



In Tanzania it is hard to get smoke free zones where one who enjoy a cigarette or two can have his way. Smoking is not allowed in many workplaces; in many retail establishments like stores, restaurants and hotels; and in many public places.

I feel for my brothers and sisters who sometimes, just want to get into their own personal space, where they can make the rules and can smoke if they want to. After all, smoking by adults is legal private behavior.

If you own your own home, you can smoke with ease. If you rent, however, your ability to smoke in your own residence is governed by the lease you signed with your landlord.

No Legal Right to Smoke

Contrary to popular belief, there is no legal right to smoke cigarettes. Since smoking is a choice and not an inherent characteristic (like race, age or disability), smoking prohibitions are not considered discriminatory under the law and smokers are not a protected class so to speak. Landlords can prohibit smoking the same way they can prohibit pets, waterbeds or excess noise and many others. Landlords can evict smokers who violate a non-smoking lease agreement, just like they can for any other lease-breaking activity.

Secondhand smoke is a recognized health hazard and it's against the law to smoke in Public in Tanzania. Since it can migrate from one rental unit to the next, it is often cited as the reason for smoking bans. Other reasons for landlords to ban smoking in apartment units include fire hazards, fire insurance premiums and extra cleaning costs.

Landlords Make the Rules in Rental Units

To prohibit smoking in a rental unit or house, a landlord must state this prohibition in the lease. If the issue of smoking is not addressed in the lease, the landlord cannot prohibit smoking until the lease is up and a new lease (which specifically forbids smoking) is created.

Such restrictive leases often prohibit smoking on private terraces and balconies, where smoke can waft from one unit to the next.

It is relatively easy for landlords to restrict smoking in common areas, such as hallways, parking lots, laundry rooms and around swimming pools. They must provide reasonable notice to tenants of the no-smoking policy ; describe what areas are to be non-smoking; and post signs in those areas. The landlord may also designate specific areas where smoking is allowed.

What about Co-ops and Condos?



In condos or Units, such a ban especially if it wasn't there before, usually requires a change in bylaws of that association, approved by two-thirds of the owners. Fines might be put to the agreed amount for a first offense, and fines can increase for each additional offense.

An Evolving Area of Law

Landlords who allow smoking and tenants who smoke can be sued on the basis of nuisance, breach of statutory duty to keep the premises habitable, breach of the common law covenant of peaceful enjoyment, negligence, harassment, battery and intentional infliction of emotional distress(haha I know) though it not as prevalent in Tanzania.

Call a Landlord Tenant Lawyer

The issues surrounding the rights of a tenant to smoke in his or her own apartment can be complicated. This article provides a brief, general introduction to the subject. It is not legal advice. For more detailed, specific information about your situation, please contact your Real Estate lawyer to assist you further.

Next week we will touch on the subject of ownership of the Apartment for most people in Tanzania especially think that after paying for an apartment and signing and MOU or a sale agreement, that they actually "own" an apartment.

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