



**Sacramento
Housing &
Redevelopment
Agency**

REPORT TO HOUSING AUTHORITY
City of Sacramento
 915 I Street, Sacramento, CA 95814-2671
 www.CityofSacramento.org

December 9, 2008
 Staff Report

Honorable Chair and Members of the Housing Authority Board

Title: Public Housing & Riverview Plaza Non-Smoking Facility Policy

Location/Council District: Citywide

Recommendation: Receive and file

**Contact: Cecette Hawkins, Management Analyst, 916-440-1399 Ext, 1421
 Nick Chhotu, Assistant Director of Housing, 916-440-1334**

Presenters: Nick Chhotu

Department: Sacramento Housing and Redevelopment Agency (SHRA)

Description/Analysis:

Issue: Staff is proposing that, effective January 1, 2009, SHRA will prohibit smoking inside designated residential units and internal common areas within specified Public Housing and Affordable Housing properties. Signs will be posted in common rooms, shared laundries, stairwells, hallways, entranceways, lift areas and other enclosed common and public traffic areas indicating that these areas and designated residential units are non-smoking. SHRA will begin with the buildings surveyed as the "pilot program areas" and then evaluate expanding the policy to other residential properties. Current tenants residing in the complex under a prior lease will not be immediately subject to the Non-Smoking Facility Policy. As current tenants move out, or enter into new leases, the non-smoking facility policy will become effective for their new unit or new lease.

Policy Considerations: In December 2006, the City Council passed Resolution No. 2006-886, which encourages landlords and property managers of multi-unit housing to designate at least 25% of existing rental units as non-smoking. In April 2007, the Board of Supervisors passed Resolution No. 2007-0440, which encourages landlords and property managers of multi-unit housing to designate at least 50% of existing rental units as non-smoking. This policy is consistent with the U.S. Department of Housing and Urban Development (HUD) regulations, which does not prohibit Housing Authorities from establishing smoke free

Public Housing Non-Smoking Facility Policy

policies. Additionally this policy complies with the requirements set-forth in the California Smoke Free Legislation Labor Code Section 6404.5 (AB-13).

Environmental Considerations:

California Environmental Quality Act (CEQA): The California Environmental Quality Act (CEQA) does not apply to the proposed policy pursuant to CEQA Guidelines section 15378(b)(5), which excludes administrative activities of governments that will not result in direct or indirect changes in the environment.

Sustainability Considerations: The proposed policy change achieves the following City of Sacramento Sustainability Master Plan goals: Public Health and Nutrition Goal #1 to improve the health of residents through access to a diverse mix of wellness activities and locally produced food.

Other: National Environment Policy Act (NEPA) does not apply.

Committee/Commission Action: **Committee/Commission Action:** At its meeting on November 19, 2008, the Sacramento Housing and Redevelopment Commission considered this item. The votes were as follows:

AYES: Burruss, Coriano, Dean, Fowler, Gore, Mohr, Morgan, Otto, Shah

NOES: None

ABSENT: Chan, Stivers

Rationale for Recommendation: The Housing Authority began its investigation into non-smoking facilities in 2006 with the help of the Resident Advisory Board (RAB), and Resources and Education Supporting People Everywhere Controlling Tobacco (RESPECT). Staff conducted a series of surveys of 644 residents at 17 public housing authority properties. Responses were received from 175 residents and 75% of the respondents did not oppose a smoke free environment. A summary of the extensive surveys and outreach conducted in the public housing community is outlined in Attachment 2.

The Non-Smoking Facility policy provides details about the Housing Authority's intentions to pilot this new policy. In addition, the Policy focuses on providing cessation assistance and tobacco education to address residents' needs, as well as outlining ways to improve their communities through non-smoking. RESPECT received a grant from the Sacramento County Department of Health & Human Services to provide free on-site cessation assistance and tobacco education to SHRA residents.

Public Housing Non-Smoking Facility Policy

As of October 2008 there are 101 local housing authorities that have adopted smoke free-policies for some or all of their apartment buildings. The following California housing authorities have adopted a smoke-free policy: Alameda, Madera, Oxnard, Port Hueneme, Rancho Mirage, Santa Barbara, Santa Clara, and Plumas County. Attachment 1 includes a copy of the proposed Public Housing Non-Smoking Facility policy, Attachment 2 includes a summary of outreach made by the Housing Authority to discuss the proposed policy with its residents, and Attachment 3 includes a letter of support from the Resident Advisory Board (RAB).

