

# **SCR101**

Measure Title: REQUESTING THE HAWAII PUBLIC HOUSING AUTHORITY TO DOCUMENT VIOLATIONS OF THE PROHIBITION ON SMOKING IN AND AROUND PUBLIC HOUSING.

Report Title: Thirdhand smoke; Hawaii Public Housing Authority

Description:

Companion: HCR114

Package: None

Current Referral: HOU/CPH

Introducer(s): K. RHOADS, BAKER, S. Chang, Espero, Wakai

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO  
EXECUTIVE ASSISTANT

**STATE OF HAWAII**

HAWAII PUBLIC HOUSING AUTHORITY  
1002 NORTH SCHOOL STREET  
POST OFFICE BOX 17907  
HONOLULU, HAWAII 96817

Statement of  
**Hakim Ouansafi**  
Hawaii Public Housing Authority  
Before the

**SENATE COMMITTEE ON HOUSING  
AND  
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**Friday, March 31, 2017  
9:30 AM  
Room 229, Hawaii State Capitol**

In consideration of  
**SCR 101/ SR 45**  
**REQUESTING THE HAWAII PUBLIC HOUSING AUTHORITY TO DOCUMENT VIOATIONS OF THE  
PROHIBITION ON SMOKING IN AND AROUND PUBLIC HOUSING**

Honorable Chair Espero, Honorable Chair Baker, and Members of the Senate Committee on Housing and Senate Committee on Commerce, Consumer Protection, and Health, thank you for the opportunity to provide testimony in opposition to Senate Concurrent Resolution 101 and Senate Resolution 45, requesting the Hawaii Public Housing Authority (HPHA) to permanently document violations of public smoking in and around public housing.

The HPHA is grateful to the Legislature for passing the no-smoking ban at HPHA properties back in 2013, and welcomes efforts to improve the health and well-being of our tenants. However, the HPHA does not feel that this resolution is necessary in the enforcement of the law, as prior to the passage of the no-smoking law, the HPHA adopted administrative rules after consultation with the Resident Advisory Board, our tenants, and the public, and has since adopted lease addendums to administer the no-smoking policy, which already includes documenting violations (below). Any violation of the lease, administrative rules or statute by a tenant is already documented by management, added to the tenant's files and may be used in a case for eviction.

Under the proposed resolution, when a tenant violates the smoking ban in their unit, the HPHA is required to consider that infraction for the life of their tenancy in public housing. This proposal is harsh and unprecedented, as smoking on HPHA property, while unlawful, does not

rise to such a level as to necessitate indefinite punishment, especially for the elderly and disabled. Even if no other smoking violation is committed and the tenant complies with the smoking ban, the HPHA would be required to retain documentation on that incident and consider the incident for years into the future effectively removing any possibility of curing the violation and removing any statute of limitations.

It's important to note that our Resident Advisory Board, representing HPHA tenants across our Asset Management Projects (AMPs), have come out against the passage of this resolution as well as bill HB 829. With the exception of one HPHA tenant, the Authority has not received any complaints regarding the application and enforcement of the smoking law.

Although it is very difficult to administer this policy while tenants are inside their units and during afterhours and weekends while no staff is present, the HPHA has made great efforts and have documented multiple violations as follows:

<b>HPHA Asset Management Project (AMP)</b>	<b>Number of Violations Issued in 2016</b>	<b>Tracks Smoking Complaints from Tenants</b>
30 - Puuwai Momi	15	Yes
31 - Kalihi Valley Homes	4	Yes
32 / 33 - Mayor Wright Homes	3	Yes
34 - Kalakaua Homes	4	Yes
35 - Kalanihuia	2	Yes
37 - East Hawaii	0	Yes
38 - Kaua'i	0	Yes
39 - Maui / Moloka'i	0	Yes
40 - Kuhio Homes	0	Yes
42 - Hale Po'ai	1	Yes
43 - West Hawaii	10	Yes
44 - Waimaha Sunflower	0	Yes
45 - Ko'olau Village	0	Yes
46 - North Hawaii	1	Yes
49 - Kauhale Nani	3	Yes
50 - Palolo Valley Homes	0	Yes

The HPHA appreciates the opportunity to provide the Senate Committees on Housing and Commerce, Consumer Protection, and Health with the HPHA's comments regarding SCR 101/SR 45 and ask that this Resolution be deferred. We thank you very much for your dedicated support.

