



**U.S. Department of Housing and Urban Development**

Minneapolis Field Office  
920 Second Avenue South, Suite 1300  
Minneapolis, Minnesota 55402-4012

August 1, 2007

Mr. Warren H. Ortland  
Staff Attorney  
Tobacco Law Center  
William Mitchell College of Law  
875 Summit Avenue  
Saint Paul, Minnesota 55105

Dear Mr. Ortland:

**SUBJECT: Interpretation of Implementation of Smoke-Free Policies for Housing Subsidized by the Department of Housing and Urban Development in Minnesota**

In your letter of July 17, 2007, to Dexter Sydney, you requested this Office's interpretation as to the Department of Housing and Urban Development's (HUD) policy as to the establishment of smoke-free multi-residential properties assisted by the Department. Mr. Sydney has asked me to respond. Your research is correct that "there is no HUD policy, by statute, regulation, handbook, or otherwise, that restricts landlords from adopting a prohibition of smoking in common areas or in individual units." Enclosed are copies of letters provided by this Office to the Housing and Redevelopment Authorities of Melrose (2002) and Henning (2007), Minnesota, on that issue.

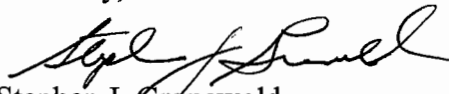
HUD, however, funds a substantial variety of housing programs: Public Housing, Section 8, FHA-insured, Section 202/811s, and various Community Development Block Grant (CDBG) programs, each with its own set of rules as to residency and occupancy. None, however, prohibit establishment of a smoke-free environment. The differences might be as to whether the establishment can be through the lease, a lease addendum, or a house rule. Section 202/811 projects, for example don't permit modification of the model lease, but a smoke-free policy could be established through the house rules.

You also mention the issue of "grandfathering of tenants" in the establishment of such a policy. You are correct that the HUD has no policy addressing the issue. However, strong caution is urged to any landlord to carefully craft such a policy in order to avoid suits based on theories of constructive eviction or breach of contract by tenants who have leases prior to such a policy.

In conclusion, smoke-free policies can be adopted in housing receiving HUD assistance, so long as they adhere to state and local laws.

If you have any questions, please don't hesitate to call me at (612) 370-3000, extension 2210.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen J. Gronewold". The signature is fluid and cursive, with the first name being the most prominent.

Stephen J. Gronewold  
Chief Counsel

Enclosure