

Know Your Rights Manual for the Transgender Community:

Housing Law

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INTRODUCTION

This information was compiled by law students of the National Lawyers Guild, using statutory law, case law, and the work of numerous legal and non-legal organizations across the country, notably, the National Lawyers Guild, Bay Area chapter. While the information here is up to date through April 2010, it is possible that substantive changes have been made to the laws since it was last updated. Please keep this in mind while using this resource. Source and reference information will be provided for most of the content in this manual to help you verify that the information is still good before relying on it.

This manual was created for use by transgender community members and allies, by service providers who work with the transgender community, and by attorneys and legal workers who provide advocacy and legal services to members of the transgender community. For purposes of this manual, the word “transgender” is used as an umbrella term that includes transgender, gender variant, and intersex people who are at any point of self-identification or physical transition. Occasionally, the text will refer to individuals as “he or she” or “his or her.” This reference does not indicate that a statement applies exclusively to persons who identify as male or female, but instead is used for legibility and accessibility. The information in this manual does not constitute legal advice; instead, it is meant to serve as a resource to help understand the landscape of transgender law in a particular area, and to help connect readers with the current information needed to verify law or navigate a particular situation. Although we hope that this manual assists service providers and community members in locating information and resources, it is important to note that only licensed attorneys are authorized to give legal advice. If you have a question of law that is outside of the scope of information provided in this manual, you may wish to consult or refer your client to an attorney or, if you are a client, to contact one of the legal support agencies listed in the resource guide in the back. Many of the organizations listed in the resource guide provide referrals to attorneys who are familiar with transgender law and working with the transgender community.

USING THIS MANUAL

This manual was created to be a first-stop reference for lawyers, service providers, and community members who need legal information about a transgender-specific issue or question of law. For ease of use, the content has been divided by common problems or needs. Case law, statutes, print and web resources, and other service organizations can be found embedded throughout the manual, referenced in the footnotes, and listed in the directory at the back of this manual.

This resource was created by and for people in the San Francisco/Bay Area, and therefore much of the information is specific to California and San Francisco/Bay Area resources and law. We hope that this manual will be a helpful resource to readers outside of California because it includes information that is nationally relevant. However, it is important that non-California readers pay close attention to what information appears to be specific to California or the Bay Area, and not presume that the local information contained in this manual will transfer to other cities and states. Non-California readers are encouraged to use the national resources listed in the directory at the back to locate up-to-date information about the laws and precedent in their state or city. It is important to note that, although the researchers who assembled this information did our best to be accurate on points of both black letter law and how the law tends to play out in the real world, there may be inaccuracies and nothing in this manual should be relied on as legal advice. Legal advice can only come from a lawyer. This manual is, however, a good starting place to understand the law and how it affects transgender people and communities in California and the Bay Area specifically.

FINDING THE LAW FOR FREE

Legal documents, such as cases and statutes, are actually public documents. This means that everyone (members of the public) has the right to research and read these documents. The problem is that sometimes these documents can be hard to find or access.

If a case is cited in document and a person desires to find and read the actual case, we can find it by following a series of steps. The first step is to avoid getting flustered by the complicated series of numbers, letters and punctuation that follows the name of the case. The next step is to simply go to <http://scholar.google.com/>, click the “Legal opinions and journals” button and type in the volume number, the journal name, and the page number

from the case citation.

For example, to find the case of *State v. Jordan*, 742 N.W.2d 149(Minn. 2007). We would ignore the name of the case (*State v. Jordan*), and copy the volume number (742), then journal name (N.W.2d), followed by the page number (149). Those three things are all that's needed to find the case on Google scholar. Sometimes the journal name will be different, but as long as the right information is copied into the search bar, Google Scholar should be able to pull it up.

