

Think smoking's victimless? Ask the McDaniels

Condo dwellers with health problems 'living at the mercy of other people'

By Jon Ferry, The Province, July 7, 2010

When it comes to smoking, there's good news: The smoking rate among Canadians aged 15 and over has been falling. At last count, it stands at just 18 per cent of the population.

The bad news is smoking continues to pose major problems for people in the Lower Mainland, especially in condo buildings-- and especially in the summertime as folks go out on their patios to smoke.

They say good fences make good neighbours. But cigarette smoke knows no boundaries.

Just ask several non-smoking Lower Mainland condo dwellers who say they've been put through hell by inconsiderate neighbours who smoke -- and by strata councils who appear unwilling or unable to curb them.

Take Matthew and Melanie McDaniel, parents of a two-year-old girl, who are both severely allergic to tobacco smoke. They moved into their two-bedroom condo in Langley in 2008, and say they've been bothered ever since by fumes wafting up from two patios below.

Matthew has Type 1 diabetes. When the smoke drifts in, he suffers headaches and anxiety attacks. Melanie suffers from hay fever, which the second-hand smoke exacerbates. "It's like I'm living at the mercy of other people," she told me Tuesday.

The McDaniels say their many attempts to resolve the issue with the strata council -- and their smoking neighbours -- have failed. Now they plan to file a complaint about their strata council with the B.C. Human Rights Tribunal.

Gord Weitzel, a disabled former RCMP officer whose wife Pamela has multiple sclerosis, said he hoped for a peaceful retirement when he bought a condo in Langley in 2003. But instead he's in constant discomfort because of a chain-smoking neighbour.

"I've left notes begging him [the neighbour], pleading with him to open his windows," Weitzel said, adding some members of his strata council are sympathetic, but can't or won't help. "Our whole home smells of his smoke all the time."

Last month, he wrote an emotional letter about it to the Langley Times. On Tuesday, he said he too has now filed a human-rights complaint.

A third Langley condo owner, retired B.C. Hydro superintendent Paul Kabatoff, told me he and his wife Rose bought a third-floor condo in 2002. But in the summer of 2008, a heavy-smoking couple moved in below.

"It was unbearable," Kabatoff said Tuesday, adding he appealed to the strata council for help, but to no avail.

Last year, the Kabatoffs filed a human-rights claim, arguing they had everything from allergies to heart problems. The strata corporation tried to have the case dismissed, saying the smokers were not violating any condo bylaws.

However, a settlement was reached this March requiring the smoking couple to stop any smoke from infiltrating the suite upstairs. It was a key victory for the Kabatoffs.

But it hasn't solved the overall problem. Many smokers, both of tobacco and marijuana, still fail to understand what distress they cause. And many non-smokers still suffer in silence.

However, it's becoming increasingly clear the old argument about smoking being a victimless crime is untenable.

It's also clear the legal noose is tightening around the throats of smokers -- and condo councils who protect them.

Read more:

<http://www.theprovince.com/health/Think+smoking+victimless+McDaniels/3244548/story.html#ixzz0uGrJymz4>