



## Battle of the Butts

**The citywide smoking wars have moved from the restaurants and parks — into an apartment near you**

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For many New Yorkers, owning a 1,000-square-foot one-bedroom condo in a posh Upper East Side doorman building is a dream come true.

But they don't live next door to Jane's chain-smoking next-door neighbor from hell, whose incessant nicotine habit has ensured that her own pad constantly smells like eau de Joe Camel.

"I feel like I'm living in a college dorm, and I just want to live like an adult," says Jane, a 50-year-old journalist who didn't want her real name published for professional reasons.

"Right now, all of my outlets are taped up and my windows are sealed."

Still, her apartment reeks of stale smoke that seeps through the shared wall, which happens to bump up against Jane's bedroom.



She purchased the condo 15 years ago, but the trouble began in 2008, when the human chimney rented the unit next door and began puffing on cigarettes, pot and something that "smelled like plastic."

Despite repeated complaints, Jane says her condo board has refused to broach the subject of banning smoking, even after a fire in February — sparked by a different tenant's smoking habit — gutted one apartment and did extensive water damage to numerous floors.

"They've banned smoking in parks, but I can't have a smoke-free bedroom," Jane says.

Just over eight years ago, the city made the controversial decision to ban smoking in restaurants and bars, acting under Mayor Bloomberg, who has anointed himself the Eliot P. Ness of cigarettes.

In May, it became illegal to smoke on city beaches and in parks.

Now, residential buildings are becoming the next frontier in the battle of the butts.

“Smoking in residential buildings is the hottest, newest issue now,” says real estate attorney **Adam Leitman Bailey**, who since January has lined up five clients complaining about smoking in their buildings.

His firm represents more than 200 co-ops, and many of them are dealing with this problem.

A legal turning point on the issue came in 2006, when a New York City judge ruled that a shareholder in a co-op has the right to live free of smoke, and the board is responsible to enforce the rights of victims (in these cases, second-hand smoke complainants).

“It was the first time that it was put in writing — that a court would enforce the right to be smoke-free and people were able to say, ‘I don’t want to smoke anymore or get cancer,’ ” says **Leitman Bailey**.