



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony COMMENTING on S.B. 980
RELATING TO CONDOMINIUMS

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: 2/12/2021

Room Number: Videoconference

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) provides comments on Senate Bill
3 980 (S.B. 980) as a public health measure to address involuntary secondhand smoke (SHS)
4 exposure in condominium units. The DOH defers to the Department of the Attorney General
5 (AG) regarding legal implications of this measure.

6 Smoke-free protections are needed for those who live in multiunit housing. Each year, an
7 estimated 28 million multiunit housing residents in the U.S. are exposed to SHS in their home or
8 apartment that originated from somewhere else in their building, such as a nearby unit.^{1,2} The
9 U.S. Surgeon General has declared that there is no safe level of SHS exposure.³ SHS exposure is
10 causally linked to adverse health outcomes among non-smokers, including heart disease, stroke,
11 and lung cancer in adults, and increased risk of severe asthma attacks, respiratory infections, ear

¹ King BA, Babb SD, Tynan MA, Gerzoff RB. National and state estimates of secondhand smoke infiltration among U.S. multiunit housing residents. *Nicotine Tob Res.* 2013;15 (7):1316-1321.

² Andrea S. Licht, Brian A. King, Mark J. Travers, Cheryl Rivard, and Andrew J. Hyland. Attitudes, Experiences, and Acceptance of Smoke-Free Policies Among US Multiunit Housing Residents. *American Journal of Public Health*: October 2012, Vol. 102, No. 10, pp.1868-1871. doi: 10.2105/AJPH.2012.300717.

³ Office on Smoking and Health (US). (2006). *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Centers for Disease Control and Prevention (US). <http://www.ncbi.nlm.nih.gov/books/NBK44324/>

1 infections, and sudden infant death syndrome (SIDS) in children.^{4,5} While smoke-free policies in
2 public places, such as worksites, bars, restaurants, parks, and beaches, are in place, residents still
3 experience involuntary exposure to SHS in homes.

4 The 2017 Hawaii Youth Tobacco Survey reported that 26% of high school and middle
5 school students acknowledged being exposed in the last week to SHS in their homes.⁶ Among
6 adults aged 18-24 years (18%), compared to the state average of 7%, Native Hawaiians (12%),
7 and Pacific Islanders (13%), experience higher rates of exposure to SHS in their homes.⁷ During
8 the COVID-19 pandemic, the DOH observed an escalation of complaint calls regarding exposure
9 to SHS in the home. Whereas in previous years, the DOH typically receives an average of 50%
10 of complaints calls related to housing, this figure increased to approximately 73% in 2020.⁸

11 Hawaii has a significantly high volume of multiunit housing dwellers when compared to
12 the rest of the nation (46.2% Hawaii vs. 29.8% U.S.) leaving many occupants in a vulnerable
13 position during the stay-at-home restrictions, or when initially choosing to rent or purchase a unit
14 in a building.⁹ Public health protections against SHS are important to give people in Hawaii
15 recourse should they find themselves exposed to SHS originating from somewhere else in their
16 building.

17 The DOH recommends clarification of the terms in this measure including “reasonable
18 accommodation”, “qualifying unit owner”, “susceptible”, and “temporary”, and defers to the AG
19 regarding legal implications of S.B. 980.

⁴ U.S. Department of Health and Human Services. *Let's Make the Next Generation Tobacco-Free: Your Guide to the 50th Anniversary Surgeon General's Report on Smoking and Health (2014)*. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/consumer-guide.pdf>

⁵ U.S. Department of Health and Human Services. *The Health Consequences of Smoking—The 50 Years of Progress: A Report of the Surgeon General (2014)*.

⁶ Hawaii State Department of Health, Hawaii Health Data Warehouse, Youth Tobacco Survey, 2017 [Hawaii Health Data Warehouse \(hhdw.org\)](https://hhdw.org/)

⁷ Hawaii State Department of Health, Hawaii Health Data Warehouse, Behavioral Risk Factor Surveillance System, 2018 [Hawaii Health Data Warehouse \(hhdw.org\)](https://hhdw.org/)

⁸ Hawaii State Department of Health, Tobacco Prevention and Control Section, SHS complaint data.

