

Looking Back, Moving Forward: Smoke-Free Multi-Unit Housing in Ontario

Introduction

We're gaining momentum on the issue of second-hand smoke (SHS) in multi-unit dwellings (MUDs). Ontarians have a high level of awareness about the danger of SHS and decreasing tolerance for exposure. But when people go apartment or condo hunting, is smoke-free air on their list of must-have amenities? Not quite yet. This is certainly not a function of lack of desire, but rather a lack of awareness that such a thing is even possible. However, for those people who find themselves being exposed at home from a neighbouring unit, a smoke-free environment quickly becomes THE most important amenity, easily eclipsing granite countertops or a parking spot on site.

There's work to do beyond educating apartment hunters that they should voice their preferences for smoke-free housing. Beliefs among landlords, property management companies, condominium corporations, developers and housing cooperatives that no-smoking policies are illegal, unenforceable or discriminatory persist as barriers to a greater supply of smoke-free housing in Ontario.

Capacity within Public Health Units (PHUs) across the province to respond to SHS in MUDs complaints/enquiries has increased significantly in recent years. Now identified as a priority issue for some PHUs, SHS in MUDs is being addressed more proactively in many regions across the province. And the work is starting to pay off—albeit still woefully inadequate, there is currently more smoke-free choice than ever before. However, we still have a way to go before those in the housing sector embrace smoke-free air as a mainstream amenity, and before apartment and condo hunters think to ask for smoke-free before signing on the line.

The 2010 Tobacco Strategy Advisory Group (TSAG) report¹ regarding Ontario's renewed Smoke-Free Ontario Strategy contains a few recommendations pertaining to MUDs. First and foremost, the report recommends continuing and intensifying a voluntary approach to smoke-free MUDs. It also recommends offering a provincial tax credit to developers of new affordable housing who commit to

¹ *Building on our Gains, Taking Action Now: Ontario's Tobacco Control Strategy for 2011-2016*. Report from the Tobacco Strategy Advisory Group to the Minister of Health Promotion and Sport, October 18, 2010.

<http://www.mhp.gov.on.ca/en/smoke-free/TSAG%20Report.pdf>

designating their developments 100% smoke-free. The Smoking and Health Action Foundation (SHAF) has examined the use of incentives to help stimulate the supply of smoke-free housing in Ontario, and concludes that there is a role for PHUs.²

Our goal, to make smoke-free housing the norm (measured by supply equaling demand), has not changed since it was first articulated in 2007. There is a variety of activities that can be undertaken to continue to raise public awareness and advance the issue of smoke-free housing. Some are suited to the local PHU level, others better addressed either regionally through the Tobacco Control Area Network (TCAN) system or provincially through the Ontario Smoke-Free Housing Coalition. This resource highlights various MUDs activities that have been undertaken in recent years, and re-examines a menu of options intended to both increase demand for, and supply of, more smoke-free housing in Ontario.

Looking Back...

- 2006
 - Increasing complaints about exposure to SHS in MUDs are logged at the SHAF/ Non-Smokers' Rights Association (NSRA)
 - NSRA's first MUDs resource, *When Neighbours Smoke*, is written
 - The Canadian Smoke-Free Housing Coalition, whose membership was dominated by Ontarians, is struck
 - First SHAF MUDs workshop for PHUs is held in Ontario, the first of many more over the next 6 years
 - SHAF aware of just a few examples of smoke-free housing in Canada (British Columbia)

- 2007
 - First national forum on SHS in MUDs is held
 - First large landlord in Canada, Globe General Agencies, announces adoption of a no-smoking policy (Winnipeg, MB)
 - Results of first Ipsos Reid public opinion poll released with good media pick-up
 - National strategy logic model created, and later adapted for Ontario

- 2009
 - SHAF receives funding from the Ontario Ministry of Health Promotion and Sport to develop and launch a website dedicated to smoke-free housing: www.smokefreehousingon.ca
 - Second national forum on SHS in MUDs is held

