

April 1, 2011

Mayor Bill Bogaard
100 N. Garfield Avenue, Room S228
Post Office Box 7115
Pasadena, CA 91109-7215

Re: Proposed Municipal Code Amendments to Reduce Drifting Tobacco
Smoke in Multi-Unit Housing

Dear Mayor Bogaard:

Members of the Commission on Accessibility and Disability have reviewed the above named Code Amendment. As you know, our Commission has previously heard complaints from chronically ill and disabled citizens living in multi-unit housing (MUH), about the deleterious effects of second-hand tobacco smoke (SHS) on their health and comfort. We communicated with you and the City Council, urging the Council to adopt regulations to protect these citizens, and many others who had complained to the Pasadena Health Department and other City Commissions about SHS.

After reviewing the proposed amendment presented at the Special Meeting of the Public Safety Committee on February 22, 2011, we wish to compliment the Health Department staff for doing an excellent job of developing an ordinance which should serve Pasadena residents very well. The four parts of the ordinance are in line with the strategies in Model Ordinances recommended by several agencies, and used in other cities which have already passed such measures. Since Pasadena already has policies limiting smoking in public places, an enforcement mechanism is already in place. Allowing smoking in the public right-of-way away from business exits/entrances and in single family homes, where nuisance conditions do not exist, should suffice for the 13% of Californians, perhaps even fewer here in Pasadena, who still smoke. In any case, it has been shown that the development of housing controls on smoking tends to encourage smokers to quit, and young people not to start.

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The bulk of the complaints expressed at the meeting on 2/22/2011 were related to the three-year phase-in time. While we can understand that people bothered by SHS would like to be relieved as soon as possible, we also understand that the Health Department will need time to prepare the educational materials needed, and assist landlords and condominium owners to implement recommendations. The public will need to be educated as well. However, it is possible for buildings to become certified earlier as entirely smoke-free. In addition, the early phase-in of no-smoking rules on balconies and in public areas will help to reduce SHS in the areas that many people living in MUH blame for the pollution of their own apartments.

Therefore, after our review of the proposed Code Amendment, the Commission on Accessibility and Disability urges the City Council to act expeditiously in reviewing the proposed ordinance and forwarding it for legal review as soon as possible. Pasadena has been very forward-thinking in keeping its residents free from the noxious effects of tobacco smoke in workplaces, restaurants, stores, and many sports and entertainment venues but we do not yet protect them at all in the places where they spend the most time . . . their homes. It is clear that the overwhelming majority want this to be done.

We again thank you for your concern that all Pasadena residents, especially including those who are disabled and/or chronically ill, and who cannot afford single family housing, may live in healthy surroundings, free of second-hand tobacco smoke.

Yours truly,

Thelma Johnson
Chair, Commission on Accessibility and Disability

cc: City Council Members
Mark Jomsky, City Clerk
Michael J. Beck, City Manager
Accessibility and Disability Commission Members

From: Christine Reiter [mailto:chrisdr@pacbell.net]
Sent: Monday, April 04, 2011 1:19 AM
To: Nagahiro, Lorain
Subject: Statement for April 4 City Council Meeting

Lorraine,
I understand you are the person I should send a statement to regarding the non-smoking issue to be discussed in the meeting this evening. I have attached it to this email.

Christine Reiter
(626) 795-1800

April 4, 2011

Honorable Mayor Bogaard and
Council Members

My name is Christine Reiter, and I am on the Board of Directors of my Condominium association. My association is located on South Oakland south of Cordova.

I am writing you to put the position of condo owners on record who choose to purchase a unit with the assurance that the next door neighbor is not nor will ever be a smoker. In close living conditions, living in a condo is much like an apartment or a hotel for that matter. If the neighbor is a smoker, then the units adjoining are recipients of second hand smoke. The smoke enters the unit through the walls, windows, plumbing – wherever there is a conduit for smoke to travel.

We currently have a unit rented to a smoker. The children on both adjoining sides of the rented unit have asthma which is exacerbated by the smoke entering their units. The parents have appealed to the renter on numerous occasions to no avail. To expect them to turn to legal avenues available through “nuisance” complaints would be pitting neighbor against neighbor. Besides, neither party can afford the expenses to pursue legal avenues. In a building where everyone is an owner, this would create an untenable situation. It is an untenable situation – the owner defends his renter. Of course, the motivation is to keep the place rented. The only workable recourse is to have a city ordinance for No Smoking in multi-unit housing.

Owners can sell to anyone. Without a non-smoking ordinance, the new neighbor could be a smoker, creating a nuisance that would be untenable to existing owners, and a living situation that would be unhealthy on physical and emotional levels.

Imagine having a neighbor who likes to sit on his patio smoking cigars with guests in the summer. This is my neighbor. We cannot open windows, but it doesn't matter – smoke filters in anyway. Many a night we have fallen asleep with the smell of cigar smoke in our nostrils.

