



SANTA MONICA RENT CONTROL BOARD
1685 Main Street, Room 202, Santa Monica, CA 90401
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· (310) 458-8751

TENANTS WITH A PERMANENT DISABILITY RELATED TO MOBILITY MOVING TO A MORE ACCESSIBLE UNIT AT YOUR PROPERTY

The California legislature amended the Costa-Hawkins Rental Housing Act to allow tenants with a permanent disability related to mobility, who live in rent-controlled units, to move into another, more accessible unit at their property while maintaining their existing rent and lease terms under certain conditions. The Santa Monica Rent Control Board adopted Regulation 3301(I), which implements this amendment for rent controlled properties in the city. To benefit from this regulation's protections, the following must be true:

- ❖ The tenant must give notice to their landlord prior to the more accessible unit becoming available. (A sample notice form is attached.) The tenant's landlord is required to grant a request for a reasonable accommodation after complying with any requirement to engage in an "interactive process" as set forth in Sections 12177-12180 of Title 2 of the California Code of Regulations.
- ❖ The tenant must not currently be subject to eviction for non-payment of rent.
- ❖ The tenant must have a permanent physical disability as defined in Section 12926(m) of the Cal. Government Code, and the tenant's disability is related to mobility.
- ❖ The more accessible unit must be of comparable or smaller size with the same or fewer number of bedrooms and bathrooms, square footage, and parking spaces as the unit being vacated.

For a tenant to maintain their existing rent and lease terms the following must be true:

- There is no operational elevator that serves the floor of the tenant's current unit.
- The new unit is in the same building or on the same parcel with at least four other units and shares the same landlord.

- The new unit does not require renovation to comply with the Health & Safety Code provisions relating to habitability.
- All tenants on the lease agree to move to the available, accessible unit.

Any tenant interested in this benefit should be advised that:

- Any security deposit paid by the tenant in connection with their rental of the unit being vacated shall be applied to the newly occupied unit in accordance with state law (Civil Code Section 1950.5).
- A landlord may refuse the request to move if the landlord, their spouse, domestic partner, children, grandchildren, parents, or grandparents intend to occupy the comparable or smaller unit located on the accessible floor of the property.
- Even if a particular requirement is not met, a tenant may still have a legal right to a reasonable accommodation under other state and federal laws relating to protections for individuals with disabilities. If you believe that your landlord is violating any law relating to fair housing practices, or you require assistance related to your claim for a reasonable accommodation, please contact any of the following:
 - Housing Rights Center: (800) 477-5977 or info@housingrightscenter.org
 - California Civil Rights Department: (800) 884-1684 or contact.center@calcivilrights.ca.gov
 - Santa Monica City Attorney's Office (for claims related to tenant harassment based on disability): (310) 458-8336 or attorney.mailbox@santamonica.gov

If you have moved units pursuant to a reasonable accommodation under this new law, and your landlord is charging you a rent greater than the rent from your prior unit, please contact the Rent Control Board at (310) 458-8751 or rentcontrol@santamonica.gov.

Date: _____

Dear (Landlord's Name):

I am requesting a reasonable accommodation due to a permanent disability related to mobility. Specifically, I would like to relocate to any of the following units when one becomes available and retain the same rental and lease terms as my current unit as required by Assembly Bill AB-1620 (Cal. Civil Code Section 1954.53(a)(4)) and Rent Control Regulation 3301(l). Unit(s): _____.

It is my understanding that the listed units are comparable or smaller units that have the same or less the number of bedrooms and bathrooms, square footage, and parking as my current unit.

Under the requirements of Regulation 3301(l), I am permitted to move to any of the aforementioned units when one becomes available because I have a permanent disability related to mobility, and I need to move to accommodate my disability.

I am also entitled to remain at my current rent and under my current lease terms because there is no operational elevator that serves the floor of my current unit, the property has five or more units, and all tenants occupying my current unit will vacate the unit and move with me to the unit made available to me to accommodate my disability. In addition, none of the above-listed units require renovation to comply with the California Health & Safety Code provisions relating to habitability.

I am including information from my treating physician(s) providing pertinent information regarding my permanent disability related to mobility. If the enclosed information is satisfactory and you will grant my request, please let me know, in writing, at your earliest convenience. Alternatively, please advise that you wish to engage in the interactive process required by California Code of Regulations Section 12177 (attached).

