

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fifth Session
February 23, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:01 a.m. on Monday, February 23, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Ed A. Goedhart
Assemblywoman April Mastroluca
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

GUEST LEGISLATORS PRESENT:

Assemblyman Joseph M. Hogan, Clark County Assembly District No. 10

STAFF MEMBERS PRESENT:

Scott McKenna, Committee Counsel
Susan Scholley, Committee Policy Analyst
Cyndie Carter, Committee Manager
Denise Sins, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Jon L. Sasser, Statewide Advocacy Coordinator, Washoe Legal Services,
and Washoe County Senior Law Project, Reno, Nevada
Rhea Gertken, Directing Attorney, Nevada Legal Services, Inc.,
Las Vegas, Nevada
Kim Robinson, Directing Attorney, Nevada Legal Services, Inc.,
Carson City, Nevada
Howard Wasserman, Interim Executive Director, Housing Authority of
Clark County, Las Vegas, Nevada
David C. Morton, Executive Director, Reno Housing Authority,
Reno, Nevada
Judith Lopez, Private Citizen, Reno, Nevada
Patricia Williams, Private Citizen, Reno, Nevada
Zelda Ellis, Director of Operations, Las Vegas Housing Authority,
Las Vegas, Nevada
Matthew T. Cecil, Attorney, representing Las Vegas Housing Authority,
and Clark County Housing Authority, Las Vegas, Nevada
Jo Ann Ellers, Director of Asset Management, Reno Housing Authority,
Reno, Nevada
Genevieve Cavanaugh, President, Silverada Manor Resident Council,
Reno, Nevada
Faye Jones, Member, Silverada Manor Resident Council, Reno, Nevada
John Blake, Deputy Executive Director, Reno Housing Authority,
Reno, Nevada
Ernest E. Adler, Attorney, representing Nevada Rural Housing Authority,
Carson City, Nevada

Chair Kirkpatrick:

[Roll taken.] Mr. Hogan, would you like to come forward and tell us about
Assembly Bill 143?

Assembly Bill 143: Provides for judicial review of certain decisions of a housing
authority. (BDR 25-802)

Assemblyman Joseph M. Hogan, Clark County Assembly District No.10:

In this time of profound concern about the ability to provide housing for the people of the nation and the people of Nevada, I am very pleased to introduce A.B. 143. This bill would allow an applicant, whose application for assistance has been denied by a public housing authority (PHA), to ask a court to review the correctness of that decision. The bill adds to *Nevada Revised Statutes* (NRS) 315.007, which was created by Assembly Bill No. 355 of the 73rd Session, and sponsored by former Assemblywoman Chris Giunchigliani.

[Assemblyman Hogan read from prepared text ([Exhibit C](#)).]

I believe you will hear from witnesses after me that A.B. No. 355 did not lead to a flood of litigation. Judicial review has been used quite sparingly, and most cases have been settled prior to any court decision.

I ask that you pass A.B. 143 so that, like people whose unemployment compensation benefits are denied, applicants for housing assistance may have their denials reviewed by a court to determine whether they are lawful.

With the permission of the Chair, I would like Jon Sasser to further explain the bill.

Jon L. Sasser, Statewide Advocacy Coordinator, Washoe Legal Services, and Washoe County Senior Law Project, Reno, Nevada:

[Jon Sasser read from prepared text ([Exhibit D](#))].

I want to thank Assemblyman Hogan for sponsoring A.B. 143, which provides a court review of a denied application for assistance by a PHA.

If your application for Nevada Check Up is denied by the Division of Health Care Financing and Policy, you have a right to a court review of that decision. If your application for Temporary Assistance for Needy Families (TANF), food stamps, Medicaid, or any other form of public assistance, is denied by the Division of Welfare and Supportive Services, you may seek judicial review. If your application for general assistance or county medically indigent assistance is denied by your county department of social services, you can go to court and have them review that decision. If your application for unemployment compensation benefits is denied, you may go to a court to see if that decision is correct. However, if a PHA denies your application for housing assistance, you are out of luck. You are stuck with that decision, and if you reapply, you must go to the end of the line, and it often takes one to two years to reach the front again.

Assembly Bill 143 remedies that situation. It expands on A.B. No. 355 to provide judicial review of PHA decisions denying applications, by amending subsection 1 of NRS 315.007 as follows: "The decision of a housing authority to (a) Deny a person's application for housing assistance; (b) Deny a person's admission into any program operated by the housing authority; or (c) Terminate a person's housing assistance, is a final decision for the purposes of judicial review."

Since this bill was introduced, I was approached by former Senator Ernie Adler, who represents the Nevada Rural Housing Authority (NRHA), and he expressed two concerns. One concern is that if an applicant applied for a stay pending judicial review, a housing unit would have to be held vacant, therefore denying another low-income person housing until the court made its decision. I informed Senator Adler that I do not believe that would be the result under the current provisions providing a stay, which are located at NRS 233B.140. However, if there was any concern on his part or on the part of this Committee, I would be happy to support language such as, "any stay granted by a court under NRS 233.140 shall not require a housing authority to leave a housing unit vacant pending the court's decision. Should the court reverse the decision of the housing authority, the applicant will receive the next available unit."

Senator Adler has not responded to that suggestion to date, but what we are concerned about is people having to go to the end of the line and waiting a year or more for action on their claim. We are not taking the position that a housing unit must be held open for that person, because that would deny other clients that very precious housing.

The second concern that Senator Adler expressed is that his program provides other types of assistance besides housing. They take applications for the energy assistance program, and then their eligibility is determined by the Welfare Division. They also take applications for weatherization, down payment assistance, and security deposit assistance. Mr. Adler was worried that these programs would be subjected to judicial review.

I am kind of a due process purist, so I am not sure why these programs should not be subject to judicial review, but our main concern is housing assistance. If it makes the Senator or the Committee more comfortable, I certainly would support a decision limiting judicial review to programs that provide housing assistance.

David Morton, Director of the Reno Housing Authority (RHA), led the opposition to A.B. No. 355 for the PHAs. I also contacted him to see if he had any

problems with the bill that we might work on. He stated that he would oppose the bill, and I would expect him to do so this morning.

The sponsor of the bill was kind enough to share a letter ([Exhibit E](#)) with me from Mr. Morton, outlining the reasons for his opposition, as well as a letter signed jointly by the officers of the Silverada Manor Resident Council ([Exhibit F](#)).

As in 2005, Mr. Morton suggested the bill is well-intended but misguided legislation that would prove costly and harmful. It would force PHAs to take back many former tenants who were evicted for cause, and to accept new applicants with dangerous criminal histories, who could jeopardize other residents.

Mr. Morton and the Resident Council correctly point out that admission to these programs is governed by federal law and regulations. They fail to point out that no attorney would file, and no court would grant a petition for judicial review, unless the PHA failed to follow those laws. Under these petitions, courts do not offer evidentiary hearings, do not hear the case de novo, and the burden of proof is on the person filing the petition. A deference is provided to the agency in terms of any filing of findings of fact they have made.

In order for the court to overturn the housing authority's decision, the criteria are stated in NRS 233B.135:

There must be a violation of constitutional or statutory provisions; the decision must be in excess of the statutory authority of the agency; it must be made upon unlawful procedure; affected by another error of law; be clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or must be arbitrary or capricious. In other words, the housing authority must really be guilty of wrongdoing before a court has the authority to overturn their decision.

Petitions for judicial review go to district court. They require formal pleadings, and as a result, are difficult to file pro per, without substantial assistance from an attorney.

Because these low-income residents have insufficient funds to hire an attorney, they, by necessity, go to legal services programs that provide assistance without cost. Those legal services programs are already overwhelmed with cases, are understaffed, and have no desire or ability to bring of frivolous litigation, as Mr. Morton suggests.

