

## Legal Rights of Survivors Applying for Housing



### Are landlords allowed to reject my housing application because I experienced abuse or violence?

- No, in California it is illegal for landlords to reject your housing application or offer you worse lease terms because:
  1. You, your household member or immediate family member experienced abuse or violence.
  2. A former landlord said you violated your lease, and the claimed violation happened because you, your household member or your immediate family member experienced abuse or violence.
  3. You asked to change your locks because of abuse or violence.
  4. You or your guests called law enforcement or emergency assistance for help because someone was experiencing abuse, crime or an emergency.<sup>1</sup>
- Also, federal law makes it illegal for many affordable housing providers to deny housing to survivors of domestic violence, dating violence, sexual assault, and stalking because they are survivors.<sup>2</sup> Learn about this in [Legal Rights of Survivors Applying for Subsidized Housing](#).<sup>3</sup>



### What is abuse or violence?

- Domestic Violence
- Sexual Assault
- Stalking
- Human Trafficking
- Elder or Dependent Adult Abuse
- Crime that Caused Injury
- Crime that Involved a Gun or Other Deadly Weapon
- Crime that Involved Force or Threat of Force.<sup>4</sup>



### Who are my household members and immediate family members?

- **Household member:** a family member you live/lived with.
- **Immediate family member:** a parent, stepparent, spouse, child, child-in-law, stepchild, sibling or person who is like immediate family to you.<sup>5</sup>

<sup>1</sup> Civ. Code, § 1946.9, subd. (a).

<sup>2</sup> 34 U.S.C. § 12491(b).

<sup>3</sup> <https://fvaplaw.org/resource/legal-rights-of-survivors-applying-for-subsidized-housing/>

<sup>4</sup> Civ. Code, § 1946.9, subd. (d)(1).

<sup>5</sup> Civ. Code, § 1946.9, subd. (d)(3) & (d)(4).



## Do I need to give the landlord proof that my family member or I experienced abuse or violence?

- Yes, usually you must give the landlord proof in the form of a document that shows you, or your household member or immediate family member experienced abuse or violence.
- But, you **don't** need to give proof of abuse or violence if the landlord made their decision because:
  1. You asked a previous landlord to change your locks because of abuse or violence; or
  2. You or your guests called law enforcement or emergency assistance for help because someone was experiencing abuse, crime or an emergency.<sup>6</sup>



## What documents can show abuse or violence happened?



1. A **restraining or protective order** protecting the survivor.
2. A **police report** saying that the tenant, or their family member filed a report saying they experienced abuse or violence.
3. A **Qualified Third-Party Statement**, which is a letter from a qualified third-party saying the tenant received services and said they or their family member experienced abuse or violence. You can use the below [Qualified Third-Party Statement](#) template.
4. A **documentation that reasonably verifies abuse or violence**, including your own signed statement.<sup>7</sup> You can use the below [Signed Statement](#) template.



## Who are Qualified Third Parties?



- Sexual Assault Counselors
- Domestic Violence Counselors
- Human Trafficking Caseworkers
- Victim of Violent Crime Advocates
- Doctors
- Registered Nurses
- Psychiatrists
- Psychologists
- Licensed Clinical Social Workers
- Licensed Marriage & Family Therapists
- Licensed Professional & Clinical Counselors<sup>8</sup>

<sup>6</sup> Civ. Code, § 1946.9, subd. (a).

<sup>7</sup> Civ. Code, § 1946.9, subd. (a)(1) & (a)(3).

<sup>8</sup> Civ. Code, § 1946.9, subd. (a)(1) & (a)(3).



### **How do I know if I am denied housing or offered worse terms because my family member or I experienced abuse or violence?**

- You don't always know why a landlord made their decision. But you can ask them why they rejected your application or offered you a lease with worse terms, for example a lease with a higher rent than advertised.
- If the landlord made their unfavorable decision because of something caused by abuse or violence then you were denied housing or offered worse lease terms because of abuse or violence. For example, if you have bad credit because the person who abused you opened credit cards in your name and are denied housing because of your credit, then you are denied housing because you experienced abuse.



### **How do I assert my right not to be denied housing or offered worse lease terms because of abuse or violence?**

- You can assert your rights by telling the landlord about the law and that they must stop violating your rights. You can assert your rights with the below template, [Survivor's Legal Protections in Housing Screenings](#).

### **What can I do if my landlord denies me housing or continues to offer me worse lease terms after I assert my rights?**



- You can file a complaint in small claims court. If the court finds the landlord violated this law, they can order a landlord to pay you damages (money).<sup>9</sup>



- If the landlord discriminated against you because you are a survivor of domestic violence, sexual assault, stalking, human trafficking or elder or dependent adult abuse, the landlord may have also violated fair housing laws. Learn about how fair housing laws protect survivors in [Fair Housing Laws and Survivors Looking for Housing](#).<sup>10</sup>



- Talk to your local legal aid organization about your options. You can locate your legal aid organization at <https://www.lawhelpca.org>.

