

# Fair Housing . . .It's the Law!

## How Fair Housing Laws Protect Tenants with Disabilities



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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

# Fair Housing in California

The law prohibits discrimination based on:

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

## 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**.

## “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

# 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.

# 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.**

# 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.

# 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.

# 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.

# 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.

# 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.

# 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

# 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.

# 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.

# Making Decisions Based on Actual Behavior is Different from Responding to Stereotypes

- ⦿ A landlord can ask about tenant history and tenancy-related behavior, such as evictions, credit history, income, criminal background, etc.
  - SO LONG AS these standards are applied equally to all applicants.
- ⦿ Making decisions based on stereotypes of how a person with a certain disability will behave violates the law.
- ⦿ Making decisions based on actual behavior-as-a-tenant is legal.

# 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.

# 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](http://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/](http://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

# For More Information, Contact:

**Mental Health Advocacy Services, Inc.**

**3255 Wilshire Boulevard, Suite 902**

**Los Angeles, California 90010**

[www.mhas-la.org](http://www.mhas-la.org)



For an intake or if you have questions,  
call us at 213-389-2077.

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