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CITY OF PALO ALTO
TENANT GUIDE

(Updated January 2015)

TO THE MOST FREQUENTLY ASKED QUESTIONS ABOUT RENTAL HOUSING

Published by: **Office of Human Services**
Community Services Department
City of Palo Alto

Updated 5/2015

Office of Human Services

The City of Palo Alto's Office of Human Services is pleased to provide this guide.

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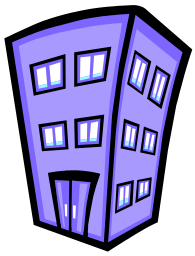
Remember, you may try to resolve any housing dispute by using the landlord-tenant mediation process.



For more information ***about this free program***, call the Palo Alto Mediation Program at 650-856-4062

PALO ALTO'S MEDIATION ORDINANCE

Are landlords and tenants required to mediate their disputes?

Our experience is that most landlords and tenants welcome the help the mediation program provides and do not need to be compelled to mediation. Even so, many of the disputes described in this booklet are subject to Chapter 9.72 of the Palo Alto Municipal Code, titled "Mandatory Response to Request for Discussion of Disputes between Landlords and Tenants." Issues such as rent increases, repairs and maintenance and deposits are covered, if the landlord owns two or more rental units in Palo Alto. The ordinance requires the parties to engage in conciliation or mediation when one of the parties makes a formal request using the MRP request form. The ordinance requires covered landlords to participate, but does not require any specific outcome. Any resulting resolution remains the voluntary choice of the parties. For more information, contact the Palo Alto Mediation Program at: 650-856-4062. Information and forms for requesting mediation are also available at www.paloaltomediation.org**PALO ALTO'S ORDINANCE REGARDING**

LEASES

Does the Palo Alto Rental Housing Ordinance require a one-year lease?

The City of Palo Alto has a rental housing stabilization ordinance, Chapter 9.68 of the Palo Alto Municipal Code, which requires landlords to offer tenants in most multiple family dwellings a written one-year lease that spells out the rent requirements over the year. The lease offer may be rejected by the tenant, but only in writing. If both the landlord and tenant wish to continue their rental relationship after the one-year lease expires, the landlord must offer another one-year lease agreement annually.

TENANT-LANDLORD COUNSELING

The City of Palo Alto has contracted with Project Sentinel to counsel both tenants and landlords about their rights and responsibilities, and to explain how they can help the relationship work smoothly. This guide covers many topics briefly. If you do not find an answer here, please call (650) 856-4062.

RENTAL APPLICATIONS

Can I be charged a fee for a rental application?

The landlord has the right to charge a credit check fee up to $30 per person, and other out-of-pocket costs. However, the landlord may not charge a fee simply for filling out an application. If your application is denied because of the credit report, you have a right to a copy of the report.

LEASE/RENTAL AGREEMENTS

Is an oral agreement with my landlord binding?

Palo Alto's rental housing stabilization ordinance requires the landlord to offer a written lease. Oral agreements can also be legal and binding, but oral agreements are often difficult to enforce because they rely on the memory and goodwill of both parties. You should get your rental agreement in writing.

What should I know about signing a rental agreement?

When a written agreement is presented to you, you should read it carefully before you sign it, and ask for explanations of any clauses you don't understand. Make changes to any items you wish to alter or delete, and write in any additional items you have verbally agreed upon with your landlord. Be sure you are given a copy of the written agreement and that you keep it for reference in the future. Under California law, your landlord must provide a copy of the written rental agreement to you no later than 15 days after you sign it.

Can a Landlord Charge for Utilities and How are Utilities Handled When There are Multiple Rental Units on the Same Property?

Landlords can charge separately for utility costs to rental units as long as the financial responsibility for paying the utilities is spelled out in the rental agreement. If there is a separate meter for each unit, a tenant can be required to open a separate utility account.

