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# FAIR HOUSING & HIV/AIDS

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## I. Introduction<sup>1</sup>

Stable housing is absolutely essential for people living with HIV/AIDS. Increasingly, the connection between housing and health has become clearer; without stable housing, it is impossible for a person living with HIV/AIDS to maintain the complex treatment regimen required to manage this illness. Housing issues have come to represent close to one third of ALRP cases. In response to this growing need, ALRP initiated the AIDS Housing Advocacy Project (AHAP) in 1998. ALRP undertook a dramatic shift in how it serves clients by moving away from its traditional referral model of service and hiring two staff attorneys to represent clients with housing issues.

While everyone in the Bay Area is acutely aware of the skyrocketing costs of housing, for people with disabilities, including people with HIV/AIDS, the crisis is particularly acute. San Francisco is one of nine counties in the United States where the rent for a one-bedroom apartment is 50% greater than an entire Supplemental Security Income (SSI) payment.<sup>2</sup> If someone with HIV/AIDS loses his/her housing, s/he will likely not be able to afford other housing and is at risk of losing the very services that have enabled him/her to live with this disease. The AIDS Housing Advocacy Project assists clients with a range of housing issues, including those not directly related to their disability status. For example, a client who has HIV/AIDS may call for assistance with getting repairs made to a unit, or about a wrongful eviction that is not related to discrimination. Like most tenancies in San Francisco, many of our clients may be protected under the San Francisco Rent Stabilization and Arbitration Ordinance.<sup>3</sup> If so, the tenant has rent control and eviction protections. Practitioners are encouraged to determine if there are comparable laws in their locality that protect tenants. There are many other resources available to assist practitioners in the large and complex area of housing law and it would be impossible for us to address all of those issues in this Manual. For purposes of this Manual, we will focus on the fair housing rights of our clients.

People with disabilities, including people with HIV/AIDS, are protected by federal and state laws that prohibit discrimination based on their disability status. Housing providers are not only barred from discriminating against people with disabilities, but they also have an affirmative duty to provide what is called a “reasonable accommodation,” which is essentially a change in a housing provider’s policies and

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<sup>1</sup> The 2004 version of the Fair Housing and HIV/AIDS chapter was adapted from a chapter written by John Doherty, Esq. This chapter was updated by Ann Levine, Esq. and Jennifer Wagner, Esq. of the Mental Health Advocacy Project and Molly Stafford of the AIDS Legal Referral Panel. The final chapter was edited by Bill Hirsh, ALRP Executive Director.

<sup>2</sup> “Housing Impediments / Disability: A Report To The Mayor’s Office Of Housing,” January 2003. *Excerpt from* “2003 Impediments to Fair Housing – Draft,” accessible at <http://www.sfgov.org/site/uploadedfiles/moh/2003AnalysisofImpediments-DRAFT.doc>

<sup>3</sup> San Francisco Admin. Code Ordin. (Cal.) § 37 (June 13, 1979).

procedures so that people with disabilities, including people with HIV/AIDS, have equal access to housing.

A familiarity with fair housing laws is critical for anyone representing a client with HIV/AIDS because our clients are entitled to reasonable accommodations in housing which will allow them to successfully remain in their housing situation. Often issues may arise that do not on their face appear to involve fair housing laws but do upon closer examination. Discrimination against people with disabilities can be subtle or it can be direct. For instance, it might be obvious that it is unlawful to ask the prospective tenant if s/he has a disability, but it might be less clear that inquiring if a prospective tenant is able to live independently is also illegal.

