

MYTHS & FACTS

For Tenants



Myth: People have the right to smoke in their apartment.

Fact: There is no “right to smoke.” It is legal to adopt a smoke-free policy in apartment buildings.

- The U.S. Constitution does not give special rights to smokers. Since there is no special right to smoke, owners and landlords can adopt a smoke-free policy.¹
- Landlords not only have the right to prohibit smoking, but may also be liable for not prohibiting smoking if a tenant is disturbed by secondhand smoke.²
- If you live in a public housing community, you should know that on July 17, 2009, the U.S. Department of Housing and Urban Development issued a statement that strongly supports public housing authorities to create smoke-free policies in their public housing units.³



Myth: Open windows and ventilation systems will keep others safe from secondhand smoke.

Fact: The only way to remove all of the health risks from indoor contact with secondhand smoke is to prohibit smoking in indoor areas.

- There is no reliable ventilation technology that can control health risks from secondhand smoke exposure.⁴
- Studies have found there is no safe level of exposure to secondhand smoke. Low levels of secondhand smoke can cause illness or death. Blowing smoke away from children, or smoking in another room will not keep them safe from secondhand smoke.⁵
- The U.S. Surgeon General’s 2006 Report states that removing all of the smoke in indoor places keeps nonsmokers safe from exposure to secondhand smoke. Moving smokers away from nonsmokers, cleaning the air and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke.⁵

Myth: There is nothing I can do if a neighbor’s secondhand smoke makes it hard for me to breathe or triggers my allergies.

Fact: You have the right to breathe clean air.

- Non-smokers with breathing problems or allergies are protected under the Americans with Disabilities Act. If secondhand smoke affects your ability to breathe, talk to a licensed health professional to confirm your condition.
- See the page “Steps to Creating a Smoke-free Apartment” (included) for more information.

1. Graff, Samantha K. There is No Constitutional Right to Smoke (March 2008). Tobacco Control Legal Consortium. Available at: <http://www.tobaccolawcenter.com/documents/constitutional-right.pdf>.

2. Fact Sheet: Legal Options for Tenants Suffering from Drifting Tobacco Smoke. April 2007 (Revised June 2008). Public Health Law & Policy, technical assistance legal center. Available at: <http://www.phlpnet.org/tobacco-control/products/tenantsdriftingsmoke>.

3. U.S. Department of Housing and Urban Development notice (July 17, 2009). Available at <http://www.hud.gov/offices/pih/publications/notices/09/pih2009-21.pdf>

4. ASHRAE Report. Environmental Tobacco Smoke, Positional Document, Approved by ASHRAE Board of Directors, June 30, 2005.

5. U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

6. Tenants’ Rights. (n.d). Smoke Free Environments Law Project. Available at <http://www.mismokefreeapartment.org/tenants.html>.



Franklin County Board of Health