- 2010
 - The Ontario Smoke-Free Housing Coalition is formally established as a separate entity from the Canadian Coalition
 - SHAF joins forces with the TCAN East and the website and key resources are translated into French: www.habitationssansfumeon.ca

² Smoking and Health Action Foundation. *Using Incentives to Stimulate the Supply of Smoke-Free Housing in Ontario*. http://www.smokefreehousingon.ca/cms/file/Tax_Incentives_Fact_Sheet-FINAL.pdf

- 2010
 - Waterloo Region Housing and Region of Waterloo Community Housing Inc. become the first municipal community housing landlords in Ontario to adopt no-smoking policies
 - The Media Network records 124 MUDs media hits
 - SHAF/NSRA logs 350 complaints/enquiries
 - Domicile Developments in Ottawa designates the city’s first 100% smoke-free new condo building

- 2011
 - Results of second Ipsos Reid public opinion poll released
 - The Media Network records 106 MUDs media hits
 - MUDs module added to Rapid Risk Factor Surveillance System (RRFSS); 15 PHUs opt in

- 2012
 - The Media Network records 119 MUDs media hits (first half of 2012)
 - A critical mass of landlords with no-smoking policies is reached and published online³
 - First human rights case involving SHS in a MUD moves beyond settlement and receives a hearing; condo couple awarded \$8,000 at the BC Human Rights Tribunal
 - Canada’s first 100% smoke-free housing co-op policy is passed in Ottawa— residents have a 6 month grace period before everyone is expected to butt out on the property
 - Province-wide Ontario MUDs meeting is convened

Moving Forward—Challenges

- Many landlords and landlord associations, property management companies, service managers (under the *Housing Services Act, 2011*) and condominium boards continue to believe that no-smoking policies are illegal, unenforceable or discriminatory.
- A no-smoking policy is not considered a material term of the lease under the *Residential Tenancies Act, 2006 (RTA)*, making it more difficult (but certainly not impossible) to enforce. Many landlords see this as a serious barrier to adopting no-smoking policies.
- The *RTA* requires that existing tenants be “grandfathered” (exempted) from new rules prohibiting smoking. This significantly hampers progress towards the availability of 100% smoke-free buildings in Ontario, and forces many tenants to endure continuing exposure at home.
- The Landlord and Tenant Board (LTB), which resolves disputes between landlords and tenants, has not published interpretation guidelines for cases involving exposure to SHS. Board decisions are not bound by precedent and conclusions are at times diametrically opposed to one another.

³ Smoking and Health Action Foundation. *Ontario Social Housing Providers with No-Smoking Policies*
http://www.smokefreehousingon.ca/hsfo/file/files/Smoke-free_social_housing_June_2012.pdf

- Access to easy, affordable and effective means of definitively proving the presence of SHS in MUDs is currently unavailable (Appendix A). However, the need for scientific testing to prove a case of SHS infiltration is arguably problematic and not necessarily an avenue we should be pursuing.

Local PHU Strategies

1. Peterborough County-City Health Unit

Multi-unit dwelling activities in the Peterborough region have been focused to date on supporting people with Landlord and Tenant Board applications related to SHS, and encouraging and supporting local housing providers to develop and implement no-smoking policies. As a result, and with no specific funding allocated for this work, over a dozen private non-profit housing providers in the Peterborough area have adopted no-smoking policies.⁴ Through its work, the health unit has also built valuable relationships as well as social capital.

2. Hastings and Prince Edward Counties Health Unit

In 2008 the health unit sent out an information package to area landlords, and followed up with a press release educating the public about SHS in MUDs and encouraging landlords to adopt no-smoking policies. The Belleville Intelligencer issued a scathing editorial, accusing the health unit of stepping over the line into advocacy. The Medical Officer of Health, Dr. Richard Schabas, replied in an op-ed that they were “guilty as charged,” identifying tobacco addiction and SHS as the sworn enemies of public health. The initiative raised awareness among area landlords and earned media which helped to further educate the public at large.