One of the most common instances of the application of fair housing laws is when a client needs a companion animal and the housing provider has a “no-pets” policy. Under a simple landlord/tenant analysis, if a client has an animal in violation of a term of the lease, s/he would be forced to give up the animal or risk eviction. Under a fair housing analysis, however, the result could be different. If the client with a disability can demonstrate that s/he needs a reasonable accommodation and can supply documentation from a care provider that s/he needs a companion animal, the housing provider would be forced to consider a change in his/her no pets policy in order to accommodate this need. A tenant with HIV/AIDS is also entitled to a physical modification of the premises. For instance, a tenant with HIV/AIDS may not need physically accessible housing when initially renting a unit, but may then develop a symptom that requires a wheelchair or installation of support bars in the unit. Many landlords and tenants are not aware that a landlord is required by law to allow physical modifications to a unit to accommodate a disability.

The following section includes an overview of state and federal fair housing law,<sup>4</sup> and provides sample letters and legal documents that can assist a tenant in asserting his or her housing rights.

## **II. California Anti-Discrimination Laws**

In addition to federal law, tenants are protected by various state laws that prohibit housing discrimination against persons with disabilities. On January 1, 1994, the strongest fair housing legislation in the United States went into effect in California. The following is a brief description of these anti-discrimination laws which may protect a tenant with disabilities: The Fair Employment and Housing Act (FEHA)<sup>5</sup> (which mirrors the federal Fair Housing Amendments Act of 1988 with some important differences); the Unruh Civil Rights Act<sup>6</sup> (which prohibits arbitrary discrimination); California’s “Ralph Act”<sup>7</sup> (which provides protection against intimidation, violence and other hate crimes);

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<sup>4</sup> Portions of this section have been taken with permission from “Mass Housing and Law Foundation of Silicon Valley” originally produced under the Department of Housing & Urban Development’s Fair Housing Initiatives Program (FHIP). Federal law sections written and revised by Debbie Piltch, J.D., Piltch Associates, in consultation with Ann Anderson, M.M.H.S., Anderson Consulting. Revised April 2003 California law sections originally written by John Doherty, J.D, Law Foundation of Silicon Valley. Revised by Jennafer Wagner, J.D., and Ann Levine, J.D., Law Foundation of Silicon Valley. Revised June 2003.

<sup>5</sup> Cal. Gov. Code §§12900 *et. seq.*

<sup>6</sup> Cal. Gov. Code §51 *et seq.*

<sup>7</sup> Cal. Civ. Code §51.7.

and California's "Bane Act"<sup>8</sup> (which includes criminal provisions under which perpetrators of hate crimes may be charged). California fair housing laws cover people with disabilities, including people with HIV/AIDS.

A table summarizing the main laws in California that prohibit discrimination in housing against persons with disabilities appears as Appendix 1.

**A. FAIR EMPLOYMENT & HOUSING ACT (FEHA)**  
**California Government Code §§ 12900, *et seq.***

In most aspects, California's primary fair housing law (Fair Employment and Housing Act (FEHA)) is similar to the federal Fair Housing Act. FEHA prohibits the owner of any housing accommodation from discriminating against any person because of his/her disability. It also prohibits a housing manager from asking an applicant about a disability. Finally, it ensures that local governments do not use their powers to make it more difficult for people with disabilities to find housing.

**1. HOUSING COVERED**

This law covers all housing except for rental of an owner-occupied single-family house to one boarder. Even rentals of owner-occupied houses are covered by the law if the owner makes a discriminatory statement or advertisement. This coverage offers significantly greater protection than federal law.

**2. INDIVIDUALS PROTECTED BY THE LAWS**

An important difference between FEHA and the federal Fair Housing Act is that FEHA defines disability more broadly. FEHA defines a disability as currently having, having a history of, or being regarded as having any physical, mental or psychological disorder or condition that limits a major life activity. The federal Fair Housing Act is narrower, requiring that the physical, mental or psychological disorder substantially limits one or more major life activities. Also, unlike under federal law, the term "limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.<sup>9</sup>

A disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.<sup>10</sup> "Major life activities" shall be broadly construed, and shall include physical, mental, and social activities and working.<sup>11</sup>

FEHA's protections against discrimination also extend to any other mental or psychological disorder or condition that requires special education or related services. Under FEHA, neither mental nor physical disability includes sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

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<sup>8</sup> Cal. Penal Code §§422 *et seq.*

<sup>9</sup> Cal. Gov. Code §12900 (i)(1)(A).

