

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

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

February 7, 2012 2:00 P.M.
Room 325, Hawaii State Capitol

In consideration of
House Bill No. 46, House Draft 1
Relating to Public Housing

Honorable Chair and Members of the House Committee on Judiciary, thank you for the opportunity to provide you with comments regarding House Bill No. 46 as amended by House Draft 1, relating to public housing.

The Hawaii Public Housing Authority (HPHA) supports enactment of the measure which would prohibit smoking in enclosed or partially enclosed common areas of public housing projects. The HPHA agrees that this is a positive bill, with respectable aims to improve the quality of living environment provided to the HPHA's residents. Our agency also appreciates legislative support for the issues involved, particularly with respect to preventing second-hand smoke exposure in environments that are home to children, the disabled, and other vulnerable low income populations.

The HPHA appreciates the opportunity to provide the House Committee on Judiciary with the agency's position regarding H.B. No. 46, H.D. 1. We respectfully request the Committee to pass this measure favorably, and we thank you very much for your dedicated support.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATECOMMITTEE ON HOUSING

H.B. 46, HD 1, RELATING TO PUBLIC HOUSING

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

February 7, 2012
2:00PM, Rm. 325

1 **Department's Position:** The Department of Health (DOH) supports the intent of HB 46, HD1 to
2 prohibit smoking in public housing, under Chapter 356D, Hawaii Revised Statutes but believes that a
3 similar result can be accomplished through the internal policy of the Hawaii Public Housing Authority
4 (HPHA).

5 **Fiscal Implications:** No appropriations requested.

6 **Purpose and Justification:** DOH supports the scientific findings and recommendations of the U.S.
7 Surgeon General regarding the involuntary exposure of tobacco smoke to nonsmokers. Those findings
8 disclosed that: 1) There is no safe level or amount of secondhand smoke (SHS) and that breathing even
9 a little SHS can be dangerous; 2) Breathing SHS is a known cause of sudden infant death syndrome
10 (SIDS) and that children are more likely to have lung problems, ear infections, and severe asthma from
11 being around tobacco smoke; SHS causes heart disease and lung cancer; separate "no smoke" sections
12 do not provide protection from SHS, and neither does are filtration.

13 Hawaii's current smokefree workplace and public places law, enacted in 2006, does not cover,
14 and excludes private residences. The federal Housing and Urban Development authority, (HUD) now

1 actively supports the creation of smoke free residential public housing properties governed under that
2 authority.

3 DOH will again defer to HPHA and supports their position that the intent of this bill can be
4 accomplished through the internal policy as indicated in their testimony of February 1, 2012 on HB
5 2629. The DOH looks forward to collaborating with the HPHA on their recommendation to implement
6 smoke free housing as an issue that will become a priority item and can successfully be accomplished
7 through internal policy. Further, DOH is willing to work closely with HPHA on both assessment of
8 residents to determine need and on smoking cessation efforts to help current smokers link up with the
9 many available cessation services to help smokers to quit.

10 Thank you for the opportunity to testify.



COALITION FOR A
TOBACCO-FREE HAWAII

To: The Honorable Gilbert Keith-Agaran, Chair
The Honorable Karl Rhodes, Vice Chair
Members, House Committee on Housing
From: Deborah Zysman, MPH; Executive Director
Date: February 7, 2012 at 2:00pm
Hrg: House Committee on Judiciary, Rm 325
Re: **Comments on HB 46 HD1, Relating to Public Housing**

Thank you for the opportunity to offer comment in support of the intent of HB 46 HD1, which prohibits smoking in enclosed or partially enclosed common areas of public housing projects.

The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. Our organization is a small nonprofit organization of over 100 member organizations and 2,000 advocates that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

The current version of this bill only prohibits smoking in areas that are already 100% smoke-free under Act 295 and would not increase or improve smoke-free protections for residents or employees in public housing. The bill in its original form made all public housing smoke-free which would guarantee safe housing.

We urge the Hawaii Public Housing Authority (HPHA) to provide smoke-free housing for residents, action they lawfully can take now without legislation. It has recently come to our attention that smoke-free housing is now a top priority for HPHA and we hope to partner with them in this effort.

Smoke-free housing is legal and the only way to prevent second-hand smoke exposure.

A 2007 letter from the Honolulu HUD office indicates that “[r]egulating smoking in public housing units or in common areas is a local decision. In addition, according to the Fair Housing and Equal Opportunity Civil Rights analyst, smokers are not a protected class under the Fair Housing Act.” Going smoke-free is lawful and promotes health. Housing units can already adopt their own rules to prohibit smoking.