⁹ Annual Estimates of Housing Units for the United States, Regions, Divisions, States, and Counties: April 1, 2010 to July 1, 2017 Source: U.S. Census Bureau, Population Division. Data release: May 2018 Retrieved January 31, 2019 from <https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

1 Thank you for the opportunity to testify on this measure.

2 **Offered Amendments:** None

SB-980

Submitted on: 2/10/2021 8:34:28 AM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sonia Gupta	Testifying for Maui Dental Group	Support	No

Comments:

We at Maui Dental Group support this bill SB980 regarding secondhand smoke exposure in condominium units.

I am writing this testimony to make you aware of the negative health effects of secondhand smoke on residents. Residents who are exposed to neighbor's smoking often suffer due to secondhand smoke exposure and clouds of smoke causing adverse respiratory effects and preventing sleep because they cannot breathe. This is highly concerning from a medical standpoint.

Because their bodies are developing and their size is so small, infants and young children are especially vulnerable to the poisons in secondhand smoke. Children who are exposed to secondhand tobacco smoke breathe the same dangerous chemicals that smokers inhale. The same can be said for adults, dogs, cats, birds, or any other living being exposed to secondhand smoke.

The harmful effects of secondhand smoke on human health have been well documented through decades of scientific research. Below are just a few of the conclusions from the Surgeon General's report (originally published in 1986 and then reconfirmed in 2006), which explains in great detail the health risks of secondhand smoke:

- Babies who are exposed to secondhand smoke during pregnancy and after birth are more likely to die from sudden infant death syndrome (SIDS).
- Babies who are exposed to secondhand smoke suffer from poor lung development and will have weaker lungs than other babies. This increases the

risk for many health problems including more frequent and severe asthma attacks, upper respiratory infections, and ear infections.

- Secondhand smoke exposure causes more frequent lower respiratory infections such as bronchitis and pneumonia.
- Secondhand smoke exposure causes allergic and respiratory symptoms including eye irritation, cough, phlegm, wheezing, and breathlessness.
- Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes heart disease and lung cancer.
- Secondhand smoke exposure increases the risk of ALL cancers including childhood leukemia, brain, breast, uterine, colon, prostate, and bladder cancer.
- Secondhand smoke causes premature death and disease in children and in adults.
- Secondhand smoke may increase the chance of dental caries (cavities)

In light of the current pandemic, I am particularly concerned for people's health. Secondhand smoke exposure is known to weaken the immune system and make lungs more susceptible to viral infections such as COVID-19. These patients also have far worse outcomes once they become infected. Since their lungs are weakened by the secondhand smoke exposure, the disease will be more severe and progress more quickly. There will be a higher chance of death.

The evidence is indisputable that secondhand smoke is harmful to human health. The following points are taken verbatim from the Surgeon General's Report:

1. The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.
2. Many millions of Americans, both children and adults, are still exposed to secondhand smoke in their homes and workplaces despite substantial progress in tobacco control.
3. Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke.

This is the reason that the federal government mandates clear warning labels on cigarette packages that smoking is harmful. This is also the reason that smoking has been banned in public facilities such as bars and restaurants throughout the country. Smoking is even banned in outdoor spaces such as parks and beaches in Maui County. I am very concerned that any multi-unit housing complex would allow smoking in their units, as there is no way to isolate smoke from drifting into other units and harming people. The aerosolized smoke particles easily make their way through cracks in windows, walls, and flooring, and travel through shared ventilation ducts into other units as if people were sitting in the same room. Allowing even a single one of your residents to smoke will adversely affect the health of all the residents.

Children and families have the right to grow up in a healthful environment. Our leaders have the opportunity to make buildings a safe and wholesome place for adults, children, and pets. They also have a golden opportunity to bring buildings up to the standard of many condo complexes, that have already banned smoking not only inside of buildings, but in parking lots and common areas where secondhand smoke could drift into other units and harm residents. Since 2017, there has been a federal mandate that bans smoking in all public housing as well:

The smoke-free policy must also extend to all outdoor areas up to 25 feet from the public housing and administrative office buildings. This rule improved indoor air quality in the housing; benefits the health of the public housing residents, visitors, and PHA staff; reduces the risk of catastrophic fires; and lowers overall maintenance costs.