<sup>10</sup> Cal. Gov. Code §12900 (i)(1)(B).

<sup>11</sup> Cal. Gov. Code §12900 (i)(1)(C).

### **3. DIFFERENCES IN STATE LAW**

California's FEHA specifically provides that a victim of housing discrimination may sue a landlord solely on the basis of evidence of discriminatory effect. This means that a tenant can prove discrimination by showing that a landlord's otherwise neutral policy has a greater impact on persons with disabilities than persons without disabilities. Once this case is made, business establishments must show that the neutral policy with discriminatory effect "is necessary to the operation of the business and effectively carries out the significant business need."<sup>12</sup> Governmental organizations would need to show that the practice "is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve."<sup>13</sup>

Under both standards, the policy will be illegal if any realistic alternatives exist that would accomplish the purpose of the policy without discriminating against people with disabilities.<sup>14</sup> In addition, any discriminatory motive is enough to establish the landlord's liability, even if the landlord has some non-discriminatory reasons for the policy (so-called "mixed-motive" cases). Although federal case law supports both of these rules of law, FEHA explicitly states these rules.

The federal Fair Housing Act expressly states that it does not limit the applicability of any reasonable local, state, or federal occupancy restriction. The U.S. Supreme Court sharply limited this exemption to total occupancy limits (i.e., numerical ceilings that serve to prevent overcrowding in living quarters). FEHA does not have an exemption for occupancy standards, so even rules on how many people are allowed to live in an apartment can violate California's fair housing laws.

### **4. REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS**

Similar to the Fair Housing Act, FEHA requires owners to provide reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to allow a person with a disability equal opportunity to use and enjoy a dwelling.<sup>15</sup> As under federal law, FEHA does not require a housing provider to provide an accommodation if it would impose an undue financial or administrative burden or would fundamentally alter the nature of the program.<sup>16</sup> See Appendix 2 for an easy mnemonic, "DANCE," that can help you remember questions to ask when doing a reasonable accommodation analysis.

An example of a reasonable accommodation is the allowance of a companion animal where the lease or apartment rules would otherwise prohibit animals in the unit. Appendix 3 is a sample letter that a tenant can write to his/her landlord to request permission to have a companion animal. Another example is a request that a landlord make an accommodation before evicting a client based on nonpayment of rent or nuisance, when the behavior is directly related to the client's disability. See Appendix 4 for a sample letter requesting such an accommodation. If a landlord denies a written request, a tenant may contact the U.S. Department of Housing and Urban Development

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<sup>12</sup> Cal. Gov. Code §12955.8 (b).

<sup>13</sup> *Id.*

<sup>14</sup> Cal. Gov. Code §12955.8(b)(1).

<sup>15</sup> Cal. Gov. Code §§ 12927(c), 12955.

<sup>16</sup> Cal. Gov. Code §§ 12927(c), 12955.

(HUD) at (415) 436-6550, the San Francisco Human Rights Commission at (415) 252-2505, or the AIDS Legal Referral Panel (ALRP) at (415) 701-1200 ext. 314.

FEHA also requires owners to permit reasonable modifications of the physical premises to accommodate a person with a disability if such a modification is necessary for that person to fully use and enjoy the premises.<sup>17</sup> FEHA does not require a private housing provider to pay for a physical modification of the premises, and where it is reasonable to do so, the state law allows the owner to condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear).

## **5. ACCESSIBILITY**

FEHA also addresses the accessibility standards a housing provider needs to meet for covered multi-family dwellings constructed after March 1991. The law applies to the ground floor dwelling units in buildings consisting of four or more dwelling units and to all apartments in a building with one or more elevators and four or more units.

