

# Action Steps for Tenants and Landlords to Deal with Drifting Secondhand Smoke in Apartments

*September 21, 2006*

## **Tenants: Ask for Protection from secondhand tobacco smoke!**

Drifting secondhand smoke in your home can cause significant illness, including asthma, ear infections, heart disease, stroke, and lung cancer. Smoke-free housing is not a luxury – as a tenant you have a right to breathe air free of secondhand smoke pollutants.

- Non-smokers with chronic illnesses or allergies to tobacco smoke have the right to ask for a “reasonable accommodation” under state and federal fair housing laws.
- If you are bothered by your neighbor's drifting smoke, you should try to reach a voluntary agreement with him or her. Such an agreement could, for example, limit where or when your neighbor smokes.
- Another option is to ask your landlord to adopt a policy to make the common areas of your building non-smoking. In addition, ask your landlord to designate individual units as non-smoking.
- A no-smoking policy does not discriminate against the smoker. People who smoke are not protected by state or federal anti-discrimination laws. Therefore, building owners are legally free to restrict or prohibit smoking in their building.
- Your last resort is to move to an apartment building where smoking is not permitted. To find an apartment, visit the web site, [www.smokefreeapartments.org](http://www.smokefreeapartments.org) or call (818) 363-4220.

## **Landlords: It's legal!**

Secondhand smoke not only damages your properties' carpets, drapes, and paint, but is a significant cause of illness and death, especially to families with children, pregnant women, the elderly, and those with chronic illness.

- The right to smoke is not protected under law, according to the opinions of the U.S. Department of Housing and Urban Development (HUD). It is also legal to advertise a residential unit as “smoke-free” or “no smoking.”
- Building owners can legally restrict or prohibit smoking in their building, including in individual units, as long as the policy is not used to target a protected class or minority. Landlords have the legal right to set limits on how a tenant may use rental property (such as restricting guests, noise, and pets). A “no-smoking” clause in a lease is simply a way for landlords to protect their property from damage caused by tobacco smoke.
- Landlords have a responsibility under state and federal fair housing laws to provide reasonable accommodations to non-smokers with serious breathing disabilities or smoke allergies.
- Steps to make your property non-smoking include: (1) a written notice advising tenants of the change; (2) posting signs (in various languages as needed); and (3) changing leases. For lease language, visit the Smokefree Apartment House Registry at [www.smokefreeapartments.org](http://www.smokefreeapartments.org).



[www.californialung.org/thecenter](http://www.californialung.org/thecenter)



[www.hlppartnership.org](http://www.hlppartnership.org)