When I made this point in 2005, Mr. Morton said he was dubious that there would be only one or two cases filed. He was wrong. Looking at the attachment to my testimony, which is a printout of all the cases in which the RHA has been the defendant, there has been only one case filed against them since this new law went into effect in October 2005. That one case is a judicial review case, *Ronald Clewlow vs. Housing Authority of Reno*. It was filed pro per, with the assistance of the Washoe County Senior Law Project.

Relatively speaking, the RHA has few of these problems. As you will hear from other witnesses, there have been a few more in other counties. I believe there have been only 13 petitions for judicial review filed statewide since this bill passed in 2005. Almost every one was settled favorably for the tenants or is still pending.

Mr. Morton argues that because admissions criteria are largely controlled by federal law, these decisions are inappropriate for judicial review. That argument makes no sense. In the bill passed in 2005, the rules governing terminations from Section 8 housing are also controlled by federal law. That is the law the court applies in those types of cases. Denials of other programs operated by state agencies are also governed by federal law. Mr. Morton knows that almost all these cases, including the vast majority that are turned down, are either due to no shows, withdrawals, or insufficient verification filed by a tenant. The issue with most state agencies is whether or not the verification supplied by the client is sufficient, and is the verification that has been requested lawful. Are they the ones who get the verification or does the tenant? Some of those cases do rise to the level of judicial review.

In 2005, senior residents of the Silverada Manor and other RHA complexes became alarmed that dangerous tenants would not be evicted from their complex. The bill was narrowed to exclude public housing evictions. The bill still does not cover that topic.

Now the Resident Council has been stirred up again. Their letter to the bill's sponsor states that this is an attack on the effort to keep sex offenders, persons with a recent history of drugs and violent criminal activity, and other highly undesirable persons out of the housing authority's programs. I do not know why anyone would attribute that motive to me or the legal services programs I represent. These residents are our clients. They come to us when they face eviction from the housing authority.

As noted, PHAs make mistakes. The Housing Authority of North Las Vegas is now losing its entire Section 8 program due to mismanagement. There is an article in your handout from the *Las Vegas Sun* describing that incident.

Even in the sensitive area of sex offenders, mistakes can be made. For example, a case came from one of the Clark County housing authorities, in which a person was being excluded for life because of a crime involving criminal sexual conduct. That gentleman was an African American of some age who had been prosecuted under the sodomy laws of the Deep South because he was gay. All those laws have been taken off the books, and we were able to finally, successfully negotiate his admission to the program.

In summary, the PHAs cried wolf last time. The predicted problems did not arise. They are public agencies making decisions regarding who does and who does not receive a benefit of vital importance to the client. In this day of transparency and accountability, there is no rational basis for treating their decisions any differently than those of other state and local agencies. What is there to fear in having a court decide whether a PHA's decision should be upheld under this very narrow, strict scope of review?

Assemblyman Bobzien:

I appreciate your willingness to work with Mr. Adler, and I look forward to hearing from him as to whether or not those suggestions would help bring things together.

Anytime you are talking about expanding scope, there is always a concern that this could become burdensome. I think your willingness to put someone on this, to make sure we are just taking the next baby step, is laudable. At the beginning of your testimony, you listed a series of other programs and services that have a judicial review component, and I would imagine a lot of those have a significant federal aspect to them. Could you go a little bit deeper into those examples to highlight other situations where there are federal processes or applications involved for which we have a state judicial review?

Jon Sasser:

One example would be decisions denying applications by the Division of Welfare and Supportive Services. They cover the TANF program, the Medicaid program, and the Food Stamp program, all of which have extensive federal rules regarding how much income someone can have, family size, whose income counts, whose does not, what level of assets or resources may be allowed, citizenship requirements, and employment requirements. All those detailed qualifications in the federal law are reflected in local rules and regulations. Those are very similar to the types of decisions the housing authority makes in deciding who qualifies for its programs.

Senator Adler offered me an amendment, seen this morning for the first time. It does not allow judicial review. It simply adds another level of administrative

review, which will be spoken of later during testimony. If that is the solution, I would have problems with it.

Assemblyman Goedhart:

Is judicial review going to be in the jurisdiction of the Nevada district courts?

Jon Sasser:

Yes, these are district court cases because they involve complex issues of law. These are just a review of the record below by the court; they do not involve taking any additional evidence unless there is some charge that the proceedings below were unlawful. Each party files a brief, and the court, usually without an oral argument, decides whether the decision should be reversed, remanded, or allowed to stand.

Assemblyman Goedhart:

It would not be handled at the Justice of the Peace level; it would be handled at the district court level. Would there be an opportunity to appeal that to the Nevada Supreme Court?

Jon Sasser:

Yes. If that case were lost, there would be that opportunity. In terms of all the other judicial review statutes, from all the other agencies I spoke of, I have seen very few cases appealed to the Supreme Court in the past 20 years. I do not believe the floodgates of litigation are open.

Assemblyman Goedhart:

Is this legislation that might have been patterned after another state? Do we have any other states that would have set a precedent in terms of developing similar avenues for judicial review?

Jon Sasser:

Yes. I reviewed the testimony from 2005, and there was testimony at that time indicating 20 states offered some type of judicial review. In some states, it is offered because housing authorities in those states are considered state agencies and are covered by the State Administrative Procedures Act. In others, there are special processes set up for them, just as there would be in this case.

Assemblyman Munford:

Your bill is set up to determine who can be denied or accepted for housing assistance, and if they are denied, they have some type of due process to determine why they have been denied. Also, if they are already tenants living in a housing complex, and are evicted for a seemingly unjust reason, this bill gives

them some type of vehicle or availability to question the reason they feel it was unjust and unfair; is this what this bill is supposed to do?

Jon Sasser:

You are partially correct. This bill has nothing to do with evictions or terminations and a judicial review of those. Again, the 2005 bill gave an appeal from a termination of your housing voucher. In order for a housing authority to actually evict someone from possession, they have to file an action for eviction in justice court, so there is already a court action there. This does extend it to denials of applications for housing assistance. If you apply and are turned down, you should get at least an informal review within the housing authority. Once their decision is final, you would have the ability to have a court review it under this very narrow scope of review that I have just described.

Assemblyman Munford:

I have many of these Housing and Urban Development (HUD) housing complexes in my district. I live right across the street from one. I get calls all the time. I get calls from those being evicted and from people who want housing. Sometimes, I have no answers for them regarding what their rights are, what the process is, and how they can be given consideration for housing. I have sat in on quite a few eviction hearings, and many of those cases are handled by legal services or on a pro bono basis. I act as an arbitrator. I have received letters from people who disagree with what you are proposing to do today. Some of what they say seems to have some legitimacy and merit because I hear it all the time. I am caught in-between. I have heard both sides consistently, not just once in a while. I am closely watching and listening.

Jon Sasser:

No one wants to live next door to a pedophile. No one wants to live next door to somebody who is engaged in dangerous, criminal activity. That is not what this bill is about. We are not trying to get those types of people into housing. We are trying to make sure the current laws enacted by the federal government and HUD are followed. If someone is denied an application, and those laws have not been followed, we would like the opportunity to have an impartial, third-party judge take a look at that law and see if a PHA made a mistake. The housing authority would have to have made a really bad mistake before a court could reverse the decision. We are not opening the floodgates to undesirable tenants moving in. You will hear examples from other witnesses of the kinds of factual situations that we deal with regularly.

Assemblyman Stewart:

I noticed there is no fiscal note in the bill for the local government. However, if this goes to court, the housing authority has to hire lawyers. The housing

authority is paid for by taxpayers, so indirectly, there is a cost to the taxpayers; is that correct?

