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A nonprofit organization protecting and advancing the legal rights of people with mental health disabilities.



***FAIR HOUSING:
IT'S THE LAW!***

Fair Housing Tip of the Month – October 2021

The Interactive Process after a Tenant with a Disability Makes a Request for Reasonable Accommodation

Tenant: “I have mental health disabilities that are exacerbated by the loud noise from the apartment above mine. My upstairs neighbors have children who run around a lot and drop things on the hard wood floor. They also have dogs that bark when the children are very active. I’m struggling to maintain my mental health with all the noise. I need to work from home and it has greatly affected my productivity. I understand that kids need to run around and play, and I don’t think my neighbors are making noise that would be excessive under normal circumstances, but with my mental health conditions I can’t tolerate it. I know I have fair housing rights, so I submitted a written request to my landlord asking them to move me to a second-floor unit as a reasonable accommodation due to my disability. Three weeks have gone by and the landlord has not responded. They have been ignoring my calls, and no one is in the management office whenever I go in to check on the request. Are they allowed to ignore my request?”

The law says: No! Fair housing laws require landlords to make reasonable accommodations for people with disabilities in order to allow them equal opportunity to use and enjoy housing. An accommodation is reasonable if it is necessary due to the disability, does not impose an undue burden on the landlord or fundamentally alter their rental business, and does not pose a direct threat to people or property.

After receiving a reasonable accommodation request, landlords are required to engage in what is called the “interactive process.” This means they cannot just ignore or deny the request, but must engage with the tenant to try to find a solution that meets the tenant’s disability-related needs. If a housing provider cannot grant the exact accommodation requested by the tenant, they should provide reasonable alternatives to try to accommodate the tenant’s disability.

Because of this requirement to engage in an interactive process, even if your landlord cannot accommodate you by moving you to another unit in your building at this time, they must work with you to find a solution, such as reserving the next available upstairs unit for you, or finding you an upstairs unit in another building that will not exacerbate your mental health symptoms.

If a landlord delays too long in responding to a reasonable accommodation request, the delay can be considered a denial and may constitute unlawful housing discrimination. Though the law does not specify exactly how long a delay must be to violate fair housing laws, a delay of several weeks with no response could very well be considered a denial.

What to do: Your landlord’s failure to respond to your written reasonable accommodation request for three weeks seems to be a denial of the request. Since the landlord has not entered into an interactive process with you in an effort to find an alternative accommodation, you may wish to file a fair housing



complaint with a local fair housing agency, the U.S. Department of Housing and Urban Development (HUD), or the California Department of Fair Employment and Housing (DFEH).

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.)

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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