When tenants in separate units share the same meter, California Civil Code section 1940.9 requires landlords with shared utilities to disclose the existence of this arrangement to all prospective tenants before they begin their tenancy. The landlord can decide how to apportion the combined billing among the separate rental units, but the apportionment must be based on some fair formula such as total square footage or total number of rooms.

Additionally, the City of Palo Alto Utilities (CPAU) does not allow the landlord to add fees of their own to utility charges he receives from CPAU.

Do I have the right to sublease my apartment?

Some lease agreements expressly prohibit subleases. Others may require your landlord's permission before you sublease. Even if your lease does not prohibit or limit subleasing, it's wise to discuss your plans with your landlord in advance.

How are my rights affected by foreclosure?

The fact that a rental property is in a foreclosure process does not change the applicable rights and responsibilities between a tenant and a landlord until the last stage of the foreclosure process known as the "Trustee Sale".

Until the trustee sale, a tenant must continue to pay rent to the current owner-landlord, who continues to have the legal obligation to repair and maintain the rental property. Once there has been a trustee sale, either the lender or new owner becomes your new landlord and your tenant relationship is transferred to that new landlord. After the trustee sale you should pay rent to the new owner, who is obligated to give you notice of their name, contact information and place to pay rent.

If either the old or new landlord fails to maintain the utilities, there is a procedure that allows the tenant to establish a direct account with the utility provider and to deduct the utility payments from the rent due.

Foreclosure does not end tenants' rights to continue to live in the rental property. The applicable rights are described below under *"Does a foreclosure terminate my tenancy?"*

DEPOSITS

If I give a landlord a deposit to hold an apartment and I change my mind, can I get my money back?

The purpose of a holding deposit is to require the landlord to take the rental unit off the market and to compensate the landlord for the resulting loss if you change your mind. You should read a holding deposit agreement very carefully before signing, because many of these agreements claim the holding deposit non-refundable. A blanket non-refundable deposit is void, but the landlord can subtract actual losses such as lost rent, additional advertising, etc. The amount of a refund will depend on the terms of the agreement with the replacement tenant. **If you are unable to occupy the rental because the landlord does not have the unit available, for example if repairs are not finished, your holding deposit cannot be charged for the lost rent.**

What is the maximum security deposit I can be charged? When can I get it back?

The law allows a landlord to collect a security deposit in an amount up to and including 2 months' rent for an unfurnished unit, and 3 months' rent for a furnished unit. This limit applies regardless of the type of deposit, including pet deposits. Within 3 weeks after you move out, the landlord must either send you a full refund of the deposit, or an itemized statement that lists reasons for and amounts of any deductions, plus the remaining refund. For amounts withheld that exceed $125 for cleaning or damage, the landlord must also attach receipts documenting such costs incurred, unless you waive this requirement in writing. If a particular repair could not be completed within 21 days, the landlord must attach the repair estimate. The deposit may be used to pay the last month's rent only if the rental agreement specifically permits that use. A landlord is not required to pay interest on a deposit. Be sure to get a receipt for your deposit, which states the purpose of the deposit, e.g. security or last month's rent.

Do I have a right to a walk-through inspection with my landlord when I move out?

Once either party has given notice that the tenancy will be terminated, the landlord must give you notice of your right to a walk-through inspection with the landlord at least two weeks prior to the date of termination. After that inspection, you are entitled to a list of deficiencies that you must remedy in order to preserve your deposit. The landlord cannot add to that list after the walk-through, unless you have caused new damage after the walk-through, or the damage was hidden from plain sight, prior to the final move-out.

Do I get my deposit back if there is only normal wear and tear?

Deterioration or loss of property in the unit due to "Normal wear and tear" is not deductible. The normal wear and tear exception applies to items with a limited useful life such as carpet or paint. If that item has exceeded its useful life, you cannot be charged for its replacement even if it is worn out. If the item must be replaced before its normal useful life, you are still entitled to a credit for the expended useful life against the full replacement cost. For example, if you live in a rental for three years that has a five-year carpet needing replacement, you should receive a credit for 3/5 of the total cost. Wear and tear does not apply to damage such as holes in a wall or a broken window.