Jon Sasser:

I believe in 2005, the Administrative Office of the Courts said they could not predict what level of litigation this would involve. I think you will hear, again, the last bill created 12 or 13 court cases in the last four years. I do not think that level justifies the hiring of new court personnel at the court level. At the PHA level, there would be some legal expenses involved. Again, I believe every one of these cases settled; they did not involve writing briefs in court or take extensive amounts of a lawyer's time. Once the PHA consults their lawyer and they look at our arguments, by and large, they find our position is reasonable and we are able to work something out. It is not so much the cases that are brought forward, it is (1) the impact on the behavior of the PHA, knowing that court review is available, and (2) the ease of settlement, knowing that they will have to justify their position to a judge if they do not settle the case. I am not saying there is no expense to the PHA. Their funding is virtually all federal. The experience of the last four years shows their expenses to be nominal.

Assemblyman Settlemeyer:

I appreciate the amendment to the bill not requiring the house to be left vacant or open.

How many times do people appeal who do not meet the criteria for HUD? It seems rather simple; why allow somebody judicial review if they cannot meet the eligibility requirements? How often does that happen?

Jon Sasser:

If they are working with a legal services lawyer, we would never appeal if we did not feel they had met HUD's admission criteria, because that is the law that a court will be applying in reviewing the correctness of the decision. We would only bring cases in which we believed they had met the criteria.

Assemblyman Settlemeyer:

If we made that change to this bill and indicated that they have to have met the eligibility requirements for HUD, would it be a problem for you?

Jon Sasser:

I think that is already encompassed in the Adult Public Assistance (APA) standards, but I am certainly open to some language like that.

Assemblyman Settlemeyer:

Of a similar concept in another bill in the Commerce and Labor Committee, we had a provision set forth that if the individual did not show up for a meeting, then he could not appeal. How do you feel about concepts such as that? I see that is one of the concerns of more than 3,000 applicants.

Jon Sasser:

Certainly, if you do not show up, you have defaulted. On the other hand, there are some very limited cases where someone may have a good cause for not showing up. Perhaps the notice was not received, or there was no notice given. For example, in the unemployment compensation field, there are detailed state regulations that go into what constitutes good cause for not arriving, and a process for seeking a new hearing. With that exception, for good cause, I agree; if you do not show up, then you lose.

Assemblyman Goedhart:

Do we still have any type of intermediary review process that currently falls short of this petition for judicial review? Do we have a board or review committee that does not have to take it up to the court level?

Jon Sasser:

It is my understanding there is a requirement under federal regulations for an informal review by an employee or someone else designated by the housing authority. The five housing authorities in Nevada each do it somewhat differently. In the Reno Housing Authority, there is a tenant/resident council representation on the board for some of these types of decisions. In others, it is simply another employee of the housing authority. I do not believe other authorities have been offering the informal review. Mr. Adler apparently wants to offer it, but I believe they are already required to do that. There is some level of intermediate review, but it differs across the board with the various housing authorities.

Assemblyman Goedhart:

So you are saying there is not really a uniform method of a review. In some cases, it might be one individual, and in other cases you might have a fairly decent review board set up. It is variable across the state.

Jon Sasser:

That is certainly my understanding.

Chair Kirkpatrick:

I live in North Las Vegas, and we have had the housing debacle. A lot of folks were not getting placed and their applications were not being heard. I am

wondering if things work differently in the north than they do in the south. I know that in the south, we are working to consolidate that whole housing mess. It is unfortunate that a lot of money was wasted and many people did not have a roof over their heads at times. What happens now on the North Las Vegas case? The people never got a hearing, the money was mismanaged; would this process have brought light to the situation a little bit sooner? When I was out walking door-to-door, I ran into a lady who worked for that housing division who was beside herself hearing all the crazy stories. I have to wonder whether there was some type of review process that North Las Vegas could have employed sooner. Do you think that would have helped or hurt the process?

Jon Sasser:

It certainly would not have hurt, and I believe it would have helped. When housing authority employees know that their decisions are going to be transparent, and they are going to be accountable to a court for their decisions, that leads to a better quality decision and gives the lawyer representing the tenant one more tool to deal with the situation.

Chair Kirkpatrick:

Unfortunately, we received a lot of correspondence today in response to this bill, and I have several complicated questions for staff to research, so I will give them ample time to get back to the Committee.

Assemblyman Hogan:

In response to the question raised by Assemblyman Munford and yourself, we are approached by individuals who had problems with agencies, including housing agencies. There is almost nothing more frustrating than to check out a situation and have to come back to the constituent and say, "Unfortunately, you have run into a situation where there is no review. The reasons you give me for believing you have been unfairly or incorrectly denied sound absolutely valid to me, but unfortunately, there is nowhere to go with your complaint; you are out of luck." This is very disturbing and a very hard message to have to carry back to people. Quite often, the response is, "Well there ought to be a law." So, here we are.

Chair Kirkpatrick:

In Reno they do things much differently than in Clark County, so I will save this question for one of the Reno representatives.

Jon Sasser:

With the Chair's permission, there are two witnesses here from Nevada Legal Services, one from Las Vegas and one from the Carson City. It would be

helpful if you could have Ms. Rhea Gertken from Las Vegas speak first, in terms of giving a little overview, and the witness from the north can follow, with the Chair's permission.

Rhea Gertken, Directing Attorney, Nevada Legal Services, Inc., Las Vegas, Nevada:

[Ms. Gertken referred to her handout ([Exhibit G](#)) as she spoke.]

Nevada Legal Services is a nonprofit organization providing free legal services to low-income Nevadans. We are a statewide agency with offices in Carson City, Elko, Reno, and Las Vegas. Nevada Legal Services is funded through various sources, but primarily, we receive funding through the Legal Services Corporation, via federal grants. We assist low-income Nevadans with a host of legal issues in an attempt to alleviate the effects of poverty. We assist individuals with denials of welfare benefits, unemployment compensation, and housing assistance.

While we do significant outreach throughout the state, we assist clients who come to us, seeking our assistance because something has happened to them. We have intake procedures to screen all our applicants, and then we have weekly meetings to discuss each case that comes to us to determine what level of representation we can provide. We then determine if we are actually going to take a case for representation in court or an administrative proceeding, and whether or not we can assist the individual.

Tenants in subsidized apartments, as well as Section 8 recipients, come to us seeking assistance for evictions from public housing and terminations of their public housing assistance. We do not see a large number of denials of applications, but rather we see primarily evictions and terminations of assistance.

Nevada Legal Services does not intend to circumvent any federal law in supporting the bill for judicial review of denials of applications. We understand that federal law has strict guidelines on who is eligible, and who can be admitted to the housing programs.

There is a lot of discretion left up to the housing authorities when it comes to denying and/or terminating someone's assistance. We have come to some disagreements with the housing authorities on who actually is eligible for housing assistance. We are not looking, and could not look, to have a court allow an applicant that is not eligible into subsidized housing. We do have disagreements on some facets of what eligibility might mean, but a lot of times

even though applicants are not necessarily mandatorily prohibited from the program, there is a certain level of discretion involved.

Having a court with the ability to review a decision of a housing authority is a way for us to ensure that all eligible families do receive the housing assistance they need. While denials for criminal backgrounds are one of the biggest reasons that people would come to us for assistance, some people are denied because they do not follow through, fail to provide requested information, or fail to attend meetings. I do believe some others have indicated problems regarding criminal backgrounds. This is not the only reason someone might be denied assistance, and certainly not all crimes are grounds for denial of assistance.

