



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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Statement of
Chad K. Taniguchi
Hawaii Public Housing Authority
Before the
HOUSE COMMITTEE ON HOUSING
February 4, 2009 9:00 a.m.
Room 325, Hawaii State Capitol
In consideration of
H.B. 359
RELATING TO PUBLIC HOUSING

The Hawaii Public Housing Authority (HPHA) opposes H.B. 359, which requires the Hawaii Public Housing Authority to 1) adopt house rules with specific consequences for violations and require tenants to report criminal property damage and terroristic threatening to the police, 2) require the property managers to report property damage and terroristic threatening to the police, 3) report drug activity to the police and evict for drug convictions, 4) conduct unannounced visits to enforce occupancy and other rules, 5) evict tenants for three felony convictions, promoting prostitution, or three house rule violations.

The Hawaii Public Housing Authority has stepped up efforts to evict residents who violate the terms of the rental agreement. All of the violations detailed in this bill now trigger consideration of an eviction and usually result in an eviction or in the voluntary vacating of the unit.

- 1) HPHA is in the process of adopting house rules for all projects, and encourages tenants to report crimes to the police.
- 2) HPHA staff does report crimes to the police. Our staff need help getting reports from the police.
- 3) HPHA staff does report drug activity, and we do not need a drug conviction to evict (we need is evidence, such as an arrest or repeated violations, to persuade the eviction board).
- 4) HUD requires 48-hour notice prior to entering a unit, unless it is an emergency. HPHA is increasing the number of routine inspections per year and staff is instructed to inspect the unit whenever repairs are made.
- 5) The mandatory eviction of anyone who has violated house rules 3 times may not be appropriate if the rules are minor in nature. HPHA is developing a standard for the number of violations needed for certain behaviors in order to evict. HPHA currently evicts residents for repeated violations.

HPHA supports the intent of this measure but feels that similar actions are already being taken with good judgment being applied to the circumstances of each resident. Streamlining of the eviction process as proposed in separate legislation which we support is what is needed to improve living conditions and appropriate behavior in our communities.



HB 359 RELATING TO PUBLIC HOUSING
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The Office of Hawaiian Affairs supports the purpose and intent of HB 359.

The beneficiaries of the Office of Hawaiian Affairs have a tenancy to be renters. The percent of beneficiaries in public housing is not known.

The Office of Hawaiian Affairs advocates for systemic changes to address lawless behavior, including alcohol and drug abuse and abusive and violent behavior, criminal property damage, and terroristic threatening. The need to have the housing authority to evict tenants who violate rules is necessary for systemic changes to happen.

OHA recognizes that physical solutions by themselves will not solve social and economic problems, but neither can economic vitality, community stability, and environmental health be sustained without a coherent and supportive physical framework like this bill giving the authority to evict tenants who violate rules.

Mahalo for the opportunity to provide this testimony.

OFFERING COMMENTS ON
HB359 - RELATING TO PUBLIC HOUSING

February 4, 2009 at 9:00 a.m.

The Legal Aid Society of Hawaii hereby provides comments to the House Committee on Housing on HB359 – Relating to Public Housing.

The Legal Aid Society of Hawaii provides free legal services to the low-income population of the State of Hawaii. In addition to providing services to clients who currently reside in public housing, we also assist individuals who are on the waiting list to gain access to public housing. In 2008, we received over three hundred calls requesting assistance on public housing matters and represented approximately thirty or 10% of these callers in administrative and/or court hearings.

This bill would (1) require mandatory reporting by tenants of drug or other behavior; (2) allow the Hawai'i Public Housing Authority to conduct unannounced visits on tenants; and (3) terminate a tenant's lease for three felony convictions, a conviction under Part IV of Chapter 712, or three violations of house rules.

While we appreciate the intent of this measure, we are concerned that the provisions will take away recognized tenant rights and are in violation of federal law.

CONDUCT UNANNOUNCED VISITS TO VERIFY THAT THE PROPOER TENANT IS OCCUPYING THE UNIT AND COMPLYING WITH AUTHORITY RULES

A serious concern of authority is the “guest” who actually becomes a household member in violation of the lease. There are factual disputes about whether the person is a “guest” or an “unauthorized resident.”

Generally, a landlord's right to inspect or enter a tenant's home is restricted under the regulations for the federal housing programs. Because the tenant always has a superior right of possession under the lease, a landlord may enter only in accordance with its terms. The Public Housing lease regulations provide that the PHA must give reasonable advance notification of at least two days, except in emergencies. Other than an emergency, the entry must be made during reasonable hours.

Less intrusive and invasive procedures are in place to find “unauthorized residents.” Currently authority files a notice of lease violation and asks the resident to present facts which show that the person is actually a “guest.” Facts to be considered are whether the person has another home, particularly if they pay rent and have receipts for these payments. Bills for telephone and electricity at another location are also an indication that the person is not an “unauthorized resident.” Hawaii's constitutional right to privacy will undoubtedly be an obstacle to unannounced visits at unreasonable hours. Certainly any statute which allows unannounced visits needs to contain policies and procedures which give protections to public housing tenants. A blanket allowance of unannounced visits will be unlikely to pass judicial scrutiny.

TERMINATION OF LEASE AND EVICTION DUE TO (2) THREE OR MORE FELONY CONVICTIONS; (2) ANY CONVICTION UNDER PART IV OF CHAPTER 712 OR (3) THE THIRD VIOLATION OF A PUBLIC HOUSING PROJECT'S HOUSE RULES

It is well-established that federal housing landlords can terminate tenancies with good cause. However, there are many controversies as to what does or does not constitute good cause. For the Public Housing program,

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42 U.S.C.A. §1437d states that a public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause.

Violation for criminal convictions: The current lease follows the federal statute which provides that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the of the tenant's household, or any guest or other person under the tenant's control shall be cause for termination of tenancy.

Eviction for violation of house rules: Federal statute requires that house rules and regulations must be "necessary and reasonable for the benefit and well-being of the housing project and tenants." Federal eviction guidelines stress that a tenant should only be evicted for serious wrongdoing. To qualify as a violation which results in eviction, the violation must be substantial or repeated. Violations must also disrupt the livability of the project, adversely affect the health or safety of any person or tenant, interfere with the management of the project or have an adverse financial effect on the project. The current lease provisions are adequate to curtail violations of house rules.

Thank you for the opportunity to testify.

Sincerely,



Sheila P. Lippolt
Supervising Attorney
Housing Unit