

LANDLORD/TENANT TRAINING

1. The Tenancy
2. Rent Increases
3. The Eviction Process
4. Uninhabitable Housing
5. Subsidized Housing
6. Security Deposits

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THE TENANCY

Month-to-Month:

- Terms can change with 30 days' written notice

Fixed-Term Lease:

- Terms of lease cannot be changed during lease term.
- Tenancy automatically terminates at the end of the lease
- If tenant pays rent after the lease expires and it is accepted, a month-to-month tenancy is created

Contract for more than 1 year must be in writing.
Otherwise, verbal agreement is equally enforceable.

◦

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RENT INCREASE

- ❖ If you have a lease for more than 30 days (e.g. 1-year lease), your rent cannot be increased during the term of the lease, unless the lease allows rent increases. If you have a periodic rental agreement (month-to-month), your landlord can increase your rent, but must give you proper advance notice in writing.
- ❖ Rent increase of 10% or *less*:
 - Must provide a 30-day notice
- ❖ Rent increase of *more* than 10%:
 - Must provide a 60-day notice

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TERMINATION OF THE TENANCY

Must be by *Written* Notice

- ❖ 3 Day Notice (for cause)
- ❖ 30 Day Notice
- ❖ 60 Day Notice
- ❖ 90 Day Notice



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3 DAY NOTICES

1. **Pay or Quit**
 - Failure to Pay Rent
2. **Perform (Cure or Fix) or Quit**
 - Tenant is in violation of lease/agreement
3. **Notice to Quit (No chance to Cure or Fix)**
 - Tenant is
 - committing “waste”
 - creating a nuisance or
 - using unit for an illegal purpose



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3 DAY NOTICE CONTINUED...

- ❖ **MUST SPECIFY THE GROUNDS**
- ❖ **SERVICE OF 3-DAY NOTICE:**
 - Landlord or any adult can serve the notice
 - By:
 1. Personal Service
 2. Substituted Service
 3. Nail & Mail



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3-DAY NOTICE REQUIREMENTS

- ❖ **Notice must include:**
 - **Amount due for rent if non-payment of rent**
 - **Can't include late fees unless lease allows it**
 - **Can't include utility charges**
 - **Can't overstate the rent owed**
 - **Must state how, when and where to make the payment**
 - **P.O. Box:** Deemed paid on date posted if tenant shows proof of mailing
 - **Notice must be in the alternative unless:**
 - **Tenant accused of a crime or damage to the property**

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NOTICE TO QUIT (IF NO LEASE)

- ❖ **No Reason to Terminate the Tenancy is Required**
 - 30 Day Notice to Quit**
 - Tenant lived in unit for less than 1 year
 - **60 Day Notice to Quit**
 - Applicable if Tenant lived there for more than 1 year
 - **More than 1 Notice:**
 - 3 day &
 - 30-day or 60-day Notice
- ❖ **90 Day Notice to Quit**
 - Section 8 Tenants Or Other Government Subsidy
 - Tenant living in foreclosed house



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30 & 60-DAY REQUIREMENT

“State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

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TENANCY CAN BE TERMINATED FOR ANY REASON OR NO REASON

It is legal to terminate a tenancy unless:

Discrimination such as

- Race/Color
- Disability/Age
- Marital status
- National origin
- Ancestry
- Source of income
- Religion
- Familial Status
- Sexual Orientation
- Sex
- Gender, Gender identity, Gender expression
- **Retaliation**
 - For complaining about illegal activity or substandard conditions
 - Tenant organizing



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UNLAWFUL DETAINER

- ❖ **Court procedure must be used; Court Order Required And Only Sheriff Can Carry It Out**
 - No self-help! (no lockouts, no utility shut-offs)
- ❖ **Landlord must file and serve:**
 - Summons & Complaint on the Tenant* named in the Complaint
- ❖ **Service of Unlawful Detainer:**
 - By anyone over 18, not a party to the case
 - In Person
 - Substitute (after reasonable diligence)
 - Nail and mail (only with court order)

