



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary**

March 22, 2013 2:00 p.m.

S.B. No. 88, S.D. 1, H.D. 1: RELATING TO INTOXICATING LIQUORS IN PUBLIC HOUSING

Chair Rhoads and Members of the Committee:

This measure would prohibit the possession of an “open” liquor container in a public housing project. We believe that this goes beyond the purpose of §281-78, H.R.S., which proscribes the consumption of liquor in specified areas.

We understand that the proponents of this measure would like to prohibit the possession of an open container to make it easier to catch and prosecute people drinking alcohol in a public housing project. They claim that it is difficult for a police officer to make an arrest under the current law because the perpetrator has to be caught in the act of drinking the alcohol before an arrest may be made. We disagree. We represent hundreds of clients each year who are arrested or cited by police officers for consuming alcohol in public. The officers do not seem to have a problem observing the act of consuming alcohol.

The problem with prohibiting the possession of all open liquor containers without having to prove consumption is that people who are coming home from a party with a partially consumed bottle of wine, or liquor will not be able to carry it from their car to their public housing unit. A person having a drink in a neighbor’s apartment would not be able to bring his unfinished drink home. It is not yet illegal to possess or consume alcohol in the dwelling unit of a public housing project. It should not be illegal to possess a previously opened container of alcohol while traversing to and from one’s apartment.

Our office respectfully opposes S.B. 88, S.D.1,H.D.1. Thank you for the opportunity to provide input on this measure.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON JUDICIARY

March 22, 2013 2:00 P.M.
Room 325, Hawaii State Capitol

In consideration of

**Senate Bill 88, Senate Draft 1, House Draft 1
Relating to Intoxicating Liquors in Public Housing**

Honorable Chair Rhoads, and Members of the House Committee on Judiciary, thank you for the opportunity to provide you with comments regarding Senate Bill (S.B.) 88, Senate Draft (SD) 1, House Draft (HD) 1, relating to intoxicating liquors in public housing.

The Hawaii Public Housing Authority (HPHA) supports the enactment of this measure, which would prohibit the possession or storage of open containers holding intoxicating liquors on any sidewalk or common area of a public housing project under the jurisdiction of the HPHA.

Section 281-78, Hawaii Revised Statutes (HRS), currently prohibits the consumption of intoxicating liquors on public sidewalks, including any sidewalk within a public housing project as defined in sections 356D-1 and 356D-91, HRS. It further prohibits the consumption of intoxicating liquors in public housing common areas. However, there are two deficiencies with the statute that the agency believes need correction.

First, this prohibition can be difficult to enforce since it is limited by the word "consumption" which requires that either: A police officer visibly observe a perpetrator in the action of imbibing intoxicating liquor; or a witness be willing to testify to visibly observing a perpetrator in the action of imbibing intoxicating liquor. By broadening the prohibition to storage and possession, the requirement of physically observing a perpetrator in the act of imbibing in order to support prosecution is removed. Violations would be easier to report and enforce, thereby promoting a reduction in violations of the prohibition.

Second, the statute is limited to public housing projects as defined in sections 356D-1 and 356D-91. These statutes correspond only to properties in the HPHA's Federal low-income public housing inventory. By changing the statute to refer to public housing projects as defined in sections 356D-1 and 356D-51, the prohibition would apply to the HPHA's State low-income public housing in the same manner.

The HPHA appreciates the opportunity to provide the House Committee on Judiciary with the agency's position regarding S.B. 88, SD 1, HD1. We respectfully request the Committee to pass this measure favorably, and we thank you very much for your dedicated support.