

Know Your Rights!

Guide for Tenants in Low-Income Housing Tax Credit Properties

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Rent: There is a limit on how much you can be charged for rent.

1. The maximum rent that you can be charged depends (a) on the *size of your unit*, and (b) a certain percentage of the *average income* of the folks in the region where you live (not your actual income).
2. Many LIHTC buildings also receive money from other programs, such as the federal Section 8 program, that **may further limit the maximum amount of rent you can be charged**. Review your lease agreement and any other documents provided to you when you moved in to figure out if another program may apply to your rental unit. Then, work with a tenant advocate or lawyer to understand the rules that apply to that program. You can also look up your property using this tool from the California Housing Partnership to see if a program applies to your unit:
<https://chpc.net/datatools/affordablehomes/>
 - a. Generally, the program that provides the most assistance or protections to you as a tenant will apply. Programs that are commonly combined with LIHTC funding include the Section 8 Housing Choice Voucher program, the Section 202 Supportive Housing for the Elderly Program, the Section 236 Preservation Program, and the HOME Investment Partnership Program. There are also a number of state and local programs that are commonly

combined with LIHTC units and may provide you with greater rent protections or additional support.

3. There are also **rules limiting what can and cannot be included in your rent**. These include:
 - a. Fees for most facilities or amenities such as laundry room access, parking, storage, etc. CANNOT be included in your rent if they were funded through the tax credits used to build the property. If the landlord is charging for them, you must have the option to stop paying for it and continue using the service if they were funded using tax credits.
 - b. If you pay for utilities directly, your rent must be reduced according to what is called a utility allowance, which is based on which utilities you pay for and the size of your unit. Utilities may include heat, lights, water, sewer, oil, and gas, but not telephone, internet, cable, or television.

If you think you are being overcharged for rent, you can:

1. Figure out what income level restriction applies to your unit:
 - a. Ask your landlord to go over how the maximum rent for your unit is being calculated – ask specifically: “*what income level limitation applies to my unit?*” Typically, the income level restriction should be between 20% and 80%, and most commonly will be either 50% or 60%; OR
 - b. Work with a tenant advocate or lawyer to learn more about the rules that apply to your building to figure out what income level limitation applies to your unit. These rules will be set in a regulatory agreement that is a public record available at the county Recorder’s Office
2. Identify the date that your building was “Placed in Service,” by looking up its address on the map from the California Housing Partnership (<https://chpc.net/datatools/affordablehomes/>)
3. Once you determine what income level limitation applies to your unit and when it was placed in service, use the tables provided by the

California Tax Credit Allocation Committee to determine the maximum rent for your unit according to the size of your unit and the income level restriction you determined through step 1(a) or 1(b), above. These tables are available here:

- a. 2023 Rent Limits for Projects Placed in Service 1/1/1990 – 12/31/2008:
<https://www.treasurer.ca.gov/ctcac/rentincome/23/rent/rent-limits-before-123108.pdf>
- b. 2023 Rent Limits for Projects Placed in Service 1/1/2009 – 5/14/2023:
<https://www.treasurer.ca.gov/ctcac/rentincome/23/rent/rent-limits-from-010109-051423.pdf>
- c. 2023 Rent Limits for Projects Placing in Service on or after 5/15/2023+:
<https://www.treasurer.ca.gov/ctcac/rentincome/23/rent/rent-limits-051523.pdf>

Evictions: You cannot be thrown out without good cause.

1. Your landlord must have a good reason to start an eviction case against you, which generally has to be a serious or repeated violation of the lease agreement. Generally, these are things like:
 - a. Not paying rent
 - b. Breaking rules in your lease or rental agreement
 - c. Severely bothering other tenants
 - d. Causing property damage
 - e. Doing something illegal on the property
2. Your landlord must notify you of these eviction-related rights in a separate document attached to your lease. If they have not done so, this is a defense to an eviction.
3. For most causes of eviction, you must be given a chance to fix the problem before the landlord can start the eviction case. You also have the right to enforce your good cause eviction rights in state court by raising

them as a defense to any termination of your tenancy or eviction case brought by your landlord without good cause.

4. If your landlord is saying you did not pay rent because you did not pay certain fees, work with a lawyer or tenant advocate to check if those fees are allowed (and see above on “Rent” about what can be included in your rent).
5. If your income increases beyond the income restriction that applies to your unit, you have a right to stay in that unit so long as your income does not grow to over 140% of the income limit for the unit.
 - a. If your income does increase beyond 140% of the income limit, the Next Available Unit Rule applies: you can stay in your unit so long as the next available unit of the same size in the project is rented to a tenant who is below the income cutoff. The Next Available Unit Rule also applies to properties where 100% of the units are affordable units through the LIHTC program: since every unit in such properties must be leased to an income qualified individual, the rule applies automatically without the owner having to do anything.

