



panel notes

ALRP Newsletter | Spring 2013

upcoming events

Major Donor Party

On May 9, celebrate ALRP's 30th anniversary with food, drink, and a view of the bay. [Learn more...](#)



AIDS Walk 2013

On July 21, walk with the ALRP "Legal Eagles" Team! [Learn more...](#)



Free MCLE Trainings

Attorneys: RSVP for our free MCLE trainings throughout this spring. [See schedule...](#)

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from the director



Reflecting on 30 Years of Service

As ALRP celebrates its 30th anniversary, there is much to be proud of. ALRP services continue to play a critical role in supporting people living with HIV through some of their greatest challenges. When we save someone's housing, secure political asylum for someone facing persecution in their country of origin, or protect someone's disability insurance, we know that our clients' health is measurably improved. Our

clients are at the heart of what we do. [Read more...](#)

ALRP|30 years of justice from the heart

Campaign in Full Swing

To commemorate ALRP's 30th anniversary, we launched the [ALRP|30 Years of Justice From The Heart Campaign](#) to raise \$300,000 for free legal services for people with HIV. Nearly 20 [Campaign Leadership Partners](#) have already joined, including Campaign co-chairs Laura Maechtlen and Carl Wolf, and partners Gilead Sciences, Inc. and van Loben Sels/RembeRock Foundation. Find out how you can support the Campaign, such as purchasing [ALRP Private Reserve Wines](#). [Read more.](#)



recent events

Volunteer Appreciation Party

ALRP celebrated our dedicated volunteers at Pillsbury Winthrop Shaw Pittman LLP's beautiful new offices on April 11. Danielle Barnes was named *2013 Volunteer of the Year*. Over 100 guests attended, including Daniel Chesir, Mark Senick, and Carl Wolf, who have volunteered with ALRP for 30 years. [See photos.](#)



BALIF Annual Gala

ALRP was honored to receive BALIF's *Legal Service Award*. BALIF, the Bay Area's LGBT bar

generously
supports ALRP's
Law Clerk
Program.



association, held their annual gala on March 15. ALRP's longtime relationship with BALIF goes back to our founding in 1983 by a handful of BALIF members, including Carl Wolf and Fred Hertz. [See photos.](#)



ALRP | 30 Campaign Kickoff Party

ALRP's 30th year of service kicked off in style on January 29 at the LGBT Center. Guests enjoyed delicious hors d'oeuvres and sampled *ALRP Private Reserve Wines*. [See photos.](#)



attorney spotlight



Ora Prochovnick, Esq. *Privileged to Lead a Life of Service*

Ora Prochovnick moved to San Francisco for law school with the intention of becoming a public interest lawyer. Upon graduation in 1984, she was plunged straight into the AIDS crisis. "It wasn't my plan to move to San Francisco to deal with a plague in my community," she said, "but it was there and it was just so present in my life. There were so many young men dying around me. It wasn't an option to do nothing." [Read more...](#)

legal Q&A for clients

Is Your Landlord Selling Your Building?

In San Francisco, just because your landlord is selling your building does not mean that you will have to move if you don't want to -- or even that your tenancy has to change in any substantial form.

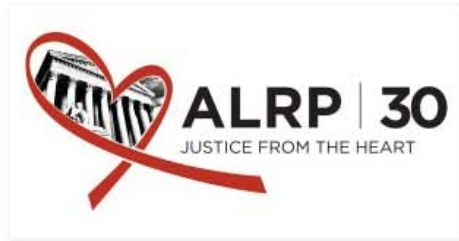
You cannot be evicted unless the new owner has a specified legal reason to evict you. But there are two common ways that a new owner could try to evict you legally - an owner move-in eviction (OMI) or the Ellis Act. [Read more...](#)



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Reflecting on 30 Years of Service (Spring 2013)

As ALRP celebrates its 30th anniversary, there is much to be proud of. ALRP services continue to play a critical role in supporting people living with HIV in the Bay Area through some of their greatest challenges. When we save someone's housing, when we secure political asylum for someone facing persecution in their country of origin, and when we protect someone's disability insurance, we know that our clients' health is measurably improved. Our clients are at the heart of what we do. It is not just the baked goods that they bring to our office (though that is much appreciated and encouraged), or the notes that they send expressing their thanks, or the countless hours that they volunteer with us. It is the daily experience of knowing that we have done our best to help someone, that we have secured qualified legal help for a client with a complicated legal matter, and that we have listened to someone who had nowhere else to turn.



