



S.A.F.E. Smokefree Air For Everyone

Protecting People from Secondhand Smoke through Information and Advocacy

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S.A.F.E. is a project of Community Partners®

Smoke-Free Policies in Multi-Unit Housing: Myth vs. Reality For Developers and Managers of Affordable Housing

According to architect William Nona, "Secondhand smoke permeates building materials and allows for transmission to adjacent spaces." In other words, in multi-unit housing, tobacco smoke can drift from one unit to another through walls and floors, and through plumbing, electrical and ventilation systems. According to a study done in 1999, secondhand smoke can seep into and out of open windows and doorways.

A policy for smoke-free multi-unit housing should include: No smoking in enclosed common areas, no smoking in at least half the units in buildings of 16 units or more, no smoking on balconies and patios of non-smoking units and no smoking within 30 feet of balconies, patios, windows and doors of non-smoking units. Non-smoking units should be grouped together in order to maximize protection from drifting tobacco smoke. S.A.F.E. recommends no smoking in outdoor common areas except for a carefully designated outdoor smoking area chosen so that tobacco smoke does not drift back into non-smoking areas. S.A.F.E. also recommends no smoking in common areas and units of buildings of 15 units or less.

Myth: A smoke-free policy illegally and unfairly discriminates against smokers.

Reality: Smokers are not a legally protected group. Smoking is a behavior, not a predetermined characteristic like race or sex. As long as the policy is enforced fairly and is not used to selectively eliminate a protected minority, the policy is valid and legal. Non-smoking sections or buildings would protect the most vulnerable populations: seniors, children, and persons with asthma, heart disease, diabetes, and cancer survivors.

The creation of smoke-free affordable multi-unit housing would accommodate disabled individuals who would otherwise be adversely affected by drifting tobacco smoke before any exposure to such smoke even occurs. (Frances Espinoza, J.D., Executive Director, Housing Rights Center, Los Angeles, 11/2004.)

Myth: Subsidized housing is so regulated. Developers don't have the right to change the rules unilaterally.

Reality: In federally subsidized housing, one cannot refuse to rent a unit to a smoker, but can prohibit smoking in the unit. With the adoption of non-smoking sections, smoking areas could be set up outside, a sufficient distance from the building so that smoke does not reenter doors and windows. A picnic table with chairs and fire-safe, immovable ashtrays will make the area more attractive and usable.

"Currently, there is no HUD policy, by statute, regulation, handbook or otherwise that restricts landlords from adopting a prohibition of smoking in common areas or in individual units. (Sheila Y. Walker, Chief Counsel, HUD, Detroit, Michigan, July 18, 2003.)

Myth: I will lose money if I implement a smoke-free policy.

Reality: Actually, you can save money with a smoke-free policy. It can cost two to three times as much to prepare an apartment after it has been smoked in. Also, there is a possible reduction in fire insurance premiums for buildings that are 100% non-smoking since fire danger is reduced.

Myth: The smoking rate is higher among the low income population. I will never be able to rent the non-smoking units.

Reality: Other affordable housing providers around the country and in California are beginning to designate smoking and non-smoking sections and even buildings. For example, Ballington Plaza, a single room occupancy apartment complex located in downtown Los Angeles and operated by Volunteers of America became totally non-smoking in January, 2004 except for designated

outdoor smoking areas.

Social Model Recovery Systems, Inc., an agency that operates on Skid Row in Los Angeles, surveyed approximately 500 community members. 62% said they would prefer the choice of a smoking or non-smoking unit. 55% said they would prefer to live in a totally smoke-free building. What makes these numbers so striking is that 53% of those surveyed were current smokers.

Myth: I can't afford a lawsuit from an angry smoker.

Reality: You will more likely face a lawsuit from a frustrated nonsmoker than from a smoker. Today's legal climate tends to favor nonsmokers in these kinds of disputes. If someone is injured by tobacco smoke and takes legal action, your liability insurance may not protect you because tobacco smoke is a pollutant.

Myth: Enforcement of a smoking ban would be difficult and exasperating.

Reality: The easiest and most effective thing managers can do to minimize problems with enforcement is to provide information to residents and include them in the planning process. Notify your tenants well in advance if you are going to make changes to the lease agreement or house rules. Let new tenants know about your policies before they move in. Take comfort in knowing that there are also tools to help you such as affordable housing publications which provide information on how to enforce a smoke-free policy. Health organizations in Los Angeles and other counties are also ready to help by presenting information to residents and staff and providing materials about the dangers of drifting tobacco smoke.

Myth: I can solve this problem simply by providing an air purifier to the tenants who are complaining.

Reality: "Unfortunately, no air cleaner can protect against the harmful effects of secondhand tobacco smoke." This information appeared in a full-page ad in the Sept. 22nd New York Times for OzoneGuard purifiers. The same disclaimer can be found in the online version of the Sharper Image Catalogue.

Myth: If people smoke in a non-smoking unit, I will have no choice but to evict them.

Reality: If there are smoking and non-smoking units, the smoker can be moved to a smoking-permitted unit.

Myth: There is no law that requires me to provide non-smoking units.

Reality: Unless there are non-smoking units, people with chronic illnesses that are made worse by exposure to tobacco smoke cannot be provided with a reasonable accommodation under fair housing laws.

Myth: If people are concerned about this, they will complain.

Reality: Our surveys show that most people don't complain. The people who call us for help usually don't want us to give their names to management.

Low income communities suffer more from exposure to drifting tobacco smoke because they have less access to health care and proper nutrition, and therefore are more vulnerable to disease. Providing smoke-free choice in multi-unit housing is important for the health of the community.

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