

LATE TESTIMONY

House of Representatives
The Twenty - Fifth Legislature
Regular Session of 2009

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

NOTICE OF HEARING

DATE: Monday, Feb. 23, 2009

TIME: 9:30 a.m.

PLACE: Conference Room 325,
State Capitol, 415 South Beretania Street

SUBJECT: HOUSE BILL HB 791, RELATING TO COUNTIES

Dear Mr. Ito and Ms. Har:

I strongly oppose HB 791 for the very reasons I have opposed the diminishment of residential neighborhoods for the past 7 years (and have spoken strongly against them): **CONCENTRATIONS** of business/commercial establishments have no place in them ! Period !! HB 791 is a completely absurd distortion of truth. Those of us living in residential neighborhoods, by choice because we believe in family, children, senior citizens, yards, trees, birds and the other advantages of co-mingling in groups and reasonable quiet enjoyment of our spaces **ARE NOT** 'discriminating against society's most vulnerable citizens, our seniors, by enjoying these rights. No, I would say, as reasonable, compassionate and sane people **WE** are being discriminated against because my rights to these enjoyments are being threatened not by a single care facility, here and there in the neighborhood, but by the **CONCENTRATION OF THESE FACILITIES**. Reasonable distance standards **MUST BE IN PLACE** so that we can all live harmoniously and no one group is made to yield unfairly to the dominance of one or the others' opinion.

How do you define discrimination ? Asking for distance standards is not discrimination against our seniors but rather a reasonable objection to nonsensical guidelines put forth by a lobbying force that just happens to have the big bucks to move this absurd bill which will keep them in lobby heaven. **THIS IS A VERY LUCRATIVE BUSINESS** and our poor seniors are being used as pawns by these henchmen to lobby for their high dollar care facilities (\$6000-8000 a month per patient). No, it is **NOT** the seniors that we 'discriminate' against. I 'discriminate' against a concentration of business or commercial facilities that would be allowed to be placed in a neighborhood with no minimum distance standards. But because the lobby folks use the word 'seniors' and say these 'seniors' cannot represent themselves as they are the most vulnerable citizens in society, you sure enough get the greater attention and make a tremendous selling point (pass the

apple pie please and let's not be late for the baseball game !). Phooey, the seniors are well represented because the care facility owners and their lobbyists are making so much money, they can afford to pay attorneys, etc. to keep this debauchery going. Just do the math at \$6000-\$8000 a month per patient times 5-8 rooms per care facility times the number of new facilities you could build congruently if there were no reasonable distance standards. Ladies & gentlemen, please Do not be fooled by this type of sinister, for-profit and greed legislation.

Sensibility must be employed. We designed residential neighborhoods for a reason. Let us not forget the value in quiet and peaceful enjoyment of our homes and yards.* Strategically and sensibly placed residential care facilities could be assets to our neighborhoods keeping our seniors close to their families as they age. But without reasonable distance standards, the compromise of the community would outweigh the value very quickly.

Now please do the RIGHT AND REASONABLE THING BY OPPOSING HB 791 TODAY. Thank you for the opportunity to give testimony on this issue.

Sincerely,
Linda LeGrande



*Residential care facilities and their disturbances to the neighborhood include:

Increased vehicular traffic that comes with the operations of these facilities have impacted substandard streets in our older neighborhoods and presented numerous problems. We have emergency vehicles, handi vans, delivery trucks, maintenance folks, visitors of the patients and caregivers being dropped off and picked up continuously.

Increased noise from emergency and delivery vehicles.

Medical waste blowing from the care facility trash cans into neighboring yards.

Health issues: care workers at these facilities, who cannot smoke on site, must walk outside in the yards to smoke cigarettes. This is an inconvenience, at the very least, to the neighbors.

Health issues: any outbreak of a contagious disease could spread more quickly to 'society's most vulnerable citizens' were the concentrations of facilities allowed.

Safety issues: with density of these concentrated facilities and greater number of seniors, how do you get these folks out quickly in an emergency, i.e. fire, flood ?

AS AN ASIDE:

John Whalen, former City Planner, testified at a legislative hearing during the 1970's – 80's that there should be minimum distance standards between these care homes because they tend to be larger than a typical single-family residence. The adverse effects of having a concentration of ARCHs on a residential street was already beginning to be evident in certain neighborhoods of Waipahu and Kalihi during those years. The head of licensing at DOH appeared at the same hearing and convinced the committee that her department would develop distance standards through administrative rules, so the statute was not amended. **THIS WAS NEVER DONE !!** Nobody thought that these developers would build contiguous mega complexes on a single block of residential zoned property when the land use rules were created dealing with housing and care of our Kupuna.

