


Fair Housing . . .It's the Law!

How Fair Housing Laws Protect Tenants with Disabilities

MENTAL HEALTH
ADVOCACY
SERVICES

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Fair Housing Law

- Federal Law - *Fair Housing Amendments Act of 1988*
 - Prohibits discrimination based on race, color, religion, sex, national origin, disability and family status.
- California Law - *Fair Employment and Housing Act*
 - In addition to the above, also prohibits discrimination based on marital status, ancestry, sexual orientation, gender-identity or expression, genetic information and source of income.
- California Law - *Unruh Civil Rights Act*
 - Prohibits discrimination in many types of housing based on citizenship, immigration status and primary language.
- Other federal and state laws

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Fair Housing in California

The law prohibits discrimination based on:

◦ Race	◦ Age
◦ Religion	◦ Ancestry
◦ National origin	◦ Sexual orientation
◦ Color	◦ Source of income
◦ Sex	◦ Genetic information
◦ Physical and mental disabilities	◦ Marital status
◦ Family status (includes children under 18 or pregnant)	◦ Gender identity & expression
	◦ Citizenship
	◦ Immigration status
	◦ Primary language

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Who is subject to fair housing laws?

Housing Providers:

- Landlords
- Mobile home parks
- Condo complexes and HOAs
- Licensed care facilities (including board and care homes and nursing homes)
- Supportive housing
- Residential hotels
- Master tenants/sublessors
- Sober living homes/unlicensed board and cares

Also:

- Mortgage brokers
- Mortgage lenders
- Real estate agents
- Government agencies that provide housing or enforce housing policy (e.g., PHAs, LAHSA)
- Homeless shelters
Etc.

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In California, what is a disability under fair housing law?

- ⦿ A limitation on a major life activity – a disability makes a major life activity difficult
- ⦿ Working and mental, physical and social activities are major life activities

Is alcoholism or addiction to illegal drugs a disability?

- ⦿ Current alcoholism, past alcoholism and past drug addiction are disabilities.
- ⦿ Current illegal drug use is **not a disability**.

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“Disability” also includes...

- ⦿ Record or history of disability
 - Includes previously having, or being misclassified as having, a disability
- ⦿ Perceived disability
 - Includes people who are regarded as having a disability, even if they do not actually have a disability

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What Does the "FAIR" in Fair Housing Mean?

Race, color, religion, sex, gender & gender-related, national origin, family status, sexual orientation, ancestry, source of income, genetic information

Everyone should be treated the same.

Mental and physical disability

People with disabilities should be treated the same, EXCEPT it may be necessary to make reasonable changes to rules to enable them to live in their housing.

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When Is a Landlord Unlawfully Discriminating?

- ⦿ Some discrimination is intentional.
 - "I don't rent to people in wheelchairs."
 - "We don't want any weirdos here."
- ⦿ Sometimes, policies have a disparate impact on people with disabilities because they effectively make an opportunity less accessible to people with disabilities.
 - "no pets allowed"
 - "to apply, visit the office"
- ⦿ **Denial of a "reasonable accommodation" is unlawful discrimination.**

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What Makes an Accommodation Reasonable?

A change in the rules to help a person with a disability access housing or housing-related services is reasonable if it:

- ⦿ Is necessary due to the disability,
- ⦿ Provides the person with equal access to housing, AND
- ⦿ Is not an undue burden, fundamental alteration, or direct threat.

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When is an Accommodation Necessary due to Disability? When is there a Connection?

Ask: Is there a connection between the accommodation requested and the limitations of the disability?

Examples: Can a tenant use a side door for entry because the tenant's disability makes contact with people frightening? The side door limits contact.

NOT: Can a tenant use the side gate because the main gate is inconvenient and tenant has depression? Is there a connection? If not, the requested accommodation is **not** necessary due to disability.

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When is an Accommodation an *Undue Burden* or *Fundamental Alteration*?

⦿ Undue Burden – The accommodation is too difficult or expensive.

Example: Landlord cannot expose tenants to fire hazard to accommodate hoarding.

⦿ Fundamental Alteration – The accommodation changes the nature of the program.

Example: Landlord cannot be expected to walk or feed emotional support animal.

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Direct Threat

⦿ Accommodations cannot be a direct threat to the health or safety of others OR result in substantial physical damage to property.