I attended an ACT UP meeting in San Francisco the other night. A group of young (and some not so young) activists were voicing their dissatisfaction with what they see as the status quo. Hearing this perspective made me feel a bit old and conservative but it also inspired some thoughtful reflection on my part. I recall the early days of ACT UP and the early years of the epidemic not with nostalgia, but with a sense of history. I know that the story of AIDS is still being written. Despite our years of improved health outcomes, we do not yet have a system that ensures that everyone with HIV has access to affordable health care, housing, and supportive services. As we acknowledge our rich history of service, we need to reflect and rededicate ourselves to the ongoing struggle that AIDS has thrust into our lives and the lives of our clients.

This is the first director's message to appear in our new e-newsletter. Our hope is to improve our communication with our constituents and to save some money and trees in the process. We hope to share more features, photos, and legal resources. Please let us know what you think.

Bill Hirsh, Esq.
ALRP Executive Director

[« HIV Treatment Cascade \(Fall 2012\)](#)

events

Major Donor Party
5/09/2013, 5:30pm

MCLE Training: Intro to Simple Wills
5/16/2013, 5:30pm

MCLE Training: Substance Abuse
5/29/2013, 5:30pm

MCLE Training: Public Benefits for Immigrants
6/04/2013, 5:30pm

MCLE Training: Restraining Orders
6/18/2013, 5:30pm

[More Events »](#)

ALRP voices

"When legal problems arise, I always feel I have a friend with ALRP. Having AIDS is stressful enough. One call to ALRP and I can relax again."

— Chuck



upcoming events

[See Events Calendar »](#)

Major Donor Party

5/9/2013
5:30pm - 7:30pm

Come celebrate the ALRP|30 Years of Justice From The Heart Campaign at ALRP's 2013 Major Donor Party.

MCLE Training: Intro to Simple Wills

5/16/2013
5:30pm - 7:00pm

Presented by Mark Senick, Esq., Thursday, May 16

MCLE Training: Substance Abuse

5/29/2013
5:30pm - 7:00pm

Presented by David Mann, Esq. Wednesday, May 29

MCLE Training: Public Benefits for Immigrants

6/4/2013
5:30pm - 7:00pm

Presented by Tanya Broder, Esq. Tuesday, June 4

MCLE Training: Restraining Orders

6/18/2013
5:30pm - 7:00pm

Presented by Russell Goodrow, Esq. Tuesday, June 18

MCLE Training: Ellis Act Evictions

6/25/2013
5:30pm - 7:00pm

Presented by Raquel Fox, Esq., and Matt McFarland, Esq. Tuesday, June 25

AIDS Walk San Francisco

7/21/2013
9:00am - 2:30pm

Join the ALRP *Legal Eagles Team* this summer on a Golden Gate Park walk to raise funds for ALRP and other AIDS agencies.

Up Your Alley Street Fair

7/28/2013
11:00am - 6:00pm

Volunteers are needed at Up Your Alley, SF's exciting leather/fetish street fair!

Folsom Street Fair

9/29/2013
11:00am - 6:00pm

Volunteers are needed at the world's largest leather event the weekend of Sunday, September 29!

ALRP 30th Annual Reception & Auction

10/16/2013
6:00pm - 9:00pm

Help ALRP commemorate its 30th year of service to people with HIV/AIDS at our biggest event of the year -the ALRP *From The Heart* 30th Annual Reception & Auction.

events

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[More Events »](#)

ALRP voices

"ALRP has helped me move forward in my life. I could not have done it without you."

— *Cassandra S.*





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ALRP|30 campaign

To commemorate ALRP's 30th anniversary, we have launched the **ALRP|30 Years of Justice From The Heart Campaign** to raise \$300,000 for free legal services for people with HIV.



We have already been joined by nearly 20 **Campaign Leadership Partners**, including Campaign co-chairs *Laura Maechtlen* and *Carl Wolf*, and Leadership Managing Partners [Gilead Sciences, Inc.](#) and [van Loben Sels/RembeRock Foundation](#).

There are so many ways you can support the **ALRP|30 Years of Justice From The Heart Campaign**:

Make a donation or pledge to the Campaign—you can **donate online** or download our **ALRP30 Campaign PLEDGE FORM**.