Another area where we have seen people's applications denied is if they owe a debt to a housing authority. I actually had one instance where someone had a debt to a different housing authority that was extremely old and beyond the period of statutory limitations for collection of the debt. We have also seen instances where someone has been denied because they owe money to an entity that is not a public housing authority. We do not feel that is an actual ground for denying an application for housing assistance.

Housing authorities have avenues for appeals of denials of applications. They are varied.

I had the experience of working in the Reno office of Nevada Legal Services. I do have some experience across the state working with different administrative procedures.

In Clark County, most of the housing authorities have informal hearings in front of their hearing officers to review appeals of denials of applications. The only other avenue, after the hearing officer reviews the case, is to bring the issue to the board of the housing authority, or file a complaint in federal district court to review the denial of application for assistance.

Since 2005, there have been only seven petitions filed for judicial review in terminations of assistance appeals in Clark County. Five of those have settled and two are currently active. The vast majority of cases are negotiated prior to bringing litigation with the housing authorities. Our goal is to resolve all cases amicably and favorably with the housing authorities, prior to instituting any court action. We wish to assist our clients in the best way possible, to have a court review for denials of applications, in addition to the review of terminations of assistance. The court has the authority and the desire to provide good results for eligible families, enabling them to receive the housing assistance they deserve.

Chair Kirkpatrick:

Thank you. Does anybody have any questions for Ms. Gertken? Is there anybody else from Las Vegas who would like to testify in support of this bill? Is there anybody here from Carson City who would like to testify in support of this bill?

Kim Robinson, Directing Attorney, Nevada Legal Services, Inc., Carson City, Nevada:

We want to reiterate, there have been no floodgates of litigation opened as a result of the 2005 legislation. In the north, since 2005, we have taken five cases to judicial review. All five cases were settled prior to any court decision. We find that if we couch these cases in the posture of judicial review, we can then deal directly with the housing authority's attorney and adequately argue the legal merits of the case. Through our briefs and discussions, we have been successful persuading the housing authority that our positions were correct.

Mr. Adler has given Mr. Sasser a proposed amendment to this bill. In that amendment, he wants to propose that an informal review process be conducted by another employee of the housing authority who was not part of the original decision on the application. I would like to point out to the Committee that this provision and capability is currently available under federal law and under the federal regulations governing the public housing authorities in the United States. The informal review option is supposed to be part of all applicants' denial letters, giving them specific procedures which they can follow to request an informal review.

This can be problematic, as the review process would be handled by a different person from the same office, rather than by someone who is more impartial and open-minded. Currently, as federal laws are written, there are other decisions that are not subject to informal review, such as applicants' eligibility factors, internal policies, or discretionary decisions by the caseworkers.

I have personally come across cases in which an applicant was denied because of a discretionary decision based on the applicant's actual income. The applicant was working part-time with a variable schedule that was not providing a regular amount of income every week. She was also receiving her unemployment benefits, which does count as income under housing authority guidelines. As there was no uniform amount of income received every month, the housing authority's decision was based on an average of her past 18 months' income, which resulted in an ineligible claim by a matter of \$250.

In decisions of this nature that are not subject to judicial review, it often cannot be accurately determined whether or not the housing authority's decisions are arbitrary and capricious. If we subject such discretionary decisions to a judicial review, a thorough and necessary examination of the evidence will take place, ensuring a fair, unbiased ruling on housing authority decisions. We are not going into a de novo examination of the facts of the case, but just the nature of the decision itself.

We believe that in a case like the one I just described, if a court had been capable of reviewing that decision, something else might have been decided. As a result of the denial for application, she had to start the application process over again and she was back on a waiting list of over a year in length. She was unable to secure housing based on the income that she had available, so she and her family ended up on the streets.

These are very dire consequences for the people who are denied their applications. They experience dramatic impacts on their lives, and we just want to ensure the ability is there to have those decisions reviewed by someone who is not involved with the agency and has no stake involved in the decision whatsoever. We feel that a decision by a judge would be impartial and would fulfill that requirement.

Finally, in terms of the floodgates argument, we are so short-staffed at Nevada Legal Services at this point, we are short at least three attorneys, and we would not involve ourselves in frivolous lawsuits because we cannot keep up with the serious cases we have to deal with on a day-to-day basis. As Mr. Sasser explained earlier, the nature of filing a petition for judicial review is complicated and is a very difficult procedure for someone to do without the benefit or assistance of an attorney.

Assemblyman Munford:

I thought I overheard in the previous testimony that six or seven cases related to the housing authority have been filed with Nevada Legal Services over the past year. Could you correct me on that?

Kim Robinson:

She was talking about the number of cases filed for judicial review in Clark County. Since 2005, seven have been filed. Here in the north and in the rural areas, we have taken an additional 5 cases, for a total of 12 for the entire state since 2005.

Assemblyman Munford:

Is there a need for another group or agency to be in place to address these grievances? If there are so few cases, why do you need another form of review? Is there not already something in place for the housing authority? Why do you need another entire organization to address these cases?

Kim Robinson:

The main reason we do not see more cases than we do is, currently, people do not have the capability to take these decisions to judicial review. However, I think because the economy has gone south, the number of applications for this type of assistance is bound to increase over time, and the number of denials associated with those new applications is also going to increase. There is a need now to cover the process for the denial of the applications, as well as the terminations, because the consequences of not being able to get on the list for the help you need to secure housing for your family are so dire.

Chair Kirkpatrick:

I know there are quite a few folks against the bill. Mr. Adler, you get to go last because you submitted the amendment. You will be testifying as neutral with an amendment. In Las Vegas, I would like Howard Wasserman and Laura Coleman to speak first, with Laure Raposa and Matthew Cecil right behind those two. In Carson City, I would like David Morton, Judith Lopez, and Patricia Williams to come up to the table. We will start with Clark County.

Howard Wasserman, Interim Executive Director, Housing Authority of Clark County, Las Vegas, Nevada:

I am here to state my opposition to A.B. 143. Historically, housing authorities have had to fulfill their intended missions of providing safe, sanitary, and decent housing with fewer funds than requested. For example, this year, the housing authority of Clark County has received 88.5 percent of the funds needed to run its public housing program, and 87.5 percent of needed administrative fees to operate our Section 8 program. This means that we, and all other housing authorities across the state, have had to be very judicious in our use of funds and resources so that we can continue to offer high quality programs and services to our clients.

It is important to state that housing authorities do not function in vacuums. There is a system of checks and balances in place. We do have in-house administrative procedures to review any negative actions taken against applicants and participants by our agency. Additionally, our programs are operated in compliance with regulations noted in the Code of Federal Regulations (CFR) and the *Nevada Revised Statutes* (NRS). We are audited regularly by program specialists of the Housing and Urban Development (HUD)

and Clark County, to ensure we have conformed to all required rules and regulations. Our purpose is to serve and house as many eligible applicants as possible.

This process, however, involves protecting the rights of eligible applicants, residents, and participants and ensuring the proper use of funds by disqualifying ineligible applicants. Applicants may be deemed ineligible for different reasons, including not meeting low-income requirements, not responding to our request for information, and failing criminal background investigations.

These decisions are not made arbitrarily, but in accordance with established, regulatory requirements. Obviously, passage of this bill has the real potential to cause a dramatic increase in the number of denied applicants who would seek judicial reviews. This would cause a tremendous hardship to our housing authority and to housing authorities across the state. It would mean we would have to shift needed staff and funds to deal with additional legal actions. This would serve to limit our ability to serve more new clients and would also cause difficulty in ensuring we can continue to provide high quality service for our existing clients.

Assemblywoman Spiegel:

You say you have a process currently in place. Over the past year, how many appeals have you had and what has been their resolution?

