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ASK REAL ESTATE

Hold the Burger Smell, Please

By Ronda Kaysen Aug. 22, 2015

The Burger Stench

A branch of a hamburger chain opened in the building next door to my co-op. Now, apartments in our building smell like burned grease. It's worse in the spring and summer when windows are open. Some of the residents approached the manager of the restaurant, who promised to install a filter on the ventilation. That was two years ago. We have filed complaints with 311, with no results. Do we have any rights? Is there anything we can do so our apartments don't smell like grease? -Greenwich Village, Manhattan

Living next to a restaurant has its upside: speedy deliveries! But you and your neighbors have discovered one of the unpleasant downsides: the cooking odors. (Noise and vermin are the other chief complaints.)

Your co-op board should step up and advocate for its residents. After all, this is a problem that affects multiple residents who should not be left to battle the burger stench on their own. The board could start by contacting the owner of the neighboring building and pointing out the obvious: There might be a problem with the restaurant's ventilation system. Perhaps the restaurant could (and should) invest in a new one — or at least install that filter the manager suggested two years ago. The restaurant's lease may include a provision requiring it to limit cooking odors, and your board could insist the neighboring building enforce it, said [Lorraine Nadel](#), a Manhattan real estate lawyer.

If the problem continues, the board could file a private nuisance claim against the neighboring building. But it would have to show that the restaurant's use of its property constitutes an unreasonable, intentional and continuous invasion of the co-op residents' property rights.

“Everyone has a right to the use and enjoyment of their home,” Ms. Nadel said. “An offensive odor emanating from a neighboring restaurant can constitute a private nuisance.”

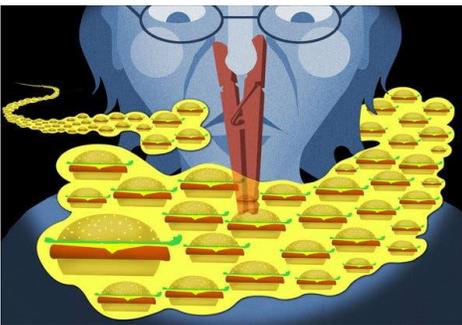


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