I urge all boards to take care of their condominium community. Having healthy policies in place will make for a stronger and more vibrant community. In addition, all residents will benefit from the decreased risk of fires, lower maintenance costs, improved public image, and overall increased desirability of a non-smoking complex; all of these will have a positive impact on your property values. This is a life and death matter that should be taken seriously. Please take immediate action to stop people and pets from being exposed to the detrimental health effects of secondhand smoke.

Please feel free to contact us via phone or email. We would be happy to answer any questions you may have while keeping patient privacy in mind. We are also happy to provide a printed copy of the Surgeon General's Report, but please note that it is 757 pages long. Attached is a PDF link which may be more practical. You will also find other digital links for your reference. Thank you for your time and attention in this matter.

Dr. Sonia Gupta, D.D.S.

Maui Dental Group

References:

1. <https://www.sciencedaily.com/releases/2007/08/070831123420.htm>
2. Office on Smoking and Health (US). The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta (GA):

Centers for Disease Control and Prevention (US);

2006. https://www.ncbi.nlm.nih.gov/books/NBK44324/pdf/Bookshelf_NBK44324.pdf

3. The amendments to Maui County Code Section 13.04.020 prohibit smoking and the use of tobacco products within the limits of any park or recreational facility which is owned or maintained by the County. This includes chewing tobacco, and smoking cigarettes, cigars, pipes, or other products containing tobacco.
<https://www.mauicounty.gov/Faq.aspx?QID=823#:~:text=by%20the%20law%3F-The%20amendments%20to%20Maui%20County%20Code%20Section%2013.04.,or%20maintained%20by%20the%20County.>
4. <https://www.federalregister.gov/documents/2016/12/05/2016-28986/instituting-smoke-free-public-housing>
5. NIH passive smoking and dental caries:
<https://jamanetwork.com/journals/jama/fullarticle/196145>



HIPHI Board

*Kilikina Mahi, MBA
Chair
KM Consulting LLC*

*Michael Robinson, MBA, MA
Immediate Past Chair
Hawai'i Pacific Health*

*JoAnn Tsark, MPH
Secretary
John A. Burns School of
Medicine, Native Hawaiian
Research Office*

*Debbie Erskine
Treasurer
Kamehameha Schools*

*Keshia Adolpho, LCSW
Molokai Community Health
Center*

*Keawe'aimoku
Kaholokula, PhD
John A. Burns School of
Medicine, Department of
Native Hawaiian Health*

*Mark Levin, JD
William S. Richardson School
of Law*

*Rachel Novotny, PhD, RDN, LD
University of Hawai'i at
Mānoa, College of Tropical
Agriculture and Human
Resources*

*May Okihiro, MD, MS
John A. Burns School of
Medicine, Department of
Pediatrics*

*Misty Pacheco, DrPH
University of Hawai'i at Hilo,
Department of Kinesiology and
Exercise Sciences*

*Garret Sugai
Kaiser Permanente*

*Catherine Taschner, JD
McCorriston Miller Mukai
MacKinnon LLP*

Date: February 10, 2021

To: Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Members of the Senate Committee on Commerce and Consumer
Protection

Re: **Support for SB 980, Relating to Condominiums**

Hrg: February 12, 2021 at 9:30 AM in Capitol Room 229

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **SUPPORT of SB 980**, which would require condominium boards to consider reasonable accommodation requests from owners related to secondhand smoke from neighboring units. It also allows owners to pursue alternative dispute resolution if a request is denied for a second time.

The Coalition strongly supports measures that reduce exposure to secondhand and thirdhand smoke.

There is no safe level of exposure to secondhand smoke, and according to the U.S. Surgeon General, even brief exposure to secondhand smoke is dangerous and can be harmfulⁱⁱ. Inhaling secondhand smoke can have immediate detrimental effects on cardiovascular health, damaging blood vessels and increasing the risk of heart attack and strokeⁱⁱⁱ.

Secondhand smoke is also responsible for an estimated 46,000 premature deaths from heart disease and 3,400 lung cancer deaths in the United States among **nonsmokers** annually^{iv}. Infants and young children are especially vulnerable to these toxic chemicals, and exposure to secondhand smoke during pregnancy and after birth leaves them at an increased risk of Sudden Infant Death Syndrome (SIDS), poor lung development, and more frequent and severe asthma attacks, respiratory infections, and ear infections^v.