The information in this manual is not legal advice. We hope that transgender individuals and their allies will use this manual as a first step for beginning to understand applicable law, and identify when legal help is needed. Many transgender people report barriers to accessing legal services for a number of reasons. The cost of hiring a lawyer is a major issue for many, along with fears that lawyers will not be respectful of trans clients, will not know enough about how laws specifically affect transgender people, or that the court system is prejudiced against transgender people. While all of these fears are justified, attorneys, activists, and advocates across the country are making huge strides in increasing legal services and resources for transgender people. Many states have GLBT bar associations that can be helpful in locating legal information or finding lawyers who are knowledgeable about transgender law and sensitive to the specific concerns of transgender clients. Many of the organizations listed in the resource section at the end of this manual are happy to assist individuals in finding legal services. Although legal services often seem too expensive, there are a lot of organizations and individual attorneys committed to making justice more accessible. You may be eligible for pro bono (free of charge) representation or fee structures that work for you (such as contingency fees, where you only pay if you win your case). Additionally, many attorneys are happy to meet with potential clients for free to assess your case. This can be a good way to learn more about your options and whether it's worth it to you to pursue specific legal actions.

A NOTE TO PROFESSIONALS

This manual was designed to be a resource to clients, but it is our hope that service providers and legal professionals will also find it useful. Attorneys may find this manual to be a helpful starting point for legal research and a useful tool for locating additional resources. All manuals in this series contain footnotes to case law, law review articles, and statutes that we hope will assist you. As with any compilation of research, attorneys are urged to check all cited law before relying on it to make sure there haven't been substantive changes and that it will apply to your client's particular case. Many of the organizations listed in the resource section of this document provide assistance to attorneys representing clients, and can be excellent sources for information and insight. When advocating for transgender clients, attorneys can advocate for the use of appropriate name and pronoun for their client in court and other proceedings.

BASIC RIGHTS

Both citizens and non-citizens alike have rights under the United States Constitution. The Fifth Amendment gives every person the right to remain silent – that is, to not answer questions asked by a police officer or government agent. The Fourth Amendment restricts the government's power to enter and search a person's home or workplace, although there are many exceptions and new laws have expanded the government's power to conduct surveillance, as well as the authority for the police to search a person or belongings. The First Amendment protects a person's right to speak freely and to advocate for social change. However, the Department of Homeland Security (DHS) can legally target someone based on political activities if that person is a non-citizen and can be deported. These Constitutional rights are absolute, and cannot be suspended – even during wartime.¹

DISCRIMINATION IN HOUSING

The most common forms of housing discrimination against transgender people occur when they are denied housing, discriminated against in the terms or conditions available to other tenants, or harassed by a landlord or fellow tenant. Often, couples with one or more transgender partner are discriminated against when acting as potential home buyers or renters.

¹ *Know Your Rights*, (August 2004) New York: National Lawyers Guild; *Know Your Rights*, (2006) Midnight Special Law Collective

In San Francisco² and Oakland³, landlords are expressly prohibited from discriminating based on gender identity. If transgender-specific discrimination occurs outside of these two cities, an individual is still protected by California state law. The Fair Employment and Housing Act (FEHA), asserts that “the opportunity to seek, obtain, and hold housing without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability... is hereby recognized as and declared to be a civil right.” In 2003, the Gender Nondiscrimination Bill (AB 196) amended FEHA to explicitly protect transgender people by adding a gender identity specification to the definition of “sex.”⁴ Relief under FEHA, then, is available to those who can make a claim for discrimination based on sex. However, it is important to note that for a claim to succeed, one must be able to prove that the discrimination was based on sex. Landlords often evict or refuse to rent to transgender people but cite a legally valid reason or no reason at all, rather than explicitly breaking the law. Individuals outside of California should research their state's housing discrimination laws. In all states, no matter what the law, landlords frequently utilize discriminatory practices and claim to be basing their action on legally acceptable reasons. It can be very difficult to bring a discrimination claim against a landlord, so collecting and documenting evidence that the discrimination was explicitly related to gender identity is very important. Whenever possible, ask for things in writing, especially if a landlord explicitly tells you that something is based on gender identity.