Coordinate a House Party with your family, friends and colleagues to raise funds for ALRP—if requested, ALRP will provide wine, water and a food/cleaning stipend, and can attend the event

Join the ALRP Legal Eagles AIDS Walk team this summer and help us raise funds and recruit other team members

Ask your firm/company to sponsor our fall Annual Reception

Purchase ALRP Private Reserve Wines—we teamed up with JK Cellars/Sierra Foothill Wine Services to bring you these award-winning wines

Purchase a GOLD Bracelet from Until There's A Cure and ALRP will receive 30%

Book your travel plans through Yankee Clipper Travel/Kirk Dalrymple and ALRP receives 30% of the travel commission

Arrange your firm's depositions with U.S. Legal Support, Inc. and they will donate \$10 for each deposition to ALRP

There are so many accomplishments to celebrate this year! Learn more about ALRP's **milestones** and why our services are still so needed at **ALRP Turns 30**.

Want some inspiration? **Read what supporters like Bill Clinton have to say about ALRP's work.**

THANK YOU for supporting ALRP and the clients we serve!

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[More Events »](#)

ALRP voices

"I know that I am not alone in dealing with my legal issues."

— *David W.*



Privileged to Live a Life of Public Service

Ora Prochovnick, Esq.
Connected with ALRP since 1985
Director of Clinical and Public Interest Law Programs at John F. Kennedy University
College of Law
Panel Attorney, Former ALRP Board Member, Donor

Ora Prochovnick moved to San Francisco for law school at New College of California with the intention of becoming a public interest lawyer, and upon graduation in 1984 was plunged straight into the AIDS crisis. "It wasn't my plan to move to San Francisco to deal with a plague in my community," she said, "but it was there and it was just so present in my life—there were so many young men dying around me. It wasn't an option to do nothing."



At first Ora volunteered at Shanti and other AIDS organizations, but then she learned about ALRP. "In 1985, being an out lesbian lawyer was very different than it is now," she said, "so I joined BALIF to be part of a community, both to give back and to get the skills and social support I needed as a new attorney." Through BALIF she learned about ALRP, which was still just a BALIF subcommittee at the time. She decided she could provide the most help to people with AIDS by volunteering her legal skills.

"I had gone to law school to study public interest law," she said, "and I had never been interested in things like estate planning. But a lot of young people needed wills and powers of attorney, and I had to acquire that skill set quickly to meet that need. You'd meet with somebody and they would die within the month. I did hospital and home visits, and it was a happy thing if someone would live another couple of years."

As the crisis changed, Ora's volunteer work with the Panel shifted to housing law, her area of expertise. When ALRP became a freestanding organization, Ora joined the first Board of Directors, and she kept on volunteering through the Panel, as well as serving as a mentor and conducting trainings for other Panel attorneys.

Through the years, Ora became a professor at New College of California, and today she is the Director of Clinical and Public Interest Law Programs for John F. Kennedy University's College of Law, directs the university's Housing Advocacy Clinic, and is still teaching law as well. To round out her schedule, she also maintains a small private practice representing clients in LGBT family law matters and serves as Judge Pro Tem for the San Francisco Superior Court and as Advising Attorney for San Francisco State University's Legal Resource Center.

And Ora is still volunteering with the Panel, 26 years later. "I work on eviction cases, habitability problems and reasonable accommodations for ALRP clients," she said. "A lot of fair housing issues come up for people with HIV. There's an important intersection between struggling with HIV illness and poverty issues, and that intersection is what makes housing, a basic human need, a really important area to work in. And for low-income people with HIV, if they lose their housing they may have to move to the street, or at least out of the Bay Area, and they lose their medical and social support as well."

Over the years, Ora's commitment to social justice has earned her the State Bar Pro Bono Service Award, the Award of Merit from the Bar Association of San Francisco, and the Transgender Law Center Community Ally Award. She also was named a Northern California Super Lawyer by *San Francisco Magazine*.

If that sounds like a life of sacrifice to others, it doesn't seem that way to Ora. "I think there's a privilege in being able to have a job that supports my family and is meaningful to me and provides a needed service all at the same time," she explained. "Most people have to compartmentalize their work and their service, and to be able to do it all in one piece is quite an honor—and to have a skill that enables me to give back to my community is very special to me. It's part of my cultural and Jewish upbringing that my rent to be on this earth is to leave the earth better than I found it."