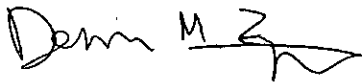
Secondhand smoke is dangerous; the **U.S. Surgeon General in 2010 notes that any level of exposure to secondhand smoke is dangerous and can be harmful.** The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

The Coalition receives calls from residents who reside in public housing units and who have asthma and other health issues affected by secondhand smoke exposure. There is little assistance the Coalition can provide them. It is clear, however, that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.



All families deserve to live free of second-hand smoke. The only way to ensure this is to prohibit smoking in units. The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) adopted a position that states, “[a]t present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity. . . No other engineering approaching, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs.”

Thank you for the opportunity to testify on this matter.



Deborah Zysman, MPH
Executive Director

Testimony submission for HB46 (HD1)

Testimony submission for HB46 (HD1)

Daria Alma Fand [daria@hawaiiantel.net]

Sent: Monday, February 06, 2012 11:51 AM

To: JUDtestimony

Attachments: TestimonyHB46-Updated2.doc (66 KB) ; Benefits of No-Smoking Pol~1.pdf (1 MB) ; Green Factsheet_Smokefree.pdf (391 KB)

Dear Honorable Representatives Keith-Agaran, Rhoads, and Members of the Judiciary Committee:

I have enclosed my written testimony for HB46, which will be heard on 2/7/12 at 2:00 p.m.

These attachments include:

-- My testimony

-- Two PDF documents to accompany it with expert references and citations of statements I've made in the body of my testimony. I did not want to encumber my testimony with too many of these references, but rather wish to provide you with the materials to review yourselves.

Thank you very much for this opportunity to submit my comments and information, and for your care, attention and consideration of this important issue.

Aloha,
Daria Fand
Kalakaua Homes
Phone: 949-5497/206-5738

DATE: Tuesday, February 7, 2012 (Hearing Date)

RE: HB46 HD1 – Relating to Public Housing

TO: Representative Gilbert Keith-Agaran, Chair; Representative Karl Rhoads, Vice Chair; Members of the Judiciary Committee

Dear Chairman Keith-Agaran, Vice Chair Rhoads, and Members of the Judiciary Committee:

I would like to thank The Honorable Representative Rhoads for introduction of this important bill, and all on this Committee for hearing my testimony, as follows. (Please refer to enclosed PDF documents for citations of factual information asserted here.)

Over the years, a number of bills have come through the Legislature to ban smoking in public housing out of concern for Hawaii's most disadvantaged and vulnerable populations. The result of all these efforts has been the same each time: the bill is amended to remove critically effectual clauses, or it is deferred. The reason these bills have been diminished and/or defeated owes largely to the apparently convincing testimony given by Hawaii Public Housing Authority (HPHA), who has opposed these measures. Their position has consistently been that while they support the "intent" of such measures, non-smoking policy changes are strictly under their purview, and do not warrant Legislative mandate.

As a citizen living with a chronic illness that has become incapacitating due to the daily incursion of secondhand smoke (SHS) into my unit in Kalakaua Homes, I ask that you critically consider the problematic issue of delegating this matter and the fate of all those in my predicament to HPHA and/or other related low-income housing agencies.

The current HPHA administration has expressed a commitment to creating smoke-free policies throughout public housing, as a departure from previous administrations. The new Executive Director has said that somewhere in an approximate 3-6 month timeframe, major progress will be made prohibiting smoking in projects. While I find this a noble goal, HPHA recently issued this in a written statement (in testimony on a related bill, HB2629):

"Our agency ... appreciates legislative support for the issues involved, particularly with respect to preventing second-hand smoke exposure in environments that are home to children, the disabled, and other vulnerable low income populations. However, the HPHA must respectfully oppose enactment of the measure since it would be administratively difficult to enforce and would be more appropriately handled by the HPHA via existing protocols.

The HPHA feels that this measure would legislate on agency staff *an administratively onerous procedure that would require undue resources to initiate and enforce.* [emphasis mine]"

This echoes the testimony given by HPHA's former Executive Director when this bill, HB46, was heard last year. So what I put to you is this: though HPHA may currently be well-intentioned in philosophy, de facto, their position is likely to continue to stall internal initiatives. Their statements reveal a conflict: on one hand, they are saying that the Legislature need not interfere in their administrative business because they have "existing protocols" that will work. But they simultaneously claim that the burden of adopting and enforcing a non-smoking policy is prohibitively onerous, listing all the reasons it is unmanageable.