*If tenant is not named but resides in the premises, individual may need to file a response in court (unknown occupant)



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UNKNOWN OCCUPANTS

- For tenants who are not named as a Defendant in the Unlawful Detainer complaint
- Served blank Prejudgment Claim of Right to Possession
- Must be served by Sheriff or authorized process server
- 10 days to file Prejudgment Claim of Right to Possession
- 5 additional days to file your answer
- Pros and Cons – tenant now part of the court case. If lose, it goes on the credit report

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RESPONDING TO THE COMPLAINT -- ANSWER

- ❖ **Gives Tenant the opportunity to:**
 - deny any statements in the Complaint or
 - State your defenses
- ❖ **Tenant has 5 days after Date of Service to Answer**
 - ❖ California Civil Code of Procedure Section 1167
 - ❖ Changed on September 1, 2019
 - ❖ The summons shall be in the form specified in Section 412.20 except that when the defendant is served, the defendant's response shall be filed within five days, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon him or her

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ANSWER CONTINUED...

- ❖ **Tenant Does Not Answer:**
 - **Landlord can:**
 - Request a Default Judgment -- Landlord Wins
 - Tenant loses case without a trial
 - To remove the Tenant, Landlord can then file:
 - Writ of Execution
 - Notice to Vacate gets posted by Sheriff and Tenant has 5 days to move before Sheriff returns to carry out eviction
 - **Tenant can:**
 - File a Motion to Set Aside Default Judgment – for good cause
 - **If landlord has not yet requested a Default Judgment**
 - Tenant can still answer

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AFFIRMATIVE DEFENSES

- **HABITABILITY**

- Only available in non-payment of rent cases

- **DISCRIMINATION**

- On protected ground (race, color, religion, gender, sexual orientation, national origin, source of income, gender ID, familial or marital status, disability)

- **DOMESTIC VIOLENCE**

- Tenant is a victim and not perpetrator

- **RETALIATION (Civil Code § 1942.5)**

- Complaint about conditions, tenant organizing

- **TECHNICAL**

- defective notice, bad service

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WHAT HAPPENS NEXT...

The Answer

Answer limited to issues related to the right to continue to live at property

After Tenant Answers:

- Landlord will file request for Trial
(court mails you notice with trial date)
- Trial will be within 20 days of when landlord requests it

Settlement, Voluntary move-out, or Trial

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OUTCOMES AT TRIAL

❖ **Tenant Wins:**

❖ Because this is a summary proceeding, landlord must do everything correctly. Tenant can win because a notice is defective or for other technical reasons.

- Tenant stays in unit
- May owe some back rent
- Landlord can bring a new case unless it's retaliatory

◦ **Landlord wins:**

- Sheriff posts notice giving 5 days to move and will then return to carry out eviction*
- Pay for rent & court costs

The case is sealed for 60 days. After that, if the landlord wins, it becomes a public record which can affect the tenant's credit.

*there is a procedure to request additional time

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TENANT MOVES OUT BEFORE TRIAL?

- Tenant should turn in keys and keep proof.
- Once tenant moves, possession is no longer at issue and case converts to a regular civil case (CC § 1952.3), no longer entitled to summary process.
- Best to inform court of move-out via amended Answer



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HABITABILITY: REASONS THAT MAY MAKE A DWELLING UNINHABITABLE (CC § 1941.1)

- Ceiling leaks, damp walls
- Holes in walls, floor/carpet
- Falling plaster/peeling Paint
- Lack of/inadequate heating
- Missing/torn window screens
- Broken Windows
- Defective plumbing
- Missing/defective smoke detectors
- Infestation of roaches/rodents/insects / vermin
- Common areas unclean
- Inadequate trash collection
- Unsafe stairways/railings
- Defective electrical system
- Other



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HABITABILITY CONTINUED...