The Act requires that all multi-family dwellings described above have the following characteristics:<sup>18</sup>

- a. at least one building entrance on an accessible route, unless impracticable because of terrain or unusual nature of the site;
- b. public and common areas readily accessible to and useable by persons with handicaps;
- c. all doors designed into and within premises sufficiently wide to allow passage in a wheelchair;
- d. reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat; and
- e. useable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

## **B. UNRUH CIVIL RIGHTS ACT** **California Civil Code §§ 51, *et seq.***

The Unruh Act is California's oldest housing discrimination law. It prohibits discrimination by business establishments, including those engaged in the sale or rental of real property.<sup>19</sup> The protections included in the Unruh Act cover a broader base of people than the FEHA. Unruh protects against discrimination on the basis of one's sexual orientation, age, arbitrary characteristics and membership in a protected class.<sup>20</sup> Unruh is still a valuable anti-discrimination tool because of its broad coverage.

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<sup>17</sup> *Id.*

<sup>18</sup> Cal. Gov. Code §12955.1 (a).

<sup>19</sup> Cal. Civ. Code §51 (a).

<sup>20</sup> *Id.*

**C. CALIFORNIA’S “RALPH ACT” AND “BANE ACT”**  
**California Civil Code §51.7 and California Penal Code § 422.7**

California’s “Ralph Act” provides protection from any violence, or intimidation by threat of violence, committed against someone’s person or property because of that person’s race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, position in a labor dispute, or because another person perceives them to have one or more of those characteristics.<sup>21</sup>

The Bane Act includes criminal penalties for the commission of hate crimes, which are defined as crimes against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him/her under the law because of that person’s disability or perceived disability.<sup>22</sup> Convictions under this act are not allowed for speech alone unless the speech itself was threatened violence against a specific person or group of persons and that the accused person had the apparent ability to carry out the threat.

**D. ENFORCEMENT MECHANISMS AND REMEDIES AVAILABLE UNDER CALIFORNIA FAIR HOUSING LAWS**

Appendix 5 summarizes the enforcement mechanisms and remedies available under California disability-discrimination laws. A discussion of each of California’s enforcement mechanisms and remedies follows.

**1. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

HUD is required to refer complaints to the enforcement agency of the state where the discriminatory housing practice occurred if that agency has been certified by HUD as having substantially equivalent laws, procedures, remedies and judicial review. California’s agency, the Department of Fair Employment and Housing, is certified to hear HUD complaints. DFEH’s process is described below.

**2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH)**

The Department of Fair Employment and Housing investigates discrimination complaints, including accessibility issues. It also assists parties in voluntary resolution procedures and pursues violations of the law in a public hearing or in court. Please see Appendix 6, a flowchart supplied by DFEH, which reviews the administrative process.

**3. CIVIL LAWSUITS**

Any person who was discriminated against may file a civil state or federal court suit based on FEHA within two years of the discriminatory act or the breach of a conciliation agreement facilitated by HUD or DFEH.<sup>23</sup> This two-year period does not include any time that a HUD or DFEH complaint was open.

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<sup>21</sup> Cal. Civ. Code §51.7.

<sup>22</sup> Cal. Pen. Code §422.7.

<sup>23</sup> Cal. Civ. Code §52.

A person who was discriminated against also has the option of filing an administrative complaint with HUD or DFEH within one year of the discriminatory act.<sup>24</sup> The plaintiff in a civil suit is not required to file an administrative complaint with HUD or DFEH. It should be noted, however, that attorneys and complainants may make use of the investigatory powers of the DFEH by filing an administrative complaint and monitoring the process. All information discovered by DFEH in the process of its investigations is public record and can be used in a civil action.