The Unruh Civil Rights Act provides further protection for transgender people in California. The Act ensures that “all persons within the jurisdiction of [California] are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”⁵ While FEHA alone is broad enough to protect people in any type of rental or real property purchase situation, Unruh's scope can reach just slightly further, as it protects transgender people in business accommodations. A transgender person could argue a violation of Unruh based on disability and sex, as transgender people are not expressly excluded from either definition and are included by statute (AB 196) under discrimination based on sex. The main distinction between FEHA and Unruh as it has been interpreted by courts is effectual versus intentional discrimination. FEHA will recognize as violations practices that have a discriminatory effect, while Unruh is narrower, requiring that violations are intentional in order to be actionable. This can make a claim exceptionally difficult to prove, and heightens the importance of documentation and other evidence that discrimination is deliberate.

It is important to note that the local and state laws outlined above cover not only standard landlord-tenant interaction, but also issues in public housing, with Section 8 vouchers, at homeless shelters, and in single room occupancy residences (SROs).

At this time, Federal law is less favorable than the state law for transgender people seeking relief from discrimination. Title VIII of the Civil Rights Act of 1964 makes it unlawful “to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap...”⁶ “Handicap” is defined as “a physical or mental impairment which substantially limits one or more of such person's major life activities.” As it relates to other statutes, some courts have interpreted people diagnosed with Gender Identity Disorder, as falling into this category of handicapped or disabled. Title VIII as it currently reads, however, explicitly excludes transvestites from this protection. It could be argued that a transgender person is not a transvestite and, therefore, is protected, but it is unclear how a court would rule on this issue.

DISCRIMINATION WHEN RENTING

Refusing to rent property based on an applicant's transgender status is not the only type of discrimination that is actionable under California law. A landlord might alter the terms of the lease so as to charge a transgender tenant a higher rent or provide terms that are less favorable than for other tenants.

² San Francisco Police Code, § Section 3303

³ Oakland Mun. Code, Ch. 9.44

⁴ Cal. Assemb. B. 196 (2003)

⁵ Cal. Civ. Code, § 51

⁶ 42 U.S.C. §3604

A landlord might also try to charge a higher fee for rental application. The fee itself is used to cover costs related to reference checking. A landlord is not able to take an application fee if he or she knows there are no rental units available or none available within a reasonable time. Any amount that is not used to perform those checks must be returned to the applicant. The landlord must disclose before the fee is taken, the name, address and phone number of the tenant screening service, if asked.

A landlord may neither enter a rented property without notice, nor monitor guests to a leased property. Doing so is a form of harassment and is illegal under FEHA. In cases of emergency, tenant abandonment, or surrender, a landlord or manager may enter a rental unit without notice. Otherwise, a landlord may enter a unit only after giving reasonable written notice with a valid reason. A landlord has a valid reason to enter when he or she must do one or more of the following: make a needed or agreed upon repair or alteration; show the unit to prospective buyers, tenants, contractors, lenders or repair workers; provide agreed upon services; conduct an inspection related to a tenant's security deposit, prior to their move-out; or when he/she has a court order.⁷ A landlord may not enter a rental unit simply to inspect the premises, even if the rental agreement specifies that this is allowed. Once the landlord has given notice, entry should be during normal business hours, unless the tenant consents otherwise. The right of entry shall not be abused by the landlord or used to harass a tenant. Reasonable notice has been deemed by the courts to be 24-hour notice. The notice should be personally delivered, left with someone at the premises of suitable age and discretion, or left at, near or under the usual entry door where it is likely to be discovered. It can be mailed, but the landlord should allow six days between mailing and entry. There is an exception that allows oral notice of entry during the sale of a property provided certain procedures are followed.⁸

However, the landlord may enter the unit without giving prior notice when immediate entry is necessary to prevent injury to property or people or to determine tenant's safety or to comply with state law or local ordinance. The landlord must leave written notice if he enters without giving notice and the tenant is not present.