❖ What if Landlord doesn't make repairs

- Tenant's Remedies and Risks
 - Call Code Enforcement or Environmental Health
 - May be red tagged (Entitled to relocation expenses)
 - Repair and Deduct
 - Served 3-Day Notice to Pay or Quit
 - Withhold Rent (Very serious defects)
 - Served 3-Day Notice to Pay or Quit
 - Move Out – Abandon
 - Small Claims lawsuit for breach of contract
 - Sue Landlord in Small Claims Court for rent
 - **Landlord may try to retaliate. It's illegal.**



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REPAIR AND DEDUCT REMEDY

1. Tenant did not cause the problem.
2. Notify Landlord in writing of needed repairs.
3. Keep a copy of the letter and mail with tracking info.
4. Take pictures of the bad conditions
5. Wait – Reasonable time or 30 days
6. Determine if serious defects
7. Cost must be less or equal to one month's rent
8. Tenant cannot use the repair and deduct remedy more than 2xs within a period of 12 months

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WITHHOLDING RENT (ONLY FOR VERY SERIOUS BREACH)

1. Tenant did not cause the problem.
2. Notify Landlord in writing of needed repairs.
3. Keep a copy of the letter and mail with tracking info.
4. Take pictures of the conditions
5. Wait – Reasonable time or 30 days
6. Determine if SERIOUS BREACH still exists
 - Collapsed bathroom
 - Continued presence of rats, mice, roaches,
 - No heater in any of the rooms
 - Plumbing blockages
 - Exposed wiring
 - Dangerous gas stove
 - Other conditions that place at risk safety and health

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WITHHOLDING RENT (CONT'D)

7. Determine amount that will be withheld
 - Percentage or reasonable value
8. Place the withheld rent in a separate special bank account
 - This will show you withheld because of breach of implied warranty of habitability and not because you didn't have the money.
 - It is also critical because you may be ordered to pay partial rent within **5 DAYS** of trial.
9. Write letter to Landlord explaining you are exercising right to withhold rent. Keep a copy.

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MOVE OUT – BREAKING THE LEASE

1. Tenant did not cause the problem.
2. Notify Landlord in writing of needed repairs.
3. Keep a copy of the letter and mail with tracking info.
4. Take pictures of the conditions
5. Wait – Reasonable time or 30 days
6. Determine if defects are serious and related to Tenant's health and safety
7. Notify Landlord in writing of intent to move out by (date)

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SMALL CLAIMS COURT

- *Sue for up to \$10,000 in damages (i.e., refund of rent paid, out of pocket damages)
- *No lawyers allowed in initial hearing
- *2 years to sue from date of problem
- *Tenant can wait until move out to avoid illegal retaliation
- *No appeal except by defendant in case

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SUBSIDIZED HOUSING

Subsidy connected to the rental unit

- Generally 90 day notice required to terminate the tenancy unless tenant has violated the lease
- During the lease term, good cause protections may be available
- Termination of the tenancy will result in loss of subsidy
- Amount and method of calculation of subsidy depends on the federal/state program providing the subsidy

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SUBSIDIZED HOUSING

Section 8: How It Works

- Tenant finds rental unit
- Housing Authority inspects the unit
- LL enters into contract with local Housing Authority
- Tenant signs agreement with landlord and with Housing Authority
- Amount of subsidy determined by household size and household income
- Restrictions on the amount of rent that can be charged
- Reporting requirements and annual certifications

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SEC 8 Housing Choice Voucher

- The Department of Housing and Urban Development (HUD) sets fair market rents for communities nationwide.
- To participate in the program, Landlord must agree not to charge rent in excess of the fair market rent for the area.
- Landlord cannot terminate tenancy except with 90 days' notice unless tenants violates the rental agreement
- Housing Authority can terminate Sec. 8 voucher if tenant violates program requirements

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SECURITY DEPOSITS (CIVIL CODE § 1950.5)

❖ Can be used by Landlord

- For unpaid rent, damage, cleaning costs,

- **Limitations:**

- Can't charge for pre-existing defects, normal wear and tear
- Right to Pre-Move-Out Inspection

❖ Refund of Security Deposit

- Within 21 days of move out date
- Must receive itemized list of deductions, work performed, with receipts
 - Unless less than \$125.00

Failure to return deposit in bad faith may subject landlord to damages for double the deposit.