Howard Wasserman:

We have not had many appeals over the past year regarding denials of applications that have gone through the informal hearing process. I believe we have averaged 35 hearings per year since 2002, of which 78 percent of those were ruled in favor of the housing authority.

Chair Kirkpatrick:

Of the 35 cases, are those all related to denials of applications for housing, or are there other HUD programs that might have been denied?

Howard Wasserman:

Those 35 cases were due to denied applications. We have other cases where we administer the informal hearing process regarding participants and residents of the authority.

Chair Kirkpatrick:

So those 35 cases were specifically on housing?

Howard Wasserman:

Those 35 cases were specifically applicants for public housing and Section 8 programs.

Chair Kirkpatrick:

May the Committee get a copy of your administrative review process for housing so that we know how it works? Can you send it to our policy analyst, please? I will ask Reno for theirs, as well.

Assemblyman Aizley:

When an appeal is lost by somebody appealing to the housing authority, what guarantee is there that the second hearing is not influenced by the people who decided the first decision?

Howard Wasserman:

If an applicant, participant, or resident does not win our administrative hearing process, they have the opportunity to go to judicial court. A Las Vegas justice court judge would hear that appeal.

Chair Kirkpatrick:

Can you explain that? I cannot imagine that Legal would draft a bill that was already in statute. Can you help us out here?

Howard Wasserman:

I was incorrect. For applicants only, there is no appeal process through our judicial system. Once that appeal is lost, the die is cast.

Assemblyman Aizley:

So, there are no second appeals within the authority itself. Is that correct?

Howard Wasserman:

That is correct. There are no second appeals.

David C. Morton, Executive Director, Reno Housing Authority, Reno, Nevada:

[Mr. Morton began to read from prepared text ([Exhibit E](#)).]

Chair Kirkpatrick:

Mr. Morton, are you going to read all three of these pages?

David Morton:

Yes, I am.

Chair Kirkpatrick:

There are about 18 people who would like to speak, so I can take you last because I want as many people to be heard as possible.

David Morton:

I understand the background of someone who is being an advocate for an individual person. I was a community organizer. I assisted in all sorts of activities in Nashville with public housing tenants, and with advocates who were fighting the housing authority. I understand the motivation to try to make sure that every individual has the opportunities they should have. As an administrator, I have to look at the interests of the whole. I have to be concerned about all the residents in the complex. If we admit people who have serious criminal histories, or people who have already been in our housing, terrorized the place, and been kicked out, all we would be doing is making our problems incredibly difficult and lowering the quality of life for our residents.

I have been in this business a long time. If we let an individual into our complex, regardless of what he has done, just because he needs housing, we make life miserable for the other residents. It is a lot harder to get people out than it is to keep them out in the first place.

Once Senator Richard Bryan had the law changed so we could screen for criminal histories, Reno Housing Authority began to do so immediately, and has since materially improved the quality of housing in Reno. I promise you, our housing complexes are as nice as anybody's in the country. We try to keep out people who terrorize, who do not have any respect for their neighbors, or who have no concerns about living in an appropriate manner.

That is why we have been so successful. It is a key part of that whole process. We do not want to lose that. We really do feel like this is an attempt to force us to take people we would not ordinarily take. The rules we have set up are not arbitrary and capricious. They are directly under the federal guidelines and have been presented in a very public manner. Our residents have endorsed them, and we try to follow those guidelines precisely. If we totally fail, we should be held accountable. But if, in fact, we are merely following the federal guidelines we have, we do not think we should be challenged in state court for that.

We have an insurance pool that represents 99 housing authorities. One case filed by a tenant cost us \$200,000; they were trying to defend boa constrictors as service animals. You would not believe some of the absurd cases and huge amounts of money that we have had to spend within that insurance pool involving public housing authorities. We had a tenant who wanted to have a

live-in aide who was clearly a sexual predator. The aide fought to be admitted as a sexual predator, saying he was not a tenant, just a live-in taking care of the tenant. These are the kinds of cases we have had to deal with, costing tens of thousands of dollars. Maybe they have not been hundreds of thousands, but all it takes is one, when you have six-figure costs involved in the case.

When this bill first appeared three years ago, I did lead the opposition. The bill that was introduced had to be the worst piece of legislation I have ever seen. For \$1, anybody who is in our housing could have filed suit and stopped us from evicting them for whatever they had done. The bill that emerged was what I agreed to. I sat in with Assemblywoman Debbie Smith in bill preparation and we worked out a compromise with Legal Services. What was approved is certainly livable, but not what was originally introduced. We did bombard the Legislature because all my tenants were scared of that bill. It was absolutely a horrible bill. We already have an almost identical process; we are required to in termination cases.

There is a distinct difference in the federal regulations for public housing and Section 8. When you are talking about somebody who is already in housing, as opposed to an applicant, there is a prescribed grievance process we have to go through. It is very precise. I do not have any trouble if that is the mere, limited challenge that someone has.

We totally signed on to the bill three years ago. I find it offensive to hear people say that I agreed to the original bill, but now I am arguing against it. I personally sat with Assemblywoman Debbie Smith and we worked it out. What emerged three years ago is perfectly okay because it is limited to a set process that we already follow. If we go through the process correctly, we have no reason to be fearful. If we were dealing with the original bill, it would have stymied us in any eviction for months.

This version is not as bad as that one. Federal law does not apply equally to applicants and tenants. Applicants do not have the same rights as tenants. We are not required to have a formal grievance process for applicants. We have a much more informal process in place for applicants. The complicated part is dealing with individuals having criminal history. In those cases, we have to meet individually with them and it cannot be publicized. It is a very delicate process. What we are fearful of is this bill being used as a way to force us to take in people we would otherwise scorn. I think this can be limited, as Assemblyman Settelmeyer says, in a way that narrows that succinctly, and I probably would not object to that either. I am not an unreasonable person. I do not want something that could disrupt the tremendous progress we have made. I do not want to go backwards. I think this bill would do that.

Judith Lopez, Private Citizen, Reno, Nevada:

[Ms. Lopez handed out a letter to the Committee ([Exhibit H](#)).]

I am a resident of Silverada Manor. My concern is the money cost. Our housing unit is a very clean unit, as Mr. Morton said.

Due to the fact that these organizations are represented by nonprofit organizations that do not pay taxes, it is a loss of revenue for the State of Nevada. Our coffers in the state are horrible, as everyone knows. The other thing is if you start pushing all of this onto the housing authority, you are putting it on the taxpayers' back. I am asking that you do not pass this bill. Our court system is already overflowing and we do not need any more frivolous things.

Chair Kirkpatrick:

In Las Vegas, I would like Matthew Cecil and Zelda Ellis to come to the table.

Patricia Williams, Private Citizen, Reno, Nevada:

I live in McGraw Court. I am proud to say I live there because it took me three years to get into their housing. If you have ever been in Detroit, Los Angeles, or San Francisco and seen the housing in those cities, it is horrible.

Mr. Morton took over McGraw Court 20 years ago. It was not very nice prior to that time. Now, you can feel safe. I have raised four kids here as well as eight grandchildren and seven great-grandchildren. I have been here since 1971.

Mr. Morton runs a tight ship. He makes sure that undesirables do not come in. I do not want to live in fear or be a prisoner in my home. In 13 days, I will be 80 years old. At this age, am I supposed to start being scared because we are going to have a bunch of undesirables move in? I am very sorry, but I think the system that is currently in place is a good one. These people who are sexual offenders and criminals do not recover. They keep on committing crimes. Please do not subject us to this.

Chair Kirkpatrick:

I am going to ask those from Las Vegas to speak. After your testimony, the Committee will be able to ask any of the five speakers questions.