There is every reason in the world to pass a non-smoking ordinance. Let Pasadena once again be a leader with this important issue. To those who argue that it would depreciate the value of their property, just try booking a room in northern California where there are many hotels that are totally non-smoking – and booked weeks in advance! A majority of California's citizens are non-smokers who appreciate having clean air to breathe. Please let those of us who live in multi-unit housing enjoy smoke-free air free of cigarette and cigar contaminants.

Thank you for your time and consideration.

Christine Reiter
Director of Finance
Oakland Townhome Homeowners Association

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From: cornwellm@sbcglobal.net [mailto:cornwellm@sbcglobal.net]
Sent: Monday, April 04, 2011 10:57 AM
To: Jomsky, Mark
Subject: April 11 Council Agenda - ITEM 4-CODE AMENDMENT - DRIFTING SMOKE, ETC
Importance: High

To Pasadena Mayor & City Council:

As resident owners of a condo in Pasadena and having read the Subject Staff Report:

We urge the passing of this report and the drafting of the necessary Code Amendment re Apartments & Condos.

Thank You,

**Diane & Michael Cornwell
One South Orange Grove Blvd Unit #2
Pasadena, CA 90015**

**cc: PASADENA ASSOCIATION OF CONDO BOARDS
ONE SOUTH ORANGE GROVE HOMEOWNERS ASSOCIATION MEMBERS**

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3325 Wilshire Blvd.
Suite 900
Los Angeles, CA 90010
213-384-5864 phone
866-881-7865 fax

April 4, 2011
Hon. Bill Bogaard, Mayor
And Members of the City Council
City of Pasadena
100 N. Garfield Ave.
Pasadena, CA 91101

Dear Mayor Bogaard and members of the City Council:

The American Lung Association in California (ALAC) is a leading public health organization fighting for clean and healthy air through valiant efforts such as the battle against tobacco. With a mission of saving lives by improving lung health and preventing lung disease, ALAC supports strong local regulations that protect the public from the harmful effects of secondhand smoke.

We are writing to express our strong support for the passage of policies to protect Pasadena residents from unwanted exposure to drifting tobacco smoke in their homes, especially in apartments and condominiums.

Secondhand smoke is the third leading cause of preventable death in the United States, and is responsible for the deaths of an estimated 65,000 non-smoking Americans every year. Exposure to secondhand smoke is harmful at any level and is especially hazardous for seniors, children and those living with asthma and other chronic lung diseases.

We congratulate Pasadena for being a leader in the fight to protect both residents and visitors from secondhand smoke. Pasadena's implementation of smoke-free policies for outdoor areas has created clean and healthy public spaces for all to enjoy.

Residents of multi-unit housing also need to be protected from secondhand tobacco smoke. Unlike outdoor public spaces, occupants of residential units polluted by drifting tobacco smoke cannot simply remove themselves from the area, and are thus subjected to involuntary exposure

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to toxic air contaminants for far longer periods of time than persons subjected to secondhand smoke in an outdoor space like a restaurant patio.

On January 20, 2011, we released our annual State of Tobacco Control report that issues grades to cities and counties in California on key tobacco control policies, including those for smokefree outdoor environments, smokefree housing, and reducing sales of tobacco products. Pasadena has led the state along with a handful of other cities across the state with an overall grade of a B. Passing a strong ordinance that would include banning smoking in multi-unit housing, requiring disclosure, and defining second-hand smoke exposure a public nuisance should be the next steps in the tremendous efforts that your city has taken to protect the health and well-being of its residents.

The American Lung Association in California recommends that smoking be banned on balconies and patios of apartments and condominiums. In addition, apartment owners should be required, over a reasonable period of time, to transition their buildings so that there are non-smoking units located adjacent to each other. It is interesting to note that Capitol Insurance Group (CIG) will give a 10% discount starting July 2010 to apartment building owners and condominium associations that make their buildings, including the units, non smoking. The American Lung Association in California urges the Pasadena City Council to take the strongest possible action and join with the many other California cities that have passed comprehensive housing ordinances. Once again, this is an issue of public health. We need to protect our citizens especially children, the elderly, and people with chronic lung diseases.

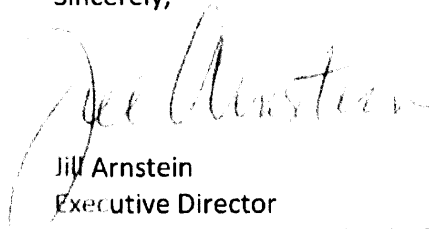


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We commend the Pasadena City Council for considering a Comprehensive Housing Ordinance on April 4, 2011.