**Testimony submitted by: Daria A. Fand, Consumer and Public Health Advocate, Honolulu, HI**

**Regarding: SCR 101/SR 45, Requesting the Hawaii Public Housing Authority to Document Violations of the Prohibition on Smoking in and Around Public Housing**

**For public hearing: Friday, March 31, 2017, 9:30 a.m., Conference Room 229**

**TO:**

Senate Committee on Housing (HOU)  
The Honorable Will Espero, Chair  
The Honorable Breene Harimoto, Vice Chair  
Honorable Members of the Committee

Senate Committee on Commerce, Consumer Protection, and Health (CPH)  
The Honorable Rosalyn Baker, Chair  
The Honorable Clarence Nishihara, Vice Chair  
Honorable Members of the Committee

**Position: STRONG SUPPORT**

I would like to thank both of these Committees for giving me the opportunity to testify today, in strong support of these measures, with particular attention to the second-to-last paragraph, stating:

"...the Hawaii Public Housing Authority is requested to permanently retain this documentation in a resident's record for the Authority to consider...", with the operative word there being, "**permanently**".

Last year (2016), two Resolutions with the same intent as these, SCR 87 and SR 58, were passed by these same two Committees with unanimous "yes" votes. I am most grateful -- as a strong advocate for the increased welfare and protection of non-smoking public housing residents -- that these measures were both adopted by the Senate unamended, and hope that by your judicious assessment, you may pass SCR101 and SR45, likewise unamended, for the same reasons.

These Resolutions hark back to the no-smoking statute passed in 2014 by this forward-thinking Legislature, instituted in light of the Surgeon General's statement that no amount of exposure to secondhand smoke is safe. On the same basis, HUD mandated in 2016 all its Public Housing Authorities to go smoke-free, in recognition of this unequivocal public health hazard and the resultant required standard.

However, the Hawaii Public Housing Authority (HPHA) adopted its own rule, which compromises the intent of these mandates, encouraging a climate of laxity and favoritism toward smokers.

Specifically, HPHA has a lease policy whereby a resident may have a documented smoking violation expunged from their record if they agree to attend a smoking cessation program. In theory, this seems a prudent measure to help smokers quit, which is everyone's goal. However, this policy is in practice a very counterproductive measure for

needed enforcement strategies meant to instill a sense of resident accountability. As this problem plays out, I am a non-smoking resident who has repeatedly been subjected to incursion of secondhand smoke in my unit, to the great detriment of my health and existing disability; yet it is almost impossible to remedy the problem because it is so hard to actually witness and document a single violation. Many, if not most, smokers violate covertly, which means that I am subjected to hundreds of exposures (even indefinite exposures!) without anyone being cited. This makes a single citation all the more meaningful to the violator, as a first warning. Appropriate counseling and intervention can (and should) then be administered, but to forgive that violation in "exchange" for attending a smoking cessation program sends the message that the slate is wiped clean, allowing the resident more chances to violate without consequence in the future. This psychology is anathema to the spirit of compliance! Furthermore, attending a smoking cessation program does not guarantee that one will quit, or that such a program would be attended sincerely.

In fact, it is also not appropriate for HPHA to conflate smoking status with the lease, since being a non-smoker is not a condition for residency. A resident may be a smoker, by both the law and HUD, as long as they do not infringe upon others by breaking the law and rules.

It should be noted there is no other lease violation that can be expunged from the resident's record with a quid pro quo. So this forgiveness caveat is an aberration of the lease.

No smoking policy expert on the national level with whom I've spoken (such as Serena Chen of the American Lung Association) has endorsed this approach to handling violations, and the Department of Health (DOH) as well as the Coalition for a Tobacco-Free Hawaii opposed it in HPHA public hearings (in 2014), even though DOH is a champion of smoking cessation, and partnered with HPHA for that purpose.