Zelda Ellis, Director of Operations, Las Vegas Housing Authority, Las Vegas, Nevada:

I will be reading into the record a letter from my Executive Director, Mr. Carl Rowe ([Exhibit I](#)).

Chair Kirkpatrick:

Ms. Ellis, is the letter a single page or is it three pages? I still have nine people who wish to speak.

Zelda Ellis:

It is about two pages long.

Chair Kirkpatrick:

Do we have a copy? It would be so much easier if you could sum it up, then we can submit it for the record as we are going to do for Mr. Morton. I think it is a better use of our time.

Zelda Ellis:

A copy has been placed in the box to be delivered to each of the Assembly people.

Chair Kirkpatrick:

That is fine. If you just want to sum it up, either you or Mr. Cecil can speak.

Matthew T. Cecil, Attorney, representing Las Vegas Housing Authority, and Clark County Housing Authority, Las Vegas, Nevada:

We appreciate the opportunity to present our opposition to this bill.

It seems that this bill attacks and calls into question discretionary acts done by the housing authorities. However, these are discretionary acts that are specifically allowed under federal regulations. When the statute says the housing authority may deny an application if certain facts are there, then there should not be any questioning of the housing authority when those facts exist and the housing authority has decided to deny the application.

As Ms. Gertken previously stated, the applicants are not without judicial recourse. They are allowed to file in the federal court and seek assistance if they feel they have been wronged under the federal law.

Moreover, with respect to the floodgates, there are many more applicants who are rejected each year than there are tenants who are evicted each year. It is impractical to compare the two, and say that there will not be additional petitions for judicial review, simply because there are so many more applicants rejected each year.

There is nothing that would stop the individual housing authorities from including or adding an additional appellate level within their own systems, if that would please the Assembly. Right now, there is an informal review process in

place. There is nothing that would stop them from doing a formal appeal to the board or to the executive director, which could put one more level of security into the process.

Zelda Ellis:

The Housing Authority of the City of Las Vegas currently has processes in place. We have put language into our policies to carefully screen clients who are going into low-income public housing developments and those that will be living in the general community as Section 8 participants. We are a long way from being the housing of last resort. We have provided for and assisted our communities to become places where our families can work to become self-sufficient and raise their families. To have to battle with neighbors or the housing authority adds an additional burden to those families. People who may have had serious, prior criminal histories have been allowed to move in next door to them. The housing authority felt they were undesirable, and to have them live with our present residents is somewhat unfair.

Mr. Rowe has stated in his letter that privately owned, federally assisted properties are conspicuously absent from A.B. 143. That begs the question, is the proposed legislation only binding on housing authorities, because they, and more importantly, their low-income residents do not have the political clout to mount an adequately funded effort to gain a voice? We do not want to go backward, and we feel A.B. 143 is an attempt to force us to admit people who should not be living in our housing communities and who constitute a very real and dangerous threat to the struggling, but otherwise law-abiding families who do live there and whose only offense is that they are poor.

Chair Kirkpatrick:

For anyone here who is representing a housing authority, please give me or my policy analyst your administrative review policies so that the entire Committee can review them. Maybe they are not consistent throughout the state; that would not be uncommon.

Matthew Cecil:

We will be providing those administrative reviews for the Committee.

I just wanted to add, there is also a difference between public housing and affordable housing. Public housing is funded with tax money. In affordable housing, the housing authority acts solely as a landlord. I think there should be a distinction made between those two if this bill is passed. There are statutory guidelines that apply to affordable housing, and they should be able to admit and evict tenants pursuant to those guidelines.

With respect to funding and attorney's fees, or legal fees and costs, there is no recourse for the housing authority to recover any of their fees if they prevail in a petition for judicial review. The same situation applies to Nevada Legal Services; there is no recourse for them to recover any of their fees, either. This is statutorily written. As a result, hundreds of thousands of dollars can be spent, and the housing authority can lose money that they would be using to house their residents.

Assemblywoman Spiegel:

My question is for Mr. Morton. I am confused because it does not seem to me that this bill would require any housing authority to accept somebody who is a drug user or violent criminal. Regarding the informal process currently in place, what percentage of those appeals have been from people with drug use and violent criminal backgrounds?

David Morton:

When people come in to apply for housing assistance, they do not readily admit they have a criminal background. We use a process in which the applicants are checked out with the Federal Bureau of Investigation (FBI), which indicates whether or not the applicant has a criminal background. If they do, we get them fingerprinted to ensure the individual's identity. When the results come back, a manager from the housing authority sits down with the applicant and discusses the findings. Many people walk away when confronted with the truth.

Senator Bryan tried to set up a process so we could eliminate those individuals at the beginning of the application process. When the applicant comes to the meeting with the manager, many of them do accept the truth of their past, but many of them obviously would challenge the decision if they thought they could. At this point, there is no appeal. Our procedures are clear cut. If we change the bill, all of those who are in a questionable position would file for appeals, and I think there would be a large number of those. Under the present system, we do not. Does that help, or have I just confused you more?

Assemblywoman Spiegel:

I am still confused.

David Morton:

We do not deny somebody who may have had a criminal record. When they first come in, we do not know of the record. The FBI does what is called a hit. They put the name, birth date, and social security number of the applicant into their system, and it immediately tells us if there is a problem and if this person

has had a criminal history of some sort. But it might not be something that would keep them out.

This system was negotiated between the FBI, the Justice Department, and HUD. If the valid history shows violent criminal activity, sexual deviation, or drug-related crimes, the applicant is barred from housing assistance under our policies. If it is other criminal activity, it would not necessarily keep the person out.

Assemblywoman Spiegel:

Regarding the people who have drug and violent criminal backgrounds, you present the facts to them and say, why you are denying them. What percentage of those people go on to appeal?

David Morton:

We have an applicant review board that meets every so often to hear whatever appeals come up, and there are a number of them.

Chair Kirkpatrick:

I understand what you mean, Ms. Spiegel. I am asking each housing authority for a list of the board members who make these determinations, because I know that there are a lot of local governments that have people oversee them. I want to know who the administrative review staff is; is it the residents who live within the housing authority, or is it someone from a state agency? I do not need an answer on this now. I just need you to get the information on it to me.

Between Mr. Atkinson, Mr. Munford, and me, we have over 110 group homes within our districts. We do not have that same ability to appeal and, in fact, I specifically lost a case in the United States Court of Appeals for the Ninth Circuit, for trying to do exactly what you say is the reason that you don't want them to be there, so I think that it would be instrumental for the Committee to see how the process works. I am not taking sides either way. I have 41 group homes with senior citizens whom I want to protect. Most of these people do not get the same advantages that some others do, and the Ninth Court said I cannot discriminate. I want to see what information you have.

Assemblyman Stewart:

I would also like to know who appoints the people on the board; would that be a problem?

I respect Mr. Hogan and Mr. Sasser very much. I am sure neither Mr. Hogan nor Mr. Sasser would want criminals or sexual predators in the housing

authority. One of the great concerns I have, and I want to know if this is a concern of yours, is, once you deny admittance to a person who has a criminal record, he can then threaten to take you to court and tie things up and cost you a lot of money; is that a valid assumption?

David Morton:

It is definitely a valid assumption. I think many times, housing authorities may go ahead and admit people just to avoid the cost and the fight that they would have to go through. I am not sure I would do that, but I know that is the easy way out. But then you are inflicting that problem on your tenants.

Assemblyman Munford:

Mr. Morton, are the majority of your applicants people who may have served time in correctional institutions?

David Morton:

No sir. Not the majority, but again, the fact they have a criminal record does not keep them out. The only restriction on admittance is if their record reflects drug-related or violent criminal activity. The applicant could have done something that was not violent, and we would not keep them out.

