



**Hawaii Chapter
AMERICAN PUBLIC WORKS ASSOCIATION**

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February 2, 2009

EMAILED TESTIMONY TO: hlttestimony@capitol.hawaii.gov
(3 copies requested)

Hearing Date: Tuesday, February 3, 8:30 a.m., Conference Room 329

Honorable Representatives Ryan I. Yamane, Chair, Scott Y. Nishimoto, Vice Chair,
and Members of the House Committee on Health

Subject: HB 384, Relating to Public Safety

Honorable Chair Yamane, and Committee Members,

The American Public Works Association Hawaii Chapter represents over one hundred engineering design professionals in public and private sector. **We support the Concept of this Bill, however the facts and the make up of the task force needs to be revised.**

We (design professionals) are willing to assist the task force to assess the risks, investigate appropriate design measures, and to look at the current practices relating to retention pond rules or standards.

The make up of the task force needs to include the appropriate State, County, Navy, Corps of Engineers, and A/E design professionals that deal with the issue of floods and retention ponds.

We are also concerned about the liability issues and the cost of unfunded mandates that will surely impact costs and risks to Developers, State and County Agencies, Federal Agencies and to Design Professionals.

Thank you for an opportunity to express our views regarding this bill.

Sincerely,
American Public Works Association, Hawaii Chapter

Lester H. Fukuda, P.E., FACEC

nishimoto2-Bryce

From: Allison Schaefer [allischaefer@yahoo.com]
Sent: Sunday, February 01, 2009 11:06 PM
To: HLTtestimony
Subject: Testimony for HB 384

Bill: HB 384
Hearing Info: Room 329
Tuesday, Feb. 3 at 8:30 a.m.

I offer the following testimony in support of HB 384:

Representatives, I come before you today to speak on behalf of my daughter Sharkey Schaefer, who drowned in 2004 while attempting to rescue a friend who had fallen into a poorly built and improperly maintained rainwater pond.

Sharkey would have turned 10 last month if the developers and builders in our Pearl City neighborhood had not favored cost savings over the safety of a human life or consideration for the environment. Sadly, Sharkey's story is not an isolated one. Families all across the country mourn loved ones whose lives were tragically shortened in rainwater ponds.

Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children. Hawaii has one of the highest drowning rates in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. In addition, when rainwater drainage systems are not properly maintained, they also pose environmental risks.

It's a straight forward problem. However, as I learned from last year's legislative attempts, the solution is more complex. That's why I believe that funding a task force to collect data and examine advisability and effectiveness of a detention/retention pond safety program is necessary to ensure the safety of Hawaii's citizens, to protect the environment and to reduce the liability for the city and county of Hawaii, the state and its business owners.

Although I support this bill, I have two recommendations for your consideration. Since I am the person that has brought this issue to Hawaii's attention, I believe that my name should be added to the list of those that would serve on this task force. If at all possible, I also believe that some of the stakeholders in the building industry should also be added to the task force. Hawaii has a critical need to legislate the construction and management of rainwater ponds; however, I understand that businesses need to have a say so in the legislative process if the laws that will govern them are to work. My other two legislative efforts this year HB 881 and SB 1057, which seek to regulate rainwater ponds, came about as a result of meetings with stakeholders and modifications were made.

Hawaii needs this task force. My daughter's death could have been prevented and as a result my family was awarded a \$2 million settlement, a record in the state of Hawaii for the wrongful death of a child. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. Developers knew that the drain pipe that they put into the basin was 89 percent clogged, but choose not to fix it because they said that "the cost to fix it outweighed the liabilities."

Developers also chose to reduce costs by eliminating fencing from their design even though they knew that this pond would be located in a neighborhood where young children lived. While I am not anti-development and I believe that many developers when given the choice will do the right thing, it goes without saying that some will not. The state cannot allow developers to balance their books by taking safety out of the equation, because when they do someone, like my daughter, is going to pay the ultimate price.

Rainwater ponds are designed for water drainage management, not recreation. While in many cases, these ponds can be aesthetically pleasing to the eye, steps must be taken to ensure that people, especially young children, and animals are not attracted to these bodies of water. While in some cases they are necessary for flood control, they often pose environmental and safety hazards.

Drainage ponds are often filled with toxic chemical runoff from surrounding lawns and buildings. They must be monitored so that environmentally toxic sludge and sediment do not build up inside them. If they are not maintained, these ponds may also become breeding grounds for disease carrying mosquitoes and other pests. They may also have potentially adverse affects on water quality, groundwater, cold water, fisheries, or wetlands.

