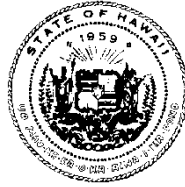


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HAKIM OUANSAFI
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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON HOUSING

February 2, 2015 8:30 A.M.
Room 329, Hawaii State Capitol

In consideration of

House Bill 767

Relating to the Hawaii Public Housing Authority

Honorable Chair Hashem and Members of the House Committee on Housing, thank you for this opportunity to provide comments regarding House Bill (H.B.) 767, relating to the Hawaii Public Housing Authority.

The Hawaii Public Housing Authority (HPHA) strongly supports the intent of this measure to clarify trespassing in the second degree at HPHA housing projects. We believe that this measure is necessary for the safety and well-being of our residents who have the right to peacefully enjoy their homes without fear of unauthorized intruders at all hours of the day.

The HPHA continues to work with the Department of the Attorney General to craft language that effectuates the purpose of the bill while carefully considering potential constitutional and enforcement issues. The HPHA therefore provides a proposed H.B. 767, House Draft (H.D.) 1 (see attached), for your consideration.

The proposed H.D. 1 does the following:

1. Closes all HPHA housing projects to the public and requires signage indicating that the property is closed. "Public" does not include tenants; household members; guests of tenants; HPHA directors, officers, employees, agents, representatives or contractors; HUD employees, agents or contractors; persons carrying out governmental duties; persons participating in a HPHA authorized program; and persons engaging in constitutionally protected door-to-door communications and pamphleteering between 9am and 8pm.

2. Expands criminal trespass in the second degree to include non-tenants who are members of the public who enter or remain unlawfully or without authorization, after a reasonable warning or request to leave.

The HPHA appreciates the opportunity to provide the House Committee on Housing with the agency's position regarding H.B. 767. We respectfully request the Committee to pass the proposed H.B. 767, H.D. 1, and we thank you very much for your dedicated **support**.

Proposed H.B. NO. 767, H.D. 1

A BILL FOR AN ACT

RELATING TO HAWAII PUBLIC HOUSING AUTHORITY PROJECTS.

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

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

4 "§356D- Closed to the Public. (a) Any area within a
5 housing project that is not a public street, road, highway,
6 sidewalk, or county or state bus stop, is closed to the public
7 where signs are displayed that read: "Closed to the Public - No
8 Trespassing", or a substantially similar message; provided that
9 the signs shall contain letters not less than two inches in
10 height and be placed at reasonable intervals along the boundary
11 line of the areas that are closed to the public in a manner and
12 position as to be clearly noticeable from outside the boundary
13 line.

14 (b) For the purposes of this section:

15 "Housing project" means a public housing project or elder
16 or elderly housing, as defined in section 356D-1, or state low-
17 income housing project, as defined in section 356D-51.

18 "Public" does not include the following persons:

H.B. NO. 767, H.D. 1

- 1 (1) A tenant as defined in section 356D-1 or section
2 356D-51 who leases a unit in the subject housing
3 project;
- 4 (2) A household member as defined in section 356D-1
5 who, as a household member, occupies a unit in
6 the subject housing project;
- 7 (3) A guest of the tenant of the subject housing
8 project;
- 9 (4) A director, officer, employee, agent,
10 representative, or contractor of the authority;
11 provided that the person is acting within the
12 scope of employment or work, or discharging an
13 official duty for the authority;
- 14 (5) An employee, agent, or contractor of the United
15 States Department of Housing and Urban
16 Development;
- 17 (6) A person carrying out governmental duties
18 including but not limited to law enforcement and
19 emergency medical services;
- 20 (7) A person participating in a program authorized by
21 the authority; and

H.B. NO. 767, H.D. 1

1 (8) A person engaging in constitutionally protected
2 door-to-door communications or pamphleteering
3 between 9:00 a.m. and 8:00 p.m.