3. Kingston, Frontenac and Lennox & Addington Health Unit

A new smoke-free housing registry is available on KFL&A Public Health’s website.⁵ The registry provides property managers and landlords with the means to promote their smoke-free properties and helps potential tenants find smoke-free accommodations. In addition to providing a platform for owners and property managers to promote their smoke-free properties, the development of the registry has encouraged developers to consider implementing smoke-free policies in the early stages of their planning process. Beyond direct contact with property owners and operators, and in an effort to identify opportunities for smoke-free housing, sightings of new residential construction around the region are investigated by Public Health in an effort to identify the developer. Once identified the developer is contacted to see if they have considered a smoke-free policy for their new building and if not, they are offered information about the implementation of smoke-free

⁴ McCammon-Tripp, L., Cathcart, I., & Hoffmeyer, J. (2012). Promoting smoke-free multi-unit dwellings in the Peterborough County-City Region. Toronto, ON: Program Training and Consultation Centre.

<https://www.ptcc-cfc.on.ca/common/pages/UserFile.aspx?fileId=137617>

⁵ http://www.kflapublichealth.ca/Apps/MUD_Registry.aspx

policies. Direct contact with developers in the early stages of construction allows ample time for them to consider the benefits of implementing a smoke-free policy. Both initiatives help to build relationships and social capital for the smoke-free housing initiative.

4. **TCAN East smoke-free MUDs sub-committee**

The TCAN East created an ad promoting smoke-free housing and linked it to the Smoke-Free Housing Ontario website; it was placed in a variety of print and online resources for landlords and property managers. A few articles on various aspects of smoke-free housing were also written and placed free of charge in some of these websites and e-newsletters. However, for unknown reasons the ads unfortunately did not generate significant traffic to the SFHO website.

5. **Waterloo Region Public Health**

In what can only be described as beautiful health promotion policy making, the health and housing departments at the Region of Waterloo worked together to achieve Ontario's first municipal no-smoking policies for community housing. A video about the experience has been created and is available online at Region of Waterloo Social Services,⁶ as well as the Propel Centre for Population Health Impact.⁷ The Region has also focused on the importance of evaluation, building a few different outcome measures into its policy implementation. In addition, cessation services continue to be offered to tenants interested in quitting.

6. **Ottawa Public Health**

During National Non-Smoking Week 2012 the health department recognized a condo developer and a private non-profit housing provider with "Smoke-Free Champion" awards for their commitment to smoke-free housing. The awards generated media attention, and helped to build relationships and social capital for the PHU, all of which in part helped lead to an invitation from Ottawa Community Housing (the region's largest social housing provider) to participate on its smoke-free advisory group.

7. **Middlesex-London Health Unit**

The PHU seized an opportunity to participate in the Ontario Municipal Social Services Association (OMSSA) Annual Learning Symposium whose 2011 theme was "Municipal Innovations in Poverty Reduction." The health unit created a vertical banner using the Smoke-Free Housing Ontario brand and hosted a table at the meeting. The initiative enabled the PHU to network with non-traditional groups to advance the idea of smoke-free housing in wider circles.

⁶ <http://socialservices.regionofwaterloo.ca/en/housing/newsevents.asp>

⁷ <http://www.propel.uwaterloo.ca/?section=26&page=405>

8. Simcoe-Muskoka Health Unit

In response to a request for assistance from a tenant living in social housing, the PHU helped the tenant with his issue which led to a LTB application with a deputation from the MOH and support from staff. Through the adjudication process, the PHU was able to start a conversation with the municipal housing department, which eventually led to the adoption of a no-smoking policy. Their involvement in a single tenant's LTB case helped to open previously-closed doors at the municipal housing department. The PHU also gave smoke-free awards to the tenant and another social housing provider in the area that already had a no-smoking policy. The awards generated earned media as well as helped to build relationships and social capital for the PHU.