As "existing protocols" go, in my case I was told I could be moved to another unit – as though smoke seepage/migration problems won't inevitably arise again wherever I am moved. When my neighbor – who is on oxygen and in her 80's – was admitted to the hospital for SHS-induced respiratory distress in the late winter of 2011, months after this bill's last hearing in February, she was told her options were to move out. This is not what I call viable "existing protocol."

So whatever "existing protocols" there are, none have substantively been able to address the problem of SHS damage and risk.

Given the foregoing obstacles, necessary progressive changes stand little chance of occurring in a timely manner. Even if the current administration is committed in theory, their agency has placed non-smoking policy discussions on an unfinalized *draft* version of *next year's* agenda (2013), which, in their current language merely "*may* include ... *studying the potential* for non-smoking buildings. [emphasis mine]" A long, protracted process of votes, hearings and further procedural hoops is then described. Clearly, this process could drag on for years, is not even guaranteed, and won't even reach the official planning discussion table until next year in the best-case scenario. For a child in the throes of yet another asthma attack due to a neighbor's smoking, this is a completely unacceptable timetable.

The gravity of what people endure on a day-to-day basis militates for the end of this revolving door of smoking-ban Legislative bills which are introduced, heard, and die, leaving thousands of tenants at the mercy of their smoking neighbors, as they wait for action that never comes.

If the human toll of acute and chronic suffering, indefinitely, is not compelling enough of a reason to pass this measure, consider the following:

1. Every time someone is admitted to ER, needs more medications, or has to see their doctor at increased frequency (as in my case) for SHS-related illness, this is a burden to the State; it adds up to hundreds of thousands of dollars on the backs of taxpayers. Is it not enough that the public bears the burden of primary smoking-related disease and illness? Should the public also have to subsidize the healthcare costs of those who are involuntarily exposed to SHS, who are being denied the choice of a healthier lifestyle?

2. Smoking is a leading cause of fire damage and is a life-threatening hazard (particularly to the disabled and elderly with mobility problems); each time fires caused by smoking occur, emergency services are burdened, further enormously compounding public expenses
3. HPHA's current lease assures me that I have a right to a living environment that is "safe", "sanitary", and allows for my "peaceful enjoyment" of my accommodations. Given the Surgeon General has stated unequivocally that there is no safe level of SHS – that even short exposures and low levels of exposure are dangerous – it is quite clear that the indoor air contamination resulting from SHS renders my unit unsafe. The indoor air pollution of 4,000+ toxic chemicals in tobacco smoke, which also sticks to surfaces, makes my air and living space unclean. Certainly, the intense emotional and physical distress that I've endured has made it impossible to "peacefully enjoy" my dwelling. In fact, recently I have been forced to flee it for respite. Therefore, given that my apartment has become uninhabitable, this is a call for immediate remediation, not vague timetables.

You, as lawmakers, are in the position to end these costly and unsatisfactory casualties of SHS by advancing the stated eventual goals of HPHA with a stamp of certainty, accountability, and time-appropriateness. The conditions listed above, which afflict tenants and the rest of the public, are short-term reasons requiring this legal mandate.

There are more long-term and far-reaching reasons to adopt this measure as well:

4. Once put into law, public and low-income housing smoke-free living will no longer be dependent upon any particular institutional policy, office, or director; the public's health will be safeguarded and assured into the future
5. Hawaii will be hailed as a vanguard state in the setting of public health standards, particularly for the most vulnerable of citizens; we will help lead the nation in awareness and recognition of the importance of smoke-free living as an imperative for quality of life; it will set a precedent underscoring the reality that SHS is not just a public "nuisance"– it is a deadly public health hazard.

Hawaii already recognizes these very same principles and needs in the existing laws prohibiting smoking in workplaces and other places of public accommodation. There is no reason not to adopt similarly aggressive laws for public residential accommodations, when the health threat is just as great in these circumstances. For instance, those disabled and elderly who are housebound may spend most of their lives in their own homes. This means their exposure to SHS in buildings where smoking is occurring may even exceed that of work environments.