- ⦿ Landlords must make an individualized assessment of direct threat based on:
 - Nature, duration, severity of risk of injury;
 - Probability that injury will actually occur; and
 - Whether any reasonable accommodations can significantly reduce the threat.

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The Interactive Process

What if the initial request for accommodation is denied?

- The landlord must invite discussion about alternative accommodations that would address the tenant's disability-related needs.
- Housing providers **MUST** engage in the interactive process with tenants to explore options that would meet the tenant's needs.

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Reasonable Accommodation Request Process

- Tenant must request the accommodation.
- If the disability is not obvious, the landlord can ask the tenant to provide verification of the disability
- If the connection between the accommodation and the disability is not clear, the landlord can request or verification of the disability-related need for accommodation, but cannot demand medical records, diagnoses, or independent evaluations.
- Tenant may request multiple accommodations.
- Tenant may request accommodations at any time—during application, tenancy or eviction

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Can a Landlord talk about my Accommodations with other Tenants?

- All application, tenant, and guest information about disabilities is confidential.
- A landlord may not disclose that information to anyone.
- A tenant can authorize release of the information, but is not obligated to release that information.

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Who Can Verify Disability or Need for Reasonable Accommodation?

“Depending on the individual’s circumstances, information verifying that the person meets the [FHAA’s] definition of disability can usually be provided by the individual himself or herself... A doctor, medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may also provide verification of a disability.”

from Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act*, May 17, 2004.

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Coronavirus and Disability

- ⦿ Covid-19 itself can lead to disability
 - E.g., if hospitalization, continued medical treatment or supervision required, or causes pneumonia or chronic illness
- ⦿ Health conditions that make people vulnerable to severe Covid-19 can be disabilities
 - Ex: Diabetes, heart disease, COPD, asthma, kidney disease, autoimmune disorders
- ⦿ During pandemic, it is difficult to obtain reasonable accommodation verification from medical providers → housing providers should accept reliable information from person with disability

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Covid-19 Related Reasonable Accommodations: Examples

- Tenant agreed to move out in the next few months but doesn’t feel safe to do so due to a health condition that make them vulnerable to severe Covid-19 complications.
- Landlord wants to conduct an inspection of apartment but tenant is self-isolating due to health conditions that them vulnerable to severe Covid-19 complications.
- Tenant with Covid-19 has a friend or family member staying over to care for them in violation of rule against overnight guests
- Landlord serves an eviction notice and/or lawsuit, stating that tenant with mental health disability poses a risk to public health and safety.

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What is a Reasonable Modification?

- This is a change to the building or unit that allows a person with a disability to access or use the housing.
- The tenant must pay to install the modification and to restore the unit to prior condition if the changes could interfere with next tenant's use.
 - EXCEPTION: If the housing provider receives certain federal financial assistance, the housing provider pays.
- Modifications must be correctly installed and comply with codes, e.g., shower grab bars.

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Filing a Housing Discrimination Complaint

- U.S. Department of Housing & Urban Development (HUD): 800-669-9777
www.hud.gov/program_offices/fair_housing_equal_opportunity/complaint-process
- California Department of Fair Employment & Housing (DFEH): 800-884-1684 www.dfeh.ca.gov/complaint-process/file-a-complaint/
- Local fair housing agency
 - Housing Rights Center: 800-477-5977
 - Fair Housing Council of San Fernando Valley: 818-373-1185
 - Fair Housing Foundation (LA County): 562-989-1206

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Covid-19 Emergency Tenancy Protections



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Emergency Eviction Protection: State of CA

- ⦿ **Until 90 days after the Governor lifts the State of Emergency**, CA courts are prohibited from issuing a *summons* after a landlord files an eviction case**
 - UNLESS necessary to protect public health and safety
- ⦿ Under this CA rule, a landlord can still *file* an eviction case, but the courts won't *issue a summons* compelling the tenant to respond
 - UNLESS necessary to protect public health an safety

** Last month, the Judicial Council said it plans to *rescind* this rule as early as August 14th→

Stay tuned for state legislative action!

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Eviction Moratorium: County of LA
Where does it apply?

