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***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 #8 – Request for Reasonable Modification

LANDLORD: “My tenant complains that people are coming into her apartment and moving her belongings. The situation makes her extremely anxious. She asked me if she can install an alarm system in her unit because her therapist said this will give her a sense that her unit is safe. I don’t like tenants having individual systems. They can go off and make other tenants angry. Does she have a right to install an alarm system, even if she is willing to pay? I won’t be able to control the workmen, monitor the quality of work or ensure its proper functioning. Can I deny the request?”

The law says: A landlord must permit a tenant with a disability to make necessary changes to the unit that will allow full use and enjoyment. A change to the physical structure of a building to ensure equal access to housing for a person with a disability is called a “reasonable modification.” Similar to reasonable accommodations, a tenant must show a connection between the disability and the requested modification. Generally, the tenant is responsible for the costs of the modification and the reasonable costs of restoring the unit to its original condition. In some circumstances, a landlord may ask a tenant to make payments into an escrow account to ensure that funds will be available to pay for restoring the unit at the end of the tenancy. The tenant is responsible for upkeep and maintenance of a modification used exclusively by the tenant. If a modification is made to a common or public area that is normally maintained by the landlord, then the landlord is responsible for the maintenance of the modification. If a modification is made to a common area that is not normally maintained by the landlord, then the landlord has no responsibility to maintain it. However, in federally-financed housing, structural changes needed by a resident with a disability must be paid for by the landlord unless it is too difficult or expensive (an “undue burden”) or it changes the nature of the business (a “fundamental alteration”).

What to do: First, a landlord should establish a uniform procedure for responding to tenant reasonable modification requests. In this case, because there is a connection between the tenant’s disability and the request for a modification, the landlord must permit the modification, but the tenant bears the cost of installation. To protect the quiet enjoyment of other tenants, the landlord has the right to ask the tenant to ensure proper alarm system operation so that it does not go off randomly when not triggered by an intrusion or make excess noise. For example, a landlord has the right to ensure that any alarm ceases after a given period when triggered so as not to unduly burden other tenants.

If a landlord refuses to consider a request for reasonable modification or refuses to engage in an interactive process, a tenant can 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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