Through all of her years of practicing law, Ora's connection with ALRP has remained a constant. "People with a disabling disease like HIV/AIDS can't afford to ask where will I be housed, where will I eat, can I keep my benefits, or how will I pay my doctor," she said. "ALRP provides services to meet these increasingly essential day-to-day basic human needs so clients can focus on their health. And there's nobody else doing this."

Published January 2013

« [Champion for Clients' Privacy Rights](#) » [A Calling for a Legal Services Career](#) »

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[More Events »](#)

ALRP voices

"I feel much better.
Staff attorney Amy
Orgain was very
helpful and nice."

— Rick P.



My Landlord Is Selling My Building

Landlord/Tenant Law and Evictions



Dear ALRP:

I have been living in the same Victorian flat in San Francisco for over 20 years. My landlord is retiring to Palm Springs, and has decided to put the building up for sale. I've had a great relationship with my landlord, but I don't know what's going to happen with the new owner. Real estate brokers have started showing my home to potential buyers, and the whole experience is quite unsettling.

What happens when the building gets sold? Does it mean that I will have to leave? I've heard that many tenants get evicted because the landlord sells the property to a new buyer – something called the “Ellis Act.” As a person living with AIDS on a fixed income, I would have to leave the city if I had to move out. San Francisco is my home, and I don't want to leave if I don't have to.

- Concerned in the Castro

Dear Concerned:

Just because your landlord is selling the building does not mean that you will have to move if you don't want to – or even that your tenancy has to change in any substantial form. In San Francisco, when a building gets sold, the new owner “steps into the shoes” of the old owner. Any agreement (oral or written) that you had with your landlord will technically become binding on the new owner.

Generally speaking, you will not have to sign a new lease – even if the new landlord asks you to. He or she inherited you as a tenant, and cannot try to impose new rules in your lease without your consent. If a new lease is asked for, it must be substantially the same as the existing one. If you are covered by the Rent Ordinance,¹ the new landlord also cannot raise your rent beyond San Francisco's annual allowable increases. However, if your old landlord didn't raise the rent for a number of years, the new owner might give you a “banked” rent increase – which means that they could add up all the allowable rent increases that the old landlord never imposed. If you get such a rent increase notice, call the San Francisco Rent Board at 252-4600 to make sure that it's legal.

What is an “Estoppel Certificate”? They Want Me to Fill One Out

While the building is being sold, your landlord or the realtor may ask you to fill out what's called an “Estoppel Certificate” – a form that they will use to inform potential buyers about who lives

¹ For information on units covered, see San Francisco Rent Ordinance Chapter 37 § 1, available at <http://www.sfrb.org/index.aspx?page=1240>; See also http://www.hrcsf.org/rent_board.html.

there and what their rights are. *Unless your current lease requires you to do so, you are under no legal obligation to fill one out* – but, it may be a useful means of informing potential buyers about what your rights are under your current rental agreement. For example, if your lease said “no subletting” but your landlord always allowed you to sublet anyway, you should include that in the estoppel certificate to preserve that practice. Or if you had an oral agreement with your landlord to use the backyard or garage, you should note that as well. If the form asks if you are a “protected” tenant (i.e., elderly, disabled or catastrophically ill), you must answer this in order to preserve your rights later. As a tenant living with AIDS, you may qualify as a “disabled” or “catastrophically ill” tenant who has additional protections against certain types of evictions. It is in your best interest to let them know this at this early stage, or you may lose the right to claim it later.

Can the New Owner Evict Me?

Under San Francisco’s Rent Control and Just Cause for Eviction Ordinance, you cannot be evicted unless the new owner has a specified legal reason to evict you. Mere change of ownership is not one of them. But there are two common ways that a new owner who buys the building could try to evict you legally – an owner move-in eviction (OMI) or the Ellis Act. Each approach has various protections for tenants that might protect you – or at least make it more difficult for them to evict you.

Owner Move-in Evictions

The new owner may try to evict you because he or she says that they want to move into your apartment, or move one of his or her relatives. But the owner’s relative can only be moved into your unit if the owner already lives (or plans to move into) the building. This must be done in “good faith,” which means that the owner must have an honest intent to move into your apartment. This can be contested at trial, if you suspect that the owner is not being sincere about their motivation. To do an owner move-in eviction, the new owner must give you a formal 30-Day Notice. The owner or relative must then move into your apartment within 3 months after the eviction, and live there for at least 3 years. Otherwise, it will be presumed to have been done in “bad faith,” and you could sue for damages. The new owner can only evict you if they do not own any comparable vacant unit, and only one owner move-in eviction can be done per building.