<sup>9</sup> Civ. Code, § 1946.9, subd. (b).

<sup>10</sup> <https://fvapl.org/resource/fair-housing-laws-and-survivors-looking-for-housing/>

## Template: Survivor's Legal Protections in Housing Screenings

### Instructions

1. You can download this template in a word document by clicking this [link](#).
2. Delete instructions, highlights and brackets i.e. [ ] before giving your letter to the landlord.
3. Fill out the highlighted sections.
4. Date and sign the letter.
5. Save a copy or picture of the letter and attachment(s) for your records.
6. Give or send the completed letter and attachment(s) to the landlord.
7. If the landlord does not respond to you, reach out to them.

[Insert Date]

[Landlord / Property Manager's Name]

[Address Line 1]

[Address Line 2]

Re: Survivor's Legal Protections in Housing Screenings

Dear [addressee]:

On [insert date], I applied to rent a unit at [insert the address]. You **[insert one: rejected my housing application or offered me housing, but with less favorable lease terms]** because **[explain reason for rejection or worse lease terms, for example: I have an eviction on my record; I have a low credit score; I have a criminal history, my former landlord said I violated the lease]**, which is the direct result of abuse or violence committed against **[insert one: me or my household member or my immediate family member]**. As explained below, California law prohibits landlords from denying a potential tenant housing or offering them less favorable lease terms because they or their household member or their immediate family member experienced abuse or violence. Therefore, you must reconsider my application.

Under California law, it is illegal for a landlord take an adverse action against a potential tenant ("applicant") because the applicant, their household member or immediate family member experienced abuse or violence from someone who was not the applicant. (Civ. Code, § 1946.9, subd. (a).) "Adverse action" means denying an applicant housing or offering an applicant less favorable lease terms than advertised or discussed. (Civ.

Code, § 1946.9, subd. (d)(2).) “Abuse or violence” is domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, crime that caused bodily injury or death, crime that involved a deadly weapon or crime that included the use of force or a threat of force. (Civ. Code, § 1946.9, subd. (d)(1).) A landlord may require documentation of abuse or violence from the applicant. (Civ. Code, § 1946.9, subd. (a)(3).) The landlord must accept any of the four as sufficient documentation of abuse or violence: (1) a police report, (2) a restraining or protective order (3) a qualified third party statement, or (4) a documentation that reasonably verifies abuse or violence, including the applicant’s own signed statement. (Civ. Code, § 1946.9, subd. (a)(3).) If a landlord takes an adverse action against an applicant, the landlord may be held liable to the applicant for both actual and statutory damages. (Civ. Code, § 1946.9, subd. (b).)

**[insert one: I or My household member or My immediate family member]** experienced **[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, a crime that caused bodily injury or death, a crime that involved a deadly weapon or a crime that included the use of force or a threat of force]**, which is abuse or violence. As a result, **[explain why the adverse action was a result of abuse or violence, examples:**

- I moved out in the middle of a pervious lease to escape a stalker. After I moved my roommate was evicted. The eviction is on my record because I was still on the lease when she was evicted. Therefore, you rejected my application because I experienced stalking, which is abuse or violence.
- The person who abused me controlled my money. Because they controlled my money I fell behind on rent and was evicted. Therefore, you rejected my application because I experienced domestic violence, which is abuse or violence.
- The person who trafficked me would not let me open a bank account, sign a lease or have a credit card. So, I don’t have a credit history because I was trafficked. Therefore, you offered me a higher rent than advertised because I experienced human trafficking, which is abuse or violence.
- I have a criminal history because I defended myself when someone threatened me with force so they could steal my car. Therefore, you rejected my application because I experienced a crime that included the threat of force, which is abuse or violence.

Attached is **[insert type of document; examples, police report, restraining**

order, a qualified third party statement, my signed statement], which is allowed documentation of abuse or violence under the law. You took adverse action against me because [insert one: I or my household member or my immediate family member] experienced abuse or violence, so to comply with California law, you must reconsider my housing application.

Thank you for reconsidering my application and keeping my status as a survivor confidential. If I do not hear from you in the next ten business days, I will assume you decided to take adverse action against me in violation of California law. [OPTIONAL: In such event, I have several legal remedies, including filing a case in court. To avoid liability please reconsider my housing application.]

Sincerely,

[Survivor's Signature] \_\_\_\_\_

[Survivor's Name Printed]

Attachment: [list document(s) you are including]

## Template: Qualified Third-Party Statement – Housing Screenings

### **Instructions**

1. You can download this template in a word document by clicking this [link](#).
2. Delete instructions, highlights and brackets i.e. [ ] before giving your letter to the landlord.
3. Part I of the template must be completed by the tenant.
4. Part II of the template must be completed by a qualified third party.
  - a. If the qualified third is a domestic violence counselor, sexual assault counselor, human trafficking caseworker or victim of violent crime advocate, then both Part I and Part II must be written on the third-party's organization's letterhead.
  - b. If the qualified third-party is a California licensed physician, surgeon, registered nurse, psychiatrist, psychologist, clinical social worker, marriage and family therapist, or professional clinical counselor, the letter does not need to be on letterhead.
5. Highlighted sections must be filled out.
6. Date and sign the letter.
7. Make a copy or take a picture of the letter and attachment(s) for your records.
8. Give or send the completed letter and attachment(s) to your landlord.
9. If your landlord does not respond, reach out to them.