Given the urgent needs of these populations, I strongly recommend that you pass HB46, but with a few amendments to the current version, HD1:

1. Amend the current draft to add back in the stipulations that were stricken in Section 1 of the original version, HB46, to include individual units in the smoking ban. As the current version reads, smoking will only be prohibited in “common areas”. Smoking is already prohibited in “common areas” in many projects (such as mine), and this is quite insufficient. It is scientifically established fact that once smoking occurs anywhere within a building, it travels through all building structural elements (see accompanying PDF materials for authoritative references). Furthermore, smoke easily travels from individual units *into* the common areas, often flooding them with SHS. One can’t expect smoke to confine itself to separate units, and thus it is critically important to the efficacy of a no-smoking policy to include all indoor areas without exception.
2. In item (4), Section 1, of the original HB46, a 20-foot distance from each individual building where smoking could be permitted is proposed. I ask that this distance requirement be stricken and replaced with the provision that smoke-free policies extend property-wide. The reason for this, albeit strict, is that Hawaii’s public housing building construction is largely open-air, with windows and lanais open to the outdoors most of the time (unlike enclosed Mainland housing projects that have gone smoke-free, while allowing smoking in outdoor designated areas or with distance provisions); coupled with our wind and weather patterns, smoke can and does reach units located on lower levels of buildings from nearby outdoor areas, such as parking lots and entranceways, exposing some residents involuntarily to SHS. Since all projects must offer the same level of protection to all residents, given the variety of property layouts and the above environmental factors, there is no distance or designation allowance that would uniformly protect everyone. It is only prudent then to make a no-smoking law apply uniformly to the entire premises.
3. This would accordingly affect item (5) in the current draft, pertaining to smoking visitors; visitors would not be allowed to smoke on the premises, either.
4. In Section 5, it is proposed that the measure take effect from the date of approval. I propose that this be amended to state the measure shall go into effect nine (9) months from the date of approval. This recognizes the fact that it is impractical to institute a state-wide no-smoking policy in public housing without properly notifying, educating, and preparing the public for these changes. This would give housing authorities and agencies time to create the lease addendum, to partner with other community resources, such as smoking cessation programs, and to afford residents the information they may wish to use in the transition.

According to all Mainland precedents and sources, fears about implementation have been unfounded, which should reassure HPHA moving forward. An educational publication (National Center for Healthy Housing, referenced by the Housing Authority of Portland, Oregon) states, “The success of your smoke-free policy will be relative to how well you communicate the policy with your tenants. This does not have to be complicated or

overly time-consuming” and “You may only be required to give 30 days notice per your lease agreement when implementing a smoke-free policy, but it is recommended that you provide at least 90 days advance warning. This extra time will give those who smoke a chance to adjust their lifestyle to the new policy.” Given guidelines such as these, 9 months is a very reasonable compromise between rectifying immediate health risks, and the requirements of proper strategic preparation for implementation. Nine months should adequately allow for the basic foundations to be established in Hawaii’s low-income communities by the time this measure goes into effect, even if some wrinkles remain to be ironed out. Many toolkits and templates are now available from model public housing authorities in other states, for our agencies to expedite the process and not re-invent the wheel.

For those who worry that a drastic policy change will be ill-received by the public, over 285 public housing authorities nationally have gone smoke-free as of the end of 2011 (according to Jim Bergman, director of the Smoke-Free Environments Law Project in Michigan), and none are reporting evictions or other significant compliance problems as a result. A number of these projects have complete no-smoking policies property-wide, such as in Maine, where 100% of their 20 public housing authorities have gone smoke-free. The Coalition for a Tobacco-Free Maine, and Serena Chen, Regional Director for the American Lung Association in California, say that residents “get on the bandwagon” once the ban is in force. Tenants get used to the restrictions just as they do other lease prohibitions, they report. The majority (70%) of low-income housing residents are nonsmokers, and most of these would prefer to live in smoke-free environments, according to national statistics.

In terms of the general public’s view in Hawaii, after a KITV news segment (featuring Ms. Chen and myself, last October 25), an informal viewer poll was conducted asking if smoking in public housing should be banned. A whopping 59% voted yes, vs. 7% opposed (32% voted for mixed buildings, 2% undecided.) So most of our citizens at-large favor banning smoking completely in public housing by a landslide.

If HPHA and other low-income housing agencies in Hawaii are true to their commitment to rid us of the imminent and longstanding danger of SHS, they will welcome this proactive yet respectably accommodating timetable. As part of their pledge, they ought to respect a Legislative measure to ensure the public’s protection long-term. Full backing of the law can only buttress HPHA in their mission and interaction with the public.

Thank you for considering this in-depth testimony, these recommendations, and the urgency of this plea. This law is long overdue.

