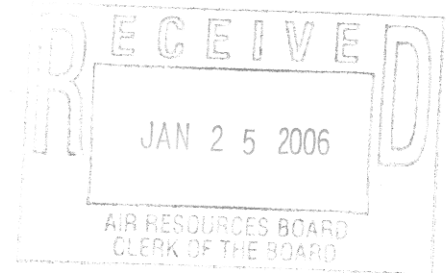


XC: Board Members 06-1-4  
 Chairman CEW 1/26/05  
 TJ MHS  
 KT Legal (AM/KO) SSD

**PUBLIC HEALTH INSTITUTE**  
 Technical Assistance Legal Center

**Legal Team**

Stephen P. Berzon/Linda Lye  
 Altshuler, Berzon, Nussbaum, Rubin  
 & Demain  
 Stephen McG. Bundy  
 Boalt Hall School of Law  
 UC Berkeley  
 Michael G. Colantuono  
 Colantuono & Levin, P.C.  
 Liam Garland  
 Housing Rights Center  
 Marjorie Gelb  
 Consultant  
 Robert Post  
 Yale Law School  
 Stephen D. Sugarman  
 Boalt Hall School of Law  
 UC Berkeley

January 24, 2006

The Honorable Robert F. Sawyer  
 Chair, California Air Resources Board  
 1001 I Street,  
 P.O. Box 2815  
 Sacramento, CA 95812

**Re: Support for Declaration of ETS as a Toxic Air Contaminant**

Dear Chairman Sawyer:

On behalf of the Technical Assistance Legal Center (TALC), I am writing to strongly encourage the California Air Resources Board (CARB) to adopt the proposed regulation identifying Environmental Tobacco Smoke (ETS) as a toxic air contaminant.

As part of the nonprofit Public Health Institute, TALC is funded by California tobacco tax monies (Proposition 99) to provide legal technical assistance to tobacco control advocates statewide. We support local jurisdictions in their efforts to develop ordinances to limit exposure to secondhand smoke in areas not currently regulated by state law, including parks and beaches, outdoor dining facilities, and multi-unit housing.

Secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease. In addition, secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children.

Californians are aware of the adverse health impacts of secondhand smoke and a majority of them favors limitations on smoking. For example, 89.6 percent of Californians surveyed approve of the state's smoke-free workplace law, and 73 percent of Californians agreed that smoking should be prohibited in outdoor dining areas at restaurants. And remarkably, 70 percent of Californians agreed that apartment complexes should require half their rental units to be smoke free.

**Advisory Board**

Serena Chen  
 American Lung Association  
 of the East Bay  
 Narinder Dhaliwal  
 California's Clean Air Program  
 Dennis Eckhart  
 Office of the Attorney General of  
 California  
 Joy Garcia  
 Shasta County Public Health  
 Nancy Guenther  
 DHS Tobacco Control Section  
 Dian Kiser/Theresa Boschert  
 RESPECT - California's Low Socio-  
 Economic Partnership  
 Nora Manzanilla  
 Office of the City Attorney  
 City of Los Angeles  
 Tobacco Enforcement Project  
 Carol McGruder  
 San Francisco African American  
 Tobacco-Free Project  
 Joan N. McNamara  
 Deputy City Attorney  
 San Diego City Attorney's Office  
 Cecilia Portugal  
 Hispanic/Latino Tobacco Education  
 Network  
 Rick Sheinfeld  
 Office of the City Attorney of  
 San Francisco  
 Stephen D. Sugarman  
 Boalt Hall School of Law  
 UC Berkeley  
 Kimberley Weich Reusché  
 The Center for Tobacco Policy &  
 Organizing



Although California has extensive protections from exposure to secondhand smoke in the workplace, in restaurants and bars, and in many recreational and entertainment venues, there are still places, especially outdoors, where there are no protections from drifting tobacco smoke. Together, the report prepared by the CARB staff, including the adverse health impacts of exposure to secondhand smoke identified by the Office of Environmental Health Hazard Assessment, and the declaration by CARB of ETS as a toxic air contaminant, will combine to give tobacco control advocates an even stronger position from which to encourage policy makers at the local and state level in California to consider actions to further protect the public from exposure to secondhand smoke.

As we work towards creating more smokefree places, TALC applauds the work CARB and its staff has done to address this critical public health threat. By declaring ETS as a toxic air contaminant, the Board will provide a powerful incentive for further action throughout the state.

Sincerely,



Robin Salsburg, JD  
Staff Attorney  
Technical Assistance Legal Center