Financial Considerations: This policy has minimal financial impact and is included in the 2009 operating fund budget.

M/WBE Considerations: The items discussed in this report have no M/WBE impact; therefore, M/WBE considerations do not apply.

Respectfully Submitted by: 
LA SHELLE DOZIER
Interim Executive Director

Recommendation Approved:

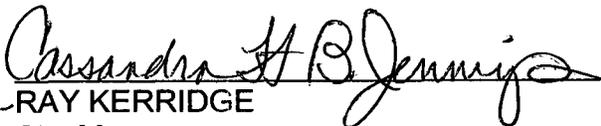

for RAY KERRIDGE
City Manager

Table of Contents

Report	pg. 1
Attachments	
1 Smoke Free Policy	pg. 4
2 Community Outreach	pg. 7
3 SRAB Letter of Support	pg. 8
4 RESPECT Letter of On-Site Tobacco Education	pg. 9

Sacramento Housing & Redevelopment Agency
Public Housing Non-Smoking Facility Policy

THIS POLICY IS EFFECTIVE: January 1, 2009

Policy

The Sacramento Housing and Redevelopment Agency (SHRA) will not allow smoking in designated residential units nor designated internal common areas within its Public and Affordable Housing properties. In non-smoking designated buildings, SHRA will erect signs in common rooms, shared laundries, stairwells, hallways, entranceways, lift areas and other enclosed common and public traffic areas indicating that these areas and interior designated residential units are non-smoking.

The terms and provisions of the Public Housing Non-Smoking Facility policy are specifically made a part of the Public Housing Residential Unit Lease and are agreed to by both parties. The lease addendum shall become effective at the time it is signed by both parties below and shall remain in effect until the Lease is terminated. The information contained below is the lease addendum provisions:

1. Purpose of No-Smoking Policy. The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance and cleaning costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smoke-free building.

2. Definition of Smoking. The term "smoking" means inhaling, exhaling, breathing, or carrying any lighted cigar, cigarette, or other tobacco product or similar lighted product in any manner or in any form.

3. Non-Smoking Facility. Tenant agrees and acknowledges that the premises to be occupied by Tenant and members of Tenant's household have been designated as a non-smoking living environment. Tenant and members of Tenant's household shall not smoke anywhere in the unit rented by Tenant, or the building where the Tenant's dwelling is located, or in any of the common areas or adjoining grounds of such building or other parts of the rental community, nor shall Tenant permit any guests or visitors under the control of Tenant to do so.

4. Tenant to Promote No-Smoking Policy and to Alert Landlord of Violations. Tenant shall inform Tenant's guests of the no-smoking policy. Further, Tenant shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Tenant's unit from sources outside of the Tenant's apartment unit.

5. Landlord to Promote No-Smoking Policy. Landlord shall post no-smoking signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the residential property.

Public Housing Non-Smoking Facility Policy

6. Landlord Not a Guarantor of Smoke-Free Environment. Tenant acknowledges that Landlord's adoption of a non-smoking facility policy, and the efforts to designate the residential property as smoke-free, do not make the Landlord or any of its managing agents the guarantor of Tenant's health or of the smoke-free condition of the Tenant's unit and the common areas. However, Landlord shall take reasonable steps to enforce the non-smoking facility terms of its leases and to make the residential property a non-smoking facility. Landlord is not required to take steps in response to smoking unless Landlord knows of said smoking or has been given written notice of said smoking.

7. Other Tenants are Third-Party Beneficiaries of Tenant's Agreement. Tenant agrees that the other Tenants at the residential property are the third-party beneficiaries of Tenant's non-smoking facility addendum agreements with Landlord. (In layman's terms, this means that Tenant's commitments in the Addendum are made to the other Tenants as well as to Landlord.) A Tenant may sue another Tenant for an injunction to prohibit smoking or for damages, but does not have the right to evict another Tenant. Any suit between Tenants herein shall not create a presumption that the Landlord breached this Addendum.

8. Effect of Breach and Right to Terminate Lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease. A material breach of this Addendum shall be a material breach of the lease and grounds for immediate termination of the Lease by the Landlord.

