



3255 Wilshire Blvd., Suite 902
Los Angeles, CA 90010
(213) 389-2077
For California Relay Service TTY: (800) 735-2929
www.mhas-la.org



***FAIR HOUSING:
IT'S THE LAW!***

A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

Fair Housing Tip of the Month

Tip #6 – Actions Based on Stereotypes are Discriminatory

CASE MANAGER: “I am a case manager at a mental health clinic who helps clients find housing. A client told me he feels he has no privacy in his apartment because of the landlord’s random inspections. After talking with other clients we placed in that same apartment building, I talked to the landlord and learned she randomly inspects the units of tenants we place with her. The landlord said she had a bad experience before with one of our clients, so she started doing random inspections for our clients to see if they’re taking care of the unit. Can a landlord do this?”

The law says: Unless invited by a tenant, a landlord may only enter a unit (1) when there is an emergency; (2) to make necessary or agreed-upon repairs or improvements, or to provide agreed upon services; (3) when the tenant has abandoned or surrendered the unit; or (4) pursuant to court order. A landlord cannot pretend there is an emergency or make unnecessary repairs just to get access to the unit. Unless there is an emergency or the tenant has abandoned or surrendered the unit, a landlord must give the tenant reasonable notice, which is usually considered to be at least 24 hours, and can only enter the unit during normal business hours. While a tenant can agree to less notice or different hours, under fair housing laws, a landlord cannot create a practice or policy that is based on a generalized or stereotypical assumption that tenants belonging to a certain protected class might not take care of the unit.

Though landlords can take appropriate action with a tenant based on that tenant’s actual behavior, landlords cannot use assumptions about a disability to justify treating tenants with disabilities differently from others. To enter the unit of a tenant with a disability without a lawful reason, even if just to “check to make sure” that the tenant is taking care of the unit, deprives that tenant of a basic housing right to use and enjoy the unit like any other tenant. This is a violation of fair housing laws.

What to do: All tenants, including those with mental health disabilities, have the right to be free from random inspections by the landlord. You or your client can explain to the landlord how the practice of random inspections for tenants with mental health disabilities violates fair housing laws because it is differential treatment based on assumptions about people with mental health disabilities. Such a practice diminishes the right of tenants with mental health disabilities to use and enjoy their housing the way that tenants without mental health disabilities can.

If an individual experiences discrimination based on a protected characteristic, that individual may file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: Race, religion, national origin, color, sex, marital status*, ancestry*, familial status, disability, sexual orientation*, source of income.*

*Indicates a prohibited basis for discrimination in California, but not under federal law.

Disclaimer: The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.

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