



**United States Department of Agriculture
Rural Development**

October 9, 2008

Mr. Warren Ortland, Staff Attorney
Tobacco Law Center
William Mitchell College of Law
875 Summit Avenue, Room 371
St. Paul, Minnesota 55105

Mr. Ortland;

In your letter dated October 7, 2008 you requested this agency's interpretation as to Rural Development's policy as to the establishment of smoke-free multi-residential properties assisted by this agency.

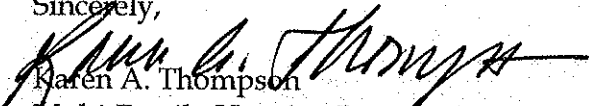
Your research upon reviewing Rural Development's 3560 handbooks is correct in relation to the agency not having a regulation concerning smoke-free policies for properties that Rural Development has financed under the 515 program. It is also correct that each project owner may establish or adopt a prohibition of smoking in common areas or in individual units through individual house rules.

You also mention the issue of "grandfathering of tenants" in the establishment of such a policy. You are correct that USDA Rural Development does not have a policy addressing this issue. However, agency representatives are urged to caution any owner or management agent 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 being established or adopted.

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

If you have any further questions, please feel free to contact me at 651-602-7820.

Sincerely,


Karen A. Thompson
Multi-Family Housing Program Director
USDA Rural Development

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