1660.

Name: ERIC S.D. YOO

Address: 1205 LILUA ST. #206

LA. ANNUAL JOB

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Osibayan
Address: _____
Waimanalo St.

March 17, 2014

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Name: Jesyeanni V. Orea
Address: 12645 - Maunakea St.
#3101 - Hon - HI 96817

March 17, 2014

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Name: Rufocina Mariano
Address: River - Pauahi Apt. #403
1155 River St. Hon. HI 96817

March 17, 2014

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Name: Paul Y. H. Min
Address: 221 SAN ANTONIO AVE
Hon. H. 96813

March 17, 2014

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Name: Louder Mallari
Address: 1155 - River St.
Apt. #207 - Hon. Hi

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Name: Felipina B. Rivera
Address: 1155 Riner St apt. 310
Honolulu HI 96817

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Name: Victoria Mancina
Address: 1155 River St # 302
Hon. HI 96817

March 17, 2014

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Name: Sylvestre Hooivone
Address: 1016 MAWAKEA ST
H. HI 96817

Sylvestre Hooivone

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Name: Elizabeth A. Temple
Address: 7789 Pea River ST
Honolulu HI 96817

March 17, 2014

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Name: Jocelyn Sajat
Address: 1155 River St. Apt. 112
Hon. HI 96817

March 17, 2014

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Name: Myung S Lee
Address: 1137 River st
Honolulu, Hawaii 96817

March 17, 2014

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Name: Susanna Sipes
Address: 1949 NAHO ST
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