

Smokers' Rights Group Sues HUD Over Rule that Bans Smoking Inside Public Housing Apartments

FOR IMMEDIATE RELEASE

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(New York, NY)— Today, New York City Citizens Lobbying Against Smoker Harassment (NYC C.L.A.S.H.), joined by several residents who live in public housing, filed a lawsuit challenging the Department of Housing and Urban Development's (HUD) regulation that directs all state and local housing authorities to ban smoking inside and out of public housing facilities nationwide, most notably within resident's apartments. The lawsuit, which also names HUD Secretary Ben Carson in his official capacity as a defendant, was filed through the Manhattan-based law firm, Joshpe Mooney Paltzik LLP.

HUD's anti-smoking regulation was finalized during the Obama Administration with an effective date of compliance no later than July 30, 2018. The regulation requires public housing authorities to implement and enforce rules accordingly. Public housing tenants, many of whom are veterans or minorities, are subject to eviction for violating the new regulation.

The *Observer*¹ described the regulation as maybe “the most far-reaching, intrusive and over-reaching executive order of the entire Obama administration.”

Audrey Silk, founder of C.L.A.S.H. says, “Anti-smokers claim that HUD's smoking ban is a valid exercise of government power because there is no general ‘right to smoke,’ but that claim is intentionally misleading because the government doesn't have the right to reach into our homes and dictate our personal behaviors and habits. This lawsuit is about defending the right to be left alone to engage in a legal activity in the privacy of one's own home. HUD claims the ban is necessary to protect non-smoking residents in other apartments but, not only are they exceeding their authority, the lack of sound scientific evidence that someone smoking in their own apartment puts other tenants' health at risk hasn't stopped them either. Frustrated by the holdouts who've refused to submit to their current coercive measures and quit smoking, this is really the story of public health zealots partnering with HUD to begin the despotic breaking down of front doors to reach them. It won't end at public housing if they're not stopped here.”

Edward Paltzik, of Joshpe Mooney Paltzik LLP, says, “The smoking ban is constitutionally deficient on many levels. HUD's nationwide edict clearly violates the anti-commandeering doctrine prohibiting the federal government from compelling state and local authorities to enforce federal policy. This is also another profound example of an administrative agency run amok. Nowhere did Congress bestow on HUD the power to intrude into peoples' homes to regulate this sort of lawful behavior. It's yet another reason why the administrative state and the *Chevron* doctrine affording federal agencies deference must be reined in.”

The suit was filed in the United States District Court for the District of Columbia.

Related Material

CLASH v. HUD (18cv1711):

<http://www.nyclash.com/CLASHvHUD-Complaint-18cv1711.pdf>

NYC Citizens Lobbying Against Smoker Harassment (C.L.A.S.H.) is a grassroots organization established in 2000 dedicated to advancing and protecting the interests of adults who choose to smoke cigarettes or enjoy other forms of tobacco or use electronic cigarettes.

Joshpe Mooney Paltzik LLP is a full-service Manhattan-based constitutional, litigation, and corporate law firm.

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Footnote:

1. *"The Nanny State Shames Poor Smokers in Their Homes."* Editorial. 12/7/16
<http://observer.com/2016/12/the-nanny-state-shames-poor-smokers-in-their-homes/>