

Smoking ban near at public housing

A policy to disallow lighting up at the state's complexes is one of several impending rules

By Mary Vorsino

POSTED: 01:30 a.m. HST, May 06, 2013



Tenants caught smoking three times or more in apartments or common areas at any of the state's 85 public housing properties could be evicted under a tough new smoking ban effective this month.

While each project will have at least one designated smoking area, the plan is drawing resistance from some residents, who say it is overly broad and especially difficult for the elderly, disabled and mentally ill.

The ban, modeled after policies at public housing authorities on the mainland, extends to smoking of medical marijuana.

Scott Wall, vice president of the Community Alliance for Mental Health and a public housing tenant who smokes, said he knows smoking is a "disgusting habit," but it's also calming for people with mental illnesses.

It is also a tough habit to break, he said. If people are evicted for smoking, "How does it serve the taxpayer?" he asked.

The plan comes as the Hawaii Public Housing Authority looks to institute rules aimed at making public housing safer and more pleasant places to live.

The housing authority also plans to broaden criminal history checks for applicants, require that incoming tenants provide rental histories, and put in place tougher eviction rules, including cracking down on those who damage public housing property.

Hakim Ouansafi, executive director of the authority, said during his first year on the job, he focused on stabilizing the agency, working to bring down rent delinquencies, decrease the number of vacant units and deal with maintenance problems.

Now, he said, he plans to focus on safety and the quality of life in public housing, and be more selective about new tenants.

MORE CHANGES ON THE WAY

Along with a ban on smoking at all public housing complexes, other changes are poised to affect tenants:

The Hawaii Public Housing Authority's planned administrative rules changes would: >> Broaden criminal history checks. >> Require applicants to show prior rental history. >> Allow evictions because of damage to public housing property, felony convictions and parole violations. Bills headed to the governor's desk would: >> Prohibit open liquor containers in common areas at public housing complexes. >> Require the housing authority to make at least 50 percent of its units available to people without "preferences" that put them at the front of the line for available units (the existing system gives preference to applicants including the homeless and veterans). >> Allow the housing authority to dispose of abandoned or seized property in state public housing. >> Authorize the housing authority to disqualify an applicant if that person or a household member owns a home in Hawaii. >> Broaden first-degree criminal trespass to include those who enter or remain unlawfully in public housing after being asked to leave.

"Our mission is very clear," he said. "It's to provide safe, decent and sanitary housing. This does not mean that public housing should be housing for drug dealers. If you want to live peacefully, welcome. Anybody that's a criminal or up to no good, I will evict them. That's my responsibility."

Evictions have risen slightly under Ouansafi's tenure, and he said the housing authority will continue to use them as a means to root out bad elements. Most evictions are for nonpayment of rent.

"At the end of the day, we're landlords," he said. "We manage it (public housing) on behalf of taxpayers."

Ouansafi added that the smoking ban is one element of the bigger push to create a "safe and healthy environment for all of our tenants."

About 10 percent of public housing authorities nationwide have already banned smoking, and the federal government is encouraging more to do so, according to Jim Bergman, director of the Michigan-based Smoke-free Environments Law Project.

In 2000, he said, almost no housing projects were smoke-free.

Bergman added that while most smoking bans are written into leases — which means violations could lead to eviction — relatively few people are actually booted for smoking.

"It's pretty darn rare," he said. "Most people are not going to risk eviction."

Last year the state Legislature approved a measure that would have banned smoking at public housing, but the governor vetoed the bill at the request of the housing authority, which asked for more time to alert residents, team up with smoking-cessation programs and develop administrative rules.

Ouansafi said all of Hawaii's more than 15,500 public housing tenants are getting the message that smoking in apartments and common areas won't be allowed.

"No smoking" signs will go up soon, designated smoking areas will be established and tenants will be given lease add-ons outlining the consequences of lighting up on property.

The ban is expected to be made official by the end of this month, Ouansafi said, with a probable 30-day grace period before violation notices are issued.

Those against the ban are a tiny minority, he said. Of the state's 6,000 public housing households, only about 17 people have opposed it.

Daria Fand, 44, a tenant at Kalakaua Homes, has been calling for a smoking ban at public housing for years. Fand said the ban is about giving the majority of tenants — nonsmokers — clean air.

"There's really no way to contain cigarette smoke into somebody's apartment," she said. "We all share the air."

She said she wouldn't object to designated smoking areas.

At Makamae public housing, smoker Mary Smith, 68, is worried about the ban.

She's a lifetime smoker and is in a wheelchair, after breaking her leg and ankle. She said going to a designated smoking area several times each day will be difficult.

"I'm an old lady, and I should be able to do what I want," said Smith. "Smoking is still legal, right? And I think them telling us we can't do something that we do in our homes is going a step beyond their authority."

Hawaii has a low smoking rate — about 14.5 percent of adults were smokers in 2010, according to the state Health Department.

But smoking is more prevalent among low-income people. Among those who live in households with incomes of less than \$15,000, the figure was about 17 percent.

Sheila Lippolt, a housing attorney at the Legal Aid Society of Hawaii, said she has gotten a few calls from public housing tenants about the ban.

Courts have determined that smoking is not a "constitutionally protected activity," so there's little chance the ban will be overturned outright, she said. But Legal Aid may work with individual tenants to seek reasonable accommodations — for example, if they are disabled or if they are trying to quit.

"I know people are upset," she said. "I just don't think there's anything to do."

Her concern is "trying to keep people from being homeless," she said.

She also said she's a little worried about the prospect of someone being wrongly accused of

smoking.

"I think they are going to have some proof issues," she said.

BY THE NUMBERS

- >> **6,195:** Public housing units in the state
- >> **15,502:** Public housing tenants
- >> **13,634:** Families on waiting list for housing
- >> **81:** Evictions, January 2012 to March

Source: Hawaii Public Housing Authority

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