

Competing Requests for Reasonable Accommodations for Multiple Tenants with Disabilities

Tenant: “I live in an apartment complex that has a small courtyard in the middle of the building, and another small outdoor space in front. Residents are not allowed to keep personal belongings in common areas, but after the COVID-19 pandemic began my landlord gave one of the tenants permission to set up a table and chairs in the courtyard. That tenant lost his job due to the pandemic, and as a result he rarely leaves the apartment complex. He always had some unusual behavior, but since he lost his job his behavior has escalated. He tends to be sitting in the courtyard whenever I leave for work and return home, and he talks to himself a lot, sometimes yelling and hitting the table.

I have severe anxiety that gets triggered by this behavior, especially when it is happening nearby. Because of the location of my apartment, I have to walk through the courtyard right past my neighbor whenever I come or go. I asked the landlord if they could have my neighbor move his table and chairs to the front of the building, so that I wouldn't have to be in as much close contact with him. The landlord said they couldn't do that because my neighbor is disabled and they would get into legal trouble if they asked him to change anything. I told the landlord that I have a disability as well, but they said that there is nothing they can do unless I provide medical records proving that my disability is worse than my neighbor's disability.

I don't want my neighbor to lose something that helps him, but my anxiety has gotten so bad that it's hard for me to leave the house when I see him sitting in the courtyard. Once I even called out of work so I wouldn't have to walk by him. Is there anything I can do?”

The law says: Under both state and federal fair housing laws, landlords are required to make reasonable accommodations for people with disabilities to ensure equal access to housing. A reasonable accommodation is a change in rules, policies, practices, or procedures needed by a person with a disability in order to fully enjoy or use a dwelling. An accommodation is reasonable if it is necessary due to disability, does not impose an undue burden to the landlord or fundamentally alter their role as a housing provider, and does not pose a direct threat. It sounds like your neighbor has a disability which may have been exacerbated by the stresses of the pandemic and his resulting unemployment, so your landlord granted him a reasonable accommodation to keep and use his furniture in the courtyard. However, you are also entitled to fully use and enjoy your housing regardless of your disability, so you can request a reasonable accommodation from your landlord that will enable you to do so.

When requesting a reasonable accommodation, the best practice is always to do so in writing so that you have a record of the request. However, the law does not require that the request be made in

writing, and there is no specific language or form required to request an accommodation. Just asking your landlord for a change and indicating that it is because of a disability is enough. In this case, when you asked your landlord to move your neighbor's furniture and said that you have a disability, you were requesting a reasonable accommodation in an adequate form to invoke your fair housing rights.

If a disability and/or the need for accommodation are not obvious, a landlord is permitted to ask for verification. However, landlords are not entitled to medical records or detailed information such as diagnosis, severity, or treatment. If your landlord asks for verification of your disability and how it relates to your request, you can provide a letter from any reliable third party, including a medical provider, a non-medical service provider, or a provider of peer support. The letter can simply state that you have a disability and briefly explain how your disability affects you and makes the requested accommodation necessary. You do not need to provide medical records or prove in any other way that your disability is more severe than another tenant's disability.

Conflicting accommodation requests like this can be difficult for landlords, and unfortunately such requests are occurring more frequently due to the pandemic. While it may be difficult for landlords to navigate competing reasonable accommodation requests, landlords are obligated under the law to try to find a solution that works for everyone. There is no standard that your disability must somehow outweigh the disability of another tenant. Your landlord must consider each request independently and try to accommodate both of you.

If a landlord determines that a specific accommodation is not feasible, then the landlord must engage in an "interactive process" in an effort to find an alternative accommodation that meets the requestor's needs. In your neighbor's case, for example, your landlord could offer access to the front yard as an alternative to courtyard use. It is never permissible for a landlord to ignore or flatly deny a reasonable accommodation request without trying to find another workable solution, as your landlord did with your request. In your situation, it sounds like your landlord is so concerned about violating your neighbor's fair housing rights that they are violating your rights instead.

What to do: The laws surrounding reasonable accommodation requests are complicated, and some landlords may not understand what they can and cannot legally do. The best first step in these circumstances is to make your request, preferably in writing, and inform your landlord about their obligation to provide reasonable accommodations to tenants with disabilities. Explain to your landlord that you and your neighbor both have fair housing rights in connection with your disabilities, and that your landlord is obligated to try to find a solution that works for both of you. You can do this on your own if you feel comfortable, or you can contact a legal aid or housing rights organization and ask for assistance. Even though your landlord already denied your initial request, following up with a second request and more information about the law might cause the landlord to reconsider your request.

If your landlord continues to deny your reasonable accommodation request, you can contact a legal aid organization or private housing attorney for advice about next steps. You can also file a fair housing 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, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

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The federal Fair Housing Act protects rental housing applicants, tenants, homeowners and prospective homeowners from discrimination based on race, color, religion, sex, national origin, family status or disability. This means that housing providers can't deny you housing or treat you differently because of any of these factors. State and local laws may provide additional rights.

During the coronavirus pandemic, these same rights may protect you from discrimination related to COVID-19.

Under the Fair Housing Act, housing providers cannot:

- Make an inquiry that requires you to disclose a disability, including asking if you have COVID-19 or have been exposed to the coronavirus, or if you've been tested for it.
- Ask if you have a disability that makes you more likely to get COVID-19.
- Deny you housing or evict you because you have, or have had, COVID-19, or because it is assumed that you are more likely to have it or contract it (for example, because you are a healthcare worker, or because you've been tested).
- Share your medical condition or disability with other renters.
- Prohibit someone from entering your home to assist you with the necessary tasks of daily life (such as bathing, cooking or grocery shopping) because of your disability.
- Discriminate against you based on your nationality (for example, deny you housing based on the inaccurate belief that people from China or Asia are responsible for the virus).

Housing providers must:

- Make reasonable accommodations (changes



or exceptions to their usual rules) that are needed if you have a disability (for example, allowing you to temporarily move into a private room in your assisted living home after you contract COVID-19, if one is available).

Housing providers can:

- Require that all residents and guests follow recommended or required public safety measures to prevent the spread of COVID-19, including social distancing and wearing face masks.
- Tell neighbors that there has been a COVID-19 diagnosis on the property (but cannot disclose the name, apartment number or other information that would identify who is infected).
- Encourage tenants or applicants to voluntarily self-report that they have COVID-19 or have been exposed to the coronavirus (but can't require them to disclose the information).
- Request documentation that demonstrates that an accommodation is necessary for a medical condition or disability (but cannot request details of the diagnosis or disability).

Fair housing rights for those affected by the pandemic

Learn more about fair housing rights and resources in [this Fact Sheet](#) from [Consumer Action](#).

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

Mental Health Advocacy Services is a nonprofit organization protecting and advancing the legal rights of people with mental health disabilities.

Disclaimer: This publication is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact Mental Health Advocacy Services, your local fair housing organization, or another attorney of your choice.

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