



# Breathers' Digest

*News from the Front Lines*

Fall 2007

**Airspace Action on Smoking & Health**

Vital Health Advocacy and Legal Action – Since 1986  
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According to Health Canada, more than 45,000 Canadians will die this year due to smoking. Of those, more than 300 non-smokers will die of lung cancer & at least 700 non-smokers will die of coronary heart disease caused by exposure to second-hand smoke.

"THOSE WHO USE TOBACCO PRODUCTS SHOULD NOT BE DEEMED CRIMINALS, ONLY THOSE WHO ENGAGE IN THE MANUFACTURE AND SALE OF THESE PRODUCTS."  
- ED KOCH, FORMER MAYOR OF NEW YORK, 07/13/2007

## Airspace Annual General Meeting

Thursday, Nov. 8, 7 PM  
Room 1222, Douglas College, 700 Royal Ave., New Westminster (Near New Westminster Skytrain Station – enter from 8<sup>th</sup> St.)

## Airspace takes on snuff again

Because of the growing unpopularity of cigarettes, the tobacco industry has made several attempts to come up with a more marketable replacement. This time, it's called "snus". It differs from snuff and chewing tobacco in a couple of respects:

1. It comes in small porous packets, and the packet is placed in the mouth, instead of loose tobacco.
2. It is being marketed and sold by Philip Morris and BAT, instead of U.S. Tobacco.

Philip Morris is currently test-marketing snus in the Dallas-Fort Worth area, and BAT is test-marketing it in Edmonton, under the "du Maurier" brand name.

The tobacco industry buzz word here is "harm reduction", the argument being that snus is not burned or inhaled into the lungs. This argument doesn't hold up in the big picture; see the next article, "A safer alternative?"

Airspace has a long history of opposition to products of this nature, especially ones that have been given artificial flavouring, such as cherry or citrus, to make them more attractive to first-time (as in teenage) users. In 1998, we convinced the late Burnaby MLA Fred Randall to introduce a private member's bill that would have outlawed the sale of flavoured snuff products in BC. This bill didn't make it to the floor, but it got some press attention. In June of this year, we took a page from our own playbook. We sent a letter to every Federal MP and every BC MLA making the case for a complete ban on the sale of flavoured snuff products, and asking them pick up where Fred Randall left off. Enclosed with each letter was a small sample of Skoal Long Cut Citrus.

This initiative will continue with new legislative sessions in Victoria and Ottawa.

*Robert Broughton*

## A safer alternative?

If cigarettes were withdrawn from the market, an argument - still a shaky one in my view - could be made for introducing new smokeless products, but with some five million addicted smokers in this country, cigarettes aren't going to disappear soon. (And if cigarettes weren't around as the "alternative", snus would never be considered safe enough for regulatory approval as a new product.) BAT is only test-marketing snus in Edmonton as a du Maurier brand extension. This will be a marketing boost for both smoked and smokeless tobacco, heightening the brand name's prominence and giving would-be quitters a reassuring alternative 'for those times when you can't light up'.

To claim that the promotion of smokeless tobacco is "probably the most important public health initiative in Canada today" (by Carl V. Phillips, a tobacco-funded researcher) would be laughable if it weren't so tragically wrong. Equally laughable and tragic is the creation of "Big Pharma" as a bogeyman. Would a significant increase in snus sales damage the market for smoking cessation products? Possibly, but the damage would be insignificant compared to the threat of oral cancer and other diseases associated with a wide range of smokeless tobacco products.

*Stan Shatenstein*

## Smokefree housing update

The smokefree housing movement is gaining momentum, in some places more rapidly than others. In places such as California, a world leader in tobacco regulation despite having a cigar-chomping governor and numerous celebrities who are notoriously unconcerned about the rights of others, smoking bans in outdoor spaces, in cars containing minors, and in private suites in multi-unit dwellings are rapidly increasing due to strong demand.

The pressure to allow people to breathe smoke-free air in their own homes is mounting in the United States, Canada, and Australia, despite attempts by the pro-smoking camp to maintain a status quo in housing that deems where smokers may smoke more pressing and important than where people may breathe or protect their health.

Canadian leaders in the smoke-free housing movement are Manitoba for the rental market and British Columbia for the condominium market.

Manitoba is definitely the Canadian leader in smoke-free housing. Unlike the British Columbia condominium developments that forbid smoking, Globe General Agencies (<http://www.globegeneral.ca/>), Manitoba's largest landlord, proudly advertises on its website that it is phasing out smoking in all of its Manitoba properties.

And the law supports them. A complaint by Beverly Reeves to the Residential Tenancies Branch of the Manitoba Government that the apartment smoking ban was "extremist, unnecessary and leaves people with no dignity," was dismissed by B. Andrews, Residential Tenancies Officer, in a ruling made February 7, 2007, and released two weeks later, in Order No. W2007-000506. The arbitrator wrote, "The landlord's argument is persuasive. I conclude the rule will improve people's access to peaceful enjoyment of their units and of the complex, it will improve the safety, comfort and welfare of tenants... and it will reduce and eventually eliminate cleaning and replacement expenses brought about by the prevalence of tobacco smoke."

