

The Rights of the Undocumented to Housing

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**THE UNDOCUMENTED
AND PRIVATE HOUSING**

CA Civil Code Section 1940.3

In California it is illegal for a landlord to inquire about the immigration or citizenship status of a tenant or prospective tenant.

CA Civil Code 1940.3

Specifically **prohibits** a landlord from the following:

- Making inquiries regarding or based on immigration status of tenant or prospective tenant
- Require any tenant or prospective tenant make any statement, representation, or certification concerning their immigration status

CA Civil Code Section 1940.3

1940.3 does allow the landlord to request documentation necessary to determine or verify financial qualifications or identity of prospective tenants.

Abuse of Undocumented in Pvt. Housing

There are no federal or CA laws limiting the ability of undocumented immigrants to rent private housing.

However, undocumented immigrants are preyed upon by unscrupulous landlords and property owners because of their vulnerability as a result of their immigration status.

Abuse of Undocumented in Pvt. Housing

Abuse is manifested primarily through:

- Substandard housing rentals and failure to repair conditions
- Retaliation for complaints to uninhabitable conditions or other disputes between landlords and tenants

Substandard Housing

- Analogous to the employment setting, undocumented tenants are attractive to certain landlords and property owners.
- Property owners who invest in and own slum housing purposefully seek out undocumented immigrants.
- Also, smaller property owners rent out illegal garage conversions or illegally subdivide homes to rent out to undocumented tenants.

Undocumented tenants are attractive to unscrupulous property owners

- Less likely to complain about habitability issues because of immigration status
- Easier target to suppress because can intimidate by threatening to call ICE or other government agencies

Undocumented tenants are attractive to unscrupulous property owners

- LLs can make unreasonable demands from undocumented tenants that they wouldn't otherwise request: i.e. pay rent in cash only.
- Ts are easier to evict if government agency orders LL to remove illegal unit.
- Ts are less likely to know their rights or seek assistance.

Practical responses to abusive property owners

- Document substandard conditions
 - Complain about conditions in writing
 - Take photographs
- Complain about substandard conditions to government agencies
 - Housing Department
 - Health Department
 - Local Code Enforcement

Practical responses to abusive property owners

- Pay rent on time.
- Pay rent with a money order. Do not pay rent in cash. Paying in cash makes it that much easier for a tenant to get evicted.

Retaliation

CA Civil Code Section 1942.5

- In California landlords cannot retaliate against tenants for complaining about habitability to a government agency.
- CA Civil Code Section 1942.5 protects tenants regardless of immigration status from retaliation for complaining about the habitability of a property.

Retaliation

CA Civil Code Section 1942.5

- Threatening to call ICE for complaining can be a cause for a tenant to “quit involuntarily” and arguably would be retaliation under the statute.
- Violations of 1942.5 are punishable by:
 - Actual damages suffered by tenants
 - Punitive damages in an amount between \$100-\$2,000 per retaliatory act
 - Attorney’s fees

Empowering Action

- Entering into a tenancy is not illegal, renting out a substandard unit is.
- Immigration status is irrelevant in unlawful detainer proceedings. Judges in unlawful detainer hearings refuse to hear evidence of immigration status.

**OTHER COMMON
PROBLEMS FACED BY
UNDOCUMENTED
TENANTS**

Common Problems faced by Undocumented Tenants

- Landlords often want rent paid in cash only.
 - Easier to evict because no paper trail or proof that rent was ever paid.
 - Often times LL is not reporting for tax purposes as income.

Common Problems faced by Undocumented Tenants

Should pay rent with money orders, if LL refuses payment in money orders, should keep money order, it is proof that had money to pay rent.

Common Problems faced by Undocumented Tenants

- No receipts
 - LL's often do not keep records for the same reasons that they only want to accept cash.
 - Paying with money order, provides tenant with their own receipt because the money order stub has the date and amount of money order printed on it.

Common Problems faced by Undocumented Tenants

- Illegal units
 - Many undocumented live in subdivided homes or illegal garage conversions.

Common Problems faced by Undocumented Tenants

Issue of subdivided homes raises complex issues.

-Often times subdivided homes and illegal garage conversions are the only affordable housing that individuals and families can afford because illegal units tend to be cheaper.

Common Problems faced by Undocumented Tenants

What we advise tenants depends on where the illegal units are located.

- In the City of Los Angeles all units that fall under rent control must be registered with the Los Angeles Housing Department.
- Under the Rent Stabilization Ordinance unregistered units cannot be charged rent.

Common Problems faced by Undocumented Tenants

- Complaining about habitability in illegal units can trigger an eviction based on a government order to convert the property back to its intended use.

Common Problems faced by Undocumented Tenants

- In the City of Los Angeles an such an order usually results in relocation assistance as required under Los Angeles Municipal Code.
- In Los Angeles County such an order will result in a 30 or 60 day notice of termination of tenancy with no relocation.

Common Problems faced by Undocumented Tenants

- Tenants in Foreclosed Buildings

When a home is foreclosed the bank or new owner often is unaware of who the tenants are or the number of tenants, if it is a single family home that has been converted into multiple units or there is a garage conversion.

Notices to the prior owner informing tenants of a foreclosure and/or eviction may not reach tenants and may face unnecessary eviction.

**About the Los Angeles Center
for Law and Justice**

The Los Angeles Center for Law & Justice

The Los Angeles Center for Law and Justice is a community based non-profit legal services agency dedicated to improving the lives of indigent residents of Los Angeles's Eastside and neighboring Southeast communities. Its mission is to provide direct representation and education to low-income Eastside families facing the greatest barriers to justice.

If you need further assistance

- If you need assistance with a housing issue you can speak to an advocate free of charge at LACLJ's Eastside Housing Rights Clinics. The Eastside Housing Rights Clinic is held most Mondays and Wednesdays at LACLJ's office in Boyle Heights or at neighboring partner agencies in Southeast Los Angeles County. You must meet certain income eligibility requirements.

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