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California Rural Legal Assistance

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FAIR HOUSING

Mammoth Lakes Housing, Inc.
Scott Chang, Housing Rights Center schang@housingrightscenter.org

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Fair Housing Laws Apply To:

Housing Transactions	Residential Dwellings
<ul style="list-style-type: none">□ Renting□ Buying□ Lending□ Insurance□ In Place tenants and home seekers	<ul style="list-style-type: none">□ Multi-family dwellings□ Condos□ Single family dwellings□ Duplexes□ Residential motels□ Transitional shelters□ Mobile Home Parks□ Vacant Lots

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Who Is Protected?

<u>FHA</u>	<u>FEHA</u>	<u>Other CA Laws</u>
Race/Color Religion National Origin Sex Familial Status Disability	FHA Protected Characteristics Marital Status Ancestry Sexual Orientation Source of Income Gender, Gender Identity & Gender Expression Genetic Information Immigration/ Citizenship Status	Age Hate Crimes Immigration Status Domestic Violence

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Allowable Tenant Selection Criteria

<ul style="list-style-type: none"> ❑ Income level ❑ Credit scores ❑ References from previous landlords ❑ Smoking status ❑ Pets

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Prohibited Practices

- Refusal to sell or rent housing
- Refusal to negotiate for the sale or rental of housing
- Communicating that housing is unavailable when it actually is available
- Applying different terms or rules
- Refusal to grant a reasonable accommodation and/or modification for a person with a disability.

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Prohibited Practices

- Discrimination based on association
- Threats, intimidation, harassment, coercion
- Steering
- Otherwise making housing unavailable
- Asking if an individual is part of a protected class
- Retaliation
- Discriminatory statements or advertising

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How are the Laws Enforced?



DFEH or HUD
1 year Statute of Limitations
Compensatory Damages
Civil Penalties
Attorneys' Fees



Attorney
2 year Statute of Limitations
Compensatory Damages
Punitive Damages
Attorneys' Fees

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Top Three Reported Bases of Discrimination:

1. Disability
2. Familial Status
3. Race

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Familial Status



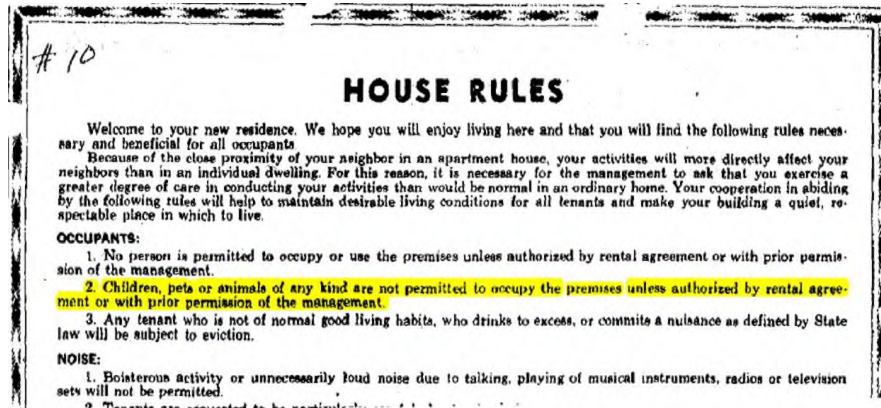
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Prohibited Practices Restrictive Rules

- Rules should target behavior not people
- Reasonable safety & nuisance rules:

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Discriminatory House Rules



“Children, pets or animals of any kind are not permitted to occupy the premises...”