Daria Fand
Kalakaua Homes
Phone: 949-5497

THE Benefits of No-Smoking Policies

IN AFFORDABLE HOUSING



HUD encourages public housing authorities and multifamily housing rental assistance programs to implement no-smoking policies in some or all of the units they own or manage.

-- HUD Notice PIH-2009-21(HA)
-- HUD Notice H-2010-21

"The scientific evidence is now indisputable: secondhand smoke is not a mere annoyance. It is a serious health hazard that can lead to disease and premature death in children and nonsmoking adults."

— US Surgeon General, 2006



Industry leaders agree that no-smoking policies provide a cost-effective, safe and healthy environment for staff and residents.

No-smoking policies help affordable housing stay affordable.

"HACSA [Housing Authority of Lane County] will also find itself spending less to repaint, recarpet and clean its public housing units, and the units themselves will be generally more appealing. Soon after the no-smoking policy goes into effect in public housing, the only question will be why it took so long." — Eugene's Register-Guard Editorial 7/18/10

No-smoking policies ensure that safe and healthy housing is not a luxury.

■ Decent housing is an essential component of a person's physical safety & well-being.

"When I realized that secondhand smoke was a Class A carcinogen, in the same category with asbestos, I knew we had to adopt a no-smoking policy for all of our properties to protect our employees and residents." — Dianne Quast, Director of Real Estate Operations, Housing Authority of Portland

■ Most renters want smokefree housing.

A survey found that Oregon renters, regardless of smoking status, prefer to live in smokefree housing and that 40% would even pay extra rent! Most don't smoke (only 27% smoke daily and 6% some days) and over half of those who do already go outside. What's more, results were similar across all income groups.*

■ No-smoking policies are an easy and affordable way to improve indoor air quality for all residents.

"At present the only means of effectively eliminating the health risks associated with indoor exposure is to ban smoking activity." — American Society of Heating, Refrigerating and Air-Conditioning Engineers

"Adopting the policy was easier than we thought. Some people threatened to move out but none did." — Margaret Mahoney, REACH Community Development Corporation

■ Most smokers want to quit. No-smoking policies move them in that direction.

A survey of Guardian Management's low-income residents showed that, after their no-smoking policy went into effect, 43% were smoking less. Almost 50% of smokers said they tried to quit and 2/3 of those cited the no-smoking policy as the main reason.**

"In one senior and disabled building, a few tenants came up and thanked me for making it smokefree because they wanted to quit smoking. Then they quit – out of twelve smokers in the building, only three are still smoking." — Kathy Lucas, Executive Director, Clatsop County Housing Authority

Landlords who have adopted no-smoking rules say they would never go back!



"I am happy to support Tobacco Freedom, an initiative committed to providing consumers of mental health services with tobacco free treatment, residential facilities and grounds. These changes are a triple win: a win for clients and consumers by providing environments that make it easier to quit, a win for employees by reducing their exposure to secondhand smoke and a win for our state by improving the health of our residents."

— Richard Harris, Assistant Director
for the Addictions and Mental Health
Division, Oregon Health Authority



■ No-smoking policies are legal

Oregon law now requires landlords, as part of the rental agreement, to disclose their smoking policy.

"Neither smokers nor the act of smoking is included as a protected class under federal, state, or local Fair Housing laws." — The Fair Housing Council of Oregon

■ No-smoking policies prevent fires

"This summer in Portland, we had 33 smoking-related fires resulting in \$366,116 in losses. It's time to put a stop to this. Asking smokers to smoke outside their dwellings and to extinguish their cigarette butts safely in water or sand would save thousands of dollars and even more importantly, save lives." — Paul Corah,

Public Information Officer, Portland Fire and Rescue

RESOURCES TO HELP YOU MOVE FORWARD

LANDLORD TOOLS:

Visit www.smokefreehousinginfo.com for tools to implement your no-smoking policy and for more information about the new Smoking Policy Disclosure Law.

Public Health partners are eager to work with housing providers to adopt no-smoking policies. Local tobacco prevention coordinators can work hand-in-hand with you to conduct tenant surveys, assist with informational resident sessions, prepare for board presentations, link smokers who want to quit with resources, etc.

FIND YOUR COUNTY CONTACT AT:

www.oregon.gov/DHS/ph/tobacco/docs/contractorsgrantees.xls.