4 SECTION 2. Section 708-814, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§708-814 Criminal trespass in the second degree.** (1) A
7 person commits the offense of criminal trespass in the second
8 degree if:

9 (a) The person knowingly enters or remains unlawfully in
10 or upon premises that are enclosed in a manner
11 designed to exclude intruders or are fenced;

12 (b) The person enters or remains unlawfully in or upon
13 commercial premises after a reasonable warning or
14 request to leave by the owner or lessee of the
15 commercial premises, the owner's or lessee's
16 authorized agent, or a police officer; provided that
17 this paragraph shall not apply to any conduct or
18 activity subject to regulation by the National Labor
19 Relations Act.

20 For the purposes of this paragraph, "reasonable
21 warning or request" means a warning or request

H.B. NO. 767, H.D. 1

1 communicated in writing at any time within a one-year
2 period inclusive of the date the incident occurred,
3 which may contain but is not limited to the following
4 information:

5 (i) A warning statement advising the person that the
6 person's presence is no longer desired on the
7 property for a period of one year from the date
8 of the notice, that a violation of the warning
9 will subject the person to arrest and prosecution
10 for trespassing pursuant to section 708-814(1)(b),
11 and that criminal trespass in the second degree
12 is a petty misdemeanor;

13 (ii) The legal name, any aliases, and a photograph, if
14 practicable, or a physical description, including
15 but not limited to sex, racial extraction, age,
16 height, weight, hair color, eye color, or any
17 other distinguishing characteristics of the
18 person warned;

19 (iii) The name of the person giving the warning along
20 with the date and time the warning was given; and

H.B. NO. 767, H.D. 1

1 inches in height and shall be placed at
2 reasonable intervals along the boundary line
3 of the land and at roads and trails entering
4 the land in a manner and position as to be
5 clearly noticeable from outside the boundary
6 line.

7 For the purposes of this paragraph,

8 "unimproved or unused lands" means any land upon which
9 there is no improvement; construction of any
10 structure, building, or facility; or alteration of the
11 land by grading, dredging, or mining that would cause
12 a permanent change in the land or that would change
13 the basic natural condition of the land. Land remains
14 "unimproved or unused land" under this paragraph
15 notwithstanding minor improvements, including the
16 installation or maintenance of utility poles, signage,
17 and irrigation facilities or systems; minor
18 alterations undertaken for the preservation or prudent
19 management of the unimproved or unused land, including
20 the installation or maintenance of fences, trails, or
21 pathways; maintenance activities, including forest

H.B. NO. 767, H.D. 1

1 plantings and the removal of weeds, brush, rocks,
2 boulders, or trees; and the removal or securing of
3 rocks or boulders undertaken to reduce risk to
4 downslope properties; or

5 [~~(c) The person enters or remains unlawfully in or upon the~~
6 ~~premises of any public housing project or state low-~~
7 ~~income housing project, as defined in section 356D-1,~~
8 ~~356D-51, or 356D-91, after a reasonable warning or~~
9 ~~request to leave by housing authorities or a police~~
10 ~~officer, based upon an alleged violation of law or~~
11 ~~administrative rule; provided that a warning or~~
12 ~~request to leave shall not be necessary between 10:00~~
13 ~~p.m. and 5:00 a.m. at any public housing project or~~
14 ~~state low-income housing project that is closed to the~~
15 ~~public during those hours and has signs, containing~~
16 ~~letters not less than two inches in height, placed~~
17 ~~along the boundary of the project property, at all~~
18 ~~entrances to the property, in a manner and position to~~
19 ~~be clearly noticeable from outside the boundary of the~~
20 ~~project property and to give sufficient notice that~~

H.B. NO. 767, H.D. 1

~~the public housing project or state low-income housing project is closed to the public during those hours.]~~

(e) The person is a non-tenant:

(i) And a member of the public who enters or remains without authorization in or upon any area of a housing project that is not a public street, road, highway, sidewalk, or city or state bus stop, and is closed to the public as set forth in section 356D- where signs, containing letters not less than two inches in height, are displayed that read: "Closed to the Public - No Trespassing", or a substantially similar message; provided that the signs are placed at reasonable intervals along the boundary line of the areas that are closed to the public in a manner and position as to be clearly noticeable from outside the boundary line; or

(ii) Who enters or remains unlawfully in or upon any area of a housing project, that is not a public street, road, highway, sidewalk, or city or state bus stop, and is closed to the public as set

H.B. NO. 767, H.D. 1

1 forth in section 356D- , after a reasonable
2 warning or request to leave by the housing
3 authority or a police officer, based upon an
4 alleged violation of law or administrative rule,
5 notwithstanding any authorization provided by a
6 tenant of the subject housing project to the
7 person.

