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ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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November 28, 2005

Mr. Peter Eveleth
General Counsel
Office of Compliance
110 Second Street, SE
Room LA-200
Washington, DC 20540-1999

Dear Mr. Eveleth:

I am writing pursuant to 2 U.S.C. § 1341(b) to urge you to direct the House Office Building Commission to ban smoking inside of House buildings, and especially in public and common areas. Multiple requests to ban smoking have been made to the House leadership and the House Office Building Commission, but these requests have been ignored. The failure of these officials to recognize the proven dangers of secondhand smoke threatens the health of House employees and visitors.

House Policy

The House Office Building Commission currently permits smoking in member offices and designated public and common areas inside of federal buildings used by the House of Representatives. There are open-air smoking areas in the Rayburn Cafeteria, the Ford Cafeteria, the Longworth Cafeteria, the second floor of Rayburn, and the Speaker's Lobby.

Because of the health risks inherent in this policy, there have been several attempts to restrict smoking inside of House buildings. On June 3, 2004, nine members wrote Speaker Hastert stating that "[i]n the face of this [health] evidence, it is impossible to defend the House of Representatives' policy of permitting smoking indoors."[1] Most recently, Rep. George Miller asked the House Office Building Commission to abolish all smoking areas in House cafeterias.[2]

All of these attempts have been rebuffed without explanation.

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[1] Letter from Reps. Marty Meehan and Todd Platts to House Speaker Dennis Hastert (June 3, 2004).

[2] Mary Ann Akers, *Take It Outside*, Roll Call (Mar. 1, 2005).

Role of the Office of Compliance

The failure of the House leadership and the House Office Building Commission to protect House employees and visitors from the hazards of secondhand smoke creates an opportunity for the Office of Compliance to act. The Office of Compliance, which was created by the Congressional Accountability Act (CAA), is charged with advancing the "safety, health, and workplace rights" of employees and employers of the legislative branch.[3]

Under this standard, the public and commons spaces in House buildings should be smoke-free. There are over 4,000 chemicals found in cigarettes,[4] and more than 50 are known or probable carcinogens.[5] Secondhand smoke is a known carcinogen and indoor air pollutant. Numerous studies have shown that breathing secondhand smoke causes diseases such as stroke, lung cancer, and heart and respiratory disease in healthy nonsmokers.[6] Most recently, the California Environmental Agency, after a close analysis of hundreds of studies, concluded that secondhand smoke causes many serious health conditions, including breast cancer.[7] The agency concluded that secondhand smoke kills 50,000 Americans each year.[8]

According to the Centers for Disease Control and Prevention, policies establishing smoke-free environments are the most effective way to protect workers from secondhand smoke exposure.[9] The Surgeon General found that mere separation of smokers and nonsmokers within the same air space – which is the current approach in several areas in the House – does not eliminate the risk to nonsmokers.[10]

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[3] Office of Compliance, *Mission* (online at http://www.compliance.gov/mission.html).

[4] National Cancer Institute, *Health Effects of Exposure to Environment Tobacco Smoke* (1999).

[5] National Toxicology Program, *10th Report on Carcinogens* (Dec. 2002).

[6] U.S. Environmental Protection Agency, *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders* (1992) (online at http://cfpub1.epa.gov/ncea/cfm/recordisplay.cfm?deid=2835); National Cancer Institute, *supra* note 1; National Toxicology Program, *supra* note 2.

[7] California Environmental Agency, *Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant* (June 24, 2005) (online at http://www.arb.ca.gov/toxics/ets/finalreport/finalreport.htm).

[8] *Id.*

[9] Centers for Disease Control, Tobacco Information and Prevention Source, *State Smoking Restrictions for Private-Sector Worksites, Restaurants, and Bars—United States, 1998 and 2004* (online at http://www.cdc.gov/tobacco/research_data/legal_policy/mm5426_highlights.htm).

[10] U.S. Department of Health and Human Services, *US Surgeon General Report: The Health Consequences of Involuntary Smoking* (1986).

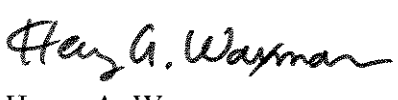
There is ample precedent for adopting a smoke-free policy in the House. Under a 1997 executive order, all Executive Branch office buildings have a complete smoke-free policy.[11] The Judicial Branch recently banned smoking inside the Thurgood Marshall Federal Judiciary Building.[12] It is also one of the goals of the federal government's Healthy People 2010 initiative to establish laws in all 50 states and the District of Columbia (DC) that prohibit or restrict smoking in public places and worksites.[13]

I recognize that the Occupational Safety and Health Administration has not interpreted the Occupational Safety and Health Act to require smoke-free policies in all workplaces. One of the premises of this OHSA policy, however, was that "a great many state and local governments and private employers have taken action to curtail smoking in public areas and in workplaces."[14] This position invites action by the Office of Compliance.

Conclusion

I ask that the Office of Compliance investigate the House Office Building Commission's failure to establish a smoke-free workplace policy in House buildings. On the basis of this investigation, the Office should invoke its statutory authority to order the Commission to remedy the health risk faced by employees and visitors due to exposure to secondhand smoke.

Sincerely,



Henry A. Waxman
Ranking Minority Member
Committee on Government Reform

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[11] President William Clinton, *Executive Order: Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace*, 62 Fed. Reg. 43451 (Aug. 9, 1997).

[12] Iris Guerra, Acting Chief, AO Administrative Service Division, Memorandum to all Thurgood Marshall Federal Judiciary Building Tenants (Sept. 26, 2005).

[13] Healthy People 2010, *Objective 27-13: Establish laws on smoke-free indoor air that prohibit smoking or limit it to separately ventilated areas in public places and worksites* (online at http://www.healthypeople.gov/document/html/objectives/27-13.htm).

[14] OSHA, Indoor Air Quality, 66 Fed. Reg. 64946 (Dec. 17, 2001).