Thank you for considering my request, and I look forward to hearing back from you as soon as possible.

Sincerely,

(Tenant)

§ 12177. The Interactive Process.

Currentness

(a) Whenever a person who receives a request for a reasonable accommodation or modification cannot immediately grant the requested accommodation or modification, the Act requires the person considering the request to engage in an interactive process with the individual with a disability or the individual's representative. The purpose of the interactive process is to exchange information to identify, evaluate, and implement a reasonable accommodation or modification that allows the individual with a disability equal opportunity to use and enjoy a dwelling or housing opportunity. The Act does not predetermine the outcome of any interactive process. However, the Act requires that the interactive process be timely (pursuant to subsection (d)) and that it be conducted in good faith. Good faith means the person considering the request must make a fair and honest effort to engage in the interactive process and to consider the request.

(b) If the person considering the request for accommodation or modification believes they do not have sufficient information to establish either that a disability exists or the nature of the disability-related need for the accommodation or modification, or if the nexus between the disability and the requested accommodation or modification is not clear to the person considering the request for accommodation or modification, the person considering the request for accommodation must seek clarification or additional information pursuant to section 12178 from the individual with a disability or the individual's representative. The person considering the request must not deny it for lack of information without first requesting the clarification or additional information and providing a reasonable opportunity for the individual requesting the accommodation to provide it.

(c) If the person considering the request believes that the initially requested accommodation or modification cannot be granted for a reason permitted under subsections 12179(b)-(c) or section 12181, the person considering the request must try to identify if there is another accommodation or modification that is equally effective and must discuss with the individual with the disability or the individual's representative whether other alternative accommodations or modifications would be equally effective in meeting the needs of the individual with a disability. Equally effective means that the alternative accommodation or modification will allow the person with the disability to use and enjoy a dwelling or housing opportunity as well as the requested accommodation or modification would have. If an alternative accommodation or modification would effectively meet the disability-related needs of the individual and could not be lawfully denied for a reason permitted under subsection 12179(b)-(c), the person considering the request must grant it. The individual requesting the accommodation or modification is not obligated to accept an alternative accommodation or modification if the alternative accommodation or modification will not meet the needs of the individual with the disability and the initially requested accommodation or modification could not be lawfully denied for a reason permitted under section 12179. The individual with the disability has the most accurate knowledge about the functional limitations posed by their disability, and therefore the individual's preferences should be given significant weight.

(d) Requests for reasonable accommodations or modifications must be promptly considered as determined on a case-by-case basis. The time necessary to respond to a request depends on many factors, including:

- (1) The nature of the accommodation or modification under consideration;
 - (2) Whether it is necessary to obtain supporting information because the disability or the need for the accommodation or modification is not obvious or known to the person considering the request;
 - (3) Whether the accommodation or modification is needed on an urgent basis;
- and
- (4) Whether it is necessary to engage in the interactive process to resolve the request.

(e) An undue delay by the person considering the request, for example, when there is a failure to act promptly on the need to acquire additional information pursuant to section 12178 or when there is no response to the request in a reasonable time, may constitute a denial of a reasonable accommodation or modification. Whether a request has been promptly considered is a case-by-case factual determination.

(f) A failure to reach an agreement on an accommodation or modification request after a reasonable attempt to do so is in effect a decision not to grant the requested accommodation or modification. If the individual requesting the accommodation or modification or their representative has, after a reasonable opportunity, unreasonably failed to provide relevant information that was requested consistent with the regulations, the person considering the request may find this failure to be grounds for determining that the accommodation or modification could not be granted. What will constitute a reasonable attempt, a reasonable opportunity, or an unreasonable failure to provide relevant information will depend on the individual facts of every case, but can include factors such as the length of time spent in discussions or taken to provide information; whether the parties have acted in good faith; and whether there were clear efforts to communicate what information was required to evaluate the accommodation or modification.

(g) If after a denial of an initial request for an accommodation or modification, the individual with a disability or their representative makes a later request for the same or similar accommodation or modification, the latter request must be considered pursuant to these regulations independently of the initial request.