Thirdhand smoke, which is the residual tobacco toxins that remain after a cigarette is extinguished, clings to walls, ceilings, carpets, draperies, and other furniture. They remain at high levels long after smoking has stopped and has shown to re-emit back in the air as toxic compounds that can be inhaled by those that have moved into the home^{vi}. Babies and small children are especially at risk, because they breathe near, crawl, lay on, and touch contaminated surfaces.

Eliminating smoking is the only way to protect people from secondhand smoke.

Opening windows, air purifiers, and filters, cannot prevent secondhand smoke from traveling. Smoke can infiltrate neighboring units through windows, vents, and outlets. For multi-unit housing, up to 65% of the air is shared between units. In these types of properties, a smoke-free policy is the only way to fully protect residents from secondhand smoke.

Smoke-free housing is a growing trend across the nation and in Hawai'i. An independent poll^{vii} conducted by Ward Research Inc. for the Coalition, in October 2020 found that 87% of registered Hawai'i voters would choose to buy or rent a smoke-free house or apartment.

Complaints of secondhand smoke exposure in the home have increased during the pandemic.

Due to the stay-at-home orders and increase in remote work and schooling, people are spending more time in their home. Unlike workplaces and schools, there are no few laws that protect people from secondhand smoke exposure in the home. Especially troubling is that underlying medical conditions, many of which can be caused or exacerbated by secondhand smoke, are known to increase the risk for severe cases of COVID-19^{viii}. It is also known to weaken the immune system and make lungs more susceptible to viral infections like COVID-19^{ix}. While the relationship between COVID-19 and secondhand smoke exposure is still uncertain, the likelihood of transmission increases with behaviors that increase risk of transferring respiratory droplets, such as smoking and exposure to secondhand smoke^x.

Thank you for the opportunity to testify in **support** of SB 980.

Mahalo,



Jaylen Murakami
Advocacy and Outreach Coordinator

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ U.S. Department of Health and Human Services (2010). How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking- Attributable Disease: What it Means to You, a Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. <https://www.ncbi.nlm.nih.gov/books/NBK53017/>

ⁱⁱⁱ U.S. Department of Health and Human Services. A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010 [accessed 2017 Jan 11].

^{iv} U.S Centers for Disease Control and Prevention (2011). Smoking and Tobacco Use: Health Effects of Secondhand Smoke. Retrieved April 20, 2011, from www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm

^v U.S. Department of Health and Human Services (2006). *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. <http://www.surgeongeneral.gov/library/secondhandsmoke/report/>

^{vi} Singer, B., Hodgson, A., Nazaroff, W. (2002). "Effect of absorption on exposures to organic gases from environmental tobacco smoke (ETS)" available at <http://eetd.lbl.gov/node/49332>

^{vii} This study by Ward Research, Inc. summarizes findings from a phone survey among n=800 Hawai'i registered voters (maximum sampling error +/-3.3%), conducted between September 21 – October 16, 2020.

^{viii} U.S. Centers for Disease Control and Prevention. (2021, February 3). *People with certain medical conditions*. Retrieved February 9, 2021 from <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

^{ix} Bhat, T. A., Kalathil, S. G., Bogner, P. N., Miller, A., Lehmann, P. V., Thatcher, T. H., Phipps, R. P., Sime, P. J., & Thanavala, Y. (2018). Secondhand Smoke Induces Inflammation and Impairs Immunity to Respiratory Infections. *Journal of immunology (Baltimore, Md. : 1950)*, 200(8), 2927–2940. <https://doi.org/10.4049/jimmunol.1701417>

^x Gillespie, Claire (2020). Can You Get Covid-19 From Secondhand Smoke? Here's What Experts Say. <https://www.health.com/condition/infectious-diseases/coronavirus/secondhand-smoke-covid-19>

SB-980

Submitted on: 2/9/2021 10:53:59 AM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Atlanta Dove	Testifying for Honolulu Tower AOAO	Oppose	No

Comments:

Honolulu Tower is a 396 unit condominium at the junction of Beretania and Maunakea Streets. We were built in 1982. We and our owners understand the dangers of second hand smoke. 67.935% of the owners voted to amend the bylaws banning smoking on all areas of the property. There are no designated smoking areas on the property. The amendment takes effect May 5, 2021.

At the February 1, 2021 meeting of the Board of Directors of the Honolulu Tower AOAO the board voted unanimously to oppose SB980. Board members do not believe the legislature should be adding to our responsibilities. The board should not be the arbiter of complaints.