In addition, retention and detention ponds are often deceptive by design, which makes them inherently dangerous for both humans and animals. Retention ponds, often called wet ponds because they are designed to permanently hold water, can be deceptively deep. Many, like the one my daughter died in, have a steep drop at the water's edge. Detention ponds, which are meant to hold storm water for short periods of time before piping the water into surrounding wetlands or natural water beds, may pose an even greater risk because people may not be aware that they even exist.

While I believe that human costs provide the most compelling support for the need to legislate Hawaii's rainwater drainage systems, there are also solid environmental reasons. Above ground rainwater drainage systems are not considered the most proactive drainage solution for our environment. Poorly maintained systems are virtual cess pools where disease and pests can spread. The most progressive green developers across the country now prefer to use porous asphalt or underground rainwater systems which are better for the environment and pose less of a safety risk for citizens.

Now that I have shared my family's tragedy and outlined my concern for Hawaii's people and environment, you must decide what you will do with this information. Just like my daughter, who stood on the banks of a flooded pond and watched her friend struggling, you have a life or death decision to make. Let me remind you that even though the risks were great, my daughter Sharkey didn't hesitate to do the right thing. I know it's a tight budget year; however, we need this task force just like we need insurance to protect our health and our homes and our cars. Surely, Hawaii's children are just as worthy of our support and our protection.

I'm deeply saddened that it took the death of my child, to shed light on this dangerous situation. Please take this opportunity to establish a task force that shows that Hawaii cares about our children and our environment.

My daughter was the most amazing person. She was funny, brave and very, very sweet. She had the biggest heart in the world and she always did what she felt was the right thing to do. She made the ultimate sacrifice for a friend. Passing SB 384 begins the process of reducing the risk that any other child in the state of Hawaii would ever have to do that again.

Submitted by Allison Schaefer, Sharkey's Mom
2238 Auhuhu Street
Pearl City, HI 96782

nishimoto2-Bryce

From: Manu Spaur [mspaur@remax.net]
Sent: Monday, February 02, 2009 9:33 AM
To: HLTtestimony
Subject: HB 384 Hearing scheduled for Feb.3
Attachments: image001.jpg

I offer the following testimony in support of HB 384:

I urge you to support HB 384, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the resolution seeks to improve the health, safety and welfare of the citizens of this state.

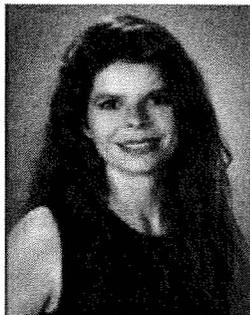
Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for HB 384 and I look forward to hearing a response from your office.

Sincerely,

Manu



Manu Spaur, (R) BIC, ABR, TRC
Broker / Owner

"We are passionate about your Success!"

Aloha Coast Realty, LLC
P.O. Box 1493
Pahoa, HI 96778

nishimoto2-Bryce

From: IAN RAMSAY [iramsay@charter.net]
Sent: Monday, February 02, 2009 6:33 AM
To: HLTtestimony
Subject: HB 384 testimony

I offer the following testimony in support of HB 384:

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Sincerely,

Pam and Ian Ramsay, Sharkey's Grandparents

104 Chinaberry Lane

LaGrange, GA 30240

706-882-6521

I offer the following testimony in support of HB 384:

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Sincerely,

Fern M. Bergeron

114 Hawthorne Circle

LaGrange, GA 30240

706-885-9388

nishimoto2-Bryce

From: Dave Erdman [derdman@pacrimmarketing.com]
Sent: Sunday, February 01, 2009 10:05 PM
To: HLTtestimony
Subject: Testimony of HB 384

I offer the following testimony in support of HB 384:

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Sincerely,

Dave Erdman
President
PacRim Marketing Group, Inc.
2758 S. King St.
Honolulu, HI 96826-3345

derdman@pacrimmarketing.com
808-949-4592 x 833

Rep. Ryan I. Yamane
Chairman, House Committee on Health
37th Representative District
Hawaii State Capitol, Room 419
415 South Beretania Street
Honolulu, HI 96813

Feb. 2, 2009

Dear Rep. Yamane:

Please schedule a hearing on HB 384. I offer the following testimony in support of this resolution:

I urge you to support HB 384, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the resolution seeks to improve the health, safety and welfare of the citizens of this state.

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Sincerely,

Christine and Allen Seta

Tel: 225-0971