Conditions: You have a right to safe, functional, and dignified living conditions.

1. Like all rental units in California, LIHTC rental units **must meet certain standards set in state and local habitability codes.**
2. If you think the conditions of your unit are unsafe or not up to code, you can request that your unit be inspected by the Code Enforcement Department of your city (or county if you live in an unincorporated area). Inspectors from that department will visit your unit and may issue a notice of violation that requires the landlord to make certain repairs.

Accessibility: You have a right to a unit that meets your disability-related access needs.

1. Every LIHTC building must have a minimum number of accessible units. An accessible unit is one with features that make the unit safe and

usable for a person with a disability. For example, a mobility accessible unit will have wide doorways and lower countertops to accommodate a resident who uses a wheelchair. Accessible units must be distributed throughout your building and available in a sufficient range of sizes and amenities so you have a choice of living arrangements comparable to that of other residents in the LIHTC building. Current residents and applicants on the waitlist with disabilities must be given preference for accessible units before the landlord can rent an accessible unit to someone who does not need the unit's accessibility features.

Additionally, the building entry, the leasing office, all common areas, and paths of travel between accessible units and the common area(s) must also be made accessible.

2. California civil rights laws define a disabling condition broadly. The definition includes any actual or perceived physical or mental disability or medical condition that is disabling, potentially disabling, or perceived as such, which limits a major life activity. *See* Cal. Gov. Code § 12926.
3. To make your unit accessible, you can request physical changes to the building, grounds, or your unit – referred to as **reasonable modification requests**. You can also request changes to the building's rules, policies, services, or procedures – referred to as **reasonable accommodations requests**.

What to expect when requesting a reasonable accommodation or reasonable modification for a disabling condition:

1. Requests can be made at any time and in any form to the housing provider.
 - a. It's generally a best practice to communicate in writing that (i) you have a disability (you do NOT need to disclose the specific condition), (ii) the particular modification or accommodation you're requesting, and (iii) the relationship between the disability and modification. Although it's not necessary, doing so will help make sure that the landlord understands it is a reasonable

- accommodation request and serve as evidence that the request was made.
- b. The building owner is allowed to create preferred forms or procedures for requests, BUT you are not required to follow them and your request must still be considered if you choose not to.
2. Your landlord has to respond to your request promptly and work with you in good faith to try and fulfill the request – otherwise, it will be considered an unlawful denial of your request.
 - a. Once a request is made, the housing provider may ask for more information about your disability if your disabling condition is not readily apparent.
 - i. The information that can be requested is limited to what is necessary to establish that you have a disabling condition – you do NOT need to disclose the specific condition or diagnosis. Appropriate evidence includes proof of receiving disability-related benefits or documentation from a reliable third party, such as a letter from a health care professional.
 - b. The housing provider may also ask for additional information about the need for the requested accommodation or modification if that need is not readily apparent.
 - i. The only information that can be requested is that which describes the needed accommodation or modification and shows the relationship between your disabling condition and how the requested accommodation or modification is necessary for you to use and enjoy the dwelling or equal housing opportunity.
 3. Generally, reasonable accommodation and modification requests must be fulfilled if they are necessary for you to have an equal opportunity to use and enjoy your housing, and they do not require your landlord to make fundamental alterations to its programs or take on undue financial burdens.

- a. If they try to deny your request for those reasons, your landlord must explain why the request would cause such fundamental alterations or undue financial burden, and they must propose alternatives.
 - b. If you are asking for a reasonable modification, your landlord may require additional description of it and assurances that it will be installed properly, depending on the complexity of the modification. Your landlord may have to pay for the modification if the building receives federal funding, otherwise you may have to pay for it. If reasonable, your landlord may require you to remove a modification to your unit when you move out (but they cannot require restoration of a public or common area).
4. Your landlord must respond to requests promptly, or else their delay can be considered an unlawful failure to permit the modification. If you believe that your accessibility rights are being violated, you can either file a complaint with HUD (<https://www.hud.gov/fairhousing/fileacomplaint>) or the California Civil Rights Department (<https://calcivilrights.ca.gov/complaintprocess/>) within one year of the violation, or you can sue in state or federal court within two years. See below for organizations to contact for assistance in making a complaint or filing a lawsuit.

Other Tenant Protections

There are some laws that apply to all California tenants, regardless of what type of building you live in. Among other protections, the tenant rights you have under California law include:

1. The right to advance notice of rent increases;
2. The right to a full refund of the security deposit, or a written accounting of how any of it was used by the landlord, after you move out;
3. Limitations on a landlord's right to enter your unit – for example, they do not have the right to enter your unit to conduct a general inspection without prior notice;

4. The right to fair housing rights and protections against unlawful discrimination;
5. The ability to sue landlords for violations of law or your rental agreement;
6. The right to have serious defects in your rental unit repaired and to deduct some repair costs from your rent. Consult with an attorney or tenant advocate before using this repair-and-deduct strategy.

