

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony in SUPPORT of HB2573 HD1  
RELATING TO CESSPOOLS**


REPRESENTATIVE JOHN M. MIZUNO, CHAIR  
HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES

Hearing Date: February 14, 2018  
Time: 8:30 a.m.

Room Number: 329

- 1 **Fiscal Implications:** None.
- 2 **Department Testimony:** The Department supports this measure. There is a current mandate to
- 3 upgrade all cesspools, excluding those granted exemptions, by 2050. The average cost to upgrade a
- 4 cesspool can range from \$20,000 to \$30,000. The Department believes that it is important for
- 5 sellers of real estate to include in their disclosure that their properties have cesspools. This
- 6 information will allow all potential buyers to evaluate whether or not they still would consider
- 7 purchasing the property knowing that they may need to spend \$20,000 to \$30,000 to upgrade the
- 8 cesspool.
- 9 Thank you for the opportunity to testify on this measure.



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February 14, 2018

**The Honorable John Mizuno, Chair**

House Committee on Health & Human Services  
State Capitol, Room 224  
Honolulu, Hawaii 96813

**RE: House Bill 2573, HD1, Relating to Cesspools**

**HEARING: Wednesday, February 14, 2018, at 8:30 a.m.**

Aloha Chair Mizuno, Vice Chair Kobayashi, and Members of the Committee,

I am Ken Hiraki, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 9,500 members. HAR provides comments on HB2573, HD1, which requires that the existence of any cesspool on real property be considered a material fact and be included in a seller's disclosure statement if disclosure of the existence of a cesspool on real property is determined to be mandatory.

It is HAR's industry practice to create forms that exceed what is called for via laws, rules and regulation. HAR has a Seller's Real Property Disclosure Statement that discloses cesspools. As such, this measure may be unnecessary as it is already covered in our Disclosure Statement.

Enclosed, please find an excerpt of our Seller's Real Property Disclosure Statement with the pertinent reference to cesspools.

Mahalo for the opportunity to testify on this measure.



YES NO NTMK NA

- 33) [ ] [ ] [ ] [ ] [ ] Is the Property subject to a Homeowners' and/or Community Association or any other Association?
33a) [ ] [ ] [ ] [ ] [ ] (a) Is membership mandatory?
33b) [ ] [ ] [ ] [ ] [ ] (b) If yes, what are the fees and payments?
33c) [ ] [ ] [ ] [ ] [ ] (c) What is included in the fees and payments?
33d) [ ] [ ] [ ] [ ] [ ] (d) Are you aware of future maintenance fee increases, special assessments, association loans or pending litigation for or against your Association(s)?

IF ANY OF THE ABOVE ARE CHECKED YES, NOTE: If the Property is subject to a recorded Declaration, Seller is subject to mandatory disclosure obligations pursuant to Hawaii Revised Statutes Chapter 508D as amended. To the extent that the Act applies, Seller shall provide the documents and any amendments or supplements within the deadlines set forth in Paragraph M-1 of the Purchase Contract.