"We have been collaborating with our local health department's Tobacco Prevention and Education Program who have been a great resource. Our community should utilize these folks more often." — Andy Wilch, Administrator, Salem Housing Authority

QUITTING RESOURCES:

If a resident wants to learn about and get support to quit smoking, the Oregon Tobacco Quit Line can help! Either you or the resident can call the Oregon Tobacco Quit Line at 1-800-QUIT-NOW or 1-800-784-8669 (English) and 1-877-266-3863 (Spanish) for free resources including counseling and, quite often, nicotine replacement therapy.

This work is funded by the Tobacco Prevention and Education Program, Oregon Public Health Division

* Survey conducted 8/08 by Campbell DeLong Resources, Inc – full report at www.oregon.gov/DHS/ph/tobacco/docs/08/08rentsurvey.pdf.

** Pizacani BA et al. Smoke-free subsidized multiunit housing: Adherence, acceptance, economics and health implications. Unpublished data.

REASONS TO EXPLORE SMOKE-FREE HOUSING

WHY PURSUE SMOKE-FREE HOUSING?

This document is for property owners, landlords, and property managers who are interested in exploring a smoke-free policy for their multi-unit buildings. Read on if you are interested in a policy that can help you save money, reduce tenant complaints, improve the health of your tenants and building, and increase your market share.

Smoke-free apartment policies are quickly becoming the standard for multi-unit housing in the U.S. A smoke-free policy is simple and straightforward. There is no federal or state law that prohibits a property owner from implementing a smoke-free policy for their buildings or grounds, and instituting a policy does not preclude someone who smokes from living in the building. It simply requires that all tenants abide by the policy while on the property. Going smoke-free in your multi-unit buildings is one of the best moves you can make for your tenants and your bottom line. The Smoke-Free Environments Law Project conducted an analysis of federal and state laws, HUD rules, and legal cases and found "unequivocally that a ban on smoking for new tenants who move into public or Section 8 housing is permissible in all 50 states."¹

Reduces Operating Costs

- Apartment turnover costs can be two to seven times greater when smoking is allowed, compared to the cost of maintaining and turning over a smoke-free unit.
- Some insurance companies offer discounts on property casualty insurance for multi-unit owners with a

Some insurance companies offer discounts on property casualty insurance for multi-unit owners with a 100% smoke-free policy.

100% smoke-free policy. Ask your carrier today!

- Smoking is a leading cause of residential fire and the number one cause of fire deaths in the U.S.

Tenants Prefer Smoke-Free Housing

- Several statewide surveys demonstrate that as many as 78% of tenants, including smokers, would choose to live in a smoke-free complex.^{2,3,4}
- Secondhand smoke complaints and requests for unit transfers drop following the implementation of a smoke-free policy. Nationwide, less than 21% of the general population smokes,⁵ so it makes sense that a vast majority of tenants want to live in a smoke-free environment.

Tenant Health Improves with Smoke-Free Housing

- There is no risk-free level of exposure to secondhand smoke⁶ and the EPA has identified secondhand smoke as a Class A carcinogen, the most toxic class of chemicals that are known to cause cancer in humans.⁷
- Secondhand smoke is a leading trigger of asthma attacks and other respiratory problems and a known cause of Sudden Infant Death Syndrome (SIDS).⁸
- Secondhand smoke is classified as a "toxic air contaminant," putting it in the same class of other contaminants



National Center for
Healthy Housing

REASONS TO EXPLORE SMOKE-FREE HOUSING

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WHY PURSUE SMOKE-FREE HOUSING?

EXISTING LAWS ALLOW FOR SMOKE-FREE HOUSING

KEY DECISIONS AND STEPS

RESOURCES



The Monetary Impact

Costs to Rehabilitate a Unit Where Smoking is Prohibited vs. a Unit Where Smoking is Allowed

	Non-Smoking	Light Smoking	Heavy Smoking
General Cleaning	\$240	\$500	\$720
Paint	\$170	\$225	\$480
Flooring	\$50	\$950	\$1,425
Appliances	\$60	\$75	\$490
Bathroom	\$40	\$60	\$400
TOTAL	\$560	\$1,810	\$3,515

Data reflects surveys from housing authorities and subsidized housing facilities in New England. Collected and reported by Smoke-Free Housing New England, 2009.



including asbestos, lead, vehicle exhaust, and a host of other chemicals strictly regulated in the U.S.⁹

- Ventilation systems do not protect families from secondhand smoke. Most air filter systems are designed to remove odors, not the toxic particles from tobacco smoke. According to the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), "At present, the only means of effectively eliminating health risk associated with indoor exposure is to ban smoking."¹⁰
- Research demonstrates that up to 65% of air can be exchanged between units and that smoke travels through tiny cracks, crevices and chases, involuntarily exposing individuals in adjacent units.¹¹

Other Policy Benefits

Self enforcing.

