

Stewart, Ashley EMNG:EX

From: s.22
Sent: Tuesday, October 23, 2012 10:10 PM
To: Minister, EMH EMH:EX
Subject: Second-Hand Smoke in Multi-Unit Dwellings

MINISTER OF ENERGY AND MINES		
REFERRAL NUMBER _____		
REVERTS TO _____		
DRAFT REPLY <input checked="" type="checkbox"/>	INFO FILE <input type="checkbox"/>	REPLY DIRECT <input type="checkbox"/>
RECEIVED OCT 24 2012		
REMARKS _____		

Dear Honourable Rich Coleman:

I want to urge you, as the Minister Responsible for Housing, to enshrine second-hand tobacco smoke as a breach of quiet enjoyment and a breach of the nuisance clause under the Strata Property Act.

The research is unequivocal in its findings - there is no safe exposure to second-hand smoke. Your government has enacted legislation to protect people from second-hand smoke in the workplace. Why are not the approximately two million British Columbians who live in multi-unit dwellings afforded the same protection, 26 percent, or over 500,000 of whom are routinely exposed to second-hand smoke coming from a neighbour within their complex.

Eighty-six percent of adult British Columbians are non-smokers and would prefer to live in a smoke-free building if given the option. Yet, there is a dearth of effective legislation to protect them from second-hand tobacco smoke.

I also urge you to amend the Strata Property Act to make all new residential complexes smoke-free. This measure is an effective way to increase the multi-unit housing stock that is smoke-free as it is much easier to implement a smoke-free policy in a new building than it would be to convert an existing building. In doing so, it would still allow a strata council to pass a bylaw making the complex smoking if that is the wish of the owners.

Thank you for your consideration in these matters.

Sincerely,

s.22

Office of Housing and Construction Standards	
RECEIVED	
DEC 10 2012	
Assistant Deputy Minister's Office	
Cliff #	116151

Drafted by:
Approved by:
CLIFF No.:

David Maxwell
Greg Steves, ED, HPB
16151

s.22
Email: s.22

Dear s.22

Thank you for your email of October 23, 2012 regarding second hand smoke in multi unit buildings governed by the *Strata Property Act*. I am pleased to respond.

While I understand your concerns, I am confident that strata residents and councils have the tools needed to address issues related to smoking. The *Strata Property Act* provides for strata corporations to make decisions based on democratic principles and to pass their own bylaws (within certain parameters) to provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation. These include the ability to adopt by a ¾ vote a non-smoking bylaw that bans smoking on the interior common property, on limited common property and inside strata lots. Additionally, non-smoking bylaws may be adopted by the owner developer prior to the sale of any strata lots.

Bylaw 3(1) in the Schedule of Standard Bylaws to the *Strata Property Act*, that most stratas in British Columbia have kept or modified slightly, prohibits an owner, tenant, occupant or visitor from causing a nuisance or hazard to another person. This bylaw can be used to deal with a wide variety of situations. For example, loud noise, smoking or bad odours may all fall under this bylaw. Furthermore section 26 of the *Strata Property Act* requires that a Council enforce the bylaws. Where someone causes a nuisance, Council must enforce the bylaws by taking steps to deal with the nuisance. It is not simply an issue between neighbours.

You may be interested to know that the British Columbia Supreme Court case of *Raith v. Coles*, [1984] B.C.J. No. 772 (Q.L.), confirmed that no matter what bylaws are in place, the common law of nuisance allows a strata resident bothered by smoke to take another strata resident of the complex to court to request an order that the smoking cease.

You may find the following link to a site designed to assist stratas with smoking issues of interest: <http://www.smokefreehousingbc.ca/strata/index.html>

Please be assured that the issue of smoking is one that we monitor.

Sincerely yours,

Rich Coleman
Minister Responsible for Housing
and Deputy Premier

E-mail Message

From: Crane, Bob OHCS:EX [SMTP:Bob.Crane@gov.bc.ca]
To: XT:Bell, John CAsE:IN [SMTP:jbell@bchousing.org]
Cc:
Sent: 2012-12-11 at 1:40 PM
Received: 2012-12-11 at 1:40 PM
Subject: Smoke-free housing in multi-unit dwellings

Attachments: PS Smoke-Free MUDs.pdf.pdf

John, further to my phone message, this is the Clean Air Coalition position statement.