9. Disclaimer by Landlord. Tenant acknowledges that Landlord's adoption of a non-smoking facility policy, and the efforts to designate the residential property as a non-smoking facility does not in any way change the standard of care that the Landlord or managing agent would have to a Tenant household to render buildings and premises designated as a non-smoking facility any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Landlord specifically disclaims any implied or express warranties that the property, common areas, or Tenant's premises will have any higher or improve air quality standards than any other rental property. Landlord cannot and does not warrant or promise that the rental premises or common areas will be free from secondhand smoke. Tenant acknowledges that Landlord's ability to police, monitor, or enforce the agreements of this Addendum is dependent in significant part on voluntary compliance by Tenant and Tenant's guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other landlord obligation under the Lease.

10. Effect on Current Tenants. Tenant acknowledges that current tenants residing in the complex under a prior lease will not be immediately subject to the Non-Smoking Facility Policy. As current tenants move out, or enter into new leases, the non-smoking facility policy will become effective for their new unit or new lease.

Public Housing Non-Smoking Facility Policy

In addition to information in the lease addendum as a public housing tenant you can expect SHRA to:

- Display “No Smoking” signs in internal common and high traffic public areas
- Request you do not smoke in designated residential units and internal common areas, but smoke only in the limited areas where it is allowed
- Notify you that starting January 1, 2009 designated private residential units and internal common areas are non-smoking facility zones
- Provide you with free on-site cessation assistance and tobacco education to the extent possible
- Inform staff and contractors we employ that specific residential units and all internal common areas are non-smoking facility zones

In addition to the information in the lease addendum as an affordable housing resident we expect you:

- To comply with your Residential Tenancy Lease Agreement and House Rules
- Not to smoke in designated non-smoking facility areas, including designated private residential units
- To be considerate of neighbors and not smoke immediately outside a neighbor’s window or doorway and if you are located in a private residential unit where smoking is allowable, it must be done at least 25 feet from the private residential unit
- Not to cause or permit a nuisance
- Not to interfere, or cause or permit interference with, the reasonable peace, comfort or privacy of neighbors
- To be responsible for the behavior of other occupants or visitors to your property and ensure their compliance with the Agency designated non-smoking facilities and common areas
- To be responsible for any violations of this policy and rider to the unit lease. If a violation is observed or reported to the Site Manager, the Site Manager will discuss with the resident the seriousness of the violation and serve the resident with a Ten-Day Notice to Comply or Vacate
- To comply with this policy and lease rider. Failure to comply or upon repeated violations of the smoke-free policy may be cause for termination of the Lease
- Notify SHRA in writing, a request for an informal hearing within ten (10) days of being served to dispute any adverse action initiated by SHRA. If no request is made or if a request is not made within a reasonable time as defined in the Grievance Policy, the resident shall have waived his or her right to an informal hearing

Community Outreach

The following is a chronology of the community outreach conducted by SHRA Staff regarding the Non-Smoking Facility Policy.

In 2006, surveys were distributed by mail to 468 residents at three public housing authority properties. The complexes selected represented a cross-section of Public Housing residents, including senior/disabled residents, senior-only, and residents at family developments. Eighty six residents replied and 75% of the respondents indicated a preference for living in a smoke-free environment residential dwelling.

November 8, 2007, SHRA staff and members of the Resident Advisory Board (RAB) met at the Sun River community and conducted a door to door survey at 6250 Mariposa Avenue and 7500 Tiara Way. Residents that were not home were left a survey on their door along with a prepaid envelope to return the survey.

November 9, 2007, SHRA staff members of the RAB, Megan Trautman, County Tobacco Education, and Gustavo Torrez with Breathe CA. met in the community room at 917 38th Street and 480 Redwood Avenue to answer questions and have residents complete the survey. Residents that did not attend the meeting in the community room were left a survey on their door along with a prepaid envelope.

November 15, 2007 SHRA staff and members of the RAB met at 1000 Rio Lane and conducted a door to door survey. Residents that were not home were left a survey on their door along with a prepaid envelope to return the survey.

November 16, 2007 SHRA staff and members of the RAB met in the community room at 1043 43rd Street to answer questions and have residents complete the survey. Residents that did not attend the meeting in the community room were left a survey on their door along with a prepaid envelope.