Tenant Statement and Qualified Third Party Statement under Civil Code Section 1946.9

Part I. Statement By Tenant

**[If a sexual assault counselor, domestic violence counselor, human trafficking caseworker or victim of violent crime advocate completes Part II, then both Part I and Part II must be written on the advocate's organization's letterhead.]**

I \_\_\_\_\_ **[insert name of tenant]**, state as follows:

I, or a member of my household or immediate family, have been a victim of:

\_\_\_\_\_  
**[Insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use of force against the victim or a threat of force against the victim].**

The most recent incident(s) happened on or about: \_\_\_\_\_.  
**[Insert date or dates.]**

The incident(s) was/were committed by the following person(s), with these physical description(s), if known and safe to provide:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_. **[If you know and it is safe to provide your abuser(s) name(s) and physical description(s), insert here]**

\_\_\_\_\_  
Signature of Tenant

\_\_\_\_\_  
Date



Part II. Qualified Third Party Statement

**[If a sexual assault counselor, domestic violence counselor, human trafficking caseworker or victim of violent crime advocate completes Part II part, then both Part I and Part II of the letter must be written on the advocate's organization's letterhead.]**

I, \_\_\_\_\_ **[Insert Name of Qualified Third Party]**, state as follows:

My business address and phone number are: **[insert business address and phone number]** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**[Check and complete one of the following:]**

\_\_\_\_ I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.

\_\_\_\_ I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially compensated or not, by a domestic violence victim service organization, as defined in that section.

\_\_\_\_ I meet the requirements for a human trafficking caseworker provided in Section 1038.2 of the Evidence Code and I am employed, whether financially compensated or not, by an organization that provides programs specified in Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of the Penal Code.

\_\_\_\_ I meet the definition of "victim of violent crime advocate" provided in Section 1947.6 of the Civil Code and I am employed, whether financially compensated or not, by a reputable agency or organization that has a documented record of providing services

to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

\_\_\_\_\_ I am licensed by the State of California as a: \_\_\_\_\_  
[insert one of the following: physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor] and I am licensed by, and my license number is: \_\_\_\_\_.  
[Insert name of state licensing entity and license number.]

The person who signed the Statement By Tenant above stated to me that the person, or a member of the person's household or immediate family, is a victim of:  
\_\_\_\_\_. [insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused physical injury, emotional injury and the threat of physical injury, or death.]

The person further stated to me the incident(s) occurred on or about the date(s) stated above.

I understand that the person who made the Statement By Tenant may use this document as a basis for terminating a lease with the person's landlord.

\_\_\_\_\_  
Signature of Qualified Third Party

\_\_\_\_\_  
Date

## Template: Applicant Signed Statement – Housing Screenings

### Instructions

1. You can download this template in a word document by clicking this [link](#).
2. Delete instructions, highlights and brackets i.e. [ ] before giving your letter to the landlord.
3. Highlighted sections must be filled out.
4. Date and sign the letter.
5. Make a copy or take a picture of the letter for your records.
6. Give the landlord the completed letter with the template [Survivor's Legal Protections in Housing Screenings](#)
7. If your landlord does not respond, reach out to them.

[Insert Date]

[Landlord / Property Manager's Name]

[Address Line 1]

[Address Line 2]

Re: Signed Statement Verifying Abuse or Violence

Dear [Insert: Name of Landlord / Property Manager's Name]:

I am applied to live at [insert: unit's address]. [insert one: I or My household member or My immediate family member] experienced [insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, a crime that caused bodily injury or death, a crime that involved a deadly weapon or a crime that included the use of force or a threat of force]. Below is my documentation of abuse or violence; a signed statement as allowed under California law. (Civ. Code, § 1946.9, subd. (a).)

I [insert your full name], state as follows:

I, my immediate family member, or a member of my household, have been a victim of: [Insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused bodily injury or death, a crime that included the exhibition,

drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use of force against the victim or a threat of force against the victim].

The most recent incident(s) happened on or about: **[Insert: date or dates.]**

**[Insert one of the following:**

- **“The incident(s) was/were committed by the following person(s), with these physical description(s), [insert names and/or descriptions of people who committed abuse or violence]” or**
- **“It is not safe for me to disclose the name(s) or description(s) of the person/people who committed the abuse or violence” or**
- **“I do not know the person who committed the abuse or violence.”]**

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Signature of Applicant

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Date