Board of Directors of the Honolulu Tower AOAO

SB-980

Submitted on: 2/9/2021 10:55:03 AM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Resident Manager	Testifying for Honolulu Tower AOAO	Oppose	No

Comments:

Honolulu Tower is a 396 unit condominium at the junction of Beretania and Maunakea Streets. We were built in 1982. We and our owners understand the dangers of second hand smoke. 67.935% of the owners voted to amend the bylaws banning smoking on all areas of the property. There are no designated smoking areas on the property. The amendment takes effect May 5, 2021.

At the February 1, 2021 meeting of the Board of Directors of the Honolulu Tower AOAO the board voted unanimously to oppose SB980. Board members do not believe the legislature should be adding to our responsibilities. The board should not be the arbiter of complaints.

Board of Directors of the Honolulu Tower AOAO



February 9, 2021

Honorable Rosalyn H. Baker
Honorable Stanley Chang
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii, 96813

Re: SB980 RELATING TO CONDOMINIUMS

The Community Associations Institute, Legislative Action Committee (CAI LAC) hereby submits this testimony opposing SB980.

CAI LAC opposes SB980 as it contains provision that are already stated in current 514B-161, giving unit owners the ability to request evaluative mediation pertaining to disputes with the Association. Further, unless smoking is directly observed by authorized association personnel, enforcement seems problematic, and may potentially create an environment where unit owners falsely accuse neighbors of smoking, a legal activity, inside the confines of a resident's unit. Additionally, granting a reasonable accommodation to mitigate secondhand smoke is open to a wide range of interpretation as to what defines, "reasonable accommodation" and may potentially create additional conflict between the Association, the owner, and other owners.

CAI LAC represents the condominium and community associations industry, and respectfully request the Committee to oppose SB980. Thank you for the opportunity to testify.

Sincerely,

Tim Apicella
CAI LAC Member

SB-980

Submitted on: 2/9/2021 9:16:13 AM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Testifying for Associa	Oppose	No

Comments:

I guess the question is what if the proposed accommodation interferes with the rights of the neighboring owner. What of the proposed accommodation is that the neighbor has to smoke by the trash dump. Currently associations by a vote of the owners can make a building non smoking. All of the proposed remedies already exist in current law. This Bill will create unenforceable problems. Defer this Bill.

SB-980

Submitted on: 2/10/2021 7:23:35 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	No

Comments:

We had been contacted by an elderly couple where the husband had a respiratory condition and was tremendously bothered by the smoke from an upstairs neighbor who smoked cigarettes. We attempted to assist them but found that the law really did not protect them. As a result of covid and their being in a high risk category, they were basically homebound so they were not able to simply go outside to avoid the smoke. They apparently attempted to negotiate something with this neighbor as well as the AOA of the condominium that they owned. Those efforts were unsuccessful. We are told that the neighbor was "unreasonable" and since the building was not a "non smoking" building , the AOA felt that there was nothing they could legally do to prevent this activity within his own unit.

While under the current law (the federal Fair Housing Law) one could request a reasonable accommodation, the bill creates a right under state law and also sets forth a specific process that the AOA would have to follow. It also provides a mechanism for an alternative dispute resolution process, which is always a good idea. This bill could therefore provide some remedy to individuals who had an underlying health condition that would make them particularly sensitive to the fumes from smoke.

SB-980

Submitted on: 2/9/2021 10:07:29 AM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments:

I reside in a high rise condominium. I am affected by second hand smoke, as well as other odors. I also serve on my condo board. I am opposed to this bill for the following reasons:

1. It is virtually impossible to find the source of disagreeable odors. Complaints are filed, staff goes to check nearby units and others, and almost always is unable to find the source. Repeated complaints are filed and the result is the same. It is almost as hard as finding the source of a water leak when water follows the least resistable path.
2. The board should not become the arbiter of complaints. It is putting neighbor against neighbor. This requirement will make it more difficult to find owners willing to serve on the board. Where is this going to stop, perfume odors, cooking odors, body odors, pet odors?
3. Compliants of this source should go to mediation or the courts which are better equipped to evaluate the situation.
4. Board members are volunteers. We are busy hiring contractors, fixing and maintaining the physical plant, upgrading fire alarm systems, heating systems, elevator systems, preparing the budget.
5. Please defer this measure.