What else can be deducted from my deposit?

You must restore the rental to the same level of cleanliness that existed at the time of your move-in. If you fail to do so, your deposit can be charged a cleaning fee. If your rental agreement calls for "professional carpet cleaning" you will be required to pay for it. Any unpaid rent or utility bills can also be deducted from your deposit.

How does foreclosure or sale of the property affect my deposit?

If a rental property changes ownership as a result of foreclosure, or any other reason, the prior owner must either refund the deposit to you, or transfer it to the new owner. If the deposit is refunded, the new owner can demand a new security deposit from you. If the prior owner does not transfer or refund the deposit, both the prior owner and the new owner are legally liable to you for the deposit accounting as well as any refund due to you when you vacate.

RENT INCREASES

How much notice of a rent increase does the landlord have to give?

If you have waived your right to a one-year lease, and decided to rent on a month-to-month basis instead, you are entitled to a 30-day written notice of a rent increase, unless the increase or total increases in the same year exceed 10%. In that case, you must be given a 60-day written notice. If you have a lease, the rent cannot be raised during the term of the lease, but when the lease expires the new rental rate is solely a matter of negotiation between tenant and landlord. There is no requirement that the landlord give a written notice of an increase in advance of the termination of the current lease.

Is there rent control in Palo Alto?

No. There is no limit to the amount of a rent increase or the frequency of rent increases if you are on a month-to-month rental agreement. However, a tenant may request mediation through the Palo Alto Mediation Program to provide an opportunity to discuss mitigation of the proposed rent increase.

PRIVACY

Does the landlord have a right to come into my apartment?

The law requires the landlord to give you at least 24 hours written notice before entering your unit except in an emergency or if you have abandoned the property. With proper written notice, the landlord may enter your unit, but only during normal business hours and only for certain limited purposes such as making repairs, or showing the unit to prospective tenants or buyers. If the landlord meets all of these requirements, you cannot refuse entry, nor can you insist that entry only occur when it is convenient for you to be present. Unless your rental is subject to a government subsidy program, a landlord does not have a right to enter for the purpose of conducting an inspection.

UPKEEP AND REPAIR RESPONSIBILITIES

What is the extent of a landlord's duty to provide adequate conditions in the unit I am renting?

The landlord is responsible for providing a safe and habitable unit. This means the walls and roof must not leak, there should be no broken doors or windows, there must be deadbolt locks on all outside doors, and the plumbing, gas, heater, wiring and lights must work. The floors, railings and stairways must be safe. The landlord must provide sufficient covered trash cans and pest control. The unit must also comply with all local building code regulations. The landlord is not obligated by law to provide "amenities" such as a clean carpet, specific appliances, or fresh paint. However, the tenant may try to negotiate for those items in a rental agreement. If the amenity items are included in the rental agreement, they must be provided as part of your contractual rights.

Who is responsible for repairs?

The landlord is responsible for the proper maintenance of the items necessary to provide habitability. The tenant is responsible for damage that results from neglect or abuse. The rental agreement may also identify certain responsibilities for each party, but the agreement cannot require the tenant to be responsible for habitability maintenance.

Am I supposed to report needed repairs? How much time does the landlord have to make the repairs?

Yes, you should report needed repairs. Unless the need to repair is obvious, a landlord is not required to act until proper notice has been given. It's best to notify the landlord with a telephone call and in writing. In general, the landlord should complete repairs, which are not urgent within 30 days. Urgent repairs must be done as soon as possible. If communication breaks down with the landlord, consider using the Palo Alto Mediation Program (www.paloaltomediation.org)

TENANCY TERMINATION AND EVICTION

What is the difference?