#### **4. CALIFORNIA DEPARTMENT OF JUSTICE**

The California Department of Justice can commence an action in state court if there is reasonable cause to believe that: (1) any person or group of persons is engaged in a pattern or practice of unlawful acts, or (2) the denial of rights under federal or state law raises an issue of “general public importance.” Such an action must be brought within eighteen months of the discriminatory practice. In such an action, the aggrieved party is the client and the attorney-client relationship exists.

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<sup>24</sup> Cal. Gov. Code §12980 (a).

**APPENDIX 1**

| <b>Law</b>   | <b>Prohibited Practices</b>   | <b>Housing Covered</b>   | <b>Definition of Person with a Disability</b>   |
|--|---|--|---|
| <p><b>Fair Employment &amp; Housing Act (FEHA) California Gov. Code §§12900, et seq.</b></p> | <p>Intentional Discrimination Cal. Gov. Code §12955.8(a).</p> <p>Source of income discrimination Cal. Gov. Code §12955(p)(1).</p> <p>Discriminatory Statements.</p> <p>Failure to Reasonably Accommodate.</p> <p>Adverse Impact Cal. Gov. Code §12955.8(b).</p> | <p>All housing except single boarders, if no discriminatory statements or advertisements (Cal. Gov. Code §12927(c)(2).</p> <p>Senior Housing has exemption for age discrimination Cal. Gov. Code §12955.9.</p> | <p>Disability includes but is not limited to the following:</p> <p>(1) Having any mental or psychological disorder that limits a major life activity without regard to mitigating measures, unless the mitigating measure itself limits a major life activity.</p> <p>(2) Any other mental or psychological disorder or condition that requires special education or related services.</p> <p>(3) Having a record or history of, or being perceived as having, a mental or psychological disorder or condition that makes achievement of a major life activity difficult.</p> |
| <p><b>Unruh Civil Rights Act California Civil Code §§51, et seq.</b></p>                     | <p>Intentional Discrimination or differential treatment based on disabilities (Cal. Gov. Code §51). Includes service animal refusal.</p> <p>Discrimination based on arbitrary characteristics</p>   | <p>All housing except Senior Housing has exemption Cal. Civ. Code §51.4(a).</p>  | <p>Same as FEHA.</p>  |



| Are People With Psychiatric Disabilities Covered?   | Is Drug Use Covered? |                | Are People Who Have Alcoholism Covered? | Are People With AIDS or HIV+ Covered? |
|---|----------------------|----------------|---|---------------------------------------|
|   | Current Use          | History of Use |   |                                       |
| Yes,<br>1. if the psychiatric disability substantially limits a major life activity without regard to mitigating measures, unless the mitigating measure itself limits a major life activity, or;<br>2. if a housing provider thinks the person's psychiatric disability or perceived disability limits a major life activity, or<br>3. if the person has a history of a psychiatric disability which limits a major life activity and the housing provider discriminates against the person because of that history. | No                   | Probably       | Yes                                     | Yes                                   |
| Same  | Same                 | Same           | Same                                    | Same                                  |

## APPENDIX 2

### **REASONABLE ACCOMMODATION “DANCE”**



#### **DISABILITY**

- Does the tenant have a disability as defined by fair housing laws?

#### **ACCOMMODATION**

- Is the tenant requesting a change in the landlord’s rules or practices?

#### **NECESSARY**

- Is the accommodation necessary for full use and enjoyment?

#### **COST**

- Does the accommodation impose an undue financial or administrative cost on the landlord?

#### **EFFECT**

- Would the accommodation effect a fundamental change in the landlord’s business?

### APPENDIX 3

Dear Landlord/Property Manager:

I am writing to request that you reasonably accommodate my disability by allowing me to live with a \_\_\_\_\_ (service animal) at \_\_\_\_\_ (address). I have been diagnosed with a disability and this condition makes me \_\_\_\_\_ (emotionally or physically) dependent on a support animal for my wellbeing. I need to live with a support animal in order to fully use and enjoy my residence.