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Discriminatory House Rules

- 4-~~NO~~ CHILDREN PLAYING IN THE CARPORTS.
- 5-~~NO~~ CHILDREN PLAYING WITH THE CARTS IN THE COMPLEX AND/OR CARPORTS.
- 6-~~NO~~ CHILDREN AND/OR ADULTS ARE ALLOWED TO PLAY ON THE HANDICAP RAMP.
- 7-**THE CURFEW FOR CHILDREN IN THE SUMMER IS 8:30 P.M. THE CURFEW IN THE WINTER IS 6:00 P.M.**
- 8-~~NO~~ VEHICLE WASHING OR REPAIRS ANYWHERE IN THE CARPORTS THAT INCLUDES GARAGES.
- 9-~~NO~~ GUEST ARE ALLOWED IN THE POOL OR IN THE POOL AREA AT ANY TIME.
- 10-~~NO~~ DUMPING OF ANY FURNITURE IN THE TRASH BINS OR BY THE TRASH BINS. YOU CAN CALL THE WEST COVINA DISPOSAL COMPANY AT [REDACTED] OR AT [REDACTED] FOR PICK UP OF UNWANTED ITEMS. ~~DO~~ NOT SEND YOUR SMALL CHILDREN TO THROW OUT YOUR TRASH.

**“The curfew for children in the summer is 8:30pm.
The curfew in the winter is 6:00pm”**

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Prohibited Practices Restrictive Occupancy Limits

Establish Reasonable Occupancy Limits



2 + 1



?

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Establishing Occupancy Limits

- Think about “2 + 1 Rule”
- Do not specify a certain number of children
- Look to Uniform Housing Code for minimum standards
- If more restrictive, be sure that justification is based on business necessity—i.e., impact on sewage systems. *Be prepared to defend yourself with quantifiable proof.*

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DISABILITY



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Definition

FHA: "Handicap" means, with respect to a person—

A **physical or mental impairment** which **substantially limits** one or more major life activities;

- Seeing
- Hearing
- Walking
- Breathing
- Performing manual tasks
- Caring for one's self
- Learning
- Speaking

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Disability

Reasonable Modification and Accommodation



Structure



Rules

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Disability

Reasonable Modification and Accommodation

NECESSARY

REASONABLE

GRANT

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Disability

Reasonable Modification and Accommodation

“NECESSARY”

- Frees a tenant from a rule or policy;
- Enhances a tenant's ability to enjoy a dwelling; or
- Enables a tenant to satisfy an essential element of tenancy



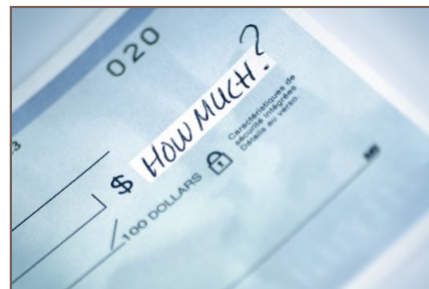
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Disability

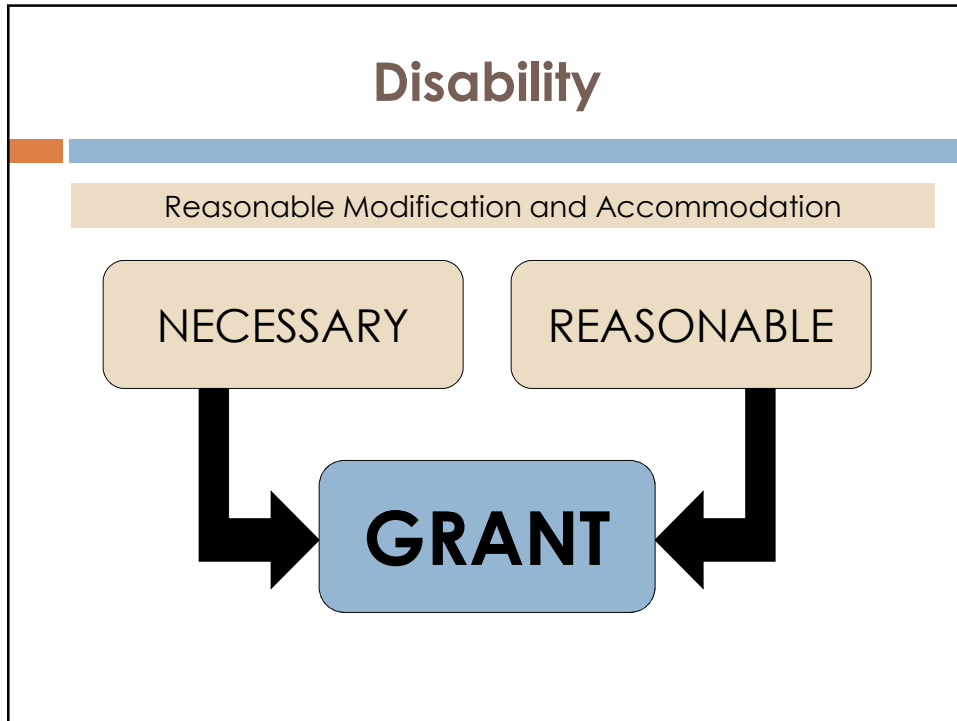
Reasonable Modification and Accommodation

