



# Tools & Resources

*Pippa Beck*

Smoking & Health Action Foundation

Webinar • 24 October, 2013

# Smoking & Health Action Foundation

## “Tobacco control”

- ▶ Federal
- ▶ Provincial
- ▶ Municipal







Helping increase options for smoke-free living



Overview

Tenants

Landlords

Condominiums

Housing Co-ops

Public Health Intermediaries

### Overview

Smoke-Free Housing Ontario is about helping to increase options for smoke-free living. Demand for smoke-free environments is on the rise. Ontarians are protected from second-hand smoke in virtually all enclosed workplaces and public places, yet many remain unwillingly exposed in their own homes as a result of smoke from neighbouring units.

We are not asking the government to pass a law that would force landlords to make all rental buildings smoke-free. Smoke-free housing is not about denying smokers a place to live, evicting smokers from their homes, or forcing people to quit smoking. Smoke-Free Housing Ontario is about helping to increase options for multi-unit housing with clean, smoke-free indoor air. [More...](#)

### News

**Smoking in apartments infringes in neighbour's rights** (October 16, 2013) (Victoria News) - Victoria, BC. I have always been a non-smoker and I, like so many others, am very sensitive to smoke so, logically, any restrictions to reduce smoking in general are welcome. We who live in apartment buildings are often subjected to second-hand smoke from other tenants who decide to smoke out on their balconies. [More...](#)

**Smoke-free housing now on Toronto Board of Health's radar** (October 9, 2013) On September 30th, the Toronto Board of Health received a report from Medical Officer of Health Dr. McKeown entitled "Smoke-Free Toronto: Strengthening Protection." [More...](#)



### Tenants

Find out what you can do to protect yourself from exposure to second-hand smoke in your



### Landlords

No-smoking policies are legal, non-discriminatory and enforceable. And they're good



### Condominiums

Let's clear the air about no-smoking policies for condominium corporations.



### Housing Co-ops

You might be into sharing some things at a co-op, but you shouldn't have to share





## Quick Guide to Handling Tenant Enquiries

1. Recommend that the tenant write a letter of complaint to the landlord directly. Refer the tenant to the sample complaint letter: [www.smokefreehousingon.ca/cms/file/files/sample\\_complaint\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_complaint_letter.pdf)
2. Advise that the tenant try to block the smoke from entering their unit, or advise them to request that the landlord do it. The corridor ventilation system (if one exists) should also be...



## Quick Guide to Handling Condo/Co-op Resident Enquiries

1. Recommend that the resident write a letter of complaint to the Board of Directors directly. Refer the resident to the sample complaint letter on the Smoke-Free Housing Ontario website:  
Refer the resident to the relevant sample complaint letter: [www.smokefreehousingon.ca/cms/file/files/sample\\_condo\\_complaint\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_condo_complaint_letter.pdf) (condos) [www.smokefreehousingon.ca/cms/file/files/sample\\_coop\\_complaint\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_coop_complaint_letter.pdf) (co-ops).
2. Advise the resident to try to block the smoke entering their unit, or advise them to request that the property manager do it. The corridor ventilation system (if one exists) should also be checked.  
Refer the resident to the resource from the Canada Mortgage and Housing Corporation provides information and suggestions for reducing "odour transfer problems." [www.smokefreehousingon.ca/html/file/files/CMHC\\_SolvingOdourTransferProblems.pdf](http://www.smokefreehousingon.ca/html/file/files/CMHC_SolvingOdourTransferProblems.pdf)
3. Suggest that the resident request a letter from their doctor to support their need to avoid exposure to SHS (but note that some doctors charge for this if the complainant has a health condition that is made worse by exposure to SHS).  
Refer the resident to the sample physician letter: [www.smokefreehousingon.ca/cms/file/files/sample\\_physician\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_physician_letter.pdf)



## Quick Guide to Handling Landlord Enquiries

1. Recommend that the landlord keep detailed notes regarding tenant complaints about second-hand smoke (SHS) infiltration, ideally, using a standard form for recording complaints. Also recommend that the landlord require tenant complaints to be recorded in order to create a paper trail.  
Refer landlords to the...



## Quick Guide to Handling Community/Social Housing Provider Enquiries

1. Recommend that the community/social housing provider meet with public health unit/agency staff in person to discuss the issue. This is an opportunity to share information about the health unit and available resources, as well as to learn more about the housing provider. (Note that the housing sector is diverse, with many different kinds of social/community housing providers that house many different kinds of tenants.)
2. Suggest that a joint committee be established between public health and the housing provider to develop and implement a no-smoking policy. The Region of Waterloo's successful no-smoking policy implementation in 2009 is a great example of what can happen when organizations work together in partnership. Refer to the Program Training and Consultation Centre (PTCC) document "The Development of a Smoke-Free Housing Policy in the Region of Waterloo: Key Success Factors and Lessons Learned from Practice": <https://www.ptcc-cfr.on.ca/cms/one.aspx?pageId=194032>
3. To get started, refer to the step-by-step guide developed for landlords, "How to Implement a No-Smoking Policy for a Multi-Unit Dwelling: A Protocol for Rental Housing": [http://www.smokefreehousingon.ca/cms/file/files/protocol\\_final.pdf](http://www.smokefreehousingon.ca/cms/file/files/protocol_final.pdf)
  - Step 1: Strike a committee or working group [http://www.smokefreehousingon.ca/cms/file/files/sample\\_tenant\\_survey.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_tenant_survey.pdf)
  - Step 2: Develop the policy [http://www.smokefreehousingon.ca/cms/file/files/sample\\_landlord\\_policy.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_landlord_policy.pdf)
  - Step 3: Develop a communications strategy <http://www.smokefreehousingon.ca/html/landlords-enforcement.html>
  - Step 4: Implement the no-smoking policy



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Housing Co-ops

Public Health Intermediaries

### Smoking & Health Action Foundation

Program Training & Consultation Centre

Public Health Units

Other Canadian Resources

Other American Resources

### Public Health Intermediaries: Smoking & Health Action Foundation

1. [Quick Guide to Handling Tenant Enquiries](#) (October 2013)
2. [Quick Guide to Handling Landlord Enquiries](#) (October 2013)
3. [Quick Guide to Handling Condo/Co-op Enquiries](#) (October 2013)
4. [Quick Guide to Handling Community/Social Housing Provider Enquiries](#) (October 2013)
5. Second-Hand Smoke in Multi-Unit Dwellings: [Literature Review](#) (August 2013)
6. [When Neighbours Smoke: A Tenant's Guide](#) (March 2013)
7. [Landlords' Stages of Change](#) (February 2013)
8. List of [Ontario Community/Social Housing Providers with No-Smoking Policies](#) (January 2013)
9. Provincial MUDs meeting held November 2012 - [Final Report](#) (December 2012)
10. Issue analysis document [Looking Back, Moving Forward: Smoke-Free Multi-Unit Housing in Ontario](#) (September 2012)



# Quick Guide to Handling Tenant Enquiries



## Quick Guide to Handling Tenant Enquiries

1. Recommend that the tenant write a letter of complaint to the landlord directly:  
[www.smokefreehousingon.ca/cms/file/files/sample\\_complaint\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_complaint_letter.pdf)
2. Advise that the tenant try to block the smoke from entering their unit, or advise them to request that the landlord do it. The corridor ventilation system (if one exists) should also be checked.  
Refer the tenant to two resources on the Smoke-Free Housing Ontario website:
  - For information and suggestions on reducing second-hand smoke (SHS) infiltration:  
[www.smokefreehousingon.ca/sfho/tenants-minimize-the-problem.html](http://www.smokefreehousingon.ca/sfho/tenants-minimize-the-problem.html)
  - For information and suggestions on reducing "odour transfer problems," including SHS, from the Canada Mortgage and Housing Corporation:  
[www.smokefreehousingon.ca/hsgo/file/files/CMHC\\_Solving\\_Odour\\_Transfer\\_Problems.pdf](http://www.smokefreehousingon.ca/hsgo/file/files/CMHC_Solving_Odour_Transfer_Problems.pdf)
3. Suggest that the tenant request a letter from their doctor to support their case that they need to avoid exposure to SHS (but note that some doctors charge for this service). If the complainant has a health condition that is made worse by exposure to SHS, this should be emphasized.  
Refer tenant to sample physician letter:  
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4. Recommend that the tenant document everything, including all phone conversations and messages, emails, face-to-face conversations, the date, time, and location of SHS intrusions and their health effects, the ways the smoke is preventing them from reasonably enjoying their unit, doctor/hospital visits, increased need for medications, etc.  
Refer tenant to sample log for recording pertinent information to support their case:  
[www.smokefreehousingon.ca/cms/file/files/sample\\_tenant\\_log\(1\).pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_tenant_log(1).pdf)
5. If the tenant feels either that the landlord has not responded reasonably to their complaint(s) or that any actions taken have not solved the problem, they have a decision to make—whether to stay or to move out.