January 29, 2008 SHRA staff met with members of the RAB to go over the results of the survey and to get feedback from RAB members regarding the survey.

February 12, 2008 SHRA staff met with members of the RAB to review how SHRA will proceed with implementing the smoke-free environment to each community.

February 26, 2008 SHRA staff, Megan Trautman with the County Tobacco Education and Theresa Boschert with Resources and Education Supporting People Everywhere Controlling Tobacco (RESPECT) attended the quarterly RAB meeting. Gale Morgan, RAB Treasurer, conducted a PowerPoint presentation which consisted of the surveys completed and how second hand smoke affects each resident.

Sacramento Resident Advisory Board

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November 6, 2008

RE: SHRA Smoke Free Policy

To the Members of the Sacramento Housing and Redevelopment Commission:

I am writing on behalf of the Sacramento Resident Advisory Board (SRAB). We are the Executive body that monitors guides and advocates for the Resident Delegates, Resident Committees and ultimately the approximately 4,000 tenants themselves who reside in 2,900 units operated by the SHRA under the auspices of the U.S. Department of Housing and Urban Development (HUD). I am pleased to offer our vigorous support for a proposal being submitted for your review to bring smoke-free options and free smoking cessation services to our sites.

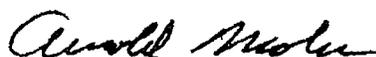
This proposal comes at an opportune moment because we have been researching the effect of drifting secondhand smoke on the tenants and facilities. In coordination with the Sacramento County Tobacco Education Program, we surveyed a cross section of SHRA tenants in 2006. They reported back to us that 54% had been bothered by secondhand smoke drifting into their apartments; 75% said they would prefer to live in a smoke-free building; and 82% believed that secondhand smoke is a serious health hazard. In addition, we learned that approximately 29% of our residents currently smoke or live with someone who does. We know that this smoking rate is more than double that of the general population in California. Sacramento RESPECT staff have attended our meetings, sought input from our SRAB Executive Committee and laid out to us a plan for services that looks like a real "win-win" for the tenants, staff, and contractors – nonsmokers and smokers alike.

The SRAB takes tenant concerns for health and safety very seriously. Therefore, we were extremely pleased to learn of the SHRA plan to implement a non-smoking policy. We know of the ill effects of exposure to secondhand smoke among the tenants along with its damaging and costly effect on the facilities and look forward to partnering with the SHRA, the Sacramento County Tobacco Education Program, and Sacramento RESPECT. Our goal is to have adopted sensitive and sensible non-smoking policies for the facilities. We also want to provide and incorporate long-term quit smoking classes at key facilities.

It costs SHRA twice as much to rehab a smoking unit as a non-smoking unit. The dollars that can be saved by adopting smoke-free units are dollars that can be spent meeting other important needs of our tenant population.

We urge you to consider favorably the SHRA proposal before you.

Thank you,



President,
Sacramento Resident Advisory Board

RESPECT

Resources and Education
Supporting People Everywhere
Controlling Tobacco

Smoke-Free Communities Are Good For Health
AND Good For Business

November 19, 2008

Dear Commissioners,

Sacramento RESPECT, a project of The American Lung Association, is pleased to partner with the Sacramento Housing & Redevelopment Agency, the SHRA Resident Advisory Board and the Sacramento County Department of Health & Human Services to offer free on-site smoking cessation services and tobacco education to tenants of SHRA communities.

Quit smoking classes, support groups and materials will all be made available to SHRA tenants at no charge. Customized educational materials, sample policies, signage and in-person consultations will be given to SHRA managers and staff. In addition, we can help tenants and staff who wish to stop smoking "on-their-own" to use the California Smokers' Helpline and become eligible for free nicotine replacement treatments through MediCAL.

Our goal is to create a true working partnership that listens to tenant concerns and provides answers and practical assistance where needed. We are guided by the needs of the individual SHRA communities, their tenants and staff.

We are also partnering with the Sacramento Youth Services Department to address the special needs of youth -- to keep them from starting and help them quit smoking.

Our staff and materials are bi-lingual in English and Spanish and our program provides free, respectful, and effective incentives to help people on the journey to better health.

Thank you for this opportunity to be of service.

 A Project of the AMERICAN LUNG ASSOCIATION
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