Eviction is a legal process for removing a tenant who has violated the rental agreement or has not complied with a notice ending the tenancy. The most common reasons for eviction are:

Not paying rent

Materially damaging the rental property

Interfering with other tenants

Using the rental unit for an illegal purpose

Violating the rental agreement

Tenancy termination occurs when you or your landlord decide not to renew your rental agreement. There is no requirement of cause to terminate a tenancy.

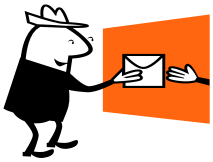
What is a 3-day notice? How shall I respond?

A landlord may give you a 3-day notice when you have failed to pay rent on time or violated an important part of the rental agreement. When you receive such a notice you have the following options:

If the notice demands payment, you must pay the entire amount no later than the third day. If the notice states that you have violated a term of the lease, stop violating the agreement within the 3-day period and let your landlord know in writing that you have stopped. Once you comply with the demands of the notice with the specified three days, the landlord cannot use this 3-day notice as the basis for an eviction, unless you have been served with an unconditional 3-day notice for violations that can't be corrected, such as engaging in criminal activity.

Negotiate with the landlord to request additional time to either pay the amount owed or to comply with the lease terms. Make sure the agreement you make with the landlord to allow additional time is in writing to assure clarity of the terms.

Seek mediation services or legal assistance especially if you believe the notice contains errors.



What are the various types of tenancy termination notices and what are the options for responding?

If you have a month-to-month agreement, you can terminate your tenancy by giving the landlord a 30-day written notice of termination. Your landlord can terminate a month-to-month agreement on 30 days written notice, if you have lived there less than one year. If you have lived there longer, the landlord must give you 60 days written notice. If you are renting pursuant to a Section 8 HUD voucher, you are entitled to 90 days' notice. Proof of "cause" or a reason for the termination is not required. If you have a lease, neither you nor the landlord can terminate the tenancy prior to the expiration date of the lease, unless the other party has violated a provision in the lease. However, victims of domestic violence and members of the armed forces can terminate a lease before its term ends, under certain specific conditions. Termination notices must be in writing. Verbal notices and email notices are invalid and unenforceable.

If you receive a written notice of termination from your landlord, you have the following options:

Vacate the premises within the 30, 60 or 90 day notice period, to avoid being sued in eviction court and to preserve a good credit record.

Negotiate with your landlord to request additional time to vacate the premises or to preserve your tenancy. It is important that any agreement you make with the landlord be in writing to preserve clarity of the terms.

Seek mediation services or legal assistance especially if you believe the notice was issued because you requested repairs or otherwise exercised your legal rights.

Can the landlord change the locks or call the police if I remain in the rental unit after a termination notice or lease has expired?

No. In order to legally evict you, the landlord's only option at the expiration of the 3-day or 30, 60 or 90 day notice is to file and serve an eviction suit in the Superior Court and obtain a judgment against you from the court. The landlord has the right to serve you with court papers called a "Summons" and "Unlawful Detainer Complaint." If you do not respond to the complaint by filing a document known as an "Answer" with the court, the landlord can get possession of your apartment within a few days. If you do file an Answer with the court, the court will schedule a trial date on the matter. You generally have only 5 days from the day of receiving the Summons and Complaint to file an Answer with the court. Seek legal assistance, or contact the Self Help Center, if you receive a Summons and Complaint and need help with filing an Answer.

What can I do if the Sheriff posts an eviction notice on my door?

If you have not filed an Answer with the court in response to the Unlawful Detainer Complaint, or you have lost at trial after defending against the eviction, the Sheriff may post a 5 day Eviction Notice on your door. You then have the right to ask the court for additional time (up to 40 days) to find substitute housing if vacating immediately would present a hardship for you. To request additional time, you must file an application with the court for a "Stay of Execution." If the court grants your application, you will be required to deposit the daily amount of the rent due for your unit for each day of additional time that you request. For assistance with the application form and additional information regarding a Stay of Execution contact the Court's Self Service Center.