*1. Recommend that the tenant write a letter of complaint...*



Helping increase options for smoke-free living



- Why Smoke-Free?
- Surveys
- Laws & Legal Issues
- Taking Action
- Common Questions
- Tools & Resources**
- Tools
- Useful Links
- Cessation
- Legal Resources
- Success Stories
- Last Resort Remedies

## Tenants: Tools & Resources

### Tools

In this section you'll find useful tools to get started, including:

- When Neighbours Smoke: A Tenant's Guide
- How to implement a no-smoking policy for a multi-unit dwelling: A protocol for rental housing
- Sample tenant log
- Sample complaint letter
- Sample physician letter
- Sample group petition



### Useful Links

In this section you'll find links to websites that may be helpful to you in addressing the issue of second-hand smoke in your apartment.

### Cessation Resources

If you are interested in quitting, or helping a friend or family member to quit smoking, you'll find information about a number of helpful resources.

### Legal Resources

In this section you'll find links to websites that may help you in securing free or affordable legal assistance in Ontario.

# Sample Complaint Letter

<b>Steps</b>	<b>Examples</b>
<b>Describe the source and extent of the problem.</b>	
<p>If this is your first letter, start on a positive note.</p> <p>Landlords get lots of complaints, so start by explaining why you like your unit or the building. Describe how often the smoke is coming in, where it comes from and be sure to emphasize that it is more than a temporary discomfort or inconvenience.</p> <p>Identify:</p> <ul style="list-style-type: none"><li>• When the problem first started;</li><li>• How the smoke is entering your unit (i.e. through open patio doors);</li><li>• Where the smoke is coming from (i.e. upstairs neighbour's balcony);</li><li>• How often the smoke enters your unit on a daily or weekly basis. List dates, times and frequency of occurrence;</li><li>• How much smoke is entering your unit. Does the smoke stay in one area or does it permeate other areas of your home?</li></ul>	<p>Dear (Landlord),</p> <p>Re: Loss of reasonable enjoyment due to second-hand Smoke</p> <p>I am a tenant residing at (enter address) and have been paying the current rent of (\$ amount) per month since (anniversary date on tenancy agreement). I like living here, and until now, I have enjoyed my tenancy. (If you don't want to move, emphasize that here).</p> <p>Unfortunately, I am currently faced with second-hand smoke coming into my unit from [enter the unit number if you know where the smoke is coming from]. The smoke comes in through the closet in my daughter's bedroom, and also seems to be coming in through the gaps around the plumbing under the bathroom cupboard. It is definitely worse in the evenings and weekends when our neighbour is home. It happens every single day without fail.</p>



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Refer the tenant to two resources on the Smoke-Free Housing Ontario website:
  - For information and suggestions on reducing second-hand smoke (SHS) infiltration:  
[www.smokefreehousingon.ca/sfho/tenants-minimize-the-problem.html](http://www.smokefreehousingon.ca/sfho/tenants-minimize-the-problem.html)
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4. Recommend that the tenant document everything, including all phone conversations and messages, emails, face-to-face conversations, the date, time, and location of SHS intrusions and their health effects, the ways the smoke is preventing them from reasonably enjoying their unit, doctor/hospital visits, increased need for medications, etc.  
Refer tenant to sample log for recording pertinent information to support their case:  
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5. If the tenant feels either that the landlord has not responded reasonably to their complaint(s) or that any actions taken have not solved the problem, they have a decision to make—whether to stay or to move out.

*2. Advise the tenant to try and block the smoke...*



Helping increase options for smoke-free living



- Why Smoke-Free?
- Surveys
- Law & Legal Issues
- Taking Action**
- Document the Problem
- Minimize the Problem
- Negotiate a Solution
- Common Questions
- Tools & Resources
- Success Stories
- Last Resort Remedies

## Tenants: Minimize the Problem

It is important you take all reasonable steps available to reduce the amount of smoke entering your unit. Based on a review of dispute resolution hearings, adjudicators often consider whether claimants have attempted to minimize the problem themselves before applying to the Ontario Landlord and Tenant Board.

This could include such actions as attempting to seal up cracks and gaps where the smoke is coming in, speaking or negotiating with the smoking neighbour, or talking to your landlord, to name just a few. Here are some steps you might consider:

- + Talk to your neighbours
- **Seal your unit to reduce air transfer**
  - Use caulk or spray-in foam around plumbing, electrical outlets, phone jacks, fixtures, cracks and gaps, etc.
  - Close windows and doors.
  - Weather-strip doors and windows where possible.
  - Cover or block heating/cooling grilles.

For more information, read [Solving Odour Transfer Problems in Your Apartment](#) published by the Canada Mortgage and Housing Corporation.

- + Investigate the ventilation
- + Question the construction



# Quick Guide to Handling Tenant Enquiries



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5. If the tenant feels either that the landlord has not responded reasonably to their complaint(s) or that any actions taken have not solved the problem, they have a decision to make—whether to stay or to move out.

*3. Suggest the tenant request a letter from their doctor...*

*4. Recommend the tenant document everything...*

# Tenants: Tools and Resources



Helping increase options for smoke-free living



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  - Useful Links
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## Tenants: Tools

Use the following tools to address the problem of second-hand smoke in your apartment.

[When Neighbours Smoke: A Tenant's Guide](#)

[How to implement a no-smoking policy for a multi-unit dwelling: A protocol for rental housing](#)

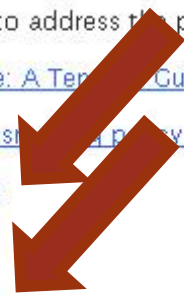
[Sample tenant log sheet](#)

[Sample complaint letter](#)

[Sample physician letter](#)

[Sample petition](#)

[Checklist to prepare for a hearing at the Landlord and Tenant Board](#) (see "How can I prepare for my hearing?")







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## Tenants

Welcome to our website dedicated to the issue of second-hand smoke in multi-unit dwellings and the promotion of no-smoking policies. This site will provide information and assistance to tenants who are suffering from second-hand smoke seeping into their homes from neighbouring units.

While provincial and municipal laws provide Ontarians with extensive protection from second-hand smoke where they work, shop, dine and play, many people are still being involuntarily exposed where they live. Despite strong public support and demand for smoke-free homes, there is a significant shortage of smoke-free buildings for Ontarians who want and need to live smoke-free.

If you are suffering from second-hand smoke infiltrating your home on a frequent and on-going basis, our site will provide you with useful information and tools, including:

- A [taking action](#) section for addressing the problem of second-hand smoke;
- [Tools](#) to make your efforts easier;
- Important information on [laws and legal issues](#), including a [legal opinion](#) on no-smoking policies in rental apartments; and
- [Surveys](#) conducted with residents of multi-unit dwellings.