Sincerely,



Jill Arnstein
Executive Director
American Lung Association in California

Cc Victor Gordo, Vice Mayor
Jacque Robinson, Councilmember District 1
Margaret McAustin, Councilmember District 2
Chris Holden, Councilmember District 3
Steve Haderlein, Councilmember District 4
Steve Madison, Councilmember District 6
Terry Tornek, Councilmember District 7
Michael J. Beck, City Manager
Mark Jomsky, City Clerk

From: Jesse Melgares [mailto:jesse@cerrell.com]

Sent: Monday, April 04, 2011 4:20 PM

To: Bogaard, Bill

Cc: district1; Fuller, Margo; McIntyre, Jacqueline; Stone, Rhonda; De La Cuba, Vannia; Madison, Steve; Tornek, Terry; Robles, Sandra; rminniear@caanet.org

Subject: California Apartment Association--Los Angeles on Proposed Smoking Ban

Good Afternoon,

Please find a letter on behalf of the California Apartment Association—Los Angeles attached to this email detailing their concerns about the proposed smoking ban in multi-unit housing.

Best,

Jesse Melgares

Assistant Account Executive

Cerrell Associates, Inc.

320 North Larchmont Boulevard

Los Angeles, California 90004

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April 4, 2011

Mayor Bill Bogaard

City of Pasadena

100 North Garfield Avenue

Pasadena, CA 91101-1782

RE: Proposed Anti-Smoking Ordinance

Dear Mayor Bogaard,

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On behalf of the membership of the California Apartment Association of Los Angeles (CAA-LA), we would like to address some concerns with the anti-smoking ordinance that is before you on April 4.

For your reference, CAA-LA serves rental property owners and managers in greater Los Angeles County. CAA-LA's members own and operate approximately 65,000 rental units within the Greater Los Angeles vicinity.

CAA-LA commends your desire to protect your constituents from second hand smoke and promote public health. However, CAA-LA believes that owners and managers of residential rental property should be free to set smoking and non-smoking policies for their rental homes and communities. Our association believes that market forces are the best way to designate units and the common areas of the property for both smokers and non-smokers in residential rental housing so that all residents are able to use and enjoy their homes.

CAA-LA believes that prohibiting smoking in any area of residential rental properties, and especially within a unit, should be part of the rental agreement rather than codified in a state or local law. This will allow property owners to develop individualized policies that are appropriate to their property and the needs of all residents.

Many of our members throughout Los Angeles County have voluntarily designated some or all of their rental housing units as non-smoking. Recognizing that there has been a dramatic change in Californian's expectations regarding exposure to environmental tobacco smoke, CAA-LA has made available an Addendum for Tobacco Smoke Free Areas to enable our property owner and manager members to address this resident demand voluntarily. This form allows certain common areas, certain units, or the entire property to be designated as smoke free.

We encourage the City of Pasadena to be thoughtful and explore all of the real impacts this legislation would have on renters and rental property owners. CAA-LA has some areas of concern about the potential smoking regulation on multi-family housing units that we urge you to take into consideration:

Impact of a smoking ban on residents who smoke. An ordinance banning smoking inside one's rental home may displace an otherwise excellent tenant simply on the basis that he/she is a smoker. Furthermore, it will preclude a group of people who choose to engage in a legal activity from the ability to rent an apartment.

Legal ramifications. Banning people who smoke from renting an apartment in any community anywhere in Pasadena could potentially put rental housing owners and managers in violation of state and federal fair housing laws and also subject them to lawsuits by smokers who are denied leases.

Effectively enforcing a smoking ban. It is unclear how a rental property owner would determine whether a resident is smoking in their unit as there are state laws that prohibit a landlord from entering a unit except in the case of a clear emergency or when proper and sufficient notice has been served.

If the City of Pasadena were to approve a non-smoking ordinance, the ordinance should include the following:

1. Does not require the landlord, property manager, and/or property owner to enforce the ordinance.
2. In the event that a resident is found to be in violation of any prohibition on smoking on the property or in the unit, the landlord, property manager, and/or property owner is not liable for any fines or penalties.
3. Grants liability protection to the landlord, property manager, and property owner from any fines or penalties that may be assessed.
4. The ordinance is effective on tenancies that were established after the effective date of the ordinance and existing tenancies would be grandfathered until their lease agreement expires.

5. Deems a landlord compliant with the ordinance and not be liable to any person for a tenant's breach of smoking rules provided the lease agreement stipulates that smoking is prohibited in areas prescribed by the ordinance.
6. Deems that failure to enforce the smoking regulations of the lease agreement do not constitute a waiver of the lease and shall not prevent future enforcement.

We would like to work in collaboration with the City of Pasadena to bring solutions to this issue and be partners in enhancing public health while providing responsible housing practices. Thank you for your consideration.

Sincerely,

Ryan Minniear
Executive Director
California Apartment Association of Los Angeles

cc:
Vice Mayor Victor M. Gordo, Esq.
Councilmember Steve Haderlein
Councilmember Chris Holden
Councilmember Steve Madison
Councilmember Margaret McAustin
Councilmember Jacque Robinson
Councilmember Terry Tornek
Sandra Robles, City Clerk's Office