LATE TESTIMONY

House Bill 791 Relating to Counties

Hearing Date: 2/23/09; 9:30 a.m.

Chair, Committee on Water, Land and Natural Resources

Rep. Ken Ito

My name is Dori Rybacki-Smith and I am opposed to House Bill 791 prohibiting any county restrictions on minimum distance between group homes.

I am opposed to the measure, as the wholesale prohibition does not permit any performance based zoning to address the actual impact that occurs as a result of the placement of group homes in existing neighborhoods. Group homes are a desired and growing composition of many neighborhoods and allow residents to remain in more comfortable and home like atmospheres.

Performance based zoning as identified in Senate Bill 673 permits Counties to address the additional needs and impacts that group homes have on existing neighborhoods including noise, commercial deliveries and parking.

Performance zoning provides for the more harmonious integration of group homes into existing communities, which is beneficial to both the existing community and the group homes.

LATE TESTIMONY

Sharon Schneider

House Bill 791

Public Hearing
Monday February 23, 2009
9:30am Conference Room 325
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Committee of Water, Land, and Ocean Resources
Rep. Ken Ito, Chair
Rep. Sharon Har, Vice Chair

Rep. Ito, Rep. Har,

I am opposed to HB 791 as it gives the state power for local zoning which should be the purview of the counties. Elder care homes are appropriate in residential neighborhoods but should not be allowed carte blanche in establishing these businesses in such neighborhoods, changing its' residential character. These care homes are businesses with the accompanying impacts on it's neighbors - noise, traffic, parking, biowaste and general strain on infrastructure. Residential neighborhoods should be allowed to retain its' character by limiting the density of businesses within it.

I am strongly opposed to giving the state power over local jurisdictions. Please do not pass this bill.

LATE TESTIMONY

House Committee on WLO
February 23, 2009 9:30 AM LATE
HB 791 Group Living Homes
Testimony in Support - Netra Halpern

Chair Ken Ito and VC Sharon Har and members of the WLO committee.

In the Nevada Case against Clark County, the U.S. district court struck down a similar Clark County Nevada ordinance that required a minimum distance between care houses where elderly and disabled persons live.

The court ruled that the Clark county ordinance that required minimum distance between care homes where elderly and disabled person live is void as against public policy and in violation of the Federal House Law that prohibits discrimination on that basis.

The situation is more compelling in Hawaii as Hawaii's constitution also prohibits discrimination based on age. This bill will put Hawaii in compliance with the Federal Law and Hawaii constitution. The Federal court opined that Elderly and disabled may not be treated any differently from an abled-bodied, non-elderly person.

The State of Hawaii must correct this situation to avoid a Federal Lawsuit and liability for court costs and attorneys fees of the Federal government.

To allow counties to discriminate against society's most vulnerable citizens, the elderly and disabled should be deemed offensive to every elder, disabled and decent minded person in Hawaii.

The City and County of Honolulu ordinance that likens and groups old folks' homes to that of a residence that houses sex abusers, drug addicts, and ex-cons, should not only be redefined, but is extremely offensive. To classify elderly care home operations as possessing the same risk factor upon a neighborhood in equal proportion to those group homes that shelter recovering heroin addicts, rapists, or car thieves is both archaic and counterproductive when you factor that 25% of our population by 2020 will be of an age in need of elderly care. We will all become elderly someday and should not be treated as those in half way houses or substance abuse recovery facility.

I personally want elders "in my back yard." I would give anything to have the convenience to turn off my television set and walk across the street to hear war stories and about the times when everyone in a "neighborhood" trusted and looked out for one another.

This bill if passed into law would have permitted our elders to capture their final breaths in the neighborhoods they so choose. There would be no discrimination, restrictions, or prohibitions upon those of us that as we age, have sought to share that experience collectively with others to save costs. Thank you for allow me to testify.

February 23, 2009

Honorable Ken Ito and members of the Committee,

My name is Dr. Inam Rahman, a medical doctor. I am in support of HB 791. What this bill is trying to address is to provide more living facilities for the elderly, the handicap and disabled. By limiting the distance wherein they can live is a discriminatory act towards them.

Furthermore, lumping them to the "group home" category, I find offensive. In the same category as "group home" are recovering drug addicts and criminals that just got out of jail.

This is not a violation of the "home rule" issue but rather an equal access issue. The oppositions to this bill are those that want to keep their community the way it is, but they will be aging too some day.

The current ordinance is discriminatory and offensive to say the least.

I urge you to pass this measure. Thank you for your fair consideration.