Background and Credit Checks

There are several issues about which a landlord may not inquire. A landlord may not ask a prospective tenant about anything unrelated to one's ability to be a good tenant. Examples of unlawful questions are: "What medications do you take?" or "Have you had sex reassignment surgery?" or "Are you transgender?" However, discrimination in the application process is not always obvious. To discern if one is being discriminated against, it is important to watch not only for intrusive questions but also to notice to whom these questions, or even other lawful questions, are being directed. A landlord is legally allowed to do a background check on an applicant, but is not allowed to run such checks only on certain groups of people. It can be very difficult to prove whether a landlord is running checks only on specific groups of people, so be sure to document any evidence or indications of this practice.

Many landlords run credit checks and will not rent to applicants with credit issues. In California, refusing to rent to a person based on bad credit is legal. The best way for a tenant to prepare is to obtain a credit report and make sure to be aware of any credit issues. Some landlords will accept a tenant with poor credit history who also has a secure job and good references. Some landlords do not ordinarily run credit checks, and instead rely on other criteria to make a decision. **Consumer Credit Counseling Services** (www.ccs.org) can provide a copy of a credit report for a prospective tenant, explain it, and provide advice on how to remedy any bad credit issues. If income allows, another solution may be to offer to pay a higher deposit or provide a co-signer in lieu of a positive credit report.⁹

Landlords might also look at criminal records before deciding to rent to an individual. Like poor credit records, criminal records are likely to have a detrimental affect on a person's attempt to secure housing, and there is no law prohibiting landlords from refusing to rent to individuals based on these factors. In San Francisco and the

⁷ Cal. Civ. Code, § 1954

⁸ Cal. Civ. Code, § 1954

⁹ East Bay Housing Organizations, *Steps to Finding Affordable Housing* (2009) www.ebho.org/artman2/publish/ebay/Steps_to_Find_Affordable_Housing.shtml

East Bay, an individual may be eligible to have a criminal record improved through an initiative called the Clean Slate Program. Someone who has been arrested, convicted of a crime or been found delinquent in juvenile court, could be eligible to have his or her criminal record "cleaned" by a simple process. Some records, such as marijuana possession and juvenile offenses, can be totally destroyed. Other records can be changed from felony to misdemeanor status.¹⁰

In California, background checks run by prospective landlords to learn more about prospective tenants are called "tenant screenings". A tenant screening is a written or oral report by a tenant screening service regarding a prospective tenant's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or lifestyle.

A landlord is legally allowed to request a tenant report about an applicant, but is not allowed to run such checks only on certain groups of people. It can be very difficult to prove whether a landlord is running checks only on specific groups of people, so be sure to document any evidence or indications of this practice.

A tenant screening service must provide without charge any information that has been used within the past 30 days to deny the rental or increase the security deposit or rent of a residential housing unit to the individual, but you must make this request within 60 days. A tenant must be allowed to explain any eviction report or any disputed item not resolved by reinvestigation and it will be included in the tenant report, but a screening service may limit it to 100 words. A prospective tenant who has been involved in a previous eviction proceeding may apply to the court to have their name expunged from the record.

Many landlords run credit checks and will not rent to applicants with credit issues. In California, refusing to rent to a person based on bad credit is legal. The best way for a tenant to prepare is to obtain a credit report and make sure to be aware of any credit issues. Some landlords will accept a tenant with poor credit history who also has a secure job and good references. **Consumer Credit Counseling Services** (www.cccs.org) can provide a copy of a credit report for a prospective tenant, explain it, and provide advice on how to remedy any bad credit issues. If income allows, another solution may be to offer to pay a higher deposit or provide a co-signer in lieu of a positive credit report.

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Rent Control

In San Francisco, a landlord may increase a tenant's base rent once every twelve months by the amount of the annual allowable increase. The annual allowable increase changes every year on March 1 and is based on 60% of the increase in the Consumer Price Index for All Urban Consumers in the Bay Area.¹¹ A person can obtain a list of the current and past annual allowable rent increases at the Rent Board's office or by visiting their website at www.sfgov.org/rentboard.

San Francisco's rent control laws provide for just cause eviction protections: this means that tenants can only be evicted for specific reasons. Tenant harassment is prohibited, and tenants can be eligible for a decrease in rent while they are being harassed.¹² For a full list of behaviors that qualify as harassment, visit the website cited here. Examples of harassment include failing to perform required repairs or maintenance, trying to coerce tenants to vacate with offers of payment to vacate, accompanied by threats or intimidation, and refusing to accept or acknowledge the tenant's lawful rent payment.