Assemblyman Munford:

But if they have been rehabilitated and received proper training, and have served their time and paid their debt to society, and then they come before your board to be considered as an applicant for housing, it is pretty hard for them to be denied because of their background. They end up right back on the streets. It is a paradoxical situation. We are developing another problem because they will be back on the streets, and who knows what the results of that would be or what they would do?

David Morton:

We do not keep somebody out forever just because they have a history of violent criminal activity. We have clear guidelines set forth. Housing authorities may differ. We are not identical, even though we are all set up under the same parameters.

I have a copy of the HUD guidelines, which specifically say the PHA must prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, we may admit them under certain circumstances. We clearly have the ability to set strict standards. If it has been three years from the time that the applicant has completed probation, then they can come back. But if it is a recent violent or drug-related criminal

activity, we do not want them. The recidivism rate is very high, as you know. We feel like more time is needed for recovery and stabilization.

The Reno Housing Authority has set up a resident body that our residents elect. Each council elects a person to serve on this board. They do review people who are in that gray area. Eighty percent of people interviewed are accepted as residents. We do not want to keep people out forever. We want to keep people out who we feel have a high potential for problems and fall within the clearly mandated federal guidelines that we can set up and can restrict.

We make exceptions. We really do try to apply compassion when we review applications, but we are not going to allow anybody in who has had a recent history.

Chair Kirkpatrick:

Mr. Morton, that will be most helpful when every housing authority gives the Committee their copies of the rules and regulations. Mr. Bobzien, do you have a question? We need to speed things up a bit.

Assemblyman Bobzien:

Mr. Morton, I think that you run a great ship. A number of the facilities that the Reno Housing Authority oversees are in the district I represent. Many of my constituents are residents of your facilities, and many of them are applying to become residents of your facilities. I do not generally feel that this bill is an attack or an indictment of your agency. I think it is unfortunate we have had this mixing of policy in the question of review. From what I have heard, you have an amazing array of tools to keep out folks that probably should not be there and to keep the quality of life in the facilities up to par.

As the testimony continues, I am further and further finding myself with questions as to where this bill is going. I understand why there would be some concerns about subsection 1, paragraph (b). I think you should take a look at that and be willing to work with the bill's sponsor to tighten that up, because I do see that as potentially a very large balloon. I am confused in hearing that there was initial opposition in the 2005 effort, with the concern about opening the floodgates of litigation. I know you were able to sit down and hash something out and tighten it up so those concerns were eliminated. I hear from the proponents of the bill that the housing community has a history of expressing concern that the bill will open floodgates, but then stating they had originally said that but now I acknowledge there were not that many reviews that happened.

We do not know how many people this is going to affect. At the end of your process in 2005, were you able to come to agreement with the bill's sponsor? With the negotiated changes, did you feel comfortable with the uncertainty and with the number of people that may come forward in a review?

David Morton:

I obviously did not make myself very clear. That was exactly the point. The bill that was originally introduced was absolutely horrible. What finally resulted was a compromise that was livable. I never said that the compromise would open the floodgates. Never did I say that.

Chair Kirkpatrick:

I am not going to get into the debating part of it, because we need to get going. Whether or not that was said, can you please just summarize, Mr. Bobzien, so we can move on. I have eight more people who would like to speak.

Assemblyman Bobzien:

I appreciate that, but I do think there is some chance to move and work here, and I would like to see that happen. I am also concerned about a bunch of letters I received, saying things like we are already covered by the federal process, this is not needed, we run a tight ship, and yet you come forward and say the housing authorities are not required to have a formal process.

I think the request for everyone to deliver their processes for Committee review is going to help us identify what is needed, and that will be a great contribution to this process. I would like to see this worked out.

Chair Kirkpatrick:

Thank you. Does anyone else have any questions of the five? Ms. Ellers, Ms. Jones, and Ms. Cavanaugh, please come to the table. Is there anyone else in Las Vegas who would like to be heard?

Ms. Ellers, did you submit a letter to us? Would you accommodate us and just summarize it and we will put it in the record as well?

Jo Ann Ellers, Director of Asset Management, Reno Housing Authority, Reno, Nevada:

I oversee all of the public housing complexes and all of the resident services programs. I have been with the housing authority for 17 years. For the first ten years, I focused mainly on working with the residents. I was the liaison between the housing authority and the residents.

In summary of the letter you have in front of you ([Exhibit J](#)), there are many issues we face on a day-to-day basis with our residents. Our clients have a variety of issues. Sometimes they lack coping skills, they lack life skills, and they lack budgeting skills. As we are overseeing our public housing complexes, sometimes we have to deal with a poor decision that has been made on the part of the tenant. They will opt to not pay their utility bill and have their services terminated instead of not paying something that is an expense that they could forego. Because of my background working with the residents, I have been very successful helping bridge the gap between the public housing management and the social services aspect of the housing authority. By doing this, we have been able to keep a lot of our residents in place, in housing, and keep them from getting evicted.

One of the things that I would also like to address is the part of this bill that talks about any person who has been denied access to a program could also go to state court. We have a lot of programs that are set up through HUD. We have applied to HUD for grants for these programs, and a lot of them have a maximum number of participants. It would be very difficult if every time someone was denied access to a program, they could appeal that process and go to state court.

Once someone is already in our housing complexes, we put forth a lot of effort to make sure that the lease they have signed is being followed. One of our biggest challenges is making sure everyone is adhering to the lease. Often, people will apply to add an additional adult member to their household. It may be a boyfriend or a significant other, or the father of a child, and they have to go through the same process of being accepted to move into our public housing sites. If they are denied access, it is because of the very same reasons they would be denied in the original application process, and they could then appeal to state court.

We spend a lot of time working with our residents, with our clients, and it just really bothers me that this bill would hamper our efforts to keep criminal elements out of our public housing complexes, and it would add to the problems that I face while managing our public housing sites. I hope that you disapprove this bill as it is written.

Chair Kirkpatrick:

For the rest of the speakers, we understand the criminal and sexual offender aspects of this issue. That has been reiterated enough.

Genevieve Cavanaugh, President, Silverada Manor Resident Council, Reno, Nevada:

I am also on the advisory review board that people have to go through when they have a criminal history. Normally, there are eight people on the board. We have approximately 7 to 18 people that we have to review every month. We meet the third Tuesday of every month to review these applicants. We have the FBI records and all their history. We read all of these files carefully before we start reviewing the people. We interview each one individually. We ask them questions, and before we are done, we have a pretty good idea whether we want them as our neighbors or not. We either pass them or refuse them. In the three years that I have been on this board, we have refused one applicant. We have not had an appeal from her.

You cannot hold a record against a person if they have served their time and if they have gone through rehabilitation; everybody needs a second chance.

Faye Jones, Member, Silverada Manor Resident Council, Reno, Nevada:

I would like to read a letter from the Silverada Manor Resident Council, regarding A.B. 143. [Read from letter ([Exhibit F](#)).]

Chair Kirkpatrick:

Ms. Jones, I can submit the letter for the record so that you do not have to read it, but if you would like to add anything else, that would be great. Is there anything else you want to tell us? I appreciate you coming down, so I want you to be heard.

Faye Jones:

I, too, am a resident of Silverada Manor and I have lived there for about 11 years. I am alone in Reno, and I have no family in Reno.

I feel safe in my home. The Silverada Manor complex is maintained. I feel safe and cared for in my home. I am concerned that this bill may allow people in who will attract other less desirable people who are not as concerned about maintaining the property as are the current residents. The Silverada Manor complex is a beautiful place and is constantly upgraded. I just think this bill is dangerous. As you said, you do not usually have the choice of who your neighbor is. But in housing, where you are living in relatively close surroundings, you do want to be assured your neighbors are safe. I have had good neighbors in the 11 years I have lived there. I have never had a problem with any neighbor and have never seen any problems. I would like to keep it that way.

