

## **The Smoker Next Door ... Handling Unwanted Tobacco Smoke in Apartments and Condominiums**

Secondhand smoke seeping into apartments or condominiums from neighboring units poses both a health risk and a significant nuisance. The following are a number of suggestions that you can take to protect yourself from secondhand smoke.

### **Clarify your goals**

- Your main goal is clear—you want to breathe smoke-free air. You should have some specific ideas about how you want the problem resolved. Do you want an expense-paid voluntary relocation? Do you want out of your lease? Do you want modifications to be made to the physical structure of the building? Do you want cracks sealed? Do you want one or more buildings of a multi-building complex designated as completely nonsmoking? Do you want all common areas, both inside and out, designated nonsmoking? Do you want the owner or manager to add a no smoking clause to all future rental agreements?
- Come up with as many possible solutions as you can. Also, try to ensure that the building itself is up to all state and local building codes. Structural defects can cause an excess amount of smoke to travel between apartments.
- If you live in a condominium, one solution that you might pursue is changing the Conditions, Covenants, and Restrictions (CC&Rs) so that the condo is declared smoke-free. If you live in an apartment, you can encourage the management to gradually create a smoke-free environment by adding smoke-free language to the lease of new tenants.

### **Do your homework**

- You will want to read the enclosed materials carefully. They will provide you with well-documented information about the dangers associated with exposure to secondhand smoke, and will acquaint you with strategies that others have used to deal with similar problems.
- You will also want to read your lease or condominium agreement. Most leases contain a "nuisance clause" that prohibits tenants from engaging in any activity that interferes with another tenant's peace and well being. Typically, it is designed to protect tenants from loud music, noxious odors, noisy late-night parties, etc. Arguably, it also includes protection from undue exposure to secondhand smoke.

### **Try to work it out amicably**

- Approach the situation positively. Begin with the assumption that your neighbor and manager are interested in your comfort and well-being. Take a friendly, educational approach. Let the neighbor know that you are experiencing difficulty from their secondhand smoke, and that you are concerned about your health. Let them know that you are flexible and interested in working out a mutually satisfying solution.
- Don't assume that your neighbors or your landlord know much about the health effects of secondhand smoke. Secondhand smoke causes a host of ailments, and exacerbates pre-existing conditions, in nonsmokers - lung cancer, heart disease, asthma, ear infections in children, sudden infant death syndrome (SIDS) just to name a few. Try posting information about secondhand smoke on apartment bulletin boards, in laundry rooms, or in condominium/apartment newsletters.

## **Share information with Property Management**

- Your management company or owner's association may be unaware that it is perfectly legal to designate an apartment building or condominium smoke-free. People often believe that there is a "right to smoke." However, there is no such legal right, and the courts have held that protection of nonsmokers against the hazards of secondhand smoke takes precedence over smokers' desire to light up wherever they choose (Sweda, 1997). A smoke-free policy, however, is best accomplished gradually. You may want to share some of the information included in this packet.
- You may also want to remind management of the significant economic costs associated with smoking. Smoking increases the risk of fire, requires more frequent painting, increases maintenance costs, and increases insurance rates (Carlson, 1997).

## **Find allies**

- You may not be the only one offended by secondhand smoke in your apartment or condominium complex. Other neighbors may be willing and interested in joining with you to find a solution. When discussing the problem of seeping secondhand smoke with the landlord, owner, or management association, you are likely to have greater success with many voices instead of one.

## **Get a note from your doctor**

- A letter from your physician lends credibility to your complaint. If you have greater than average sensitivities to tobacco smoke, get them documented. Possible smoke-related conditions include sore throat, asthma, pulmonary or cardiac disease, hay fever, headache, and allergies. If your first informal complaint to management is not addressed to your satisfaction, send a formal complaint, together with your physician's letter, both to the property owner and the offending neighbor. Again, indicate that you wish to resolve the situation amicably. It's always smart to send such paperwork Certified Mail, Return Receipt Requested.

## **Help protect both yourself and others**

- You are not alone. More and more people are complaining of secondhand smoke in multi-unit dwellings. Find others that care about secondhand smoke issues, write a letter to the local newspaper editor, and call your local City or County Council representative to express your concerns. Working together, you can make a difference.

## **REFERENCES**

1. Carlson, R. *Smokefree Air Everywhere*. New Jersey Group Against Smoking Pollution (GASP), 1997.
2. Sweda, E. *Summary of Legal Cases Regarding Smoking in the Workplace and Other Places*. Boston, MA: Tobacco Control Resource Center, Inc., December 1997.

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