Smoke-free policies are largely self-enforcing. Because tenants expect and tend to prefer a smoke-free environment, they will abide by the policy. Guardian Management, a group managing over 12,000 smoke-free units nationwide, recently released survey results showing that more than three-quarters of their residents are "happy" with the smoke-free policy.¹²

Gain green building credits.

Numerous "Green Building" programs, such as the U.S. Green Building Council's LEED program and the Enterprise Community Partners' Green Communities initiative, provide credit in their programs for smoke-free properties.

Access to state affordable housing tax incentives.

Several states (Maine, California and New Hampshire) currently offer tax credit

incentives to developers of low-income housing for new housing projects that include a smoke-free policy.

HUD strongly encourages public housing authorities to pursue smoke free housing.

On July 31, 2009, HUD issued a notice that unequivocally stated the Department's support for non-smoking policies at public housing authorities (PIH-2009-21 [HA]).

EXISTING LAWS ALLOW FOR SMOKE-FREE HOUSING

- There are no federal, state, or local laws that prohibit a landlord, housing authority, or condominium association from adopting a 100% smoke-free policy. You can make your entire property smoke-free, including all apartment units and outdoor spaces.¹³
- Smoking is not a legal right. Smoke-free policies do not infringe on the legal rights of individuals.¹⁴
- Smokers are not a protected class under any state or federal law.¹⁵ Smoke-

free policies are like any other lease provision, such as trash disposal or pet restrictions, and should be implemented and enforced as any other lease policy.

- Both public and private facilities have the right to adopt smoke-free policies. If you are a public housing authority or owner of a subsidized facility, ensure your tenants receive adequate notice (30 days or more) of lease change and that HUD and/or your local housing authority approve of any changes to the model lease.^{16,17}

Smoking is not a legal right. Smoke-free policies do not infringe on the legal rights of individuals.

KEY DECISIONS AND STEPS

For New Buildings

Start Fresh.

The easiest way to implement a smoke-free policy is to make buildings 100% smoke-free as you develop them. Include explicit language in your lease that notifies incoming tenants of the policy. You can view sample lease language by visiting www.smokefreehousingne.org.

Modify leases.

When adopting a smoke-free policy, include a lease provision or addendum that outlines the restrictions and penalties under your policy. When new or renewing tenants sign the lease, have them initial that they have read and understand the policy.

Advertise as smoke-free.

Include "smoke-free" in all advertisements for your vacant units. Smoke-free policies are amenities, no different than the inclusion of heat or hot water. Approximately 75% of tenants want to live in a smoke-free environment, and including a notice that your building is smoke-free can attract more attention to your listing.

Inform potential tenants.

Include information regarding your smoke-free policy on all housing applications to ensure incoming tenants are aware of the rules before they move in to your building. Also, include adequate signage and communication to remind existing tenants, incoming guests, and maintenance workers of the policy.

For Existing Structures with Tenants

Build tenant support.

When you're not sure how tenants feel about a smoke-free policy and you want their input, a brief survey might be in order. Asking questions such as "Has secondhand smoke from another

unit ever bothered you?" or "If available, would you prefer to live in a smoke-free environment?" can help you determine what type of policy to implement. For sample survey language, visit www.smokefreehousingne.org.

Communicate widely.

The success of your smoke-free policy will be relative to how well you communicate the policy with your tenants. This does not have to be complicated or overly time-consuming, but doing things like including articles in your tenant newsletter, holding tenant meetings so opinions can be voiced, sending a letter to tenants, providing adequate signage, and supplying information on the harmful effects of secondhand smoke will all help with policy enforcement down the road.

Offer support.

Many existing developments offer some type of cessation services (quit smoking support) to their tenants. Look to your State or municipal health department, Lung Association, Cancer Society, or local hospital for free cessation support. Though you are not asking people to quit smoking with a smoke-free policy, this type of policy provides incentive and support to those who were considering quitting. Providing tenants with local cessation information is a way to show that you care about their well-being.

Give plenty of notice.

Notifying residents about your policy well in advance of making it effective isn't only a good idea, it's the law. Neglecting to tell both your new and old residents about your smoking policy is a breach of the duty to provide notice. You may only be required to give 30 days notice per your lease agreement when implementing a smoke-free policy, but it is recommended that you provide at least 90 days advance warning. This extra time will give those who smoke a chance to adjust their lifestyle to the new policy. Your posted

notifications should include the wording that will be in your leases or covenants. Providing poorly-worded or incomplete lease provisions in these notices is also considered a breach of duty.