C. UTILITIES AND SERVICES: Complete and describe problems, if any, in Section G.

- 34) What is your source of water supply?
a) [ ] Public [ ] Private
Is this Property separately metered? [ ] Yes [ ] No
Is this a sub-meter? [ ] Yes [ ] No
Is there a shared water supply? [ ] Yes [ ] No
b) [ ] Catchment: Tank type \_\_\_\_\_ Capacity \_\_\_\_\_ Age \_\_\_\_\_ Condition \_\_\_\_\_
c) [ ] Other \_\_\_\_\_
35) What type of waste water/sewage system do you have?
a) [ ] Public Sewer [ ] Private Sewer Connected? [ ] Yes [ ] No
If not, is connection currently required? [ ] Yes [ ] No
Is there a separate sewer fee? [ ] Yes [ ] No Amount of current sewer fee \_\_\_\_\_
b) [ ] Cesspool [ ] Septic System [ ] Individual Sewage Treatment Plant Location \_\_\_\_\_
Last Pumped \_\_\_\_\_ How Often? \_\_\_\_\_
c) [ ] Abandoned septic or cesspool Location \_\_\_\_\_ Filled? [ ] Yes [ ] No [ ] NTMK
d) Does the cesspool serve more than one dwelling or living unit (A "dwelling" or, "living unit" is defined as having its own kitchen/food preparation area, bathroom and sleeping/living area), including "ohana" units? [ ] Yes [ ] No
36) What is your source of electrical power?
[ ] Public [ ] Photo Voltaic [ ] Other: \_\_\_\_\_
a) Is the Property subject to Special Subdivision Project Provision (SSPP) connection fees? [ ] Yes [ ] No
b) Hawaii law requires Sellers who pay their electricity bills directly to make a good faith declaration of electricity costs based upon the most recent three-month period that the property was occupied. In this context, please answer the following:
Do you pay your electrical utility bill directly? [ ] Yes [ ] No
If yes, please state the amount you paid for electricity for the most recent three-month period that the property was occupied.
Mon/Yr: \_\_\_\_\_ Amount: \_\_\_\_\_ Mon/Yr: \_\_\_\_\_ Amount \_\_\_\_\_ Mon/Yr: \_\_\_\_\_ Amount: \_\_\_\_\_
Buyer's actual electricity costs may vary substantially.
c) If Seller's interest in a photovoltaic system is included in the sale, please answer the following and attach ALL applicable documentation (i.e. leases/finance agreements, service/maintenance agreements, utility agreements net metering / buyback and/or credit agreements, user manuals, battery maintenance and warranties)
Is the system [ ] Leased [ ] Financed [ ] Owned outright [ ] Other \_\_\_\_\_
37) If a Solar Hot Water System is included with the sale, please answer the following and attach ALL applicable documentation (i.e. lease/financing agreement, service/maintenance agreements, user manuals).
Is the system [ ] Leased [ ] Financed [ ] Owned outright
38) If a Security Alarm and/or Home Automation System is included with the sale, please answer the following and attach ALL applicable documentation (i.e. lease/financing agreement, service/maintenance agreements, user manuals).
Is the system [ ] Leased [ ] Financed [ ] Owned outright
39) Gas: [ ] Piped [ ] Tank [ ] None
40) Telephone Service: [ ] Traditional [ ] Party line only [ ] Cable [ ] Cell [ ] Satellite
41) Television Service: [ ] Cable [ ] Satellite [ ] Antenna [ ] Not available
42) Broadband Internet [ ] DSL [ ] Cable [ ] None [ ] Other
43) US Postal Delivery: [ ] PO Box [ ] Community Box [ ] Individual Curbside Box [ ] To Door

[ ] D. IMPROVEMENTS: Do any of the following conditions exist? If "yes", use the same number and describe in Section G. YES NO NTMK NA

- 44) [ ] [ ] [ ] [ ] [ ] Were any improvements, additions, structural modifications or alterations built without building permits, association design committee or other governmental approvals?
45) [ ] [ ] [ ] [ ] [ ] For any improvement(s) subject to a mechanic's and materialman's lien, has Notice of Completion been published?
45a) [ ] [ ] [ ] [ ] [ ] (a) Date of publication \_\_\_\_\_ Unknown
46) [ ] [ ] [ ] [ ] [ ] Were any of the building permits not finalized (closed) by the permitting agency?

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE

**HB-2573-HD-1**

Submitted on: 2/12/2018 9:28:35 PM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carla Christensen	Individual	Support	Yes

Comments:

This bill will provide much needed clarity on where the problems lie. As a 20+ year part-time resident of Puako Hawaii I have observed the unwillingness of people to deal with this unpleasant aspect of their daily life. The buying and selling of property is a good time to make sure that both buyer and seller know what they need to do.

I urge you to support this bill--the community and the environment need it!

**HB-2573-HD-1**

Submitted on: 2/12/2018 10:35:44 AM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nann Hylton	Individual	Support	No

Comments:

This is Nann Hylton, 69-1644 Puako Beach Drive, Kamuela HI 96743

I think it is critical for the cesspool information to be disclosed in any transaction where a property with an existing cesspool is sold or changes hands in any manner including gifts, donations, trusts etc. The awareness of these old systems must be known and upgraded.