Additional Resources:

Know-Your-Rights Guides:

- National Housing Law Project: [Advocate's Guide to LIHTC Tenant Rights](#)
- California Department of Real Estate: [California Tenants: A Guide to Residential Tenants' and Landlords' Rights and Responsibilities](#)
- California Department of Real Estate: [California Tenant Know Your Rights Fact Sheet](#)
- California Civil Rights Department: [Housing Fact Sheets](#)

Accessibility:

- Department of Housing and Urban Development/Department of Justice Joint Statement: [Reasonable Modifications Guidance](#)
- Department of Housing and Urban Development/Department of Justice Joint Statement: [Reasonable Accommodations Guidance](#)
- Department of Housing and Urban Development: [Section 504 FAQ](#)
- Department of Justice: [Guidance on Effective Communications](#)
- Disability Rights California: [Resource Library](#)
- Disability Rights California: [Reasonable Accommodation and Modification Requests in Housing: Verification Letters](#)

Official documents from the California Tax Credit Allocation Committee (CTCAC):

- [Rent FAQs](#)
- [Qualified Action Plan](#) (California LIHTC Regulations)

- [Compliance Manual](#)
- [Section 42 Lease Rider](#)
- [Compliance Monitoring page](#)

Ask for Help:

Tenant Advocacy and Organizing Organizations

Los Angeles Tenants Union

Service Area: Greater Los Angeles area

Phone number: (213) 986-8266

Email address: info@latenantsunion.org

Website: <https://latenantsunion.org/>

North Bay Organizing Project

Service Area: Counties of Napa, Solano, and Sonoma

Address: 1717 Yulupa Ave, Santa Rosa, CA 95405

Phone number: (707) 843-7858

Email address: info@northbayop.org

Website: <https://www.northbayop.org/>

Regional Tenant Organizing Network

Service Area: Bay Area

Email address: info@rtonetwork.org

Website: <https://www.rtonetwork.org/>

Tenants Together

Service Area: statewide

Address: 474 Valencia St. #156, San Francisco, CA 94103

Phone number: (415) 495-8100

Email address: info@tenantstogether.org

Website: <https://www.tenantstogether.org/>

Legal Services Organizations

Bay Area Legal Aid

Service Area: Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara

Address: 1735 Telegraph Avenue, Oakland, CA 94612

Phone number: (800) 551-5554

Website: <https://baylegal.org/>

Centro Legal de la Raza

Service Area: Alameda County and Contra Costa County

Eviction Defense Collaborative

Service Area: San Francisco

Address: 976 Mission Street, San Francisco, CA 94103

Phone number: (415) 947-0797

Website: <https://evictiondefense.org/>

Legal Aid Foundation of Los Angeles

Service Area: Greater Los Angeles area

Address: 7000 S. Broadway, Los Angeles, CA 90003

Phone number: (800) 399-4529

Address: 3400 E. 12th Street, Oakland, CA 94601

Phone number: (510) 437-1554

Website: <https://www.centrolegal.org/>

Community Legal Services of East Palo Alto

Service Area: San Mateo County

Address: 1861 Bay Road, East Palo Alto, CA 94303

Phone number: (650) 326-6440

Website: <https://clsepa.org/>

Disability Rights California

Service Area: Statewide

Address: 1831 K Street, Sacramento, CA 95811

Phone number: 1-800-776-5746 or TTY call: 1-800-719-5798

Website: <https://www.disabilityrightsca.org/>

East Bay Community Law Center

Service Area: Cities of Berkeley, Oakland, Emeryville, and Alameda

Address: 2921 Adeline Street, Berkeley, CA 94703

Phone number: (510) 548-4040

Website: <https://ebclc.org/>

Website: <https://lafla.org/>

Legal Services of Northern California

Service Area: Northern California (23 counties)

Address: 517 12th Street, Sacramento, CA 95814

Phone number: (916) 551-2150

Website: <https://lsnc.net/>

Law Foundation of Silicon Valley

Service Area: Santa Clara County

Address: 4 North Second Street, Suite 1300, San Jose, CA 95113

Phone number: (408) 280-2424

Website: <https://www.lawfoundation.org/>

Public Counsel

Service Area: Los Angeles County

Address: 610 South Ardmore Avenue, Los Angeles, CA 90005

Phone number: (213) 385-2977

Website: <https://publiccounsel.org/>

Contact us:



Urban Habitat
2000 Franklin Street Oakland, CA 94612
(510) 839-9510
info@urbanhabitat.org
www.urbanhabitat.org



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