



# A GUIDE FOR CO-OP HOUSING MEMBERS

## Addressing the Problem of Second-Hand Smoke in your Home

All co-op housing members are entitled to enjoy their units without interference from others. If second-hand smoke is coming into your home, it is not enough for you to show that unwanted second-hand smoke is present in your home. You must provide evidence that the smoke is frequent, on-going and substantially interfering with your use and occupancy of your unit. Temporary discomfort or inconvenience may not constitute a breach of your rights. Documenting and collecting evidence is vital to prove your claim.

This guide provides co-op housing members with strategies they may use to help them be successful in addressing the issue of second-hand smoke in their home.

### 1. DOCUMENT THE PROBLEM

Consider using this [sample co-op housing member log](#) to track your efforts to address the problem.

#### **Document the source and extent of the problem:**

- Identify how the smoke is entering your unit (i.e., from your bedroom window, when you turn on your bathroom or kitchen fan, from the electrical outlets or around the plumbing pipes).
- Determine where the smoke is coming from (i.e., neighbour's balcony, neighbour's inside unit, outside smoking area or some other source).
- Identify how often the smoke enters your unit on a daily or weekly basis. Do you smell the smoke all the time, at certain times of the day or days of the week? List the dates, times and how often it occurs.
- Identify how much smoke is entering your unit. This is difficult to assess, but is the smell overwhelming, or is there just a faint smell of smoke? Does the smoke stay in one area or does it go to other areas of the home? Does the smoke remain or does it subside after a time?
- Identify when the problem started. Did you start smelling the smoke as soon as you moved into your unit? Did you notice the smoke when a new co-op housing member moved in?

#### **Document the health impacts on you and your family:**

- Document symptoms or illnesses caused by the smoke coming into your home. Symptoms may include asthma attacks, headaches, burning and watery eyes, sore throats, bronchitis, ear infections, heart problems, to name just a few.

- Indicate if the smoke is worsening a pre-existing health problem such as asthma, allergies, heart disease, high blood pressure, fibromyalgia, or cancer.
- Indicate whether the smoke seeping into your home is causing anxiety or fear due to the potential or actual health impacts on you or your family members.
- Indicate if you have a newborn in the home. Babies who are exposed to second-hand smoke have a higher risk of dying from Sudden Infant Death Syndrome (SIDS).

**Document the impact on the use and occupancy of your home:**

- Has the smoke resulted in a reduction in the value of your co-op lease? In other words, have parts, or your entire home, become uninhabitable at times?
- Are you forced to stay out of certain rooms because of the smoke?
- Are you unable to open your windows or balcony door?
- Are you unable to use your balcony because of the smoke?
- Are you unable to use your fans or heating system?
- Have you been forced to leave your home on certain days or at specific times to avoid the smoke?
- Are friends and family with health conditions unable to visit you because of the smoke seeping into your unit?

**2. COLLECT SUPPORTING EVIDENCE**

- Did your co-op housing board misrepresent the tenancy by saying that the building was smoke-free? Do you have any documents or witnesses to verify this?
- Obtain written proof from neighbours, friends and family concerning the amount and frequency of smoke entering your home. The more people who can verify your complaint, the stronger your case.
- Obtain a letter from your doctor to verify that the smoke is making you or your family members sick, or aggravating an existing condition or illness.

**3. MINIMIZE THE PROBLEM**

The best solution to protect yourself and your family from exposure to second-hand smoke is to live in a 100% smoke-free building. However, given the lack of available smoke-free multi-unit accommodations in Nova Scotia, this is not always possible. Given this reality, this section will offer some steps you can take on your own to reduce the smoke entering your home.

It is important you take all reasonable steps available to reduce the amount of smoke entering your unit. This could include blocking the sources of the smoke, negotiating with the smoking co-op housing member, and talking with your co-op housing board. Here are some steps you might consider:

**Talk to your neighbours:**

- If you feel comfortable, consider talking with your smoking neighbour. He or she might not realize that the smoke is a problem for you. Try to focus on solutions such as asking the neighbour to smoke outside, smoke in another area, close doors or windows, or seal the sources of the smoke.
- Seek support from other neighbours in the building. They might be experiencing the same problem, and may be willing to talk with the co-op housing board with you.
- Consider starting a petition that the building be designated as smoke-free.
- While the smoke may not personally affect others, your neighbours may be sympathetic and lend their support. The majority of multi-unit housing dwellers in Nova Scotia would prefer a smoke-free building. (See the [tenant survey](#)).

**Block or reduce the smoke:**

- Seal the sources of smoke such as around electrical outlets, ceiling light fixtures, fans and plumbing pipes.
- Close windows and doors.
- Weather-strip doors and around windows where possible.

Fans, air filters and purifiers will only mask the problem, but may show the co-op housing board that you have tried to resolve the problem yourself.

Useful Link: [Reducing Second-Hand Exposure in Multi-Unit Housing](#)

**Negotiate solutions:**

If your efforts to eliminate the smoke from your home are unsuccessful, we recommend that you work with your co-op housing board to negotiate a solution. This section will offer some tips for working with your co-op housing board to resolve the problem of smoke coming into your home.

**Notify your co-op housing board:**

- Write a letter to your co-op housing board requesting that the problem be resolved if your efforts to reduce the smoke are not successful.
- Explain the extent, frequency and impact of the second-hand smoke.
- Identify what steps you have taken to resolve the problem to date.