Under both federal and state fair housing law, landlords must make reasonable accommodations for tenants with disabilities. See Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3604(f)(3)(b); California Fair Employment and Housing Act, Cal. Govt. Code Sections 12927(c), 12955. Discrimination under the FHA includes “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a person with a disability] an equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B).

I understand that you have a general rule prohibiting pet ownership. However, landlords must make reasonable changes to their general policies so as to accommodate tenants’ disabilities. A \_\_\_\_\_ (dog/cat, etc.) alleviates symptoms of my disability and I depend on a \_\_\_\_\_ (dog/cat, etc.) as a support animal for this purpose. Courts have found that landlords must make exceptions to their “no pet” policies where an animal would alleviate symptoms of the tenant’s disability. See *Majors v. Housing Authority of the County of DeKalb*, 652 F.2d 454 (5th Cir. 1981) (tenant with disability allowed to keep her dog); *Whittier Terrace Ass’n v. Hampshire*, 532 N.E. 2d 712 (Mass. App. Ct. 1989) (tenant with mental disability allowed to keep his cat).

A letter from my health care provider is attached. Please call me if you would like to discuss this request further. I appreciate your willingness to resolve this matter and thank you in advance for your anticipated cooperation.

Sincerely,

\_\_\_\_\_  
(Your signature and the date)  
1663 Mission Street, Suite 500  
San Francisco, CA 94103  
(415) 701-1100

## APPENDIX 4

Landlord/Property Manager

Address

RE: Tenancy of [client's name]  
[Address]

Dear Landlord/Property Manager:

The purpose of this letter is to request a reasonable accommodation in housing on behalf of my client so that he may make full use and enjoyment of his rental unit.

Under federal and state fair housing law, landlords must make reasonable accommodations for tenants with disabilities. [See Fair Housing Amendments Act of 1988, 42 U.S.C. § 3604(f)(3)(b); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; California Fair Employment and Housing Act, Cal. Govt. Code §§ 12927(c), 12955.]

Under fair housing law, discrimination occurs when a landlord fails to make reasonable accommodations in rules, policies, practices and services when such accommodations may be necessary to afford a disabled tenant equal opportunity to use and enjoy a dwelling. Thus, landlords must change traditional rules or practices if they have the effect of limiting the equal opportunity of a person with a disability to use and enjoy the dwelling. Attached please find a letter from one of [client's] treating physician regarding his disabilities. [Client's] conduct regarding the notice he received for non-payment of rent is directly related to his disability.

As a reasonable accommodation, [client] requests that you refrain from eviction proceedings and allow him time to seek the mental health treatments and supportive services necessary to stabilize his disabilities and control his behavior.

A landlord may not evict a tenant with a disability before first attempting to accommodate the tenant's disability, particularly in subsidized housing projects. [See Radeki v. Joura, 114 F.3d 115 (8<sup>th</sup> Cir. 1997), Roe v. Housing Authority, 909 F.Supp. 814 (D.Colo. 1995), Roe v. Sugar River Mills Assoc., 820 F. Supp 636 (D.N.H. 1993).]

- In Radeki v. Joura, a tenant with depression had not cooperated in working with his landlord to make apartment repairs and have the apartment exterminated. After the tenant requested more time, the landlord proceeded to file an eviction. While the landlord knew that the tenant was ill, he did not know about the disability until after the eviction notice was served. The court held that whether the landlord knew of the tenant's disability before evicting him had to be determined as of the date the tenant *was actually evicted or dispossessed of the dwelling unit*, not the date the notice of eviction was given to the tenant.

