

SAMPLE COMPLAINT LETTER

Requesting a condominium's board of directors to take steps to reduce or eliminate the problem of second-hand smoke

This sample letter is designed for residents who are suffering from second-hand smoke infiltrating their homes from neighbouring units and who want to write to the condominium corporation to take steps to resolve the problem.

In the absence of a no-smoking policy, residents have a right to smoke. However, this right is not absolute—especially if second-hand smoke is interfering with the health and well-being of other people in the building. Virtually all condominium corporations in Ontario have general rules prohibiting behaviour that creates a nuisance or hazard to another person. This can include smoking, regardless of whether or not the condominium corporation has a formal no-smoking policy in place. If someone's second-hand smoke is infiltrating neighbouring units on a frequent and on-going basis and causing an unreasonable disturbance, condominium boards of directors have the authority and responsibility to address these complaints.

However, whether or not a condominium corporation recognizes second-hand smoke as a nuisance will very much depend upon the exact wording of the rule relating to nuisance and is left up to the discretion of the board of directors to determine. It should also be noted that a 1988 Supreme Court of Ontario case on nuisance determined that "although the test of nuisance is generally whether the defendant's use of its land interfered with the beneficial use and enjoyment of the plaintiff's lands and whether that interference was unreasonable, there is authority for the proposition that where actual physical damage occurs, the interference is unreasonable."

Steps	Examples
Describe the source and extent of the problem. Describe how often the smoke is coming in, where it comes from and be sure to emphasize that it is more than a temporary discomfort or inconvenience. Identify: • When the problem first started; • How the smoke is entering your unit (i.e. through open patio doors); • Where the smoke is coming from (i.e. upstairs neighbour's balcony); • How often the smoke enters your unit on a daily or weekly basis. List dates, times and frequency of occurrence; • How much smoke is entering your unit. Does the smoke stay in one area or does it permeate other areas of your home?	Dear (president, condominium board of directors), Re: Second-hand smoke infiltrating my unit and causing an unreasonable nuisance I am an owner residing at (enter address). Unfortunately, I am currently faced with second-hand smoke coming into my unit from (enter the unit number if you know where the smoke is coming from). The smoke comes in through my daughter's bedroom window from the balcony upstairs, and also seems to be coming in through her closet. Although the odour is most pronounced in my daughter's bedroom, our whole home has started to smell like second-hand smoke. It is definitely worse in the evenings and weekends when our neighbour is home. It happens every single day without fail. (See attached log with the times and dates the smoke has entered my home.)

Sample Letter To Condo Board Complaint

JA Banks



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