Moreover, you may be a “protected” tenant who is exempt from owner move-in evictions and cannot be evicted for this purpose if: (1) you are over 60 years old and have lived in the apartment for over 10 years, (2) you are disabled and have lived in the apartment for over 10 years, or (3) you are catastrophically ill and have lived in the apartment for over 5 years – but you must have your doctor certify that you have a “life threatening illness,” such as AIDS. However, this exemption does not apply if the new owner or their relative is elderly, disabled or catastrophically ill.

What About the Ellis Act?

The new owner may try to evict you under the Ellis Act – which is a state law that allows landlords to evict an entire building of tenants so that the owner can “go out of the rental business.” Most Ellis Act evictions are done by real estate speculators who buy the building with

the intent to renovate and put it back up for sale. Having a building free of tenants can significantly increase its value. While you probably are not immune from the danger of an Ellis Act eviction, there are various protections in place that could discourage a buyer from trying to evict you in this way.

In an Ellis Act eviction, the owner must evict all the tenants from the building – not just you. The only exception to this is if the property owner has four or more units and two or more buildings. In that case, the landlord has the option to evict all the tenants in one building but not the other. The Ellis Act requires a longer notice period than most type of evictions, with the minimum set at 120 days (four months) from the date the notice was served on the tenant. Each tenant is also entitled to receive at least \$ 5,210.91 in relocation assistance – with a maximum of \$ 15,632.69 per household. There are additional protections if a tenant is over 62 years old or disabled (which can include AIDS). In that case, a tenant has at least a one year notice period and receives an additional \$3,473.93 in relocation assistance. The minimum amount required for relocation assistance is subject to inflation—contact the Rent Board for the amounts required for notices served after February of 2014.

If the owner manages to evict you under the Ellis Act, there are several things that they—as well as any future owners of that property—are restricted from doing with the property afterwards. While this may be small comfort for a tenant who has already lost their home and left town, informing your new landlord about these legal restrictions can make them think twice about trying to kick you out. They may decide not to go forward with the eviction, or they might negotiate a better settlement or move-out deal with you.

First, the landlord is restricted in renting out units that were subject to the Ellis Act. For two years after, the landlord is not allowed to place the unit on the rental market. For five years after, the landlord cannot legally collect more than the rent charged at your old rent-controlled unit—although this can also include rent increases that would have been otherwise allowed. Finally, for ten years after an Ellis Act eviction, if he or she wants to once again rent out the unit, the landlord must first offer you back the apartment at the same rent. To best protect your right to re-rent your former unit, inform your landlord and the Rent Board of your intent to re-rent within 30 days and update both with your new address every time you move.

Second, whoever buys your apartment may never be able to convert it into a condominium. In May of 2010, the San Francisco Board of Supervisors passed legislation that prohibits condo conversions in buildings that have evicted even one elderly, disabled or catastrophically ill tenant under the Ellis Act. A building that has evicted two or more of any tenant—protected or not—is further prohibited from converting his or her building into a condo. If the new owner is a real estate speculator who is hoping to cash-in on flipping your unit after condo conversion, this will go a long way in preventing such schemes.

Defending against an Ellis Act eviction is difficult, but possible. Since Ellis evictions have a very strict set of procedures which must be followed in order for it to be valid, procedural defenses are very effective. Other defenses, such as retaliation, discrimination, and “bad faith” arguments

are possible, but very difficult to successfully argue. If you are served with any notice, you should seek the advice of a legal professional immediately.

This article is meant to give you general information about what could happen when your building gets sold and does not cover all aspects of the Ellis Act or owner move-in evictions. Also, these laws change frequently, so be sure to contact a legal professional if you have any questions. You can also get more information from the San Francisco Rent Board at (415) 252-4600 or visit their website at <http://www.sfgov.org/rentboard>.

This Legal Q&A Guide was last revised in April 2013. It is intended to provide general legal information to people living with HIV/AIDS in California. However, because laws change frequently ALRP cannot ensure the complete accuracy of the information included. Please call ALRP at (415) 701-1100 to consult with an ALRP attorney about your legal rights in your particular situation.