- In Roe v. Sugar River Mills Assoc., an apartment complex was required to attempt to accommodate plaintiff's mental disability before it could evict him on the grounds that he constituted a threat to the safety of others.
- In Roe v. Housing Authority, a landlord was required to demonstrate that no reasonable accommodation would eliminate or acceptably minimize any risk posed by tenant with mental illness who exhibited abusive behavior before it could evict him on the grounds that he constituted a threat to the safety of others.
- In City Wide Assocs. v. Penfield, No. 89-SP-9147-S (Mass. Trail Ct., Housing Ct., Hampton Div., April 21, 1989), the landlord of a federally subsidized apartment attempted to evict a woman whose mental disability caused her to hear voices in the walls. To silence the voices, the tenant banged on the walls with a broomstick and threw water on them. The landlord initiated an eviction and refused to accept, as a reasonable accommodation, his forbearance from further eviction steps while the tenant participated in a program of counseling and complied with the lease requirements. The court held that the tenant was disabled and that to determine whether the accommodation was reasonable required balancing the harm to the landlord against the potential harm to the tenant of losing her housing and possibly becoming homeless. Finding that the accommodation did not cause the landlord to suffer "undue financial hardship," the court ruled in favor of the tenant. [See City Wide Assocs. v. Penfield, 564 N.E.2d 1003 (Mass. 1991)(Housing Court's decision upheld).]

As suggested by these cases, [landlord/property manager] is required to accommodate [client's] disability to insure his ability to make full use and enjoyment of his apartment. Under federal and state fair housing law, [landlord/property manager] may not prevail in an action for unlawful detainer without first making such an accommodation because such an accommodation will present no financial burden to [landlord/property manager]. On the other hand, denial of [client's] request for a reasonable accommodation may cause him to become homeless should the eviction succeed.

[Client's] request for reasonable accommodation is appropriate under the circumstances and both [client's] and landlord's/property manager's] interests will be protected if management provides a reasonable accommodation.

Please contact me at your earliest opportunity so that we may begin to discuss a fair and reasonable resolution of this matter.