“REASONABLE”

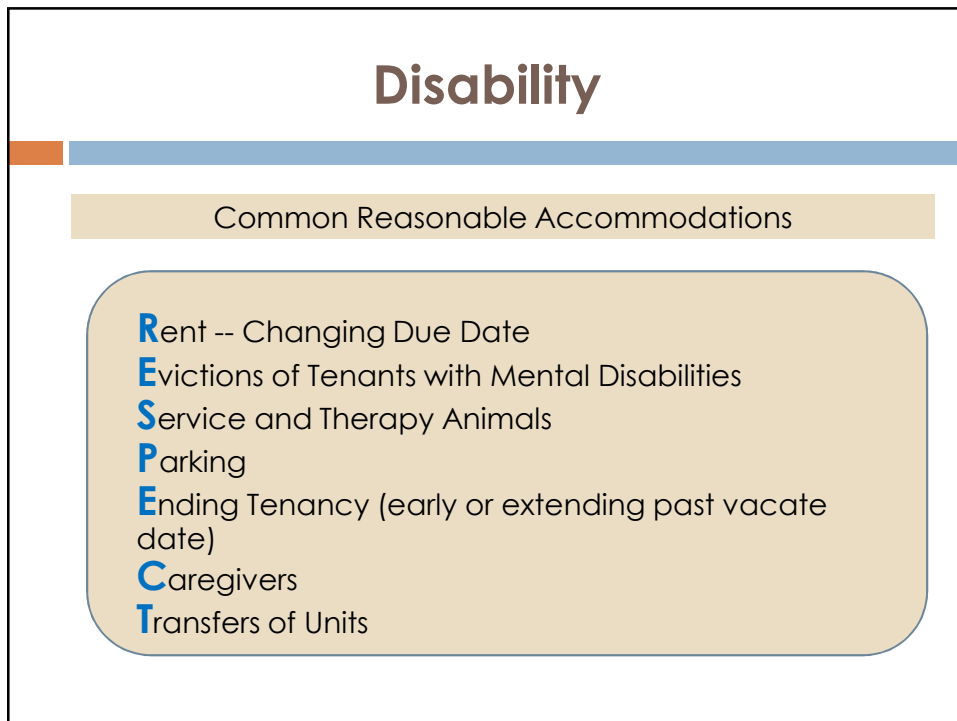
- Is not an undue burden
- Does not fundamentally alter business



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Disability

Rights and Responsibilities for Reasonable Accommodations

- ❑ Can the landlord ask for the request in writing?
- ❑ Can the landlord ask what the disability is?
- ❑ Does the landlord need to waive the rule for everyone?
- ❑ Does the landlord have to grant the request if there is a burden?
- ❑ Does the landlord have to seek out tenants who need accommodations?
- ❑ Can the landlord charge extra rent or security deposit for the accommodation?

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Disability

Resources about Reasonable Accommodations and Modifications



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THANK YOU!

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