Consider your options.

There are many options to consider with a new policy. Will you prohibit smoking on the entire property grounds, 25 feet from doorways/entrances/windows or only in the building? If you allow smoking on the grounds, where will those tenants go to smoke? Will you provide a space?



Approximately 75% of tenants want to live in a smoke-free environment.

What about patios and balconies? All these questions and more need to be thought through with staff, administrators, and possibly tenants as well.

Leases

Follow the rules.

With existing buildings, be sure to follow the rules of your lease before adopting new

policies. After a lease has been signed by both parties, it cannot be modified without the consent of both of the parties. Therefore, residents who have fixed-term leases will be exempt from the smoke-free policies.

Start with new and renewing tenants.

When new tenants sign a lease, include a clear smoke-free provision in your contract.

All Buildings

Implications for workers and guests.

Remember, smoke-free policies not only impact residents, but their guests and your employees. When you adopt a smoke-free policy, make it clear that all guests, maintenance workers, and staff are prohibited from smoking as well. ■

RESOURCES

For more detailed information about how to implement a smoke-free policy in your new or existing development, including for example sample surveys, notification letters, and lease addenda, visit any of the following websites.

- Capital District Tobacco Free Coalition
www.smokefreecapital.org
- Smoke-Free Housing New England
www.smokefreehousingne.org
- Michigan Smoke-Free Apartments
www.mismokefreeapartments.org
- Smoke-Free Housing Coalition of Maine
www.smokefreeforme.org
- Minnesota Smoke-Free Housing
www.mnsmokefreehousing.org
- Tobacco Technical Assistance Consortium
www.ttac.org
- Smokefree Apartments Registry
www.smokefreeapartments.org
- Technical Assistance Legal Center
www.phlpnet.org/talc

REFERENCES

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- ²Smoke-Free Housing Coalition of Maine. *2004–2006 Surveys*. (Portland, ME: 2007.)
- ³Washington State Department of Health, Tobacco Prevention and Control Program. *2003 Tenant Surveys*. (Olympia, WA: 2003.)
- ⁴Oregon Smoke Free Housing Project, *2006 Market Surveys*. American Lung Association of Oregon. (Tigard, OR: 2006.)
- ⁵United States, Center for Disease Control and Prevention. *Prevalence of Current Smoking among Adults Aged 18 Years and Over: United States, 1997–June 2008*. (Atlanta: Department of Health and Human Services, 2008.)
- ⁶United States, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke*. (Atlanta, GA: Department of Health and Human Services, 2006.)
- ⁷United States, Office of Health and Environmental Assessment. *Health Effects of Exposure to Secondhand Smoke*. (Washington, DC: Environmental Protection Agency, 1992.)
- ⁸United States, Office of the Surgeon General. *The Health Consequences of Involuntary Exposure to Tobacco Smoke*. (Atlanta, GA: Department of Health and Human Services, 2006.)
- ⁹California Environmental Protection Agency. *Environmental Tobacco Smoke: A Toxic Air Contaminant*. (Sacramento, CA: California Air Resource Board, 2006.)
- ¹⁰American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). *Environmental Tobacco Smoke Position Document*. (Atlanta: June 30, 2005.)
- ¹¹Center for Energy and Environment. *Reduction of Environmental Tobacco Smoke Transfer in Minnesota Multifamily Buildings Using Air Sealing and Ventilation Treatments*. (Minneapolis, MN: 2004.)
- ¹²Oregon Public Health, Guardian Management. “Guardian Management, LLC Tenant Survey Reveals Majority of Residents Pleased with No Smoking Policy.” (Portland, OR: November 18, 2008.)
- ¹³Schoenmarklin.
- ¹⁴Technical Assistance Legal Center. *There is No Constitutional Right to Smoke*. Public Health Institute (Oakland, CA: 2005.)
- ¹⁵Ibid.
- ¹⁶Public Housing Occupancy Guidebook, HUD, Part 5, Chapter 17.5.
- ¹⁷Public Housing Occupancy Guidebook, HUD, Part 5, Chapter 17.3.

Remember, smoke-free policies are about the smoke, not the smoker. Smoke-free policies do not preclude someone who smokes from living in the building; rather, they simply require that all tenants abide by the policy while on the property.