

Belmont Case Study

Belmont, CA Secondhand Smoke/ Multi-Unit Housing Ordinance

Passed on October 9, 2007

Background

The City of Belmont, CA (population 26,000) is situated half-way between San Francisco and San Jose, in San Mateo County. It is a quiet residential community in the midst of the culturally and technologically rich Bay Area.

In May of 2003, a six-alarm fire, caused by a carelessly discarded cigarette gutted an entire floor in Bonnie Brae Terrace, a senior complex which is home to 160 low and moderate income residents in Belmont. Several residents had to be hospitalized in the aftermath, some for up to three months.

The nonprofit Lesley Foundation, which owns and manages the three building complex under Housing and Urban Development (HUD) guidelines, implemented a no-smoking policy for the units in October 2003. However, at the time, they exempted the 29 residents who were allowed to smoke in their units prior to the rules change.

Conflicts soon arose between the smokers and the non-smokers who felt their health and safety were still being endangered by the secondhand smoke. The people who smoked were scattered throughout the three buildings and consequently so was the cigarette smoke which drifted freely through windows, seeped under doors, and entered through vents.

Lesley Foundation management staff felt stymied by the HUD Regional Director's statement that he did not think it "reasonable to require existing smokers to move to other units" in order to cluster the smokers' units together.

In an attempt to accommodate the non-smokers, management offered to move them to “safer” units. Some of the non-smokers moved up to three times to try to escape the smoke. Additionally, some new tenants began to smoke in their units in violation of their signed agreements when they saw the “grandfathered” smoking tenants do it.

The non-smoking residents, led by retired engineer Ray Goodrich, 81, organized and began to conduct surveys, meet with staff, circulate petitions and write letters to HUD. In December of 2005, they took their issue to the media. They also contacted SAFE (Smoke-free Air for Everyone) in southern California who alerted them to what was happening in Dublin, CA, just 30 miles east of Belmont.

In June of 2006, the Dublin City Council had begun debating the possibility of declaring secondhand smoke a nuisance spurred by the complaints of another senior citizen whose neighbor insisted on smoking under her bedroom window. Later that summer, Dublin designated secondhand smoke to be a private nuisance allowing individuals to more easily pursue civil action against smokers to restrict where they can smoke or to pay for damages.

Meanwhile, Goodrich and the smoke-free supporters immediately contacted the Belmont City Council to ask them to pass a similar measure. They also contacted the American Lung Association which had worked on the Dublin ordinance—the only one of its kind in northern California at the time.

On October 24, 2006, the Belmont City Council instructed the city attorney to bring back an ordinance declaring secondhand smoke, a public nuisance.

On Nov. 14, 2006, the Belmont City Council, after listening to the moving testimony of the Bonnie Brae Terrace residents in which they described their medical conditions and how the smoke would awaken them in the middle of the night, decided to consider a ban on smoking in all attached residential units. One council member also added the possibility of banning smoking in the entire city. By the end of the evening, the city attorney had been asked to return with the most comprehensive ordinance possible banning smoking in multi-unit housing and in outdoor areas.

Representatives from the American Lung Association’s Bay Area Region, California’s Clean Air Project-CCAP, San Mateo County Health Department-Tobacco Prevention Program, BREATHE California and local citizens provided council members with information and materials about secondhand smoke, ordinances passed in other cities, and the nature of drifting smoke in multi-unit housing.

The main opposition to the ordinance focused on the proposed sidewalk smoking ban which resulted in limiting the ban to doorway buffer zones.

During the month of June 2007, the city manager and city attorney met with key stakeholder groups to solicit comments, feedback, and input. These groups included the Technical Assistance Legal Center (TALC), the American Lung Association, and California's Clean Air Project (CCAP) among others.

In late summer, the San Mateo County Realtors Association sent out a mailer to all Belmont property owners opposing the ordinance stating that the smoking ban would take away the right of property owners to smoke in their own homes and that police would be spying on residents.

On Oct. 9, 2007, the full ordinance including smoke-free doorways, outdoor dining, parks, and city-sponsored events as well as the smoke-free multi-unit housing component received a 3-2 second and final vote.

What Made the Belmont Ordinance Successful?

The dozen of residents from Bonnie Brae Terrace who attended every city council meeting were constant reminders of the council's obligation to protect them. In addition, several other residents of market rate apartments also testified about the need for smoke-free housing.

The three-member majority on the council held firm on their support for the Multi-Unit Housing (MUH) components throughout the entire campaign. They acknowledged and respected the important 2006 declaration by the California Air Resources Board (CARB), which identified secondhand smoke as a Toxic Air Contaminant (TAC) joining benzene and arsenic.

The City Manager and City Attorney were involved in the process, holding individual meetings with stakeholders and assisting when necessary to defuse unfounded fears and opposition.

The consistency and follow-through from local public health organizations with offers of trainings for apartment owners, managers and landlords were also key component of the successful campaign.

The Belmont Ordinance bans smoking in all multi-story multi-unit housing including apartments and condominiums with a phase-in period of 14 months and no 'grandfathering' provisions.

The 14-month implementation period allows for apartment owner and manager trainings, provision of materials and technical assistance where needed.

Soon after passage of the ordinance, California's Clean Air Project-CCAP recognized the Belmont City Council with a presentation of the California Clean Air Award, an honor given to cities and counties in California who "take great strides to protect their citizens from Secondhand Smoke."

What's Next?

In October 2008, the San Mateo County Tobacco Prevention program, the American Lung Association and California's Clean Air Project-CCAP will conduct workshops for Belmont's multi-unit housing property owners and managers on full implementation of the ordinance, which is due to take effect in January 2009. Along with the City of Belmont, these organizations will be providing technical assistance as needed to property owners.

The City of Belmont will establish an information kiosk in the lobby of city hall to provide further information and materials on the new ordinance to all interested citizens.

Closing

The City of Belmont prides itself on being a unique town where people matter. The Belmont City Council wants to keep its' small town ambience and continue to make the city a tranquil, safe and desirable place to live.

The three Belmont City Council members who supported the smoke-free ordinance believed it was one of the top public health and safety accomplishments of their careers.

This information provided by Serena Chen, with the American Lung Association in California and Bay Area Smokefree Housing Project.

For more information, visit: www.casmokefreehousing.org.