Although occasional rulings nowadays favour smokers, case law in Canada, the United States, and Australia generally supports the right to smoke-free living. Those who lose their case at its initial level would do well to appeal, as appeal matters are decided on case law precedent.

For those leery of the courts, interference from smoking neighbours, even if there is no mention of smoking in one's lease or in the smokers', is a legitimate cause for breaking a lease. This reinforces the importance to landlords of writing specific smoke-free language into rental agreements, so that when conflicts arise they are in a position to pressure and, if necessary, evict the problem smokers rather than continually losing desirable tenants who may legally break their leases to evade the smoke.

When it comes to smoke-free condominiums, British Columbia is Canada's leader on two counts:

Oliva development in Tsawwassen: <http://www.oliva-livinggreen.com/> and Envy development in North Vancouver: <http://www.envynorthvan.com/faq.html>

Interestingly, neither site mentions that the developments will be smoke-free, despite the extensive positive response they have had; perhaps they assume that no smoking is an obvious part of the "green lifestyle" they are promoting and does not require specific mention. Envy was quickly sold out.

In what is essentially a housing provider's market, and given the disadvantages of providing housing to smokers, it is surprising that it is still so difficult to find smoke-free housing. Landlords, increasing numbers of whom wish to go smoke-free, are surprisingly slow to respond to a clear market demand that would protect their properties and lower their overhead.

Many are still mis-informed, falsely believing that it is illegal to forbid smoking in suites. It is no more illegal than banning pets or loud stereos. It is 100% legal for landlords to ban behaviour that is harmful to the property and interferes with the rights, safety, and/or comfort of other residents. There is no human rights legislation that protects smokers at the expense of the legitimate rights of others. For a smoker to successfully challenge a building smoking ban, he would have to:

a) provide medical proof that quitting smoking and/or switching to smoke-free nicotine delivery devices would cause him greater harm than smoking would cause neighbours; AND

b) that no housing is available that accommodates this medical necessity.

Evicting existing smoker tenants with no provisions addressing smoking can be difficult, but landlords can take some steps (aside from steadily raising the rent whenever it is legal to do so):

1. Remove all indoor ashtrays and ban all smoking in all indoor and outdoor common areas, enforcing that ban;
2. Advise smokers of complaints made against them, keeping up with requests that they voluntarily amend their smoking behaviour;
3. Even in buildings in which smoking is technically permitted, if the smoke reaches a certain level, creating a nuisance and/or health and/or safety hazard and depriving other residents of quiet enjoyment of their homes, this can and should be addressed;
4. Any structural repairs to address smoke seepage should be made to the smoker's unit, not the complainant's, and be deemed as "improvements" to the smoker's unit.

Housing providers may do the following to protect themselves from taking on smokers in the first place:

1. Ensure that all advertising for the unit specifies that the building is non-smoking;

## Smokefree housing update (cont.)

2. Include specific language in all new residential agreements prohibiting smoking both indoors and outdoors, anywhere on the property, including common as well as private areas;
3. Enforce non-smoking provisions quickly and decisively;
4. Where structural changes need to be made to protect other residents who are bothered by the smoke, such changes should be made to the suite of the smoker and, in owner-occupied suites, at the expense of the person creating the disturbance (the smoker); and
5. Weed out smokers who lie about their smoking to get a suite they like by interviewing prospective tenants carefully, particularly bringing up the question of why they wish to live in a smoke-free building. While many smokers will lie and say they don't smoke or "don't mind" that the building is smoke-free, it would be extremely rare for one to go so far as to wax enthusiastic or voluntarily make encouraging comments about the building's smoke-free status.

Residents may protect themselves as follows:

1. Before you even look at a unit, ask the provider what provisions exist for protection against secondhand smoke from neighbours and, if they are not to your satisfaction, advise the housing provider why you will not be pursuing that suite;
2. Insist on clear and specific language prohibiting indoor and outdoor smoking in any agreement that you sign;
3. Pay attention to signs of smoking, such as ashtrays, cigarette butts, and how the place smells;
4. Bring a witness with you to view the property;
5. If there are heavy odour-masking measures, ask what odours are being concealed; and
6. Ask specifically whether there are any smokers in the building, in which suites they live (to ensure that existing smoker residents are not located in suites from which they will likely ruin your right to quiet enjoyment), and whether the smoking provisions you have requested are in your neighbours' agreements as well.

For more information on Canadian smoke-free housing, see <http://www.smokefreehousing.ca/>. There is also an American website: <http://www.smokefreeapartments.org/>.

- Sera Kirk

### Adopt-A-Street

Airspace Action on Smoking and Health has "adopted" a couple of small sections of street in Surrey, B.C. We'd love to provide the exact locations, but our detractors would, no doubt, make a point of destroying the signs which acknowledge our contribution to keeping Surrey streets clean. At least 4 times a year, Airspace volunteers will clean our 'adopted' streets. We're predicting, with a great deal of certainty, that the leading, by far, #1 form of litter that we pick up will be tobacco-related litter. Bear in mind, of course, that only about 15% of the population is responsible for the vast majority of the litter. Among our many other efforts, between clean-ups, we'll be working to have anti-littering laws beefed up and more aggressively enforced.