8 ~~[(2) As used in this section, "housing authorities" means~~
9 ~~resident managers or managers, tenant monitors, security guards,~~
10 ~~or others officially designated by the Hawaii public housing~~
11 ~~authority.]~~

12 (2) For the purposes of subsection (1)(e):

13 "Authorization" means permission given to a non-tenant to
14 enter the subject housing project, which is given either by a
15 tenant of the subject housing project, or housing authority.

16 "Housing authority" means a property manager, resident
17 manager, tenant monitors, security guards, or others officially
18 designated by the Hawaii public housing authority, for the
19 subject housing project.

H.B. NO. 767, H.D. 1

1 "Housing project" means a public housing project or elder
2 or elderly housing, as defined in section 356D-1, or state low-
3 income housing project, as defined in section 356D-51.

4 "Member of the public" means a person who is not:

5 (i) A tenant as defined in section 356D-1 or section
6 356D-51 who leases a unit in the subject housing
7 project;

8 (ii) A household member as defined in section 356D-1
9 who, as a household member, occupies a unit in
10 the subject housing project;

11 (iii) A guest of the tenant of the subject housing
12 project;

13 (iv) A Hawaii public housing authority director,
14 employee, authorized agent, representative or
15 contractor; provided that the person is acting
16 within the scope of employment or work, or
17 discharging an official duty for the authority;

18 (v) An employee, agent or contractor of the United
19 States Department of Housing and Urban
20 Development;

H.B. NO. 767, H.D. 1

1 (vi) A person carrying out governmental duties
2 including but not limited to law enforcement and
3 emergency medical services;

4 (vii) A person participating in a program authorized by
5 the Hawaii public housing authority; and

6 (viii) A person engaging in constitutionally protected
7 door-to-door communications and pamphleteering
8 between 9:00 a.m. and 8:00 p.m.

9 "Non-tenant" means a person who is not a tenant as defined
10 in section 356D-1 or section 356D-51, or household member as
11 defined in section 356D-1, at the subject housing project.

12 "Reasonable warning or request" means a warning or request
13 communicated in writing at any time within a one-year period
14 inclusive of the date the incident occurred, which may contain
15 but is not limited to the following information:

16 (i) A warning statement advising the person that the
17 person's presence is no longer desired in or on
18 the areas of the subject housing project that are
19 closed to the public for a period of one year
20 from the date of the notice, that a violation of
21 the warning will subject the person to arrest and

H.B. NO. 767, H.D. 1

1 prosecution for trespassing pursuant to section
2 708-814(1)(e), and that criminal trespass in the
3 second degree is a petty misdemeanor;
4 (ii) The legal name, any aliases, and a photograph, if
5 practicable, or a physical description, including
6 but not limited to sex, racial extraction, age,
7 height, weight, hair color, eye color, or any
8 other distinguishing characteristics of the
9 person warned;
10 (iii) The name of the person giving the warning along
11 with the date and time the warning was given; and
12 (iv) The signature of the person giving the warning,
13 and, if possible, the signature of the violator.

14 (3) Criminal trespass in the second degree is a petty
15 misdemeanor."

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

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

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H.B. NO. 767, H.D. 1

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

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INTRODUCED BY: _____

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BY REQUEST

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H.B. NO. 767, H.D. 1

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Report Title:

Hawaii Public Housing Authority Projects; Trespass

Description:

Provides that all Hawaii Public Housing Authority housing projects are closed to the public and amends criminal trespass in the second degree to allow for the prosecution of either any unauthorized person at the housing project, or any non-tenant who enters a housing project after receiving a written warning to not return for a period of one-year, notwithstanding any authorization provided by a tenant of the subject housing project. The Hawaii Public Housing Authority is required to post signs notifying the trespassers of illegal entry.