SB-980

Submitted on: 2/9/2021 1:16:34 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Oppose	No

Comments:

I respectfully oppose this Bill on the grounds that residents should be able to do whatever they want within the privacy of their own homes provided the conduct is legal. If the owners seek to ban smoking within the units, then the proper means would be a vote to amend the Bylaws. The current Bill is a slippery slope.

Mahalo for your consideration.

SB-980

Submitted on: 2/9/2021 7:21:47 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

No need for this. Owners can already vote to change their own rules.

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

2/12/2021
9:30am Room 229

RE: SB980 RELATING TO CONDOMINIUMS

To the Honorable Rosalyn H. Baker, Chair; the Honorable Stanley Chang, Vice Chair; and Members of the Committee on Commerce and Consumer Protection:

My name is Aurora A. Saulo and I hereby submit my testimony in **SUPPORT** of SB980 RELATING TO CONDOMINIUMS.

Everyone, regardless of location, income, or history deserves to live in a stable and healthy environment, including the right to breathe smokefree air at home. Please pass SB980 out of the Committee on Commerce and Consumer Protection.

Each person has rights *as long as actions resulting from exercising those rights do not infringe on others' rights*. There is no legal and constitutional right to smoke and sadly, secondhand and thirdhand smoke from 12% of the population who smoke is being ***forced on the 88% of the population to inhale, including residents of dwellings in which people live in close proximity to each other.*** Tobacco and cigarette smoke is "injurious to health, indecent, offensive to the senses, and constitute an obstruction to the free use of property that interferes with the comfortable enjoyment of life or property." Habitable living conditions must be for everyone, especially during the COVID-19 pandemic when people are spending much more time at home instead of in smokefree schools and workplaces. Guidance of global health organizations on wearing facial coverings and limiting hand-to-face contact are not followed during smoking or vaping, increasing the potential for contamination and spread of illnesses. The resulting smoke is contaminated with harmful microorganisms from the smoker's lungs, mouth, and hands. This contaminated smoke is then exhaled with the smoker's respiratory droplets carrying sources of various other infections and that are not contained especially when the smoker coughs or sneezes without facial coverings. Researchers recently reported that small coronaviruses may attach to larger secondhand smoke particles and droplets creating potential sources of COVID-19 (Mahabee-Gittens et al., 2020). Exposure to secondhand smoke makes breathing difficult and causes a significant underlying health condition linked to COVID-19. Secondhand smoke further damages the immune system, a risk factor for more severe COVID-symptoms, such as TB, rheumatoid arthritis, certain eye diseases, and erectile dysfunction in males (CDC, May 2020). Smoking inside individual units in dwellings where smoke infiltrates other units is a nuisance, is seriously harmful and deadly, and must be prohibited to help arrest the spread of many harmful health conditions, including COVID-19.

Many homeowners have asked their HOA boards to establish smokefree rules in their projects. Some board members are hesitant and some do not execute strict enforcement of community covenants including no-smoking lease agreements. As a result, some property managers have taken advantage of this non-action of HOA boards, and allowed their tenants to smoke inside their units *even when they have a no-smoke lease agreement*. SB980 requires HOA boards to grant owners' requests to mitigate the effects of secondhand smoke from nearby units and consider options to resolve such requests.

Now is the best time to support smokefree environment in Hawaii. Please pass SB980 out of the Committee on Commerce and Consumer Protection.

Thank you for your support.

Aurora A. Saulo (ret)
Professor emerita
EMAIL aurora@hawaii.edu

REFERENCES:

- Centers for Disease Control and Prevention. May 21, 2020. Fast Facts. Smoking & Tobacco Use. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm#:~:text=Cigarette%20smoking%20is%20responsible%20for,or%201%2C300%20deaths%20every%20day.&text=On%20average%2C%20smokers%20die%2010%20years%20earlier%20than%20nonsmokers.
- Mahabee-Gittens, E.M., Merianos, A.L., and Matt, G.E. 2020. Letter to the Editor Regarding: "An Imperative Need for Research on the Role of Environmental Factors in the Transmission of Novel Coronavirus (COVID-19)" – Secondhand and Thirdhand Smoke as Potential Sources of COVID-19. *Environmental Science & Technology* 54(9): 5309-5310. <https://pubs.acs.org/doi/pdf/10.1021/acs.est.0c02041> DOI:10.1021/acs.est.0c02041