Advancing the Issue

1. At the PHU level

Building capacity within the PHU

- Join the Ontario Smoke-Free Housing Coalition
- Respond to enquiries/complaints
- Sign onto the RRFSS MUDs module for local data
- Seek out possible levers to create smoke-free incentives within the municipal structure (meet with representatives from building, housing, legal, finance etc. to explore options for incentives)⁸

Community engagement/outreach

- Join local landlord/housing associations
- Meet and work with landlords to increase awareness and to assist with policy development
- Attend landlord/housing meetings, make presentations
- Send out information packages to area landlords/condo developers
- Monitor/publicize smoke-free housing activity in the region and pass information along to SHAF
- Support individual LTB applications
- Give out awards to local smoke-free champions

Media outreach/communications

- Post smoke-free housing information on PHU website, create a link to Smoke-Free Housing Ontario
- Prepare and make available a generic letter from MOH in support of smoke-free MUDs⁹
- Write press releases and letters to the editor
- Write articles for local housing sector newsletters, websites, etc.

⁸ Smoking and Health Action Foundation. *Using Incentives to Stimulate the Supply of Smoke-Free Housing in Ontario*.

http://www.smokefreehousingon.ca/cms/file/Tax_Incentives_Fact_Sheet-FINAL.pdf

⁹ http://www.smokefreehousingon.ca/cms/file/Sample_MOH_letter.pdf

- Pitch a story idea for the homes section of the newspaper (time it for National Non-Smoking Week or World No Tobacco Day)

2. At the TCAN level

- Sign onto the RRFSS MUDs module for local data
- Join regional landlord/housing associations
- Create and run public awareness campaigns
- Partner with SHAF on specific initiatives

3. At the provincial level, through the Smoke-Free Housing Coalition

- Meet with officials from Ministry of Municipal Affairs and Housing regarding the possibility of a Ministry communiqué regarding the legality of no-smoking policies
- Meet with officials from the Housing Services Corporation to explore ways to advance the issue (ex: surveying housing providers, offering workshops for service managers, securing insurance premium deductions, providing information to members, etc.)
- Communicate with the Ministry of Health and Long-Term Care and jointly explore options to advance the issue
- Liaise with the Ontario Non-Profit Housing Association to get information out to members (Direct mailings? Workshops?)
- Liaise with Ontario Municipal Social Services Association
- Create provincial press releases, run public awareness campaigns
- Explore options for legislative/regulatory change (ex: smoking policy disclosure requirement for landlords and condo corporations such that prospective residents have informed consent for exposure to SHS; amendment to RTA to make enforcement of no-smoking policies easier; amendment to the Building Code for increased sealing of individual units to minimize air transfer between units in new buildings)
- Explore/pursue provincial levers to create incentives for more smoke-free housing (ex: tax credits)
- Meet with Landlord and Tenant Board officials to discuss decisions related to SHS and lack of guidelines/directives

Conclusion

Our goal is to make smoke-free housing the norm in Ontario, measured by supply equaling demand. However, significant barriers persist. Many stakeholders in the housing sector continue to believe that no-smoking policies are illegal, unenforceable or discriminatory. Our biggest job continues to be raising public awareness on the issue. We should continue working on a voluntary, market-based approach that focuses on increasing both supply of, and demand for, smoke-free housing in Ontario. This will be achieved through a combination of education and skills development of the tobacco control community, networking with and education of the housing sector, public education and advocacy. Specific activities are varied—many are suited to the local PHU level, with others better addressed regionally through the TCAN system or the Ontario Smoke-Free Housing Coalition. We have made tremendous progress on the MUDs file in recent years, and we continue to gain momentum. It won't be long before smoke-free is embraced as a must-have housing amenity.