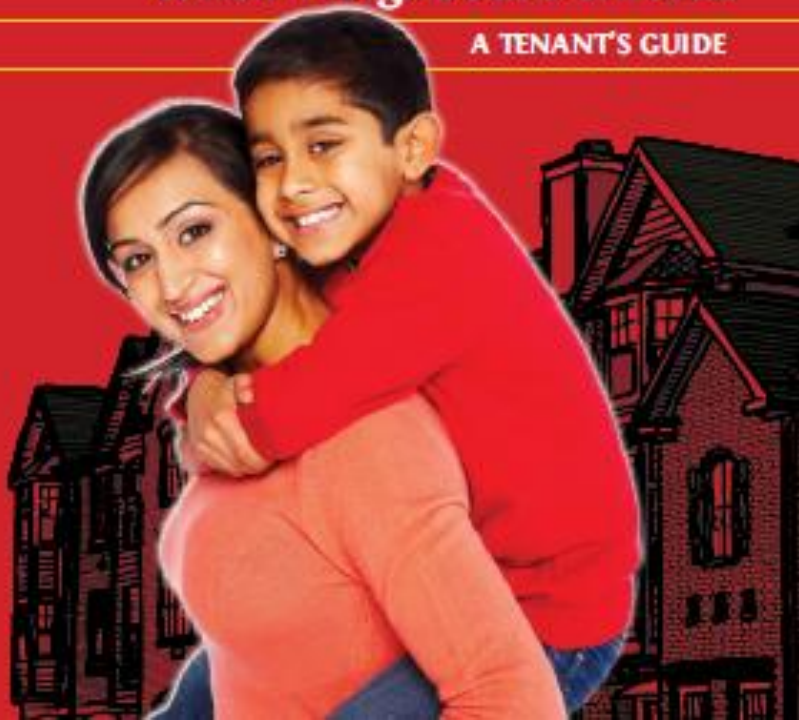
Also, check out [When Neighbours Smoke: A Tenant's Guide](#), as well as our [common questions](#) section.

*The information and materials contained on this website are for informational purposes only and should not be considered legal advice or as a substitute for obtaining legal advice from a lawyer.*

# Should I Stay or Move Out?

## When Neighbours Smoke:

### A TENANT'S GUIDE



#### WHAT SHOULD I DO?

1. write a letter of complaint to your landlord, written complaints will be taken more seriously than verbal ones, and will also provide a paper trail if you end up taking your landlord to the Landlord and Tenant Board for dispute resolution.
2. consider also getting a letter from your doctor stating the importance of avoiding exposure to s.e.v. if you have a health condition made worse by exposure, your doctor can emphasize your particular need for smoke-free air.

**A sample letter to apologise from smoke-free housing residents is available here: <http://www.tenants.ca/eng/tenant/tenant-landlord-1.html>**

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3. try to block the smoke entering your unit by sealing up cracks and gaps. Ask the landlord to check the ventilation system (if there is one) to make sure that it is operating properly.
4. carefully document the problem. keep a diary with dates and times detailing every time smoke enters your unit, where it seems to come in, how it affects you, and everything that you do to try to address the problem. This is vital—without sufficient documentation/evidence, it can be challenging to prove that the s.e.v. infiltrating your home is an “unreasonable disturbance that has resulted in a loss of your reasonable enjoyment.”

**Smoke-free housing Ontario has information and guides: <http://www.tenants.ca/eng/tenant/tenant-landlord-1.html>**

#### SHOULD I STAY OR SHOULD I MOVE OUT?

1. write a letter or complaint to your landlord, make sure you date it and keep a copy.
2. Ask the landlord to try to block the smoke from coming in, or try to do it yourself. If applicable, ask the landlord to also check the corridor ventilation system as well as individual kitchen and bathroom fans. You could also check into the possibility of pressurizing your unit with fresh air to create a smoke-free air bubble inside your apartment. You're need to consult a ventilation expert for this.
3. consider also getting a letter from your doctor stating your need to avoid s.e.v. exposure. Any health conditions made worse by exposure should be emphasized.
4. carefully document the problem.

**I'M GOING TO STAY**

**I'M GOING TO MOVE OUT**

**if you see that the landlord has not reasonably responded to your complaints and you've run out of options, file an application at the Landlord and Tenant Board, citing breach or reasonable enjoyment. you can call the board or visit it online for more information.**

**if your landlord and tenant board application is dismissed and you have a health condition that is made worse by exposure, consider filing a human rights complaint at the Human Rights Tribunal or Ontario, citing discrimination based on disability. contact the centre for equality rights in accommodation for more information about tenant rights.**

**IF THE LANDLORD ADMITS**

**smoke-free housing Ontario has info or contacts with no-smoking policies. or look for an apartment online using search terms like "smoke-free" or "no smoking." Ask info or questions before you sign the lease. you could also be exposed to smoke even if a unit is advertised as smoke-free, because landlords must exempt current tenants when they adopt no-smoking policies.**

**IF THE LANDLORD DENIES**

**you will need to file a T.O. form (application for review) with the Landlord and Tenant Board, requesting that the tenancy be terminated because of "verbal harassment with reasonable enjoyment."**

**regardless of whether you decide to stay or move out, your landlord needs to know that no-smoking policies are legal, enforceable and non-discriminatory. smoke-free housing Ontario has tools and resources geared to landlords to help with policy development.**



# Landlord and Tenant Board

- ▶ Quasi-judicial tribunal
  - Mediation and adjudication
- ▶ Offices throughout Ontario
- ▶ Decisions not bound by precedent
- ▶ “Balance of probability”  
standard of proof
  - Who is telling 51% of the truth?



# Landlord and Tenant Board

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Landlord  
and  
Tenant Board

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## About Us

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## CONTACT INFORMATION

### Call us

You can call the **Landlord and Tenant Board** (the Board) at **416-645-8080** from within the Toronto calling area, or toll-free at **1-888-332-3234** from outside Toronto, and speak to one of our Customer Service Representatives.

Customer Service Representatives are available Monday to Friday, except holidays, from 8:30 a.m. to 5:00 p.m. They can provide you with *information* about the *Residential Tenancies Act* and the Board's processes; they cannot provide you with legal advice. You can also access our automated information menu at the same numbers listed above 24 hours a day, 7 days a week.

### Visit our Office / Send documents by Mail or Fax

You can visit one of the Board's offices to obtain information from one of our Customer Service Representatives in person. You can also come to one of our offices to file an application or to obtain forms.



Help for  
Tenants



Help for  
Landlords



# Last Resort Remedies



Helping increase options for smoke-free living



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**Last Resort Remedies**

Break Your Lease

Apply to Landlord & Tenant Board

Apply to Human Rights Tribunal

## Tenants: Last Resort Remedies

If you've tried to reduce or eliminate your exposure to second-hand smoke by sealing your unit, talking to your neighbour and/or landlord about the problem, but you're still being smoked out, perhaps it's time to take more drastic action.

### Ask to break your lease without penalty

If you've had it with the smoke and you just want to get out of your apartment, consider asking your landlord to break the lease without penalty. [More...](#)

### Apply to the Ontario Landlord and Tenant Board - [www.ltb.on.ca](http://www.ltb.on.ca)

If you've taken all steps possible to try and resolve the problem of smoke infiltrating your home, and you are not satisfied that the landlord has taken reasonable steps to correct it, you have the option of applying to the Landlord and Tenant Board for adjudication. [More...](#)

### Apply to the Human Rights Tribunal of Ontario - [www.hrto.ca](http://www.hrto.ca)

If you have a disability or a health condition being made worse by exposure to second-hand smoke in your rental apartment, you may have grounds to apply to the Human Rights Tribunal of Ontario. [More...](#)

# Tenant Complaints

## T2 – Application About Tenant Rights

### Part 1: General Information (Cont'd)

#### Information about the Tenancy

When did you move into the rental unit covered by this application?

| | / | | / | | | |  
dd mm yyyy

Do you still live in the rental unit?

Yes

No

If not, when did you move out?

| | / | | / | | | |  
dd mm yyyy

#### Related Applications

List the file numbers of any other applications to the Board that relate to the same rental unit.

File Number 1

| | | - | | | |

File Number 2

| | | - | | | |

### Part 2: Reasons for Your Application

The following are the various reasons for making this application. For a further explanation of each reason, see the instructions to this form.

1. **The landlord, the landlord's agent or the superintendent entered my unit illegally.**
2. **The landlord, the landlord's agent or the superintendent changed the locking system without giving me replacement keys.**
3. **The landlord, the landlord's agent or the superintendent seriously interfered with my reasonable enjoyment of the unit or of the complex.**
4. **The landlord, the landlord's agent or the superintendent withheld or interfered with vital services, care services or meals.** (Note: Vital services are fuel, electricity, gas, hot or cold water, and the provision of heat from September 1<sup>st</sup> to June 15<sup>th</sup>)
5. **The landlord, the landlord's agent or the superintendent harassed, interfered with, obstructed, coerced or threatened me.**





Helping increase options for smoke-free living



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Apply to Human Rights Tribunal

## Tenants: Apply to Landlord & Tenant Board

The Landlord and Tenant Board is a quasi-judicial dispute resolution mechanism with exclusive authority to rule on residential tenancy matters as set out under the *Residential Tenancies Act, 2006*. This law sets out the rights and responsibilities of landlords and tenants who rent residential properties. One of the Board's responsibilities is to provide information about the *Act* to landlords and tenants. In many cases, once landlords and tenants are aware of their rights and obligations they can usually resolve their own problems. However, if a landlord and tenant cannot resolve their problems, then another responsibility of the Board is to resolve these problems for them. Adjudicators are appointed. Although adjudicators prefer to be consistent, their decisions are not bound by precedent and do not necessarily reflect official Board positions. Decisions are made using the "balance of probabilities" standard of proof, which essentially comes down to a question of credibility--adjudicators must decide whose side of the story is more likely to be truthful.