To the Honorable Rosalyn H. Baker, Chair; the Honorable Stanley Chang, Vice Chair; and Members of the Committee on Commerce and Consumer Protection:

I am a practicing Oncologist and I strongly support SB980 RELATING TO CONDOMINIUMS. I pray that it will become law. It is now known that secondhand smoke can cause cancer. It also contributes to progression of diseases and aggravation of symptoms in patients with chronic bronchitis, asthma, emphysema, cystic fibrosis, chronic heart failure as well as patients with true allergy to smoke. Passage of the bill will also reduce cost of medicines and doctor visits. The improvement of the quality of life will be the most important final endpoint if the bill is passed.

Thank you very, very much for the hearing and please pass SB980 out of the Committee on Commerce and Consumer Protection.

Reuben Guerrero, MD
reubenguerrero@aol.com

Testimony in Support of **SB 980
Relating to Condominiums**

Senator Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hearing Date: February 12, 2021 Room 229

While I strongly appreciate the need for and support the intent of SB 980, I ask that it would be modified to include:

- 1) Deadline for the Board to provide their decision for the request. i.e. 20 days
- 2) No response from the Board within a designated time will be construed as a Denial to request.
- 3) Denial without cause will incur penalty of _____.

Also, I respectfully question the need for the last sentence, "Authorizes a unit owner..." I believe this statement removes the right of requester to promptly pursue alternate remedy, i.e. claim for discriminatory practices with HCRC, etc., which are regulated by statute of limitation.

A Personal Experience:

I am a senior citizen who was provided a diagnosis of Multiple Chemical Sensitivity (MCS) by my attending physician and has subsequently been deemed permanently disabled due to MCS by the Social Security Administration.

The only treatment for my MCS condition, as explained by my physician, is the avoidance of chemicals that trigger my symptoms and the use of medical oxygen to alleviate my life threatening symptoms.

I own and have resided in my condominium unit for the past 48 years. In 2015, I spent nearly \$40,000.00 to refurbish my unit, replacing materials containing formaldehyde, asbestos, lead, and other toxicants to acquire a safer and healthier living environment.

In spite of my installing two air purifiers, one of which indicates poor air quality when I detect secondhand smoke odor, I need to leave my unit at least once, oftentimes twice daily, to alleviate my symptoms. Escaping becomes a challenge especially when neighbor's secondhand smoke trespass at various times of the day, including midnight through dawn.

Although exiting my unit helps to avoid the incursion of the secondhand smoke, I find myself returning to an environment with residual toxins, causing my symptoms to linger and at times requiring oxygen therapy. And now, my recently refurbished home is contaminated with Thirdhand Smoke.

On March 17, 2019, I submitted to the Board my written request for Reasonable Accommodation.

I never received a reply.

On April 22, 2019, I submitted to the Hawaii Civil Rights Commission my Pre-Complaint Questionnaire.

On December 13, 2019, a discriminatory housing practice charge; refusal of reasonable accommodation, was filed with HCRC.

On January 31, 2020, an attorney hired by the Board answered to the complaint.

On February 14, 2020, I received from HCRC a “Notice of Dismissal and Right to Sue” for my complaint. The case was “closed on the basis of no cause.”

On March 6, 2020, I submitted a request for reconsideration.

On July 2, 2020, I received notice that the dismissal was upheld.

As I began my search for legal remedy, I was quoted \$20,000+ for a retainer fee.

Senator Chair Baker, I humbly ask that your committee consider my proposed modification and pass this bill.

Thank you for the opportunity to share my story.

Respectfully submitted by,
Adeline Porter

SB-980

Submitted on: 2/10/2021 3:14:11 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Oppose	No

Comments:

As a condo owner/resident I oppose this SB980 because I don't think its appropriate for the AOA to dictate what owners can do in the privacy of their own units, as long as the activity is legal. I also oppose because "reasonable accomodation" is not defined and appears too broad. For the Record, I am not a smoker, nor do I have any friends or family that smokes.