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May 25, 2012

RE: Challenges related to tobacco smoke pollution and its determination in air

I am providing this letter to describe some of the challenges related to tobacco smoke pollution determination in air, particularly in the context of buildings with multiple units (“multi-unit dwellings”). I write this in my capacity as a Scientist with the Propel Centre for Population Health Impact at the University of Waterloo. I am a tobacco control researcher and I study tobacco smoke pollution in a variety of settings including outdoor spaces, hospitality environments and multi-unit dwellings. Prior to joining Propel, I worked at the Ministry of Environment, Lands, and Parks in British Columbia as an air emission inventory scientist, and at Region of Waterloo Public Health as a Public Health Planner in Environmental Health. I also have an appointment as a Research Associate with the Center for Global Tobacco Control in the Department of Society, Human Development, and Health at the Harvard School of Public Health.

The home can represent a significant source of tobacco smoke pollution especially for people living in close proximity to one another in multi-unit dwellings. [1] Tobacco smoke pollution includes sidestream smoke, which is the smoke emitted from the end of a burning cigarette or other burning tobacco product, mainstream smoke exhaled by the person smoking the tobacco, and residual constituents from smoke that are left on surfaces from sidestream and exhaled mainstream tobacco smoke. Sidestream and exhaled mainstream smoke are often collectively called secondhand smoke. Residual sidestream and exhaled mainstream smoke is often referred to as thirdhand smoke.

Studies have identified that tobacco smoke pollution is a mixture of thousands of chemicals. At least 200 tobacco smoke constituents are known to be toxic to humans and/or experimental animals; over 80 of these constituents are known or probable human carcinogens [2]. Exposure to tobacco smoke pollution represents a significant public health concern. In 2006 the US Surgeon General concluded that there is no risk free level of exposure to secondhand smoke [3]. Smoking tobacco has been banned in almost all enclosed workplaces and public places in Canada.

Many studies have been conducted to measure air quality in public places and workplaces to determine if tobacco smoke pollution is present. There are many standardized scientific methods and techniques developed to assess the presence of tobacco smoke in air and these methods continue to evolve. [4]

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There are examples of studies in which air quality was monitored to either provide evidence of the need for smoking restrictions or to help monitor or evaluate the effectiveness of smoke-free laws or policies. A common research technique – and one I have used – is to measure concentrations of respirable particulate matter as a proxy measure for tobacco smoke pollution. [5] Tobacco smoke particles are almost exclusively less than 2.5 μm ($\text{PM}_{2.5}$) and have a mass median diameter of 0.2 μm . [6] Determining tobacco smoke pollution in the air with a proxy of $\text{PM}_{2.5}$ concentrations has many advantages. The monitoring equipment used to measure concentrations of $\text{PM}_{2.5}$ can be relatively inexpensive and the data are collected in real time and easily logged with time stamps. $\text{PM}_{2.5}$, however, is not specific or unique to tobacco smoke pollution. It is generally present in ambient air and monitored in Canada as a criteria air contaminant when reporting poor air quality (smog). A major source of ambient particulate matter is diesel exhaust. Further, tobacco smoke pollution contains many of the same constituents as other smoke including smoke from wood or burnt food.

If $\text{PM}_{2.5}$ is used to determine tobacco smoke pollution in multi-unit dwellings it may not be possible to state with certainty that elevated concentrations of particulate matter are from drifting tobacco smoke as the particulate matter may have originated from smoke from other burning items (such as food). It should be noted that studies in the peer reviewed literature have successfully used $\text{PM}_{2.5}$ monitoring in combination with resident diaries to identify that tobacco smoke pollution transfer is possible between units in a multi-unit dwellings. [1]. In a study by King et al. (2010) it was determined that tobacco smoke pollution transfer was a function of many determinants, including ventilation and proximity between units. To use $\text{PM}_{2.5}$ as a measure of tobacco smoke pollution drift between units, deep co-operation is required from households as well as accurate notation of household activities/ behaviours including smoking, cooking, and use of any other products that could introduce particulate matter into the air such as incense.