- What could I apply for at the Board, and what could the Board order my landlord to do?
- What is reasonable enjoyment?
- Does involuntary exposure to second-hand smoke count as a breach of my right to reasonable enjoyment?
- How do I apply?
- Do I need evidence that there is second-hand smoke coming into my apartment?
- How much does it cost?
- Do I need a lawyer?

# LTB Case Law



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## Tenants: Tenant Applications

Most of the tenant applications listed below are for orders recognizing breach of reasonable enjoyment by the landlord.

☒ Ontario Landlord and Tenant Board, 2012 (File #TST-25542-12)

☒ Ontario Landlord and Tenant Board, 2012 (File #TST-25266-12)

☒ Ontario Landlord and Tenant Board, 2012 (File #SOT-26923-12)

**☒ Ontario Landlord and Tenant Board, 2012 (File # TST-20785-11)**

The tenants applied for an order determining that their landlord substantially interfered with their reasonable enjoyment for a list of reasons, including exposure to second-hand smoke from the common areas. The tenants alleged that people smoke in the stairwell daily.

The adjudicator determined that the tenants failed to meet the tribunal's burden of proof and dismissed this portion of their application.

[Read the decision.](#)

☒ Ontario Landlord and Tenant Board, 2012 (File # SWT-33315-12 & SWT-32243-12)

☒ Ontario Landlord and Tenant Board, 2011 (File # TST-14498-11)



# Tenant Complaints

## T2 applications: Remedies that can be requested at the LTB

- ▶ Compensation for repairs/replacement, increased rent, moving expenses, other expenses
- ▶ Rent “abatement” (discount)
- ▶ Landlord behaviour change
- ▶ Fine to the landlord
- ▶ Termination of tenancy
- ▶ Other (i.e. caulking, repairs, etc.)



# Tenant Complaints

## Procedure at LTB

- ▶ “Notice of Hearing” issued by LTB upon receipt of application (i.e. T2 form)
- ▶ Tenant must provide copy of application & Notice of Hearing to landlord, other parties
- ▶ Tenant must file a Certificate of Service
  - To prove that the landlord received the documents
- ▶ LTB processes documents, holds a hearing and issues a written decision called an order
  - Tenants should be prepared for mediation before adjudication

If the tenant feels the landlord has not responded reasonably, they can file a T2 form (*Application About Tenant Rights*) at the Landlord and Tenant Board (LTB), citing “breach of reasonable enjoyment.” Note that tenant applications to the LTB about breach of reasonable enjoyment are posted online, and tenants can read them before filing their own applications:

[www.smokefreehousingon.ca/sfho/tenants-case-law-applications.html](http://www.smokefreehousingon.ca/sfho/tenants-case-law-applications.html)

If the LTB application is dismissed and the tenant has a health condition made worse by exposure, they can consider pursuing a human rights complaint at the Human Rights Tribunal.

For more information about human rights, recommend that the tenant contact the Centre for Equality Rights in Accommodation (CERA): 1.800.263.1139 ext. 22

[www.equalityrights.org/cera/](http://www.equalityrights.org/cera/)

Note that all LTB application forms, along with instructions, are available online: [www.ltb.gov.on.ca/en/Forms/STEL02\\_111308.html](http://www.ltb.gov.on.ca/en/Forms/STEL02_111308.html)

Inform tenants that when searching for a new apartment online, some websites, like Kijiji, allow users to refine their searches using terms like “no smoking” or “smoke-free.”

Caution tenants that it’s buyer beware: even if a landlord has a no-smoking policy in place, it doesn’t guarantee a smoke-free environment (since tenants who smoked when the policy was implemented are usually grandfathered).

Tenants should ask lots of questions before signing a new lease.



# Apply to Human Rights Tribunal



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**Apply to Human Rights Tribunal**

## Tenants: Apply to Human Rights Tribunal

The Human Rights Tribunal of Ontario is a quasi-judicial body that exists to resolve discrimination claims filed under the Ontario *Human Rights Code* on such matters as employment, housing and services. The *Code* provides protection from discrimination on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, disability, age, marital status, family status, being a recipient of public assistance and record of offences.

In a housing context, sections 2 (1), 11 (1) (a) and 17 (1) and (2) of the *Human Rights Code*, which deal with disability and accommodation, are of interest concerning smoking and no-smoking policies:

"Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, **disability** or the receipt of public assistance."

and

"A right of a person under Part 1 is infringed where a requirement, qualification or factor exists that is not discrimination on a prohibited ground but that results in the exclusion, restriction or preference of a group of persons who are identified by a prohibited ground of discrimination and of whom the person is a member, except where (a) the requirement, qualification or factor is reasonable and *bona fide* in the circumstances..."

# Centre for Equality Rights in Accommodation

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## Tenants: Legal Resources

### Legal Aid Ontario - [www.legalaid.on.ca](http://www.legalaid.on.ca)

Legal Aid is available to low income individuals and disadvantaged communities for a variety of legal problems as well as poverty law issues such as landlord and tenant disputes. Find a [community legal clinic](#) near you that may be able to help.

### Human Rights Legal Support Centre - [www.hrlsc.on.ca](http://www.hrlsc.on.ca)

The Human Rights Legal Support Centre offers human rights legal services to individuals throughout Ontario who believe they have experienced discrimination. The Centre's services range from legal assistance in filing an application at the Tribunal to legal representation on human rights applications.

### Centre for Equality Rights in Accommodation - [www.equalityrights.org](http://www.equalityrights.org)

The Centre for Equality Rights in Accommodation is an Ontario-based non-profit human rights organization that promotes human rights in housing and challenges discrimination. CERA works to remove the barriers that keep disadvantaged individuals and families from accessing and retaining the housing they need.

### The Advocacy Centre for Tenants Ontario - [www.acto](http://www.acto)

ACTO defends Ontario's low-income renters, co-op members and the homeless. Much of ACTO's advocacy involves test-case litigation, lobbying the government and developing housing policy.

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## Quick Guide to Handling Landlord Enquiries

1. Recommend that the landlord keep detailed notes regarding tenant complaints about second-hand smoke (SHS) infiltration, ideally, using a standard form for recording complaints. Also recommend that the landlord require tenant complaints be in writing in order to create a paper trail.

Refer landlords to the sample landlord log:

[www.smokefreehousing.on.ca/cms/files/files/sample\\_landlord\\_log.pdf](http://www.smokefreehousing.on.ca/cms/files/files/sample_landlord_log.pdf)

2. Advise the landlord to try sealing the complainant's unit to block the smoke from entering their apartment. Ideally, the landlord should also seal the smoker's unit. If applicable, the corridor ventilation system should also be checked.

