

Fair Housing Tip of the Month

Tip #9 – Use of Medical Marijuana in your Housing Unit

“My landlord prohibits marijuana use in the apartment complex. I had a prescription for medical marijuana and requested a reasonable accommodation, but my landlord denied my request, saying that marijuana was still illegal and the law was on his side. But now that marijuana is legal in California, can’t I use it in my apartment whether or not I have a prescription?”

The law says: Even under the new law, landlords do NOT have to allow marijuana use, whether for recreational or medical purposes. Marijuana use is still illegal under federal law. Tenants can request a reasonable accommodation to use their medical marijuana in their unit, but landlords have no obligation to grant that request because it is not considered reasonable to force landlords to accept something that is illegal under federal law, even if it is legal under state law. Marijuana use in federally subsidized housing, like Section 8, is still prohibited. However, the Department of Housing & Urban Development (HUD) has issued guidance indicating that local public housing authorities and owners of federally subsidized buildings have discretion to determine on a case-by-case basis whether to evict current residents for using marijuana.

What to do: You can still request a reasonable accommodation to use your medical marijuana in your unit, but the landlord does not have to grant such an accommodation. However, if your landlord’s main objection is to marijuana smoke, he may be open to allowing you to use medical marijuana if in another form. If you are an existing resident of federally funded housing, you should find out your local public housing authority’s policy on medical marijuana use.

If your landlord refuses to consider your request for reasonable accommodation or refuses to engage in an interactive process, you can still file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the federal Department of Housing and Urban Development (HUD). Most likely, however, in this situation it will not result in an enforcement action against the landlord.

To file a complaint with HUD, call [800-669-9777](tel:800-669-9777), or visit https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call [800-884-1684](tel:800-884-1684), or visit <http://www.dfeh.ca.gov/complaint-process/complaint-forms/>

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 program 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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