Sincerely,

x \_\_\_\_\_  
Housing Attorney

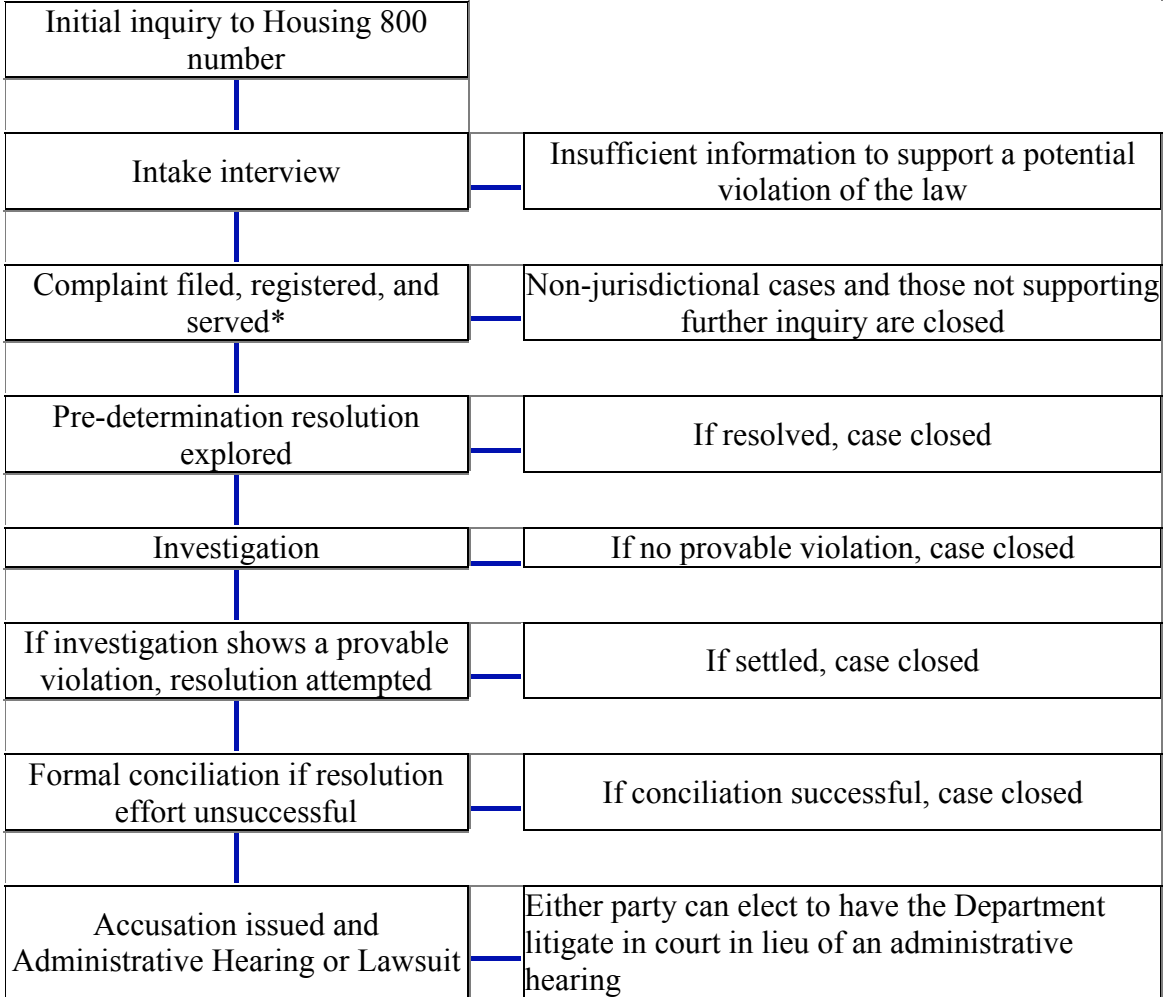
APPENDIX 5

CALIFORNIA ENFORCEMENT MECHANISMS & POSSIBLE REMEDIES

| Law   | Enforcement   | Possible Remedies   |
|---|---|---|
| <p><b>Fair Employment &amp; Housing Act (FEHA)</b></p> <p>Cal. Gov't Code §12900 <u>et seq.</u></p> | <p>Complainant elects:</p> <p>DFEH administrative hearing before hearing officer of the Fair Employment and Housing Commission</p> <p style="text-align: center;"><b>OR</b></p> <p>Suit in Superior Court with private counsel or with possible representation by DFEH.</p> | <p><i><b>Administrative Remedies:</b></i></p> <p>Actual Damages</p> <p>Injunctive &amp; Equitable Relief</p> <p>Penalties \$10,000 - \$50,000</p> <p>No Emotional Distress Damages Available</p> <p><i><b>Judicial Remedies:</b></i></p> <p>Unlimited Actual &amp; Punitive Damages</p> <p>Injunctive &amp; Equitable Relief</p> <p>Attorney's Fees</p>                     |
| <p><b>Unruh Civil Rights Act</b></p> <p>Cal. Civ. Code § 51 <u>et seq.</u></p>                      | <p>Complainant elects:</p> <p>DFEH administrative hearing before hearing officer of the Fair Employment and Housing Commission</p> <p style="text-align: center;"><b>OR</b></p> <p>Suit in Superior Court with private counsel or with possible representation by DFEH.</p> | <p><i><b>Administrative Remedies:</b></i></p> <p>Actual Damages</p> <p>Injunctive &amp; Equitable Relief</p> <p>Penalties \$10,000 - \$50,000</p> <p>No Emotional Distress Damages Available</p> <p><i><b>Judicial Remedies:</b></i></p> <p>Actual Damages &amp; Statutory Damages (\$4,000 – 3x Actual) &amp; Attorney's Fees</p> <p>Injunctive &amp; Equitable Relief</p> |

**APPENDIX 6**

**CASE PROCESSING FLOWCHART**



\* If there is concurrent jurisdiction, the complaint is also filed with the federal Department of Housing and Urban Development (HUD)