Our Island health and wellbeing depends upon it.

Thank you for considering this testimony.

Nann

**HB-2573-HD-1**

Submitted on: 2/12/2018 11:28:26 AM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
George Fry	Individual	Support	No

Comments:

My Name is George Fry and I live at 137 Puako Beach Drive. I've lived in the community for over 15 years and have served on the Puako Community Association Board. Clean water and a healthy reef is a main priority for our community. It should be a priority for the state. HB2573 is another piece of legislation, along with HB2540, that help communities and homeowners to afford solutions to the wastewater issues they face. I support HB2573 and ask you to support its passage.

Thank you.

**HB-2573-HD-1**

Submitted on: 2/12/2018 7:23:28 PM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Henderson	Individual	Support	No

Comments:

As a Puako resident on Hawai'i Island and Hawai'i state voter, I strongly support this bill. We have a duty to our children, and their children, to do all we can to stop degrading our environment. The existence of cesspools close to sensitive areas has a negative impact. This bill will help to raise awareness of the issue and potentially incentivize sellers to deal with the problem prior to property sales. Please vote yes.

Mahalo

David Henderson

**HB-2573-HD-1**

Submitted on: 2/12/2018 5:26:06 PM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
leonard wolf	Individual	Support	No

Comments:

My wife and I reside in Puako. Our community has expended 2.5 million over the last 10 years to find a solution to our sewage problem. We swim in our water as do our children and grandchildren. Our safety and the survival of our reef requires that a solution be found to prevent contamination of our shoreline water. Please help us.



**HB-2573-HD-1**

Submitted on: 2/12/2018 10:38:18 AM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Peter Hackstedde	Individual	Support	No

Comments:

The Puako Community is in full support of this. We need to find out how many cesspools there are in Puako. This would give more knowledge to help clean up our shoreline and reef from cesspool pollution. I won't swim or snorkel in the ocean if I have a cut or bug bite, because it may get infected. You should not have to take antibiotics because you swim or snorkel in Puako !

**HB-2573-HD-1**

Submitted on: 2/12/2018 11:34:04 AM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
karen anderson	Individual	Support	No

Comments:

Hello, I have owned a home in Puako for five years. When we moved to Hawaii we chose Puako because we wanted our children growing up next to the ocean so that they would develop a close relationship between earth's natural resources and humankind. It is a wonderful community that works together to keep it safe and healthy for community members and the numerous visitors who stay in Puako, and on whom so many of us depend economically.

Our community has spent 10 years and approximately \$2.5M researching the sewage problem and developing a variety of solutions with accompanying cost benefit analyses. We are committed to solving this problem not only for ourselves but also for our children, grandchildren and great grandchildren. Right now I will not let my children swim in the waters of Puako or Wailea Bay if we have had a hard rain or if it has been stagnate for several days in a row due to the high levels of pollutants in the water.

As the former state director of The Nature Conservancy in WA state, I know how difficult it is for states to solve their clean water issues. But I also know how important it is for the health and economy of a state. I urge the legislators of the beautiful state of Hawaii, to pass this bill, and to follow the lead of state's like Washington that is tackling the Puget Sound and Maryland that is tackling Chesapeake Bay, to commit the resources to implement long term waste treatment facilities around the island chain's shore lines. Puako is a community that has proved it is ready to partner with you. We have committed to the science. We have invested our own time. We have invested our own money. Please join us in this cause and allow me to stop saying to my children, "No, you can't go to the beach today, too much pollution."

Thank you, Karen Anderson

**HB-2573-HD-1**

Submitted on: 2/12/2018 5:09:13 PM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
candace christensen	Individual	Support	No

Comments:

Cesspools are a problem in Puako contributing to a decline in the once beautiful coral reef. We need to save the reef for future generations. Cleaning up the wastewater is a necessity

**LATE**

**HB-2573-HD-1**

Submitted on: 2/13/2018 7:16:18 PM

Testimony for HHS on 2/14/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments: