

Smoke-Free Housing



YMCA Southcoast
September 11, 2013

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Presentation Overview

- ◆ The Role of Education
- ◆ Post-Implementation Enforcement
- ◆ Disability Law and Civil Rights

The Role of Education

- ◆ A complete understanding of the health & safety issues promotes compliance. Just stating the rule does not work!
- ◆ Educate before, during and after implementation. And educate during enforcement.
- ◆ Educate everyone playing a role in the policy
 - ✓ Residents & guests
 - ✓ Staff & board members
 - ✓ Attorneys and other service providers
 - ✓ Courts

Market Demand:

■ **RESEARCH OBJECTIVES:**

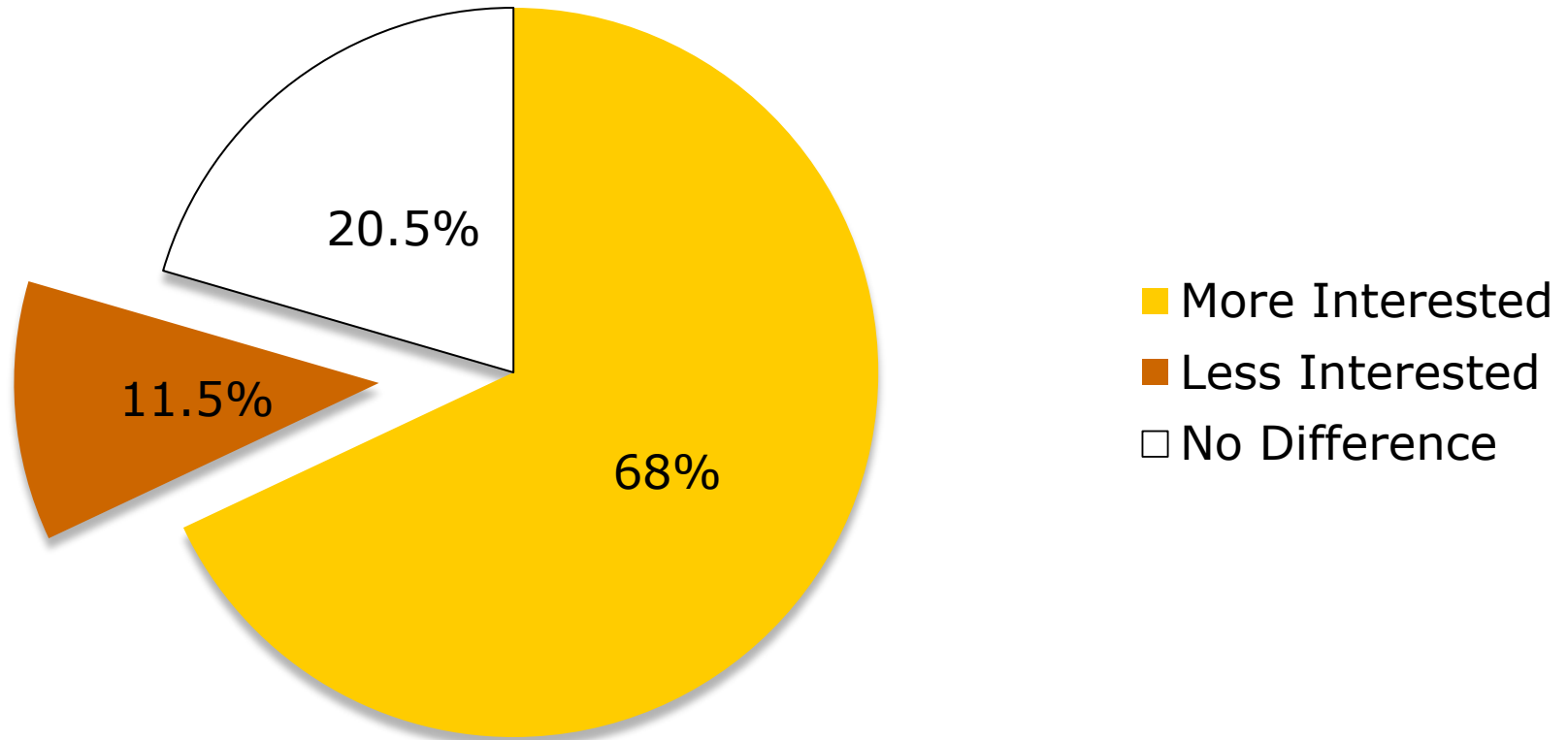
- Gauge market demand for no smoking rules residential rental and condominium buildings.
- Measure the percentage of such buildings.
- Assess the experiences with implementation.

■ **RESEARCH METHODOLOGY:**

- Telephonic survey: 1,304 responses
- Mail survey : 372 responses
- In Massachusetts
- Statistically significant

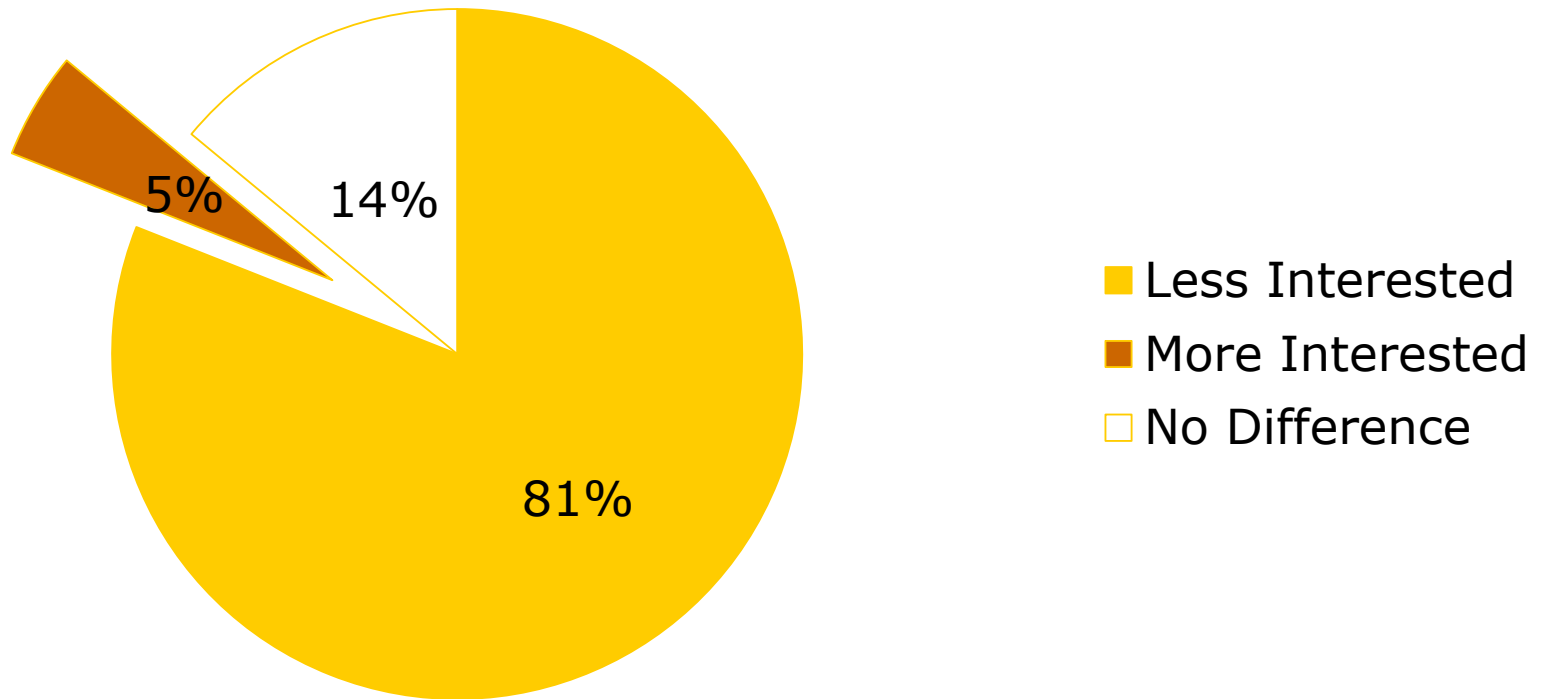
Market Demand:

Effect of No Smoking Rule Included in a Property Listing



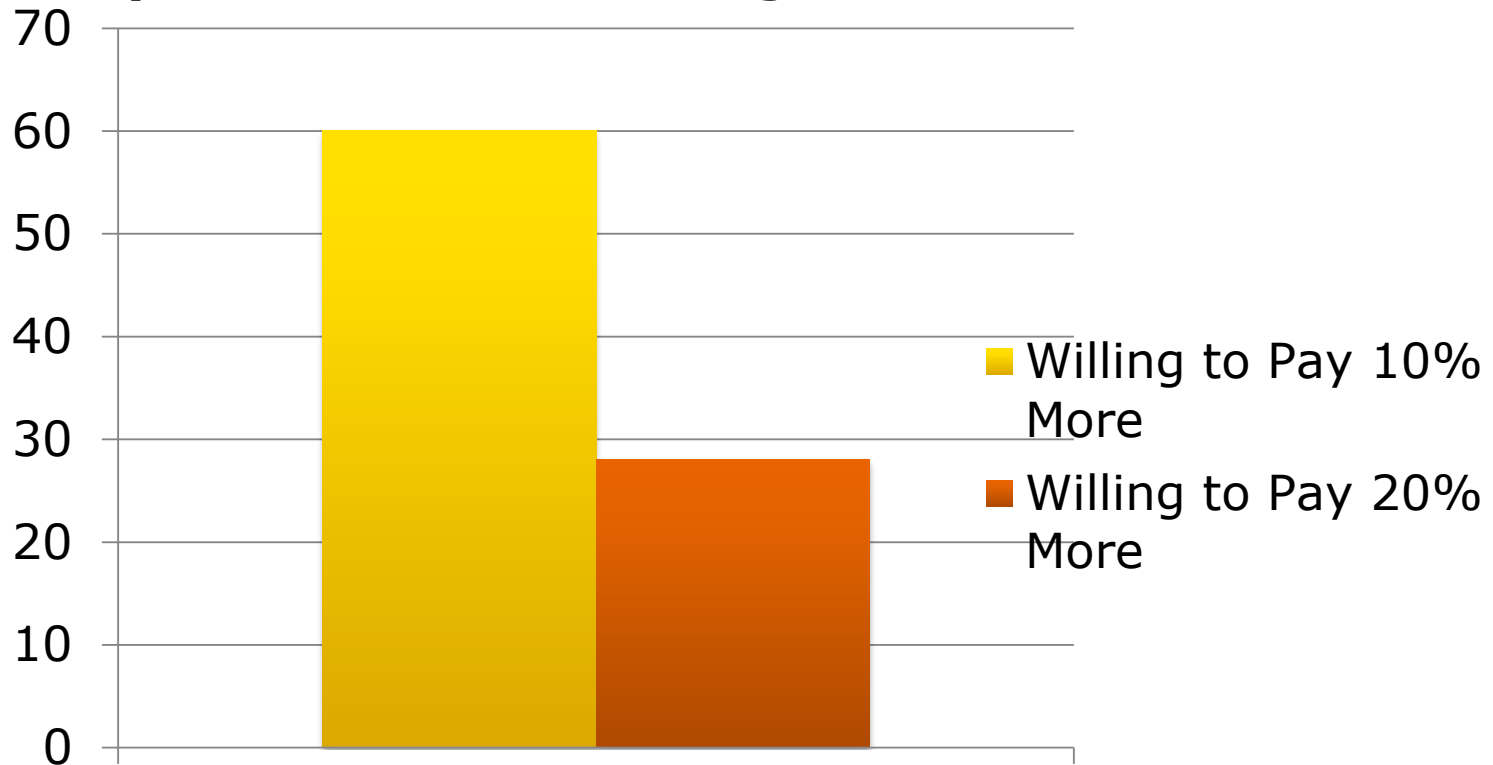
Market Demand:

Effect of Prospective Resident Smelling Tobacco Smoke

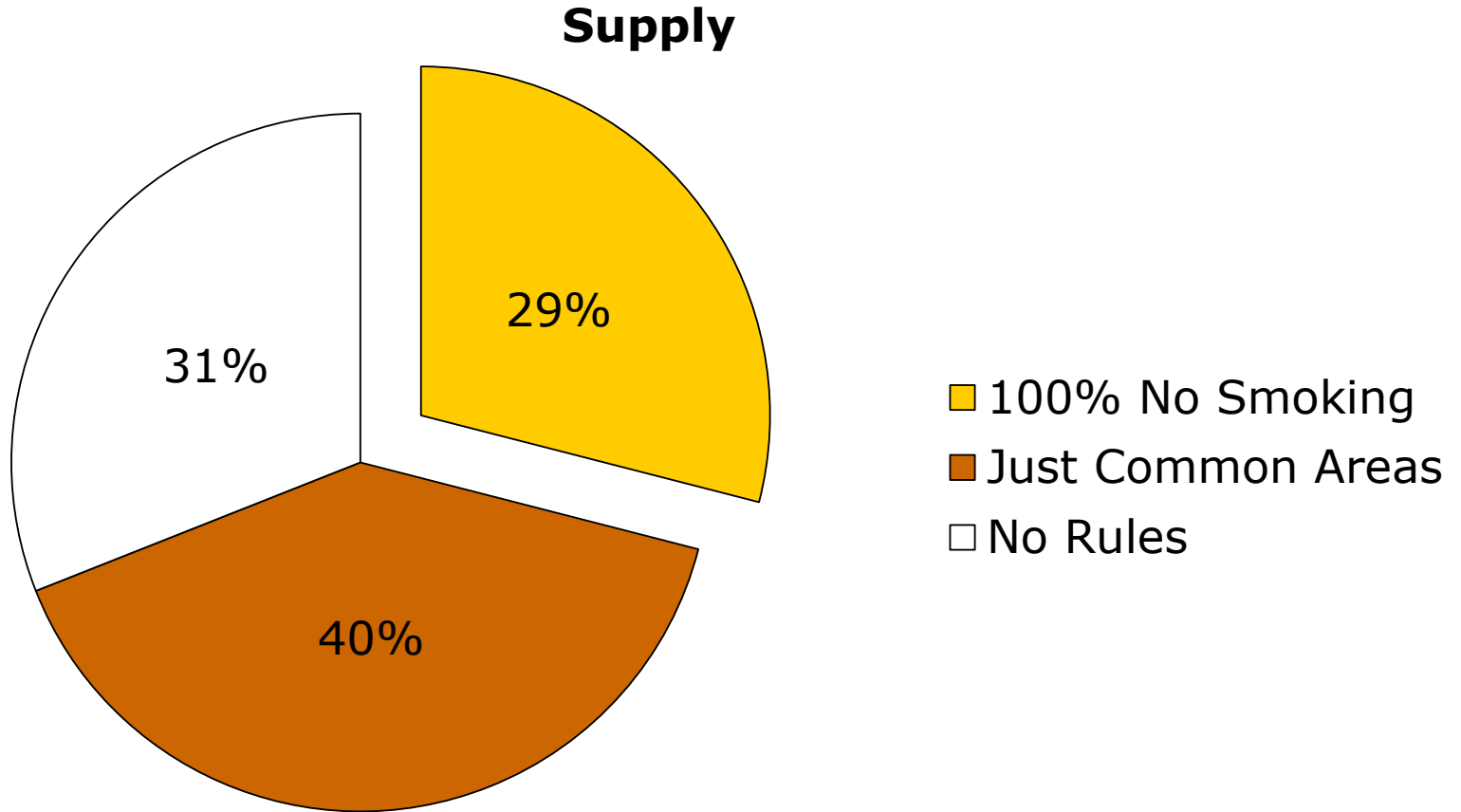


Market Demand:

41 % of Prospective Residents are Willing to Pay More for a No Smoking Rule



Market Demand:



Market Demand:

- Levels of interest are largely consistent over gender, age, education level, income level, and housing type.
- Surveys for BHA and other subsidized housing entities show high level of support.

The Landlord's Story:

99% of all landlords who had a smoke-free rule believed it was a "good decision," and **90%** it was easy to implement

- **16%** of the landlords reported that a smoke-free rule decreased their vacancy rates and a **19%** decrease in turnover rates. The balance reported largely no effect.
- **39%** of landlords reported that a smoke-free rule decreased disputes among tenants. The balance report largely no effect.

Health & Safety

- ◆ Secondhand smoke travels from unit to unit through air ducts, under doors, holes for piping, electrical outlets, wall and ceiling fixtures, exterior windows, and other pathways.
- ◆ Ventilation and other mechanical changes are costly and rarely prevent smoke incursion. *Remember that the American Society of Heating, Refrigerating and Air-Conditioning Engineers refuses to set ventilation standards for secondhand smoke because they are impractical.*
- ◆ Once it seeps into a unit, secondhand smoke can remain in the air for hours, exposing occupants.
- ◆ Secondhand Smoke is a US EPA Class A Carcinogen, which means there is no safe level of exposure.



Smoke-Free by Sept. 2012

Health & Safety

- ◆ “Home is the place where children are most exposed to secondhand smoke” and “a major source of exposure for adults.” (*U.S. Surgeon General 2006*)
- ◆ Nonsmokers who are exposed to secondhand smoke at home increase their risk of developing lung cancer by 20% to 30% and their risk of heart disease by 25% to 30%. (*Surgeon General 2006*)
- ◆ Children exposed to secondhand smoke are more likely to develop bronchitis, pneumonia, asthma and ear infections. (*Surgeon General 2006*)
- ◆ Cigarettes are the leading cause of fire-related mortalities and a leading cause of fire. (*CDC*)



Smoke-Free as of Oct. 2011

Health & Safety

- ◆ Children residing in multiunit residential buildings experience higher levels of exposure to secondhand smoke compared children in single-detached dwellings. (*Tobacco-Smoke Exposure in Children Who Live in Multiunit Housing, PEDIATRICS, Dec. 2010*)
- ◆ Residents of affordable housing tend to have less resources to relocate away from secondhand smoke exposure.
- ◆ There tend to be higher smoking and exposure rates among lower income residents.



Smoke-Free for 6+ Years

Health & Safety

No Smoking means "No Smoking". It Does Not Mean "No Smokers".

- ◆ Housing is an important component of public health. So, let's make housing healthier.
- ◆ Create a smoke-free environment for everyone, which does not require residents to quit smoking, but does help them quit if they try.
(Implementation of a Smoke-Policy in Multiunit Housing, NICOTINE & TOBACCO RESEARCH, Feb. 2012)
- ◆ Support quit attempts and utilization of cessation services.



Smoke-Free as of June 2011

Fire Safety

- Southfield Senior Housing
Plymouth Housing Authority
105 South Street
- August 4, 2006

SOUTHFIELD

HOUSING FOR THE ELDERLY



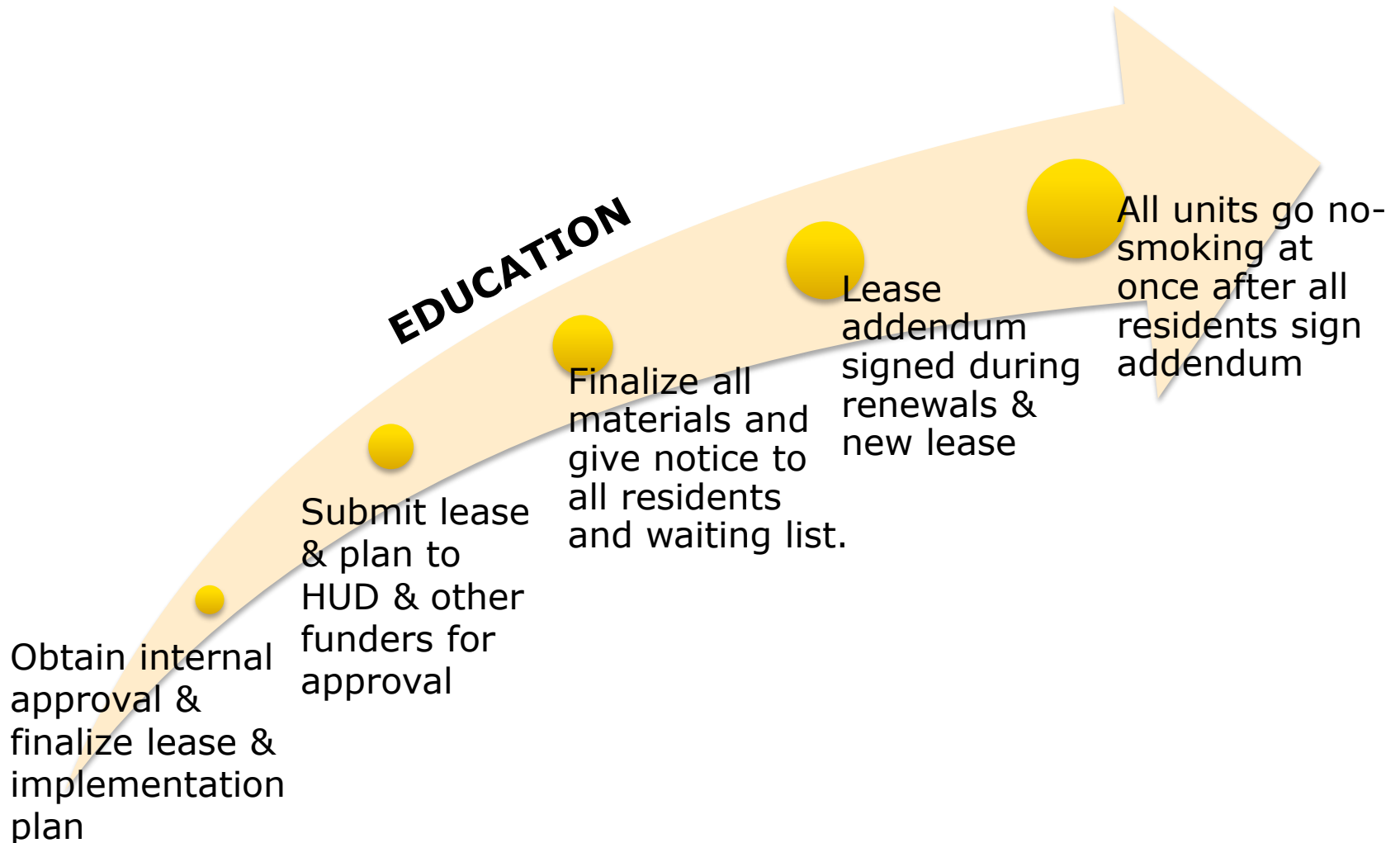
Room of origin –
Apartment # 104 located
on first floor

Side 'C' of the South Wing





Implementation



Which No Smoking Rule?

- ◆ **REMEMBER No Smoking means “No Smoking”. It Does Not Mean “No Smokers”.**
- ◆ **Grandfathering?**
 - ◆ Mostly used in condominiums, but most condominiums go completely no smoking
 - ◆ Makes Enforcement Difficult. Doesn't address ongoing complaints.
 - ◆ Do not get benefits of being 100% smoke-free.
- ◆ **Designated Smoking Area?**
 - ◆ Various from location to location. Use temporarily? Access and safety?
 - ◆ Keep away from the building and entrances.
- ◆ **All Buildings or Some?**
 - ◆ Phase in policy across buildings.
 - ◆ Allows time for management to learn how to implement.
 - ◆ Creates uneven treatment. So, use only as larger implementation plan.