- ⦿ Unincorporated areas of LA County
- ⦿ Cities in LA County without their own eviction moratoria
- ⦿ Cities in LA County with expired moratoria
- ⦿ Cities in LA County with moratoria that do not address all categories of tenants (i.e. mobile homes)

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Eviction Moratorium: County of LA
Nonpayment of Rent

- ⦿ Until September 30, no landlord shall “endeavor to evict” a residential or commercial tenant for non-payment of rent due to financial impacts from Covid-19, the State of Emergency, or government-recommended precautions.
- ⦿ 12 months from expiration of emergency to pay back-rent
- ⦿ No late fees for late or unpaid rent
- ⦿ If a lease term ends during the moratorium, it's extended until the end of the moratorium.

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Eviction Moratorium Takeaways

- **Tenants should pay their rent if they can**
 - No complete eviction moratorium or rent forgiveness
- **If tenants can't pay their rent, they shouldn't be evicted during the emergency and may be have a defense to eviction in the future if they take certain steps now**
 - Tenants *need not sign* any repayment agreements!

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Eviction Moratorium: County of LA *Nonpayment of Rent*

- *What does the tenant need to do?*
 - Within 7 days of when rent is due, must provide notice to LL that they can't pay their rent due to substantial COVID impact.
 - UNLESS extenuating circumstances exist.
 - Notice can be verbal!
 - *Self-Certification* of inability to pay rent must be accepted! Should be in writing, signed.
<https://dcba.lacounty.gov/noevictions/>

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Eviction Moratorium: County of LA *Other Types of Evictions Prohibited*

- No Evictions for:
 - Unauthorized occupants (extra family members staying at your house for shelter or care taking)
 - Unauthorized pets (family or friends' pets staying with you for shelter)
 - Nuisance because of the extra occupants/pets
- No No-Fault Evictions
 - Unless necessary for health and safety
- No rent increases in unincorporated areas
- Prohibition on harassment

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Eviction Moratorium: City of Los Angeles

- No evictions (including notices) for non-payment of rent if tenant can't pay due to COVID-related financial impact
 - Residential tenants have 12 months to pay back rent after expiration of Local Emergency Period
 - If LL violates, may be civil penalty up to \$10,000 per violation. If the tenant is older than 65 or disabled, additional civil penalty up to \$5,000 per violation.
- No no-fault evictions
- No evictions for pets, unauthorized occupants, or nuisance related to COVID-19
- No rent increases for rent-stabilized units (until 365 days after emergency)

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Some Other Cities in LA County with Eviction Moratoria

- Agoura Hills
- Artesia
- Azusa
- Baldwin Park
- Beverly Hills
- Burbank
- Culver City
- Downey
- Gardena
- Hawthorne
- Hermosa Beach
- Long Beach
- Manhattan Beach
- Monrovia
- Pasadena
- Pico Rivera
- Rosemead
- Santa Monica
- West Hollywood
- Westlake Village

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Rent Adjustments for Tenants with Housing Vouchers

- Section 8 Vouchers - tenant share of rent based on income
 - Rent is usually 30% – 40% of household income
 - If income goes down, tenant rent portion should go down
- Both HACLA and HACOLA/LACDA report that they will immediately adjust tenant rent portion if wages or income are lost→ possibly as low as \$0
- Voucher tenants should contact their housing authority case worker to process rent recalculation over phone
- HACOLA/LACDA extended all vouchers through June 30, 2021; HACLA previously confirmed no voucher terminations for unauthorized tenants

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Tenants With Vouchers Receiving Social Security Disability or Retirement Benefits

- Many tenants with vouchers are seniors or people with disabilities receiving income benefits, including:
 - Social Security Retirement
 - Social Security Disability Insurance (SSDI)
 - Supplemental Security Income (SSI)
- Social Security Administration (SSA) has *suspended* Continuing Disability Reviews (CDRs)
- Social Security benefits should continue uninterrupted during this time
- Should be *no change income* for tenants receiving any type of Social Security benefit

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Covid-19 Rental Assistance: LA County/City

- **County of LA Emergency Rental Assistance:** Expected to launch mid-August. Not applicable to residents of City of LA. LLs must provide W-9 and sign participation agreement to have rent paid on behalf of tenant.
- **City of LA Emergency Rental Assistance:** Application period was from July 13-July 17. Up to \$1000/month, but no more than \$2000 total. <80% Area Median Income. Available to LA City Residents, regardless of immigration status.

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For More Information, Contact:

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www.mhas-la.org

For an intake or more information, clients can contact 
call us at 213-389-2077.

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