For information and suggestions on reducing "odour transfer problems," including SHS, refer landlords to the resource from the Canada Mortgage and Housing Corporation:

[www.smokefreehousing.on.ca/cms/files/files/C\\_MHC\\_Solving\\_Odour\\_Transfer\\_Problems.pdf](http://www.smokefreehousing.on.ca/cms/files/files/C_MHC_Solving_Odour_Transfer_Problems.pdf)

3. Suggest that the landlord approach the tenant who smokes to discuss the complaints being received about SHS and to explore possible solutions. For example, the tenant might be receptive to smoking outdoors away from doorways, operable windows and air intakes.
4. Suggest that the landlord write a general letter to all tenants, discussing the importance of being a good neighbour and maintaining clean indoor air for everyone's health and well-being.
5. Confirm that the landlord has Smoke-Free Ontario signage posted in the common areas of the building, and that they, along with the property manager and other staff, are aware of their responsibilities under the *Smoke-Free Ontario Act (SFOA)*.
6. Inform the landlord that they have the option of filing an N5 form (*Notice to Terminate a Tenancy Early*) with the Landlord and Tenant Board (LTB). The N5 is essentially a warning if the tenant, the tenant's guest or another occupant of the rental unit:  
(1) "Willfully or negligently damaged the rental unit or the residential complex," or

1. *Keep detailed notes...*
2. *Try to seal the unit...*
3. *Speak to the offending tenant...*
4. *Write a general letter to all tenants...*
5. *Confirm SFOA signage...*



# Landlord Quick Guide



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## Landlords: Enforcement

Unlike other jurisdictions, smoking in violation of a no-smoking policy is not considered a material breach of the lease in Ontario. Therefore, you will need to enforce your policy citing breach of reasonable enjoyment, substantial interference with another lawful right, privilege or interest of the landlord, damage, safety, etc. Other landlords have done this successfully, and so can you, provided you do your homework.

However, it is not possible to speak in broad terms about which applications are treated more favourably by adjudicators, given that every case is considered individually and on its own merit. There are a number of factors taken into consideration that contribute to an adjudicator's final judgment, including how you present yourself and how credible you are perceived to be, what kinds of evidence you introduce, what you did prior to making the application to try and solve the problem amicably, whether lawyers were involved, etc. Much also depends on which adjudicator presides over your case, including his or her own personal biases and attitudes.

⊕ The importance of documentation

### ⊖ The paperwork

If you have already sent the tenant a [warning letter](#) to two, and are still not satisfied that this has corrected the problem, you can start legal proceedings with a notice of termination.

**N5 Form:** Use an N5 form, "Notice to Terminate a Tenancy Early," if the tenant, the tenant's guest or another occupant of the rental unit willfully or negligently damaged the rental unit or the residential complex. You can also use this form if the tenant, the tenant's guest or another occupant of the rental unit

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## Landlords: Landlord Applications - No Policy

The applications listed below were made by landlords who had no no-smoking policies in place. Most of the applications cite interference with the reasonable enjoyment or lawful right, privilege or interest of the landlord.

### Ontario Landlord and Tenant Board, 2011 (File # SWL-20829-11)

The landlord applied for an order to terminate the tenancy and evict the tenant based on breach of reasonable enjoyment of another tenant living upstairs, who said that smoke was entering her unit.

Citing a lack of a provision in the lease prohibiting smoking in the rental unit, and that the upstairs tenant was never promised a smoke-free environment, the adjudicator ruled that smoking could not be considered unreasonable conduct that substantially interfered with the other tenant's reasonable enjoyment. The application was dismissed.

[Read the decision.](#)

⊕ Ontario Landlord and Tenant Board, 2010 (File # TEL-03334-10)

⊕ Ontario Landlord and Tenant Board, 2009 (File # TSL-22848)



# Landlord Quick Guide

## A Landlord's Guide to **No-Smoking Policies** in Ontario

SAVE YOUR MONEY, PROTECT YOUR INVESTMENT.  
YIELD HAPPIER TENANTS AND A HEALTHIER BUILDING.



## HOW TO IMPLEMENT A NO-SMOKING POLICY FOR A MULTI-UNIT DWELLING

A PROTOCOL FOR RENTAL HOUSING





# Quick Guide for Condos/Co-ops



## Quick Guide to Handling Condo/Co-op Resident Enquiries

1. Recommend that the resident write a letter of complaint to the Board of Directors directly. Refer the resident to the sample complaint letter on the Smoke-Free Housing Ontario website:  
  
Refer the resident to the relevant sample complaint letter:  
[www.smokefreehousing.on.ca/cms/FILES/FILES/sample\\_condo\\_complaint\\_letter.pdf](http://www.smokefreehousing.on.ca/cms/FILES/FILES/sample_condo_complaint_letter.pdf) (condos)  
[www.smokefreehousing.on.ca/cms/FILES/FILES/sample\\_co-op\\_complaint\\_letter.pdf](http://www.smokefreehousing.on.ca/cms/FILES/FILES/sample_co-op_complaint_letter.pdf) (co-ops).
2. Advise the resident to try to block the smoke entering their unit, or advise them to request that the property manager do it. The corridor ventilation system (if one exists) should also be checked.  
  
Refer the resident to the resource from the Canada Mortgage and Housing Corporation that provides information and suggestions for reducing "odour transfer problems," including second-hand smoke (SHS):  
[www.smokefreehousing.on.ca/hsforfiles/FILES/CMHC\\_Solving\\_Odour\\_Transfer\\_Problems.pdf](http://www.smokefreehousing.on.ca/hsforfiles/FILES/CMHC_Solving_Odour_Transfer_Problems.pdf)
3. Suggest that the resident request a letter from their doctor to support their case that they need to avoid exposure to SHS (but note that some doctors charge for this service). If the complainant has a health condition that is made worse by exposure to SHS, this should be emphasized.  
  
Refer the resident to the sample physician letter:  
[www.smokefreehousing.on.ca/cms/FILES/FILES/sample\\_physician\\_letter.pdf](http://www.smokefreehousing.on.ca/cms/FILES/FILES/sample_physician_letter.pdf)
4. Recommend that the resident document everything, including all phone conversations and messages, emails, face-to-face conversations, the date, time, and location of SHS intrusions and their health effects, the ways the smoke is preventing them from reasonably enjoying their unit, doctor/hospital visits, increased need for medications, etc.  
  
Refer the resident to the sample log for recording pertinent information to support their case:  
[www.smokefreehousing.on.ca/cms/FILES/FILES/sample\\_resident\\_log.pdf](http://www.smokefreehousing.on.ca/cms/FILES/FILES/sample_resident_log.pdf)

1. *Recommend a letter of complaint...*
2. *Advise to try blocking the smoke...*
3. *Request a doctor's letter...*
4. *Document everything...*

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## Condominiums: Address Second-Hand Smoke

Ontarians are protected from second-hand smoke at work and in public places, yet many condo owners are regularly exposed to unwanted second-hand smoke migrating into their homes from neighbouring units. The intrusion of a toxic substance is more than an annoyance or inconvenience. It is a serious health hazard, and is especially severe for people with chronic illnesses and conditions. As a result, more and more residents are demanding that their condo corporation take action to address this problem.

[Surveys](#) have found that roughly one-third of people living in multi-unit dwellings experience second-hand smoke infiltrating their homes on a regular basis. Further, people rarely complain to management--not because they are not bothered by it, but because they think there is nothing that can be done. However, condominium corporations have a duty to address complaints of second-hand smoke if there is evidence that the smoke is "unreasonably" disturbing other residents.

Unfortunately, when condo corporations receive complaints about second-hand smoke migrating between neighbouring units, they are often reluctant to take action because the behaviour of smoking is not specifically addressed in the declaration, bylaws or rules. But they would be wrong to assume that they have no authority or responsibility to address these complaints--especially if there are issues concerning maintenance of the common elements.

Further, it is important for condominium corporations to know there could be a liability issue if they refuse to act on legitimate nuisance complaints. Refusing to act when informed of second-hand smoke that is causing a nuisance could lead to unnecessary lawsuits.

While there are no black and white answers for addressing this issue, this section provides a range of strategies that condominium corporations or unit owners can take to deal with the nuisance of migrating second-hand smoke in condo complexes.

### Steps that condo owners can take:

- + Do the groundwork
- + Mitigate the impact
- + Advocate for creating a no-smoking policy
- + Notify your condominium corporation
- + Use last resort remedies



# Quick Guide for Condo/Co-ops

## Condominium Act, 1998

### Section 117, “Dangerous Activities”

#### **Dangerous activities**

117. No person shall permit a condition to exist or carry on an activity in a unit or in the common elements if the condition or the activity is likely to damage the property or cause injury to an individual. 1998, c. 19, s. 117.



# Quick Guide for Condos/Co-ops



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## THE TEN THINGS YOU NEED TO KNOW ABOUT SMOKING IN CONDOS

🕒 March 22, 2013 👤 Bradley Chaplick ✉ 📄 💬 0 Comments [Share Link](#)

### 1) Smoking is illegal in indoor common areas

The *Smoke Free Ontario Act* provides, in part, that "no person shall smoke or hold lighted tobacco in...any common area in a condominium, apartment building or university or college residence, including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas." Smoking is not illegal in uncovered outdoor common areas.