Thanks.

Bob Crane
Senior Policy Analyst
Housing Policy Branch
Office of Housing and Construction Standards
PO Box 9844 Stn Prov Govt, Victoria BC V8W 9T2
Phone: 250-356-7958 Fax: 250-356-8182
Bob.Crane@gov.bc.ca

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Crane, Bob OHCS:EX

From: Cathy Shen [cshen@bchousing.org]
Sent: Monday, January 14, 2013 9:54 AM
To: Crane, Bob OHCS:EX
Subject: FW: Smoke-free housing in multi-unit dwellings

Hi Bob, sorry for the delay in getting this to you. Here is our response for the smoke-free piece. Let me know if you have any questions.

1. Develop a smoke-free housing policy for BC Housing that addresses the huge deficit in smoke-free housing by requiring all new social housing complexes to be designated as smoke-free. This will help to protect residents of social housing, including many residents with acute

- BC Housing is the crown agency responsible for the delivery and administration of social housing on behalf of the provincial government. Most of the new social housing developments are built in partnership with non-profit housing providers in which the housing provider operates and manages social housing buildings.
- BC Housing has operating agreements with these non-profit housing providers which gives responsibility for policy establishment, financial administration and property management to the housing providers.

2. Recognizing that there is a very small number of tobacco addicted vulnerable persons with mental illness or physical disabilities for whom smoking permissible housing may be required, BC Housing should:

a. grandfather existing units with resident smokers;

- In May 2011, BC Housing started a pilot program where tenants moving into selected developments will sign addendums to their residential tenancy agreements acknowledging that they are moving into a building in which smoking is not permitted.
- Current tenants in these buildings will be grandfathered so it will be sometime before a building would be completely smoke-free.

b. develop a strategy for addressing complaints of SHS where the smoke transfer is found to be excessive and consistent;

- BC Housing addresses complaints made about SHS by its residents.
- On behalf of housing provider members, BC Housing administers The Housing Registry, a central database of applicants in search of affordable housing. BC Housing and a number of non-profit and co-operative housing providers use The Housing Registry to house applicants as units become available. The Housing Registry's housing application form allows applicants to indicate housing preferences and health information, including possible respiratory illnesses, to assist with matching applicants to housing that best suits their needs.

c. educate tenants about free nicotine patches/gum or subsidized pharmacotherapy to help them quit smoking; and ...

- As a landlord of directly-managed public housing sites, BC Housing ensures that the buildings and properties follow health, safety and housing standards established by bylaw.
- In cases where social housing units are managed and operated by non-profit housing providers, BC Housing encourages tenants to contact the housing provider to discuss issues related to smoke-free housing, as well as to contact the Residential Tenancy Branch for more information regarding their rights as tenants.

Cathy Shen | Advisor, Strategic Planning, Executive Office | Chair, *livegreen* Employee Council | BC Housing | 778.837.1427 | Please consider the environment before printing this email.

From: John Bell
Sent: December-11-12 3:14 PM
To: Cathy Shen
Subject: FW: Smoke-free housing in multi-unit dwellings

Can you pls follow-up with Bob. I will also send you his voice-mail msg.

From: Crane, Bob OHCS:EX [<mailto:Bob.Crane@gov.bc.ca>]
Sent: December-11-12 1:41 PM
To: John Bell
Subject: Smoke-free housing in multi-unit dwellings

John, further to my phone message, this is the Clean Air Coalition position statement.

Thanks.

Bob Crane
 Senior Policy Analyst
 Housing Policy Branch
 Office of Housing and Construction Standards
 PO Box 9844 Stn Prov Govt, Victoria BC V8W 9T2
Phone: 250-356-7958 Fax: 250-356-8182
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Commentary: Smoke-Free Housing Should be Safe and Secure

By [David Dobbins](#) | January 4, 2013 | [10 Comments](#) | Filed in [Community Related](#), [Government](#), [Tobacco](#) & [Youth](#)

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