

# MENTAL HEALTH ADVOCACY PROJECT

*Asistencia Legal Para La Salud Mental*

## **Law Foundation of Silicon Valley**

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## **RESIDENTS' RIGHTS IN UNLICENSED ROOM & BOARD HOMES** **("Independent Living")**

As a resident of an unlicensed room & board or "independent living" home, you have all of the same rights given to all tenants in California. This information sheet provides you with information about some of the important rights that you have as a tenant in an unlicensed room & board home.

### **Your Rental Contract**

It is important to carefully review the rental contract that you have entered into with the operator of your home. The rental contract might be called a "lease agreement," a "rental agreement," or an "admission agreement." The rental contract should tell you some of the following important things:

- Whether the agreement is a lease for a fixed time, or a month-to-month contract;
- Whether the operator is agreeing to provide you with any meals, and if so, how many per day;
- Whether your room will be furnished;
- Whether your room will be private or shared; and
- How much rent you will pay each month for the room & board you receive.

The operator of the home can change the terms of the rental contract with 30 days' notice to you if you have a month-to-month agreement. If you have a fixed-term lease, the operator cannot change the terms of the contract during the lease period unless the contract allows him to do so.

### **Habitability**

The operator of the home must make sure that it is habitable for the residents. Under California law, this means that the operator must provide the following things:

- Plumbing facilities in good working order, including hot & cold running water;
- Heat, electrical and lighting systems in good working order (no exposed wires);
- Clean and sanitary buildings and grounds, free of rodents, vermin and exposed trash;
- Adequate trash receptacles;
- Floors, stairways and railings in good repair;
- A working toilet, sink and a bathtub or shower;
- Working smoke detectors; and
- Waterproofing and weather protection of the roof, including unbroken windows & doors.

If you are having problems with any of these issues and cannot get the landlord to agree to fix the problems, you can call San Jose Code Enforcement at (408) 535-7770 to make a complaint.<sup>1</sup> It is illegal for the operator to retaliate against you for making a complaint to Code Enforcement.

### **Rent Increases**

If your rental contract is a lease for a fixed time, the operator cannot raise your rent during the lease period, unless the contract allows it. If your rental contract is a month-to-month agreement, the operator can raise the rent up to 10% with 30 days' notice, or more than 10% with 60 days' notice.

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<sup>1</sup> For other cities, you can do an internet search for the Code Enforcement phone number, or contact MHAP for it.

## **Privacy**

If you have a private room, you have the right to privacy in your own room. Other residents and the operator cannot enter your room, unless you invite them. If you have a private or shared room, the operator may only enter the room for the following reasons, with reasonable notice:

- In case of emergency;
- To make necessary repairs; or
- To show the room to prospective residents

## **Medical Services**

Because operators of unlicensed room & board homes are not licensed by the State of California to provide any type of medical services, operators cannot provide them. This means that the operator of your home cannot store or administer medications to the residents. If the operator is controlling the storage of medications, or providing other medical services, you can make a complaint to Community Care Licensing at (408) 324-2112.

## **EVICCTIONS**

### **Has the operator of your room & board home told you that you have to move out?**

- You are legally entitled to an eviction notice before the operator can force you to move out.
- The operator cannot just tell you that you have to immediately leave the home!
- Depending on the type of rental contract that you have, the amount of written notice that the operator must give you ranges from 3 – 60 days.
- ***right away* so that we can consult with you about your case and see if we can help.**

### **Even after the notice expires, the operator cannot just lock you out!**

- If you have not moved out by the date that the notice expires, the operator must file an eviction lawsuit against you in court.
- You have the right to defend yourself in an eviction case and MHAP may be able to help.
- If you get served with court papers, called a “Summons and Complaint,” contact MHAP immediately!
- You cannot be forced to move out until the judge at the court orders that you have to move out and the sheriff then locks you out.

### **Room & Board operators are not allowed to tell residents that they cannot return after being in the hospital for psychiatric treatment!**

- If the operator wants you to move out because of something that you allegedly did, or because she thinks that you can’t meet your needs, she still must give you the right amount of notice and file a lawsuit against you in court to have you removed.
- Contact MHAP if your Room & Board operator is telling you or your doctor that you cannot return after being discharged from the hospital and we may be able to help.

This information sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, Mental Health Advocacy Project cannot ensure the information in this information sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.