The Landlord's Story

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- ◆ Often over a **\$1,000** less expensive to rehab unit for re-renting.

Enforcement



Is it legal? Yes.

- ◆ There is **no** constitutional right to smoke. *American Lithuanian Naturalization Club, Athol, Mass., Inc., v. Board of Health of Athol, 446 Mass 310 (2006).*

Disability Law

- ◆ Smoke-free policies are not discriminatory under state and federal fair housing laws. Smoking is not a disability, nor a reasonable accommodation for a disability. Addiction to nicotine, while powerful, does not fit within the definition of “handicap” under fair housing laws.
- ◆ Clinical guidelines for healthcare providers instruct provider to promote cessation, not smoking.
- ◆ Waiving the no-smoking rule is a “fundamental alteration” that is unreasonable. Also, a waiver would cause an “undue administrative burden” on staff.
- ◆ However, always accept and objectively review any reasonable accommodation request, even if you suspect it has no merit.

Disability Law

HUD No. 11-251
Shantae Goodloe
(202) 708-0685

FOR RELEASE
Friday
October 14, 2011

**HUD CHARGES FLORIDA PROPERTY OWNER, MANAGERS
WITH DISABILITY DISCRIMINATION**

*Management refused to relocate resident hospitalized by
neighbors' second-hand smoke*

WASHINGTON – The U.S. Department of Housing and Urban Development (HUD) has charged an Ocala, Florida property owner, management company, and its employees with violating the Fair Housing Act for refusing to allow a resident to move to a different apartment after her neighbors' second-hand smoke twice sent her to the emergency room.

Some Tough Questions

How can you do this? This is a violation of my individual right to smoke in the privacy of my own home!

Sample Response: We are very sensitive to privacy concerns. If second hand smoke remained in the unit of origin, we may have proposed a different policy. Second hand smoke travels from unit to unit in multi-family housing, and thus becomes a health issue for those beyond the unit of origin. For this reason, smokers are not only smoking in their own homes, but allowing smoke to impact their neighbor's homes. According to the Surgeon General, there is no safe level of exposure to secondhand smoke. We believe the scientifically proven public health concerns outweigh privacy issues.

How will you ever enforce this policy?

Like any other lease violation (pet policies, noise policies), we will respond when a complaint is made to management. All complaints will be documented by management. Residents will be asked to meet with management and be given a warning (or a fine). Chronic offenders will be subject to eviction.

Some Tough Questions

Isn't this policy really just another regulation on low-income families?

Smoke-free rules are happening across the housing spectrum. Smoke-free rules are being promoted across the housing spectrum.

Enforcement

- ◆ Create & Maintain a Smoke-Free Environment
 - ✓ Educate at every opportunity, including during enforcement.
 - ✓ Use no-smoking signs and the like.
- ◆ What is the Resident's Perspective
 - ✓ Listen to people who are reporting violations.
 - ✓ Be clear and consistent about the rule and enforcement process.
- ◆ Respond Quickly
 - ✓ Have a plan and materials in place beforehand.
 - ✓ Stick to your timeline.

Enforcement

◆ Evidence

- ✓ Complaints by residents and inspection reports by staff should be written.
- ✓ Management should verify, use 2 staff on an inspection or different staff for different inspections.
- ✓ Smell and look for smoke in complainant's unit and in hallway outside smoker's door.
- ✓ DO NOT enter unit without permission or proper notice.
- ✓ DO NOT attempt to take pictures or video.
- ✓ There are a variety of secondhand equipment used for secondhand smoke measurements, but they are not needed.
- ✓ Keep a comprehensive, written evidence log, throughout enforcement.
- ✓ Document condition of unit before renting, and look and smell for signs of smoking during authorized inspection of unit after complaint.

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