Assemblyman Bobzien:

I would like to thank Ms. Jones and Ms. Cavanaugh for coming down today. I think the two of you being a part of this is a testament to the quality of the communities you represent. You are involved, and I think we should be very appreciative.

Ms. Cavanaugh, regarding the process you go through and that only one applicant has ever been denied, some of this is going to come out when we get the policies and procedures from the different authorities to review. But I am curious, as your board reviews the applications and you make your decisions, et cetera, do you have any staff assistance? Do you have any legal assistance? Do you have any coaching, or someone there who says you have to think of these applications according to these criteria?

Genevieve Cavanaugh:

Yes, we have a housing authority manager who directs our meetings. She brings us the paperwork on all of these people and then she sits back, and everything is conducted by the board, which has the final authority in all cases. We have strict guidelines that the board has to go through in order to question these people.

Chair Kirkpatrick:

I think that when we do see the whole review, it will help us because now I am even more curious. I question the confidentiality issue. I know when city council denies a work card, there are a lot of things that cannot be made public. This is a much bigger issue than I thought it was.

I have two folks from the Reno Housing Authority; would one of you like to speak? We still have to get Mr. Adler's amendment in and we have about four minutes.

John Blake, Deputy Executive Director, Reno Housing Authority, Reno, Nevada:

In the back of Mr. Morton's letter ([Exhibit E](#)) are some statistics that I wanted to bring to your attention. Well over half of the people denied admission usually come through and give us the documents we want, or they have an explanation why they missed their appointments. They do move forward in the process and do not start over. They keep their exact place on the waiting list when we reinstate them.

Regarding the applicant review board, while they do have a few cases, only a small majority of cases would go to that committee because they have to fall into that criminal element. The board does not see a lot of the cases.

Chair Kirkpatrick:

Thank you. Does anybody have any questions? We appreciate all the guests who came today. Mr. Adler, can you sum this up with your amendment? Is it going to solve the problems?

Ernest Adler, Attorney, representing Nevada Rural Housing Authority, Carson City, Nevada,:

[Mr. Adler summarized his amendment and the reasons for its introduction ([Exhibit K](#)).]

Nevada Rural Housing Authority (NRHA) is a high-performing housing authority as is Reno Housing Authority. Nevada Rural Housing Authority was recently voted the outstanding housing authority in the western states. One reason for that honor was because they make so few errors in applications. I want to point out that many of the staff really do know what they are doing.

Subsection 1, paragraph (b) is very problematic. It says, "Deny a person's admission into any program operated by the housing authority." You really need to understand how broad that is. Nevada Rural Housing Authority runs the state's Weatherization Assistance Program for the rural counties and parts of Washoe County. Due to the recent stimulus bill signed by President Obama, people who are within 200 percent of the poverty level are now eligible for weatherization. If they make a decision to weatherize a mobile home instead of a rented apartment, is that going to be an appealable issue that then goes on to the district court? That could be very expensive. In a program like weatherization, where you are trying to do as many units as efficiently as possible, to get that money out there to employ people to weatherize homes, I think it is really a drag on the program to have the threat hanging out there that you could go to district court. Those cases, which we do not have now, would not be handled by Nevada Legal Services. A lot of those people would be over the income guidelines for Nevada Legal Services, so it may be private attorneys actually filing suit.

My amendment requires an informal hearing. I think that could be beefed up. I said "by an employee of the housing authority who was not involved in the decision to deny the application," but we could go beyond that and have an independent review board or hearing officer. The problem with that, again, is the cost of going to district court. It could end up being a very expensive proposition. There have not been a lot of cases on the terminations, as Legal Services has said. Most of those are negotiated out. The cases in which you really do go to court are not necessarily small cases. I got one recently and it was a 16-page brief filed by Nevada Legal Services. They did a very thorough job, and we have to do a very thorough job going the other way, which means

approximately ten hours of research time to go over the record and file something at the district court level. The cases that go to district court are not necessarily inexpensive. I think the concern is that this bill would open up virtually every decision that any housing authority makes.

Chair Kirkpatrick:

On page 2 of the bill, what is the difference in section 1, subsection 2? Are you trying to narrow it down as much as possible?

Ernest Adler:

On my amendment? No.

Chair Kirkpatrick:

This says that if a person has his housing assistance terminated, he can get a judicial review. Right? You are okay with that?

Ernest Adler:

That is current law. We have accepted that. I think what we are debating about is the application process. We do not know what future programs the federal or state governments are going to request of housing authorities, and those programs would become subject to judicial review.

Chair Kirkpatrick:

That is your amendment in a nutshell.

Ernest Adler:

We do have a copy of the informal review and hearings procedures which I can submit to the secretary ([Exhibit L](#)).

Chair Kirkpatrick:

If you can make copies for the entire Committee, I would appreciate it.

Ernest Adler:

We will drop the copies off at your office.

Chair Kirkpatrick:

I ask for it because I think that everybody needs to be educated in the process. Most of us have never been involved in this process, and it is beneficial to state all your reasons for the amendment to facilitate the Committee's understanding.

Assemblywoman Pierce:

The last thing you said was that we do not know what kinds of programs the federal government is going to require that we screen for. That would suggest

to me that this process needs to be bumped up a notch. Judicial review seems like a better idea. The more you are asked to do, the more you are screening for. This needs to be a system that has due process—not less of a system, but more of a system.

Ernest Adler:

In the previous session, the reason the housing authorities did not fight judicial review of terminations is that those are very poor people who, if they lose their housing, are apt to be out on the streets. Now the housing authorities are getting programs for the middle class and lower middle class where people have some resources. The programs include things like down payment assistance to purchase a house. These people are already in a unit. They are not going to be homeless if they are denied that down payment assistance or weatherization. I really think it is a different issue. You are dealing with people who are not catastrophically affected if they are denied, as opposed to people in the 2005 Session where it was catastrophic if their assistance was terminated and they were moved out of their apartments.

Chair Kirkpatrick:

I would bet things are very different in the north than in the south, and also very different when comparing Reno to the rural areas. Please keep that in mind when reviewing this amendment.

Does anybody else wish to testify on this bill? Is there any public comment?
[There was none.]

[Meeting adjourned at 10:56 a.m.]

RESPECTFULLY SUBMITTED:

Denise Sins
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 23, 2009

Time of Meeting: 9:01 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 143	C	Assemblyman Hogan	Testimony in introducing A.B. 143 on Judicial review of housing authority decisions
A.B. 143	D	Jon L. Sasser, Legal Services Coordinator	Testimony in Support of A.B. 143
A.B. 143	E	David C. Morton, Director, Reno Housing Authority	Testimony Against A.B. 143
A.B. 143	F	Faye Jones, Member, Silverada Manor Resident Council	Testimony Against A.B. 143
A.B. 143	G	Rhea Gertken, Directing Attorney	Testimony in Support of A.B. 143
A.B. 143	H	Judith Lopez, Private Citizen	Testimony Against A.B. 143
A.B. 143	I	Zelda Ellis, Director of Operations, LVHA	Letter from Carl Rowe against A.B. 143
A.B. 143	J	Jo Anne Ellers, Director, Asset Mgmt., RHA	Testimony Against A.B. 143
A.B. 143	K	Ernest E. Adler, Attorney	Proposed Amendment to A.B. 143
A.B. 143	L	Ernest E. Adler, Attorney	Copy of requested In formal Review and Hearings Procedures