What if I think the landlord is terminating my tenancy because I complained about a problem?

Terminating your tenancy because you exercised your rights, such as complaining about discrimination or contacting an agency to inspect the unit, is known as a retaliatory eviction and it is illegal. You should seek help from the Fair Housing Center or from legal services if you think this is happening. Mediation may also be an option.

Does a foreclosure terminate my tenancy?

A new owner takes control of a rental property after the last stage of the foreclosure process, known as the "trustee sale". If you are a genuine "*bona fide"* tenant, federal and state laws provide some protection after the new owner takes legal control. To be a *bona fide* tenant, you must have an arms-length written rental agreement and cannot be a member of the prior property owner's immediate family. If you are a *bona fide* month-to-month tenant, you must be given a 90-day written notice to terminate your tenancy. If you have a lease, you must be allowed to complete the lease term, unless the new owner intends to personally occupy the rental, in which case you are still entitled to 90-days' notice. If you don't qualify as a bona fide tenant, but you are a non-owner living lawfully in the house or apartment, you are entitled to a 60-day notice. You are only entitled to these added time periods if you continue to pay your rent and otherwise comply with your tenant obligations under the rental agreement.

DISCRIMINATION

What is discrimination?

Federal and state laws prohibit discrimination in housing. Discrimination is the differential treatment of people based on their race, color, religion, sex, marital status, sexual orientation, gender identity, national origin, physical or mental disability, age, the presence of children in a family (including pregnancy), source of income, or any other arbitrary basis. We refer to these as Protected Categories. Discrimination based on these Protected Categories is prohibited in the application process, in the terms and conditions of tenancy, in the use of facilities and services and in the termination of a tenancy. If you feel you are a victim of discrimination, call Project Sentinel's Fair Housing Center at 650-321-6291.

Can a landlord refuse to rent to me for any reason whatsoever?

No. State and Federal law makes it unlawful to refuse to rent or lease a housing accommodation, refuse to negotiate for the rental or lease of a housing accommodation, or otherwise deny to or withhold a housing accommodation from any person or persons, based on the Protected Categories listed above. The Palo Alto Municipal code (chpt. 9.74) also prohibits denying tenancy on the basis of parenthood and the possible presence of a minor child in the household.

It is also unlawful to discriminate against any person by establishing different terms, conditions or privileges to a tenant based on these Protected Categories. Reasonable restrictions on the use of common areas, facilities, and services that are necessary to protect health and safety, and which apply to all residents, are permissible. For example, a rule that prohibits the use of a parking lot for any activities other than going to and from one's vehicle is permissible, as it applies to all residents and is reasonable given the dangerous nature of a parking lot. A rule that prohibits children from playing in a property's common areas would not be reasonable, as it targets children and children can safely play in those spaces.

Do disabled applicants and tenants have any special protections?

Landlords cannot discriminate against a tenant with a disability. In addition, landlords must "reasonably accommodate" a tenant's disability to allow that tenant the opportunity to fully utilize the rental property. For example, a landlord may be required to waive a no-pets rule so that a disabled tenant can benefit from a service or companion animal. A disabled tenant may also request a reasonable modification, which means a physical change in the rental premises, for example installing a wheelchair ramp. Unless the property receives federal financial assistance, such as a low-income property, a landlord is not required to bear the cost of a modification, which must be paid by the tenant or by one of the funds that assist disabled tenants. For more help with disability issues, call the Fair Housing Center at 650-321-6291.

Can a landlord limit the number of people who occupy a unit?

Yes, but occupancy limits must be reasonable and fair. Any limitation more restrictive than two people per bedroom plus one person may be questionable. For an explanation of occupancy issues, call The Fair Housing Center at 650-321-6291.

Can the landlord require that I make a certain income in order to rent?