SB-980

Submitted on: 2/10/2021 11:14:34 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alicia Ulrich	Individual	Support	No

Comments:

My name is Alicia Ulrich and I have owned a condominium at Pualei Circle in Honolulu for 16 years. As someone who is currently experiencing the negative effects of second hand smoke due to a Condo Board refusing to make a reasonable accommodation, I strongly support the passage of SB980.

In my real world example, several owners have complained of strong second hand smoke emanating from a particular unit where the owner smokes cigarettes and cigars on the lanai at all hours. The Management Company skirts the nuisance and health issue by pointing to the non-smoking clause in House Rules, which do not include smoking restrictions in limited common areas such as lanais. The offending unit is owned by the long time President of the HOA, who is not motivated to take up the issue through channels that currently exist. I live in a unique property where some units do not have a fourth wall or windows, only a giant screen and shutters, which are inadequate in blocking out deadly known carcinogens contained in second hand smoke. Reasonable accommodation would suggest the smoking unit in question, which does have windows, limit their smoking to the indoors, thus protecting others, especially during this time of Covid, where we should strive to stay as healthy as possible, particularly when it comes to our lungs. At this point, the President of the Board has no reason to make reasonable accommodation and our pleas have fallen on deaf ears.

Without legislation, those of us stuck with second hand smoke on a daily basis, with no practical protection, feel we are powerless. SB980 would allow us to point towards legislation to give us a lifeline by forcing the Condo Board to take action against a known health hazard by making reasonable accommodation.

Thank you for your consideration,

Alicia Ulrich

Aloha,

My name is Nancy Thomas and I own unit #201 of The Leilani at 3030 Pualei Circle. In March of 2020, I learned from my tenant that smoke was wafting into her unit at all hours day and night from the unit next door. I also learned from my tenant that the offending smoke was coming from the unit owned and occupied by the president of the Board of Directors.

My tenant's complaint prompted me to review the House Rules provided to me when I purchased the unit in 2017 which is where I learned that smoking is prohibited in common areas only which was later confirmed by the site manager. After reading the city ordinance regarding smoking, I understand why the Board delineated only common areas as non-smoking...that's because that's where state and city ordinance stops with regard to condos. As suggested by the site manager, in March 2020 I wrote a letter to the property management company. In response, I was notified that the matter would be brought to the attention of the Board. I have learned recently that the matter was never taken to the full Board of Directors at all. Consequently nothing has been done to relieve the nuisance smoking presents despite the nuisance clause in the House Rules.

HRS 328J prohibits smoking in various enclosed and partially enclosed areas of multi-unit buildings such as condominiums, as well as other areas frequented by the public. The intent of this legislation is to limit smoking thereby protecting the public from the dangers of second and third hand smoke. In order to actually protect the public, the law needs to eliminate smoking altogether since **there is no safe level** of exposure to smoke. According to Smoke Free Homes, *Children and infants are especially susceptible to third-hand smoke because they breathe near, crawl, play on, touch and mouth contaminated surfaces* such as carpeting with long-term exposure which is nearly impossible to decontaminate. The practice of smoking is costly since *over time, the decision to allow smoking can even reduce the long-term value of a property* as well as make it difficult to find and keep tenants. Smoke free buildings are safer since *smoking is a leading cause of preventable fires in apartment complexes in Hawaii and fires caused by smoking in apartment units result in more deaths and property damage than any other cause.*

To make HRS 328J more comprehensive and to accomplish its original intent, please vote yes to SB980. Our situation at The Leilani is untenable because the president of the Board of Directors is the primary source of smoke penetrating units in close proximity to his during a global pandemic when people are told to stay home to be safe. We need an alternative dispute resolution because so far our requests for relief have been ignored. Further, the city sidewalk surrounding The Leilani presents a venue for the entire Pualei neighborhood who smoke when their own buildings are smoke free. It is a health hazard for the residents of The Leilani as well as an economic drain on anyone who owns a unit in the building.

Mahalo for your attention to this matter.

Nancy Thomas

SB-980

Submitted on: 2/11/2021 3:32:33 PM

Testimony for CPN on 2/12/2021 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
B.A. McClintock	Testifying for Respiratory and Environmental Disabilities Assoc of HI	Support	No

Comments:

During our quarantining with Covid-19, now, more than ever, do we need protection from the chemical trespass of smoke. Complaints are coming in from across our islands of people being sickened in their own homes because of smoke. We look to you for the help we all need by passing this important bill.