### 2) Smoke is a nuisance (and "nuisance" doesn't mean what you think it means)

Most condominium corporations have rules that prohibit owners from creating or permitting any nuisance that disturbs the comfort or quiet enjoyment of other residents. The word "nuisance", when used in conversational English, means an annoyance. However, a "nuisance" is also a legal term of art.

A "nuisance" arises in law when one person uses his or her land (which includes a condominium unit) in such a way that it unreasonably interferes with another person's

## Recent Posts

- By-law upheld enabling boards to remove directors for ethical breaches
- York Condominium Corporation No. 17 v. Ge
- Durham Condominium Corp. No. 56 v. Stryk: Chargebacks and Refusing Payments
- Live-in Caregivers – A Breach of Single-Family Dwelling Provisions?
- THE TEN THINGS YOU NEED TO KNOW ABOUT SMOKING IN CONDOS
- Swan v. Goan
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- Justice David M. Brown Finds That

# Quick Guide for Condos/Co-ops



March 2011

## HOW TO IMPLEMENT A NO-SMOKING POLICY FOR A MULTI-UNIT DWELLING:

### A Protocol for Condominiums and Housing Co-operatives in Ontario

The steps that follow are guidelines only. Depending on the size and nature of the condominium/co-operative, as well as on the applicable law, the route to a no-smoking policy will vary. In addition, there is typically more than one mechanism available. For example, a prohibition on smoking in private condominium units could be achieved by amending the declaration or by instituting a no-smoking bylaw or rule. However, regardless of the type of corporation or the method by which it is achieved, a no-smoking policy is a win-win situation—reducing costs and improving the indoor air quality for the residents who live there.

#### Step 1: Do your homework

- Talk to your neighbours and other residents in the building to find out who else is experiencing second-hand smoke infiltration. This is crucial. It is all too easy for a lone resident to be singled out and made into the problem simply for raising the issue of involuntary exposure to second-hand smoke. However, a board of directors or a property management company will have a much more difficult time dismissing a group of reasonable, concerned owners or members.
- Collect and document as much information as possible about the number of residents affected, where the smoke seems to be infiltrating units, and the impact on the health and well-being of people. Visit Smoke-Free Housing Ontario for a sample log sheet [www.smokefreehousingon.ca/cms/file/sample\\_resident\\_log.pdf](http://www.smokefreehousingon.ca/cms/file/sample_resident_log.pdf)
- Inform yourself about the dangers of exposure to second-hand smoke and the benefits of a no-smoking policy. Visit Smoke-Free Housing Ontario for more information: [www.smokefreehousingon.ca/sth/condominiums-exposure.htm](http://www.smokefreehousingon.ca/sth/condominiums-exposure.htm)
- Read up on all relevant corporation paperwork (bylaws, rules, etc.) as well as the *Condominium Act, 1998* (condominiums) or the *Cooperative Corporations Act* (housing co-ops). You'll need to know all the legal requirements and restrictions as you proceed.
  - [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_98c19\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_98c19_e.htm) (condominiums)
  - [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90c35\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c35_e.htm) (housing co-ops)

*“How to Implement a No-smoking Policy for a Multi-Unit Dwelling: A Protocol for Condominiums and Housing Co-operatives in Ontario”*

# Quick Guide for Condos/Co-ops

- ▶ Taking Action
  - Address Second-Hand Smoke
  - “Last Resort Remedies”

## Steps that condo owners can take:

- + Do the groundwork
- + Mitigate the impact
- + Advocate for creating a no-smoking policy
- + Notify your condominium corporation
- + Use last resort remedies



# Quick Guide for Condos/Co-ops

⊕ Notify your condominium corporation

## ▣ Use last resort remedies

Before going any further, you might want to consider joining a condominium owners' group for guidance and support.

If your condo corporation refuses to act, or you are not satisfied with the solutions taken, here are a few last resort measures that can be taken. Before initiating formal procedures, including initiating a lawsuit, it is recommended that you seek legal advice.

### a. Requisition (call) a meeting



- If the board of directors is unwilling to address the issue, or is otherwise uncooperative, owners can requisition (call) a meeting themselves with the written support of eligible owners of 15% of the units.
- They can even vote on bylaws and rules at such a meeting, provided they follow the letter of the law (sections 46 - 53 of the *Condominium Act, 1998*).

### b. Initiate dispute resolution procedures



- If you have provided sufficient evidence that second-hand smoke is unreasonably interfering with the use and enjoyment of your home and causing a significant nuisance, you can try to force the condominium corporation to enforce its own declaration, rules or bylaws under section 132 of the *Condominium Act, 1998*.
- Pursuant to this section of the *Act*, parties shall submit to mediation and arbitration to settle disagreements.
- Pursuant to section 134 of the *Act*, if the corporation fails to act following mediation and arbitration, condo owners can make an application to the Superior Court of Justice for an order enforcing compliance with any provision of the *Act*, the declaration, the bylaws or the rules, among other things.
- Condo owners also have the choice to sue the neighbour who smokes - in the hopes of getting an injunction to prevent the person(s) from smoking in their unit.

# Quick Guide to Community/Social Provider Enquiries



## Quick Guide to Handling Community/Social Housing Provider Enquiries

1. Recommend that the community/social housing provider meet with public health unit/agency staff in person to discuss the issue. This is an opportunity to share information about the health unit and available resources, as well as to learn more about the housing provider. (Note that the housing sector is diverse, with many different kinds of social/community housing providers that house many different kinds of tenants.)
2. Suggest that a joint committee be established between public health and the housing provider to develop and implement a no-smoking policy. The Region of Waterloo's successful no-smoking policy implementation in 2009 is a great example of what can happen when organizations work together in partnership. Refer to the Program Training and Consultation Centre (PTCC) document "The Development of a Smoke-Free Housing Policy in the Region of Waterloo: Key Success Factors and Lessons Learned from Practice":  
<https://www.ptcc-cfc.on.ca/cms/one.aspx?pagelid=104032>
3. To get started, refer to the step-by-step guide developed for landlords, "How to Implement a No-Smoking Policy for a Multi-Unit Dwelling: A Protocol for Rental Housing":  
[http://www.smokefreehousingon.ca/cms/file/files/protocol\\_final.pdf](http://www.smokefreehousingon.ca/cms/file/files/protocol_final.pdf)
  - Step 1: Strike a committee or working group
  - Step 2: Conduct a tenant survey  
[http://www.smokefreehousingon.ca/cms/file/files/sample\\_tenant\\_survey.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_tenant_survey.pdf)
  - Step 3: Develop the policy  
[http://www.smokefreehousingon.ca/cms/file/files/sample\\_landlord\\_policy.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_landlord_policy.pdf)
  - Step 4: Develop a communications strategy  
[http://www.smokefreehousingon.ca/cms/file/files/sample\\_tenant\\_notification\\_letter.pdf](http://www.smokefreehousingon.ca/cms/file/files/sample_tenant_notification_letter.pdf)
  - Step 5: Develop an enforcement plan  
<http://www.smokefreehousingon.ca/sfho/landlords-enforcement.html>
  - Step 6: Implement the no-smoking policy

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Smoking & Health Action Foundation

**Program Training & Consultation Centre**

Public Health Units

Other Canadian Resources

Other American Resources

## Public Health Intermediaries: Program Training & Consultation Centre

1. [Smoke-Free Multi-Unit Dwellings--A Priority for Public Health Action](#) (January 2013)
2. Media Analysis: Smoke-Free Multi-Unit Dwellings (MUDs) (November 2012)  
Available by request through PTCC's Media Network, or [ptcc@cancercare.on.ca](mailto:ptcc@cancercare.on.ca)
3. Promoting Smoke-Free Multi-Unit Dwellings in the Peterborough County-City Region (2012)
  - [Summary](#) (one page)
  - [Full report](#)
4. The Development of a Smoke-Free Housing Policy in the Region of Waterloo: Key Success Factors and Lessons Learned from Practice (2010)
  - [Summary](#) (2 pages)
  - [Full report](#)
  - [Appendices](#)





# Quick Guide to Community/Social Provider Enquiries

The steps that follow are guidelines only. The rental housing sector is diverse, meaning that the process required to adopt a successful no-smoking policy will vary between different landlords or housing providers. For example, not all business or organizations have board of directors or tenants' associations, which makes for a less consultative policy development process.