**Finally, be it well understood that it is NEARLY IMPOSSIBLE for any resident to face eviction for any cause, let alone for smoking.** For one, because of the aforementioned difficulty citing smoking violations in the first place. Second, because some managers and staff are smokers themselves, and therefore, may not cite a violation. Third, because the eviction board, as I am informed by fellow residents who have served on it (and some of whom are smokers), would be highly sympathetic to the plight of a resident who has not committed a felonious crime, whose "only" crime is smoking, leading to a pardon. Fourth, because the Director of HPHA may pardon a resident, him/herself. **So the claims that HPHA makes in opposition to these measures, stating that they are too penalizing and place residents at undue risk of eviction, are erroneously made. De facto, residents would likely never reach the bar for eviction, by smoking violation.** (Note that HPHA does not readmit people to public housing once evicted for any cause, so past records at that point are moot.)

Therefore, the request that **HPHA PERMANENTLY RETAIN SMOKING VIOLATIONS ON A RESIDENT'S RECORD, without any caveats, AS THESE RESOLUTIONS STIPULATE,** would increase the likelihood of compliance, without jeopardizing smokers' leases, and in the process, non-smokers would be given more needed protection under the law. Everyone wins.

**I very strongly urge you to pass these Resolutions unamended**, for the justice of all non-smokers in public housing who are still at the mercy of unabated secondhand smoke exposure.

Thank you for your consideration of this very important public health issue.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 23, 2017 4:54 PM  
**To:** HOU Testimony  
**Cc:** wintersnicholas@rocketmail.com  
**Subject:** \*Submitted testimony for SCR101 on Mar 31, 2017 09:30AM\*

**SCR101**

Submitted on: 3/23/2017

Testimony for HOU/CPH on Mar 31, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nicholas Winters	Individual	Oppose	No

**Comments:**

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**To:** HOU Testimony  
**Cc:** mauimoonflower@gmail.com  
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**SCR101**

Submitted on: 3/25/2017

Testimony for HOU/CPH on Mar 31, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sabrina Spencer	Individual	Oppose	No

Comments: Repeal the ban in public housing.

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**SCR101**

Submitted on: 3/28/2017

Testimony for HOU/CPH on Mar 31, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sean Higa	Individual	Oppose	No

Comments: Third hand smoke? What a joke.

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**To:** HOU Testimony  
**Cc:** awatanabe67@gmail.com  
**Subject:** \*Submitted testimony for SCR101 on Mar 31, 2017 09:30AM\*

**SCR101**

Submitted on: 3/29/2017

Testimony for HOU/CPH on Mar 31, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Watanabe	Individual	Oppose	No

Comments:

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Thursday, March 30, 2017

Aloha Senators,

Thank you for the opportunity to provide testimony for S.C.R. 101.

As the Chairperson for the Resident Advisory Board of HPHA (RAB) I appreciate the resolution regarding the smoking ban but, oppose the following:

“WHEREAS, violations of section 356D-6.5, Hawaii Revised Statutes, should be factored into the Hawaii Public Housing Authority's decisions to grant or deny lease extensions or enter into new lease agreements with violators of the smoking prohibition; now, therefore,

BE IT FURTHER RESOLVED that the Hawaii Public Housing Authority is requested to permanently retain this documentation in a resident's record for the Authority to consider when it evaluates whether to continue any existing lease agreement or to enter into any new lease agreement with the resident; “

First of all, the majority of our communities (HPHA Properties) don't have an issue with the smoking law.

Secondly, the RAB Board agreed and supported the original “Smoking Law” that was passed and put into effect.

Thirdly, the one property that does continue to have issues and problems regarding the smoking law has elderly and disabled (physical & intellectual) residents that make up the majority of that community. The very people that the resolution proposes to protect will displace them if they are permanently banned from further living in public housing. While this doesn't excuse them violating the smoking law, other solutions need to be found to address this issue that continues to plague them.

Mahalo,

Desiree Kihano