



LAW FOUNDATION of Silicon Valley

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TENANTS' RIGHT TO HABITABLE HOUSING

Tenants are entitled to habitable housing, which means that their rental units must be fit for human habitation and must not have conditions that negatively affect their health and safety. Tenants' rights include:

- Protection from the weather (no broken windows or leaky roofs)
- Plumbing in good repair
- Hot and cold running water
- Gas facilities in good repair (if gas is used in the home)
- Heater in good repair
- Lights and wiring in good repair
- Clean and sanitary buildings and grounds (no rat or vermin infestation)
- Garbage cans with lids that are emptied regularly
- Floors, stairways, and railings in good repair
- A working toilet, sink, and bathtub or shower
- A kitchen with a sink that cannot be made of an absorbent material such as wood
- Natural lighting in every room
- Windows in each room that must be able to open at least halfway for ventilation, unless a fan provides mechanical ventilation
- Safe fire or emergency exits leading to a street or hallway
- Deadbolt on entry doors and locking windows
- A locking mailbox for each unit in a residential hotel
- At least one telephone jack and telephone wiring in good repair
- Working smoke detectors

Generally speaking, the landlord is responsible for ensuring that a tenant's unit meets these standards and for making needed repairs, although the tenant has the duty not to damage the property or otherwise create repair issues.

For a more detailed discussion of the landlord's and tenant's responsibilities, please see the California Department of Consumer Affairs *California Tenants* handbook, available online at: <http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>

What To Do If Your Unit Needs Repairs

If your apartment needs repairs, you should first notify your landlord in writing. For emergencies, notify your landlord both by phone and in writing. Keep a copy of the written request for your records. If your landlord does not respond to the letter by making the needed repairs within a reasonable time, you may consider the following approaches:

- (1) You can contact the local building inspector, health inspector or code enforcement agency.
- (2) The agency will send an inspector to view the property and check if it is in compliance with building, health, and/or housing codes. A list of local agencies and their contact information is attached. If the property is found to be out of compliance, the landlord will be issued a compliance order. The landlord may be fined if the landlord fails to make the needed repairs. While orders or fines from code enforcement may upset the landlord, it is illegal for landlords to retaliate against tenants for contacting local code enforcement agencies.

In extreme situations, an inspector may determine that the conditions in a unit are so bad that it is completely unfit for human habitation. If that happens, the tenant may have to move out while the landlord makes repairs. If the local enforcement agency tells you that you have to move, your landlord may owe you money for the cost of relocation. If your local code enforcement agency tells you that you will have to move due to the condition of your unit, contact

- (3) If you live in a city that has a local rent control ordinance (e.g., San Jose), you can contact the rent control office to file a complaint against the landlord and request a “reduction-in-services” hearing.

At the hearing, you may present evidence regarding the severity of the problems and the notice you provided to your landlord about the problems. The hearing officer may determine that the problems in your apartment made the unit less valuable; thus, your landlord may owe you money because there was a reduction in housing services, which you may be allowed to recover by paying less rent over a period of months.

- (4) You can make the repairs yourself and deduct the cost from your rent.

This remedy is often called the “repair-and-deduct” remedy.” The cost of these repairs may not exceed one month’s rent and you may only use this “repair-and-deduct” method twice within a 12-month period. You may only use this method to pay for the repair of substantial defects in the rental unit which violate building and health codes. If you decide to use this method and deduct a portion of your rent to cover the cost of repairs,

you must write a letter to your landlord explaining your decision before you withhold a portion of your rent. Keep a copy of the letter for your files. **Please note that this method creates the risk of eviction.**

You can withhold your rent until the landlord makes the repairs.

The “rent withholding” remedy should only be used when the problems are more severe than would justify use of the remedies listed above. The defects must be so serious and severe that they threaten your health and safety. **Since you risk eviction with this method, we do not recommend this option.**

(5) You can make repairs and ask for reimbursement from your landlord.

If your landlord has not responded to your requests for repairs, you can pay for the repairs yourself and ask your landlord to reimburse you. This method usually creates less of a risk of eviction than withholding rent or repair-and-deduct. If your landlord refuses to reimburse you, you have the option of suing your landlord in Small Claims Court.

(6) Other Remedies

Other remedies are discussed in the Department of Consumer Affairs *California Tenants* handbook, available online at:

<http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>

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, Law Foundation of Silicon Valley 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.

LOCAL ENFORCEMENT AGENCIES FOR HABITABILITY PROBLEMS

Campbell

Code Enforcement Office (408) 866-2760. Call to request a complaint form.

Cupertino

Code Enforcement Office, (408) 777-3182.

Gilroy

Code Enforcement Office, (408) 846-0440.

Los Altos

Code Enforcement, (650) 947-2775. You may also request assistance online at:
<http://www.losaltosca.gov/police/code/codeform.html>

Los Gatos

Code Compliance Officer, (408) 399-5720. You may also file a complaint online at:
<http://www.town.los-gatos.ca.us/forms.aspx>

Milpitas

Milpitas Code Compliance, (408) 586-3075.

Morgan Hill

Code Enforcement, (408) 779-7241. You may also file a complaint report online at:
<http://ca-morganhill.civicplus.com/forms.aspx>

Mountain View

City Code Enforcement, (650) 526-7713.

Palo Alto

Code Enforcement, (650) 329-2358. You may also access information and file a complaint online at:
<http://www.cityofpaloalto.org/forms/pln/pln-code-enforcement.lasso>

Santa Clara

Building Inspection Division, (408) 615-2440.

San Jose

Code Enforcement Division, (408) 535-7770.

Sunnyvale

Neighborhood Preservation Division, (408) 730-7610. You may also file a complaint online at:
<http://ecityhall.sunnyvale.ca.gov/contact/np.aspx>

OTHER REFERRALS FOR HABITABILITY ISSUES

Mediation

For mediation in Santa Clara County, contact the Santa Clara County **Human Relations Commission** Dispute Resolution Program at (408) 792-2300.

Representation

If you would like to consult with a private attorney for advice or potential representation, call the **Santa Clara County Bar Association Lawyer Referral Service** at (408) 971-6822.

Small Claims

If you are interested in filing an action in Small Claims Court, contact the Santa Clara County Superior Court's **Self-Service Center**. The Self-Service Center has three locations:

Downtown San Jose Location	Sunnyvale Location	South County
Notre Dame Courthouse 99 Notre Dame Ave. San Jose, CA 95113 CA 95037	Sunnyvale Courthouse 605 W. El Camino Real Sunnyvale, CA 94087	South County Courthouse 301 Diana Ave. Morgan Hill, CA 95037

You can also contact the court's Small Claims Advisor for assistance in preparing for Small Claims Court. The Small Claims Advisor is available Monday through Friday from 2:30 – 5:00 p.m. Call (408) 882-2100 (press option #2 then option #6).