Social housing providers are different from market landlords, operating within a provincial bureaucracy and some work with service area managers. However, regardless of the type of landlord, housing provider, or property manager, a no-smoking policy is a win-win situation, reducing costs and improving the indoor air quality of a building for the tenants who live there.

The fastest and easiest way to go smoke-free in Ontario is to start smoke-free with an empty building. By law, landlords and housing providers must grandfather (exempt) existing tenants who smoke. A no-smoking policy therefore applies to new tenants signing new leases, and existing tenants who are supportive of the policy. A building will gradually become 100% smoke-free through attrition.

## STEP 1

### Strike a Committee or Working Group

- Try to include diverse stakeholders, such as board members, tenant representatives, staff, etc.
- Review current situation, including complaints over smoking.
- Identify options.
- Develop draft policy.

## STEP 2

### Conduct a Tenant Survey

- What is the extent of the problem of second-hand smoke infiltration?
- How many households already prohibit smoking inside?
- How many households have one or more smokers?
- Assess the level of support for various no-smoking policy options.

A complete checklist can be found available from Smoke-Free Housing Ontario: [www.smokefreesmokingontario.com/tenant\\_survey.pdf](http://www.smokefreesmokingontario.com/tenant_survey.pdf)

## STEP 3

### Develop the Policy

- What is the ultimate goal—100% smoke-free or a percentage to remain as smoking? For example, if a landlord owns a complex of buildings, one could remain as "smoking optional" while the other buildings are designated as non-smoking.
- Hold a meeting with tenants to discuss the survey results and draft policy.
- Consider input from all stakeholders and decide on extent of policy:
  - Includes porches and balconies?
  - Includes buffer zones around doorways, operable windows and/or air intakes?
  - Includes entire property?
  - Provides designated smoking area(s) outside?
- Explore the feasibility of offering tenants help to quit smoking. Contact your local public health unit for more information and resources.
- Decide on a start date—don't rush it!
  - Allow time for proper consultation and education.
  - Spring and summer are the best start times to enable tenants to get used to smoking outside.
- Keep in mind that a no-smoking policy can be implemented in phases:
  - For example, a pilot project could be run with a few buildings, or with one separate wing of a building. Or, an outside designated smoking area could be established on the property for a period of time before the entire property is designated as non-smoking.
- Note that by law, landlords/leasing providers in Ontario must grandfather existing tenants who smoke.

A complete checklist can be found available from Smoke-Free Housing Ontario: [www.smokefreesmokingontario.com/landlord\\_policy.pdf](http://www.smokefreesmokingontario.com/landlord_policy.pdf)



## USE DIFFERENT VEHICLES TO COMMUNICATE WITH TENANTS:

Use a tenant newsletter or website (if available).

Send individual notices to tenants.

Conduct face-to-face meetings.

Post a "countdown to the policy" banner in front lobby.

Provide tenants with fridge magnets or shopping lists ("Welcome to Your Non-Smoking Home") to further advertise the policy.

Issue a press release.

A complete checklist can be found available from Smoke-Free Housing Ontario: [www.smokefreesmokingontario.com/sample\\_press\\_release.pdf](http://www.smokefreesmokingontario.com/sample_press_release.pdf)

## STEP 4

### Develop a Communications Strategy

- Make the messaging positive and focus on the health benefits.
- Begin with general information about the problem of second-hand smoke exposure to second-hand smoke (for example, print a series of articles in a newsletter or online). Your local public health unit may assist with fact sheets, articles, etc.
- Keep stakeholders informed of what's happening throughout the process.
- Choose a start date for the no-smoking policy that gives tenants and those on the waiting list sufficient advanced notice (three to six months is ideal).

A complete checklist can be found available from Smoke-Free Housing Ontario: [www.smokefreesmokingontario.com/sample\\_communication\\_strategy.pdf](http://www.smokefreesmokingontario.com/sample_communication_strategy.pdf)

- Install signage in the common areas and public spaces outdoors (if policy includes outdoor areas and extra walkways).
- If applicable, designate an outdoor smoking area and make it comfortable for smokers.
- Consider installing a cigarette box in the lobby to solicit input on a regular basis.
- Consider additional communications six months to one year after the policy has been implemented to remind tenants of the policy and to thank them for their support. Use strategies to emphasize positive messaging.
- Advertise the no-smoking policy along with unit vacancies. Be careful with wording. A building is not "smoke-free" until the ban has been implemented and designated as non-smoking. Manage tenant expectations by ensuring that they understand the building is transition and that there are grandfathered tenants who are still permitted to smoke in the future.



Sample communication package.

# Quick Guide to Community/Social Provider Enquiries

Non-Smokers' Rights Association  
Smoking and Health Action Foundation

Spring 2010

## Smoke-Free Affordable Housing: Picking on Poor People or a Case for Social Justice?

### Introduction

What does tobacco control have to do with social justice? The answer is, as it turns out, a lot.

Demand for smoke-free housing in Canada is increasing, and landlords are starting to take notice. However, there remains a acute shortage of multi-unit buildings for people who need or want to live smoke-free. This is the case for Canadians seeking market rate rental housing, and especially so for those who cannot afford market rate and must rely upon affordable housing.

It has been said that prohibiting smoking in affordable housing is an attack on the poor and vulnerable who are already at the margins of society. Negative media coverage has claimed that such policies are discriminatory and amount to enforced smoking cessation because low income families are over-represented in the smoking population.

This issue needs to be re-framed from a social justice perspective, both for the non-smokers and smokers who live in affordable housing. Social justice is about seeking (and achieving) equity for vulnerable and marginalized populations. Health inequity is the result of disadvantage in opportunities, in material circumstances and in behaviours related to health. Tobacco control with a social justice approach recognizes the social determinants of health<sup>1</sup> and has the potential to remove barriers and equalize opportunities to enable marginalized people to enjoy better health, free of the consequences of tobacco addiction.

Access to decent housing is an essential component of a person's physical safety and well-being, contributing to one's freedom to lead a full and satisfying life. Housing that imposes sickness and disease is not acceptable. It is well-established that there is no known safe level of exposure to second-hand smoke and that all exposure should therefore be avoided. Second-hand smoke has been identified as both a "Class A

<sup>1</sup>The social determinants of health recognize the impact of an unequal distribution of power, income, goods, and services on a person or population... and the wide consequences in the immediate, visible circumstances of people's lives – their access to health care, school, and education; their conditions of work and leisure, their homes, communities, to view, or cities – impacts on their chance of leading a flourishing life (Closing the Gap in a Generation: WHO Commission on the Social Determinants of Health, 2008).

*Keep in mind that access to smoke-free housing is a health equity issue...*

# Quick Guide to Community/Social Provider Enquiries



Adapted with permission from the Oregon Tobacco Prevention & Education Program

Pre-contemplation	Contemplation	Preparation	Action	Maintenance
<ul style="list-style-type: none"> <li>• Never thought about it</li> <li>• Aren't getting complaints</li> <li>• Have not heard it's a good idea</li> <li>• Don't know of anyone else who is doing it</li> </ul>	<ul style="list-style-type: none"> <li>• Heard about it but not ready to take action</li> <li>• Receiving complaints</li> <li>• Afraid to take action</li> <li>• Don't know how to get started</li> </ul>	<ul style="list-style-type: none"> <li>• Talking with the organization/ company</li> <li>• Talking to other landlords who have done it</li> <li>• Conducting a tenant survey</li> <li>• Accessing available tools</li> </ul>	<ul style="list-style-type: none"> <li>• Drafting language for leases/addendums</li> <li>• Informing tenants</li> <li>• Informing staff</li> <li>• Signing new leases with tenants</li> </ul>	<ul style="list-style-type: none"> <li>• Communicating and enforcing the policy</li> <li>• Advertising "no smoking" as an amenity</li> <li>• Getting positive feedback (reduced costs, more applicants, positive stories)</li> </ul>

## Potential Smoke-Free MUDs Activities for Public Health Units

Tools and resources available at [www.smokefreehousing.org.ca](http://www.smokefreehousing.org.ca)

Identify/ contact landlord & housing organizations. Offer to write articles for newsletters & websites; offer presentations; exhibit at trade shows & events.	Address concerns when landlords call for help.	Keep updated on MUDs tools & resources.	Offer to review policy & lease language before it goes to legal.	Help landlords get positive publicity for successful implementation. Use NNSW or WNTD, etc.
Send out info packages.	Meet with landlords to get them thinking about no-smoking policies. Where are they on a scale from 1 – 10? What would move them to the next level? Offer assistance.	Provide sample lease language, sample tenant letters, info about enforcement & LTB case law.	Use press release template to help landlord get positive media coverage.	Consider smoke-free champion awards.
Help to get positive media coverage for landlords who have adopted policies.	Provide information about other landlords' experiences.	Offer to make a presentation to board or executive.	Encourage landlords to advertise no-smoking policy as an amenity.	Follow up periodically to check in. Document experience for use in helping others.
Meet with landlords to get them thinking about the idea. Share success stories about other landlords.	Follow up periodically to share information & to offer assistance.	Connect landlords with others who have done it.	Consult regarding signage.	Provide enforcement support where needed.
			Forward info to SHAF for provincial list.	