¹⁰ The National Lawyer's Guild. *Know Your Rights Manual for the Transgender Community: Criminal Law*, Available online at: www.nlgsf.org/resources

¹¹ San Francisco Admin. Code, § 37.3

¹² Sec. 37.10B Tenant Harassment. City and County of San Francisco Rent Board. Available online at: <http://www.sfrb.org/index.aspx?page=1271>. Last visited August 1, 2010

Eviction

A landlord can neither evict a tenant nor threaten to evict for being transgender. An eviction in the absence of any unlawful activity on the part of the tenant but motivated simply by a landlord's knowledge of his or her gender identity is unlawful. Threatening eviction without legitimate grounds to evict is a type of harassment and is also prohibited by law.¹³

Further, many tenants are unaware that eviction must happen through a legal process. This means that a landlord cannot simply announce the eviction to the tenant, remove the tenant's belongings from the premises, or lock out the tenant.¹⁴ None of these actions constitute a legal eviction. There are two steps to eviction in California: first, a landlord must provide proper, legal, written notice, then an unlawful detainer (eviction) lawsuit occurs.¹⁵

Security Deposit

There is no such thing as a non-refundable security deposit.¹⁶ If a landlord fails to return a security deposit within twenty-one days of the tenant's date of move out, or keeps a portion of the security deposit and the tenant disagrees with the charges, the tenant can write the landlord a letter of demand. The demand letter should be sent by certified mail, return receipt requested. Tenants should retain copies for their records. If the landlord does not respond to the letter of demand within ten days, the tenant can file an action in small claims court. If the tenant can prove that the landlord's retention of the security deposit was willful, the tenant could be awarded up to \$600 in punitive damages.¹⁷

DISCRIMINATION IN PUBLIC HOUSING

Public housing is a program run by the federal government through the Department of Housing and Urban Development (HUD). Though funded primarily by HUD, public housing programs are owned, managed, and operated directly by local housing authorities. Tenants in San Francisco public housing deal with the San Francisco Housing Authority for various reasons such as writing checks or asking for repairs. In Oakland, tenants deal with the Oakland Housing Authority, in Alameda, tenants work with the Alameda Housing Authority, and so on.¹⁸

Public housing is limited to low-income families and individuals. Housing authorities determine eligibility based on annual gross income, whether applicants qualify as elderly, a person with a disability, or as a family, and U.S. citizenship or eligible immigration status. If an applicant is eligible, the housing authority will check references to make sure the applicants will be good tenants.¹⁹

Similar to standard landlord-tenant relations outlined above, public housing is regulated both by federal and state law. For transgender tenants, for whom state law in California is more favorable than federal law, the Fair Employment and Housing Act (FEHA) and the Unruh Civil Rights Act should be followed. All other applicable California codes, regulations of specific municipalities, and federal law all apply as well.

Criminal Records

Federal law requires providers of public housing to perform background checks for people who apply to public housing. However, before a public housing authority takes any adverse action against an applicant based on the results of a criminal background check, applicants must be given an opportunity to dispute the accuracy of their criminal records.²⁰

¹³ Cal. Gov. Code, §12900-12996

¹⁴ Cal. Civ. Code, § 789

¹⁵ San Francisco Tenants Union. *Unlawful Detainer Procedures and Time Chart*, (January 2003). Available online at: <http://www.sftu.org/evictflowchart.pdf>

¹⁶ Cal. Civ. Code, § 1950

¹⁷ Cal. Civ. Code, § 1950

¹⁸ Cal. Health & Saf. Code, § 34240

¹⁹ www.hud.gov/renting/phprog.cfm

²⁰ 42 U.S.C. §1437

Eviction

Tenants must be given "good cause" for eviction in Public Housing. This means that there are only very specific reasons why a tenant can be evicted, including serious or repeated violation of material terms of the lease, non-payment of rent, criminal activity or alcohol abuse, violating a condition of parole, or other good legal cause.²¹ In California, being transgender is not permissible grounds for eviction.