- Include any supporting evidence such as a letter from your doctor concerning the impact on your health or letters from friends and neighbours to verify your claims.
- Indicate your willingness to negotiate a resolution, and propose some potential solutions. Ask for a response by a specific date.
- Consider sending a group letter if there are others in the building experiencing the same problem.
- Refer your co-op housing board to this website. The co-op housing board has a responsibility to address complaints about second-hand smoke, as well as suggested steps to rectify the problem.

**Work with your co-op housing board to negotiate solutions:**

It is always a good idea to indicate what you would like to help to solve the problem. You may have an idea that the co-op housing board has not considered, so offer some suggestions. Ask your co-op housing board to consider potential solutions such as:

**Do repairs to the unit to seal off the smoke:**

- Install door sweeps and weather stripping on windows
- Fill or patch cracks in walls and ceilings
- Insulate the air spaces around plumbing pipes
- Insulate and place covers over electrical outlets

**Inspect the ventilation system for proper function:**

- Clean, change or install new filters in the ventilation system
- Add more fresh air intake into the ventilation system
- Restrict the amount of air exhausted through the ventilation system from units where there is smoking

**Work with the smoking co-op housing member to negotiate a solution:**

- Request that the smoking co-op housing member stop smoking in specified areas where the smoke can enter your unit or only smoke in designated outside areas
- Move the smoking co-op housing member to another unit in the building or another building owned by the co-op housing board

**Excluding the smoking co-op housing member may be an option if a reasonable solution cannot be reached:**

- When a non-smoking rule has been implemented for all co-op members, and a co-op member knowingly and repeatedly smokes or allows smoking after warnings from the board, can be excluded from co-op membership by the board according to Section 29(2) of the *Co-operative Associations Act*. The member has one month to appeal.
- If the member appeals, the board must call a members' meeting, at which time the member can make their case. Members can overturn the board's decision.
- Once a member is excluded from the co-op, the board can file an application with the Residential Tenancies Program for a hearing to evict the member from the co-op due to violating the non-smoking rule.

**Move to another unit or building:**

- If applicable, ask your co-op housing board to move you to another unit in the building — at no cost to you — with no smoking neighbours.
- If the co-op housing board owns multiple buildings, ask to be moved to another building with assurances that neighbour's units are non-smoking.

**Talk to your co-op housing board about converting to a smoke-free building:**

- Suggest that your co-op housing board consider adopting a no-smoking policy. No-smoking policies are legal and have many benefits for co-op housing boards and co-op housing members, including: less damage to units, cheaper turnover costs, lower risk of fires, and fewer complaints about second-hand smoke.
- Refer your co-op housing board to this website.

**4. LAST RESORT OPTIONS**

If your co-op housing board refuses to act or you are not satisfied with the solutions offered, you may apply for a Dispute Resolution Hearing or a Residential Tenancies Program Hearing.

**Dispute resolution hearings**

If you've taken all steps possible to try and resolve the problem of smoke entering your home, and you are not satisfied that the co-op housing board has taken reasonable steps to correct it, you have the option of applying to the Residential Tenancies Program for an order requiring the co-op housing board to provide a remedy and/or compensate you for your disturbance.

## **Residential Tenancies program hearings**

The Residential Tenancies Program is a dispute resolution process available to tenants and landlords, and co-op housing boards and co-op housing members. A dispute resolution hearing can resolve disputes between co-op housing boards and co-op housing members. Residential Tenancies Officers help parties resolve their disputes during a formal hearing, and make a binding decision on the parties. Based on the evidence presented by the co-op housing board and/or co-op housing member, the Officer makes a decision about the problem, based on an interpretation of the *Residential Tenancies Act*. Officers are not bound by precedent and decisions are made on a case-by-case basis.

It is important to recognize that proving interference with occupancy based on second-hand smoke entering your home can be difficult. Before applying for a dispute resolution hearing, we recommend that you review the section on Co-op Housing Members, Interference with Occupancy, to understand the challenges you may face in pursuing this option.

If you decide to apply for mediation or a hearing to seek compensation for the loss of occupancy without interference, here is a list of factors that a dispute resolution officer may consider when deciding on the merits of your case:

- Is smoking allowed in the private units of the multi-unit building? If it is known where the smoke is coming from, is the co-op housing member allowed to smoke in the unit according to their lease?
- If smoking is allowed in the units, is the amount of smoke frequent, ongoing and a significant interference with the co-op housing member's use or occupancy of the unit?
- Is the smoke affecting the health of the co-op housing member?
- What steps did the co-op housing member take to minimize the smoke entering the unit or rectify the problem?
- If the co-op housing board was aware of the problem, and there was evidence of significant smoke entering other units, did the co-op housing board take reasonable steps to correct the problem?

### **5. MOVE TO A SMOKE-FREE BUILDING**

In some cases, if your health is at risk and you don't want to continue to expose yourself or your family to a hazardous substance on a frequent and ongoing basis, moving may be the best decision to protect your family. Keep in mind that you have up to one year after moving to make an application to the Residential Tenancies Program. If you need to terminate your tenancy early due to living in a building where smoking is permitted, it is recommended that you seek an Order ending your tenancy from the Residential Tenancies Program.