There are several smoke constituents (analytes) that are unique (or nearly unique) to tobacco smoke that can be monitored to help determine the presence of tobacco smoke in air. Some of these markers include nicotine, 3-ethyl pyridine (3-EP), and 2-5 dimethyl furan (2-5 DMF). [4] There are also several volatile organic compounds (VOCs) used as markers for tobacco smoke including vinyl pyridine, pyrazine, methyl pyrazine, 1-methyl-1H-pyrrole, pyridine, 2-methyl-1H-pyrrole and other nitrogen-containing compounds.

There are relatively inexpensive ways to monitor for the presence of nicotine in the air. This can include passive nicotine sampling which uses a treated filter medium placed in an environment. Nicotine will adhere to the treated filter which is later analyzed in a lab. A single lab test for nicotine is generally \$100-\$200; however, it is conventional to test in



multiple places and include a 'blank' along with other samples. Passive nicotine testing has a couple of challenges in a setting like non-smoking multi-unit dwellings adjacent or near other units where smoking takes place. First, passive monitors are not very sensitive to relatively low levels of airborne nicotine. Secondly, the suitability of nicotine as a tobacco marker has been questioned because of its sink effect (e.g., decay or decrease by UV radiation). [4] Essentially, nicotine is "sticky" and may not transfer or drift at the same rate as other constituents in tobacco smoke. Therefore, monitoring for nicotine may not properly represent the proportion of other tobacco smoke pollutants present in the air. Other air monitoring techniques do appear appropriate to accurately measure tobacco smoke drift between units including measuring the presence of other unique analytes such as 3-EP or 2-5DMF. Common techniques for monitoring these in vapour phase include gas chromatography-based detection methods. These techniques require a trained environmental technician such as an occupational hygienist and hiring someone to do this type of testing can easily cost thousands of dollars.

Tobacco smoke pollution drift between units is also obviously influenced by smoking behaviour which can change season to season, either by changing personal patterns or changes in heating/ventilating that also coincides with changes over the year. Therefore, a rigorous sampling plan might require analyte monitoring over many weeks or months (which further adds to costs).

Some studies looking at tobacco smoke pollution in multi-dwelling buildings have focused on understanding the rate that air transfers between units. If it can be determined that air does move between units, then the argument can be made that any tobacco smoke pollution in one unit could drift into a nearby unit. Bulk air transfer studies can be quantified using tracer gas tests (using such tracers as perfluorocarbon). [7] Again, this type of testing generally requires skilled environmental health specialists, cooperation from the occupants of the units involved, and can cost thousands of dollars.

In summary, studies have determined that tobacco smoke pollution can drift between units in multi-unit dwellings. Many of the common methods for determining the presence of tobacco smoke pollution in air including particulate matter and passive nicotine monitors have limitations in housing settings. Determining particulate matter concentrations may not be sufficiently specific and passive nicotine monitoring may not be sufficiently sensitive to lower concentrations of nicotine. Although it is technically possible to determine if tobacco smoke pollution is present in air by measuring unique tobacco smoke analytes with scientifically sound methods, this generally requires advanced skills such as would be found in an environmental hygienist. This type of testing is relatively costly.



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This doesn't mean that attempting to get scientific confirmation for the presence of tobacco smoke pollution should be entirely discounted. In certain situations, particularly for condo owners, proof of smoke is sometimes needed to remove doubt and to provide justification for remedial action. As was mentioned earlier, deep co-operation is required from households as well as accurate notation (journaling) of household activities/ behaviours including smoking, cooking, and use of any other products that could introduce particulate matter into the air such as incense.

However, achieving "deep" co-operation can often be problematic and brings into question issues of civil liberties. Does a condominium corporation have the right to enter someone's unit to test for smoke pollution? Is the air in a condo corporation considered a shared resource, or privately owned? If it is considered shared, then the right to have it tested becomes an easier question to answer.

Truly,

Ryan David Kennedy, PhD

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