# Quick Guide to Community/Social Provider Enquiries

Search Sitemap Français NSRA/SHAF smokefreehousing.ca [Follow @SFHontario](#) About Us Contact Us Smoke-Free Housing Directory News



Helping increase options for smoke-free living



Overview Tenants Landlords Condominiums Housing Co-ops **Public Health Intermediaries**

## Smoking & Health Action Foundation

Program Training & Consultation Centre

Public Health Units

Other Canadian Resources

Other American Resources

## Public Health Intermediaries: Smoking & Health Action Foundation

1. [Ad for Smoke-Free Housing Ontario](#) in the Ontario Non-Profit Housing Association's annual conference brochure (October 2013)
2. [Quick Guide to Handling Tenant Enquiries](#) (October 2013)
3. [Quick Guide to Handling Landlord Enquiries](#) (October 2013)
4. [Quick Guide to Handling Condo/Co-op Enquiries](#) (October 2013)
5. [Quick Guide to Handling Community/Social Housing Provider Enquiries](#) (October 2013)
6. Second-Hand Smoke in Multi-Unit Dwellings: [Literature Review](#) (August 2013)
7. [When Neighbours Smoke: A Tenant's Guide](#) (March 2013)
8. [Landlords' Stages of Change](#) (February 2013)
9. List of [Ontario Community/Social Housing Providers with No-Smoking Policies](#) (January 2013)
10. Provincial MUDs meeting held November 2012 - [Final Report](#) (December 2012)

# Advancing the Issue

## Smoke-Free Housing Ontario Coalition

- ▶ Strategic plan (draft)
- ▶ Terms of Reference



# Advancing the Issue

1. Endorse the Terms of Reference and officially join the coalition
2. Identify your point person on the MUDs file
  - We'll circulate a list for reference
3. Get “Landlord Guide” and “How to Implement a No-Smoking Policy” brochure into landlords' hands
4. Advocate for MUDs to be included in smoke-free bylaws
  - Buffer zones  $X$  m from entrances



# Advancing the Issue

## North Bay: Leading edge bylaw

- ▶ 9 m smoke-free buffer zone around municipal buildings
- ▶ “Opt-in” available for workplaces and MUDs  $\geq 6$  units



# Advancing the Issue



 BOOKMARK

 E-MAIL [ITEM](#)

 PRINT

 [SUBMIT COMMENTS](#)

## Tracking Status

- This item was considered by [Board of Health](#) on September 30, 2013 and was adopted with amendments. It will be considered by City Council on November 13, 2013.

### Board of Health consideration on September 30, 2013

HL24.3	ACTION	Amended		Ward:All
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## Smoke-Free Toronto: Strengthening Protection

### Decision Advice and Other Information

The Board of Health:

6. Requested the Medical Officer of Health to report on options to promote smoke-free housing.

# Advancing the Issue

5. Engage your fire departments – discuss mitigating fire risk through no-smoking policies
  - Fire Prevention Week is Oct. 5 – 11<sup>th</sup>, 2014

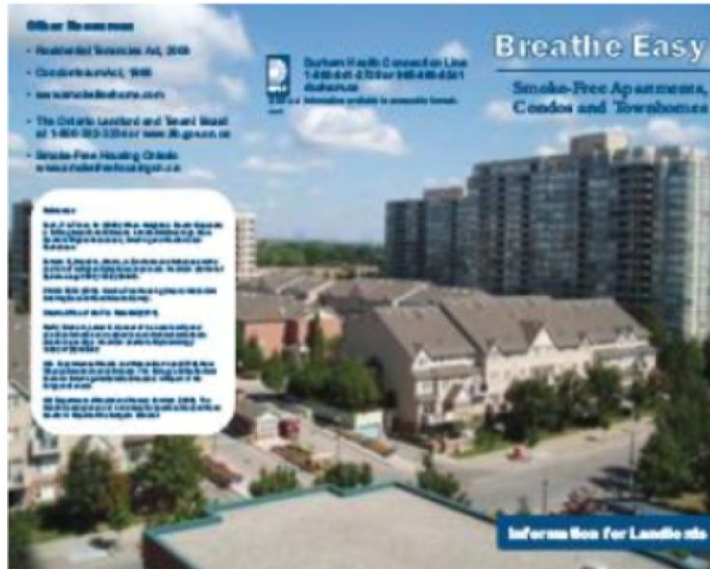




# Advancing the Issue



## No Smoking Policies Multi-Unit Dwellings (MUDs)



Shelley Simic & Maria Vasconceles

Leading the way to a healthier Durham • [durham.ca](http://durham.ca)



# Advancing the Issue

Canadian  
**APARTMENT**  
Magazine

PART OF THE  
**REMI**  
NETWORK

Profiles Transactions Management Operations Building Systems Development

REMI Network > Canadian Apartment Magazine

## Impact of cigarette smoke on property values

Another reason to consider designating a building smoke-free



Tuesday, September 3, 2013

By Chris Seepe

# Advancing the Issue



Title:	Second-hand Smoke in Multi-unit Dwellings
Approved by:	Executive Director, Acting Medical Officer of Health and the Board of Health
Date Approved:	June 19, 2013
Date Effective:	June 19, 2013
Date Revised:	
Contact:	Jessica Lang, Health Promoter

## Position of Elgin St. Thomas Public Health

### Position Statement:

The position of Elgin St. Thomas Public Health is that:

1. There is no safe level of second-hand smoke.
2. There is a dose-response relationship with exposure to second-hand smoke. The more exposure one has, the greater damage is done to one's organs and health. Second-hand smoke is more concentrated in enclosed settings such as homes and vehicles.
3. Drifting second-hand smoke is an environmental carcinogen that travels through ventilation systems, underneath doors, through window cracks and by other means.
4. Children have higher breathing rates than adults and are subsequently more vulnerable to the effects of second-hand smoke exposure, particularly in enclosed settings.
5. Regular exposure to drifting second-hand smoke, particularly in enclosed settings such as multi-unit dwellings, can lead to chronic disease such as lung cancer, heart disease and even death.
6. Third-hand smoke which is the residual gases, chemicals and heavy metals that remain long after a cigarette is extinguished can produce off-gassing for weeks or even months after vacancy and is now understood to be a public health hazard. Third-hand smoke like second-hand smoke is of particular concern for young children, especially when exposed long-term.
7. There is increasing public demand for smoke-free housing in the Province of Ontario and specifically within South Western Ontario.
8. Residents of low-income housing do not have the same options as mid-to-high income earners to live in housing that is free from exposure to second-hand and third-hand smoke. This disparity must be addressed by increasing the availability of smoke-free housing.

Elgin St. Thomas Public Health will:

- 1. Work with the Elgin St. Thomas Housing Corporation...*
- 2. Respond to complaints...*
- 3. ... educate & advocate for smoke-free housing...*



# Advancing the Issue

## HKPR District

- ▶ Transit ad



# Advancing the Issue



Lessons learned - good news stories  
are already trickling in



# Advancing the Issue

**Let's make your building smoke-free.**  
*It's possible. It's happening.*

For help, visit [www.smokefreehousingon.ca](http://www.smokefreehousingon.ca)



Adapted with the permission of Peterborough County-City Health Unit.