If a tenant receives a "notice of adverse action," "notice of lease termination," or "notice to vacate" from the San Francisco Housing Authority, he or she has the right to request a grievance hearing. The notice should inform the tenant of this right and the timeline and process for requesting the hearing. The tenant must initially request an "informal settlement" with the property manager. If the decision is not favorable, the tenant may then request a formal hearing.²² An exception exists in regard to evictions relating to health and safety hazards and criminal activity. In such cases, the tenant is not granted the right to a grievance hearing.²³ Hearing decisions and/or failure to request or attend hearings do not impact a tenant's right to sue in court at a later date.

For more information or assistance, visit the **Eviction Defense Collaborative** at 995 Market Street in San Francisco. They do not accept phone calls, and are open Monday through Friday from 9:30-11:30am and 1:00-3:00pm. Bring all related documentation with you.

Recourse for Denial of Public Housing

According to federal law, an applicant has the right to challenge the Housing Authority's decision to not admit the applicant into public housing.²⁴ When an applicant is denied admission to public housing, the Housing Authority must provide notification in writing and explain the reasons for the denial. If the applicant is verbally told of a denial, that person should not assume that this is true, and should always ask for the denial in writing. This way, the person will know whether the reason is legal, and whether there are grounds for an appeal. The written notice should state the reason for the denial and that the applicant has the right to request an informal hearing to challenge the decision within ten days.²⁵

DISCRIMINATION IN SECTION 8 HOUSING

Section 8, or the Housing Choice Voucher Program, is a Federal housing program that provides housing assistance to low-income renters and homeowners. A type of public housing, this assistance comes in the form of rental subsidies, limiting the monthly rent payment of the assistance recipient. Rent is determined by an applicant's income. The voucher will pay anything above 30% of the adjusted monthly income, up to an established limit.²⁶ See the public housing section above for regulations governing Section 8 housing.

DISCRIMINATION IN SROs

Single Room Occupancy residences (SROs) are multiple-tenant residences that house people in single rooms, with tenants sharing bathrooms and kitchens. In California, SROs are governed by state law and the same regulations apply to these residences as they do to standard tenancies. A common occurrence with SROs happens when landlords tell tenants to move just before they complete thirty days as residents. This time marker represents the threshold between visitors and tenants, and more strict regulations attach to landlords after the occupants become tenants. It is unlawful for a landlord to move a tenant before this thirty day deadline simply to avoid the attachment of additional tenant rights.²⁷

Visitors to SRO's

²¹ San Francisco Housing Authority, *Admissions and Continued Occupancy Policy*, 73

²² 24 CFR § 966

²³ 24 CFR § 966.51

²⁴ 24 CFR § 960.205

²⁵ 24 CFR § 960.205

²⁶ 24 CFR §888.113

²⁷ Cal. Civ. Code, § 1940

In San Francisco, guests and occupants of SRO housing are allowed a maximum of two daytime visitors at a time per room, with no limit as to how many guests they have each month. Daytime visitors are allowed only from 9am-9pm. Guests and occupants are allowed a maximum of eight overnight guests each month, and are limited to 1 guest per room per night. Both daytime and overnight guests must show some form of identification. While the law does not explicitly address what happens if the visitor's identity does not match his or her identification, California law does prohibit discrimination in housing and public accommodations based on gender identity. Any time a tenant's visitor is excluded from the SRO, written notice must be delivered to the tenant after the fact with the visitor's name and the reason for the exclusion.²⁸

DISCRIMINATION IN SHELTERS

In San Francisco, homeless shelters are required by the policy of the Human Rights Commission to treat transgender people according to their self-identified gender. This means transgender women are housed with women and transgender men with men. Further, shelters are required to address the individual according to his or her gender identity, and allow the person to use the appropriate restroom.²⁹ Ideally, the shelter should make available a private shower facility, though many shelters do not have the resources to do so. In such a case, shelters should arrange a safe solution on a case by case basis. Unfortunately, not all Bay Area shelters have such trans-friendly policies. Without such restrictions, shelters can be dangerous places for transgender people. If a transgender person is faced with a harmful or dangerous situation in a shelter, it is best to seek legal assistance.