## Provincial Government funds Players ad

With all the hoopla around the BC Liberal's announcement to crack down on point-of-sale tobacco advertising, at least one BC ministry seems determined to march to the beat of a different drummer. The BC Sports Hall of Fame, located inside BC Place Stadium and funded by the BC Ministry of Small Business and Economic Development, opened its largest exhibit ever on February 26, an 800-square-foot memorial to Greg Moore.

The exhibit is essentially wall-to-wall ads for Player's cigarettes on larger-than-life posters of Moore, in videos of his races, on memorabilia including his uniforms and helmets, as well as on the exhibit's showpiece: the car Moore won his first CART race in.

The exhibit is being billed as "permanent", meaning Imperial Tobacco intends to have its ad orgy in the stadium as it houses the Opening Ceremonies of the Olympics. In 1997, Imperial paid \$1.2 million for a similar amount of "permanent" du Maurier advertising at Vancouver's historic Stanley Theatre. If Imperial paid anything less for its Moore exhibit, BC Place is getting gypped.

The museum's website is at [www.bcsportshalloffame.com](http://www.bcsportshalloffame.com)

- Marc Ander

### Join Us!

- \$25 – Individual membership
- \$30 – Family membership
- \$50 – Institution
- \$100 – Sworn Enemy of the Tobacco Industry

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Mail to: Box 18004, 1215c 56<sup>th</sup> St., Delta, BC, Canada V4L 2M4

## Send the Reaper to Sao Paolo

Airspace President Errol Povah took his Grim Reaper act outside of North America for the first time in 2005. He found out that the tobacco industry was having an "emerging markets" trade show in Kuala Lumpur, just months after Malaysia had been devastated by a tsunami.

Grim's presence at this event became a major embarrassment for the tobacco industry. The trade show got some unfavorable local press coverage. The organizers felt a need to announce that a small portion of the registration fee was to go to tsunami victims, and that children would not be allowed on the premises. Subsequent shows of this nature have limited attendees to people and businesses already connected to the tobacco industry.

Another one of these "emerging markets" events is taking place in Sao Paolo, Brazil in November, 2008. Brazil is a major tobacco-producing country, so the Reaper does not want to miss this one. If you can contribute to the cost of his plane ticket, send a cheque, payable to "Airspace", to Box 18004, 1215c 56th St., Delta, BC Canada V4L 2M4.

## Smoking causes genetic damage

One of the worst fears of prospective parents is that their child might be born with autism, schizophrenia or other conditions related to genetic damage. Scientists in a new field of study, called "epigenetics", are learning that cigarettes can cause genetic damage to smokers. What's worse, the genetic damage can be passed along to the offspring, and even the grandchildren, of smokers.

An episode of the PBS program *Nova*, originally aired October 16 and titled "Ghost in your genes", went into the subject of epigenetics in some detail. (See <http://www.pbs.org/wgbh/nova/genes/>.) Researcher Dr. Jean-Pierre Issa stated categorically: "Cigarette smoking causes genetic damage." And, "The lung of a smoker is 20 years older than the lung of a non-smoker. And one can measure that by the epigenetic damage that has accumulated in this tissue."

Published studies by Rayleen V. Bowman, Carole Yauk (a Canadian), and R.B. Everson all link smoking to genetic damage. We will ask the question once again: why is tobacco still a legal product?

- Robert Broughton

## Eradication Update

On February 12, 2007, Airspace sent out a press release, calling for the total eradication of the tobacco industry from the face of the planet. On several occasions since (in letters to the editor, on radio talk shows, etc.), I've repeated that call. I've also issued a challenge, to ANYONE (up to and including the president and CEO of Philip Morris, one of the biggest tobacco companies in the world) to debate the issue or, at the very least, provide me with just one good, valid reason as to why the industry should be allowed to continue to exist. The fact of the matter is, there are none...and for that reason, the silence has been deafening! Given what is now known about both the product itself and the industry that continues to aggressively market and advertise it (most notably in Third World countries now), there is no justification whatsoever for allowing the industry to continue to exist.

Notwithstanding the very general nature of my challenge -- "to ANYONE" -- a few individuals have recently revealed that they are most worthy of *honourable mention*. They include, but are by no means limited to:

- Former Deputy Premier and now CKNW talk show host Christy Clark (who has more links to the industry than your average tobacco executive);
- Bruce Allen, CKNW's "Reality Check" big mouth, who doesn't like Vancouver's most recent expansion of the No Smoking bylaw (regarding patios, entranceways, bus shelters, etc.); and, last but definitely not least...
- Canada's Number One tobacco whore, Nancy Daigneault, who is president of mychoice.ca, a tobacco industry-funded so-called *smokers' rights* group. After challenging her to a debate on CO-OP Radio, Daigneault came up with one excuse after another -- over a period of several weeks -- as to why she couldn't participate. Good news, Nancy: The challenge stands. Any time, any place, Nancy! I won't hold my breath waiting.

- Errol Povah

Watch <http://airspace.bc.ca/> for more information on USA Today and BC Ferries.

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