Yes, but the amount must be reasonable and fair, often equal to 2 or 3 times the amount of the rent based on the gross combined income of all adults in the household. However, the landlord cannot distinguish between the sources of income, for example disability benefits versus wages, as long as the income is sufficient. One thing to note is that landlords are not required to accept a Section 8 voucher. Vouchers and other assistance payments are not considered tenant income. For more information about income requirements, call The Fair Housing Center at 650-321-6291.

WHERE TO CALL FOR INFORMATION AND HELP

Tenant-Landlord Questions

Project Sentinel 650-856-4062
www.housing.org

Dispute Resolution/Mediation

Palo Alto Mediation Program 650-856-4062
www.housing.org

Discrimination Counseling and Investigation

Cal State Dept. of Fair Employment & Housing 1-800-884-1684
www.dfeh.ca.gov

Project Sentinel Fair Housing 650-321-6291
www.housing.org/fair-housing

City of Palo Alto

City Attorney 650-329-2171
www.cityofpaloalto.org/gov/depts/aty/default.asp

Code Enforcement 650-329-2358
www.cityofpaloalto.org/gov/depts/pln/code.asp

Planning Department 650-329-2496
www.cityofpaloalto.org/gov/depts/pln/default.asp

Police Department 650-329-2413
www.papd.org

Office of Human Services 650-463-4906
www.cityofpaloalto.org/gov/depts/csd/hs/default.asp

Animal Services 650-496-5971
www.papd.org/animal/index.html

Emergency Rental Assistance

InnVision Shelter Network
http://www.ivsn.org/services/family-services/opportunity-services-center/

Neighbors Helping Neighbors 650-283-0270
NHN.FamilyAmbassador@gmail.com

Landlord Assistance

Tri-County Apartment Association 408-342-3500
www.tcaa.org

Legal Assistance

Bay Area Legal Aid (Low Income) 408-850-7066
www.baylegal.org

Palo Alto Area Lawyer Referral Service 650-326-8322
www.paaba.org

Santa Clara County Lawyer Referral Service 408-971-6822
www.sccba.com

Santa Clara Superior Court "Self-Service" Center 408-882-2900
www.scscourt.org/self_help.shtml/ ext. 2926

California State Courts' self-help website:
www.courts.ca.gov/selfhelp

Small Claims Court- Santa Clara County 408-882-2100
www.scscourt.org/self_help/small_claims/small_claims_advisor.shtml

Special Needs

Asian Law Alliance 408-287-9710
wwwasianlawalliance.org/

Mental Health Advocacy Project 408-294-9730
http://www.lawfoundation.org/mhap.asp

Senior Adult Legal Association 408-295-5991
www.sala.org/index.html

Avenidas - Senior Needs and Programs 650-289-5400
www.avenidas.org

Mortgage Default and Delinquency Counseling

Project Sentinel 888-331-3332
www.housing.org/mortgage-counseling/

Subsidized and Affordable Housing Information

City of Palo Alto Office of Human Services 650-463-4906

Below Market Rate Rental Housing- Santa Clara County
www.housingSCC.org

Other Services Available in Santa Clara County

City of Palo Alto Information & Referral - Family Resources
www.city.palo-alto.ca.us/familyresources 650-463-4906

Information and Referral for Santa Clara County
www.211scc.org/about/

NHN Housing Network 650-283-0270
NHN.FamilyAmbassador@gmail.com
For information please look at
https://facebook.com/NeighborsHelpingNeighborsPaloAlto

Useful Rental Housing Publications

CA Department of Consumer Affairs 800-952-5210
www.dca.ca.gov/publications/landlordbook/catenant.pdf

Renter's Rights and Every Tenant's Legal Guide, published by Nolo Press
http://www.nolo.com/legal-encyclopedia/renters-rights

The California Landlords' Law Book: Rights & Responsibilities, published by Nolo Press
http://www.nolo.com/legal-encyclopedia/landlords

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Stephanie Rabiner of Project Sentinel Fair Housing

Human Relations Commission

City Attorney's Office