DISCRIMINATION WHEN BUYING

A seller of property cannot refuse to sell to a buyer based solely on the prospective buyer's gender identity. The same rights apply to buyers as do to renters. A common form of discrimination against buyers is when a seller refuses to recognize a legal marriage when one or both of the partners is transgender. When dealing with a couple who is legally married, a seller must recognize and respect the marriage, regardless of her or his opinions about gender identity or transgender people.³⁰

TAKING ACTION

Initially, individuals should keep track of any and all incidents of discrimination they experience, as well as records of any communication with a landlord, seller, or fellow tenant regarding the incident.

Depending on residency and the location of the discrimination, the individual will then file local, state, and federal claims. In San Francisco, he or she should file a complaint with the San Francisco Human Rights Commission reporting a violation of Article 33 of the San Francisco Charter and Administrative Code. In Oakland, he or she should file a complaint with the local human rights commission or contact the city or county clerk to report a violation of Chapter 9.44 of the Oakland Municipal Code.

For the state claim, the individual may file a complaint with the California Department of Fair Employment and Housing (DFEH) in order to report the Fair Employment and Housing Act (FEHA) violation. There is no charge to file a complaint, and it can be done without an attorney.

Though state law is currently more favorable than federal law to an aggrieved tenant, it may be prudent to file a federal claim, as well. This complaint should be filed with the U.S. Department of Housing and Urban Development (HUD).

²⁸ *Uniform Hotel Visitor Policy*, (October 2007) City and County of San Francisco Rent Stabilization and Arbitration Board, www.sfgov.org/site/uploadedfiles/rentboard/ordsrules/Uniform_Hotel_Visitor_Policy071106.pdf

²⁹ *Compliance Guidelines to Prohibit Gender Identity Discrimination* (December 2003) San Francisco Human Rights Commission <http://www.sfgov.org/site/sfhumanrights_page.asp?id=6274

³⁰ *Transgender People and Marriage: The Importance of Legal Planning*, (2002) Shannon Minter <http://www.nclrights.org/site/DocServer/tgmarriage.pdf?docID=118>

RESOURCES

Below is a brief list of resources that may be especially helpful. This collection is only a small representation of transgender-welcoming services in California and the United States. Searching online for additional resources may yield more specific information or assistance. Resources are divided by California-specific organizations, national organizations, and general resources, which includes legal documents, publications, research tools, and “know your rights” resources. For ease of use, we have specified whether organizations provide direct or support services, and to what extent they serve the LGBTQI (Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex) communities, and specifically, to what extent they serve transgender communities. National Lawyers Guild Interns spoke with representatives of almost all of these organizations to ensure that our description of their services is correct and up-to-date, and that they are explicitly welcoming of transgender community members.

CALIFORNIA RESOURCES

East Bay Community Law Center, www.ebclc.org

2921 Adeline St

Berkeley, CA 94702

Phone: (510) 548-4040 x390

Email: crimrecordshelp@ebclc.org

The East Bay Community Law Center provides free legal services to eligible East Bay clients in the cities of Berkeley, Oakland, and Emeryville. Specific service criteria vary by subject matter and change over time, so please contact the office with any specific questions. In general, EBCLC serves individuals living at or below 125% of the federal poverty guidelines. EBCLC provides desperately-needed legal services to the low-income community in the areas of housing, welfare, HIV & health, homelessness and economic development. EBCLC provides the following types of assistance: information and referral, consultation and advice, full representation in administrative or judicial proceedings, negotiation, and case management.

Eviction Defense Collaborative, www.evictiondefense.org

995 Market Street, #1200

San Francisco, CA 94103

The Eviction Defense Collaborative is the principal organization in San Francisco that helps low-income tenants respond to eviction lawsuits. They provide emergency legal services and rental assistance to over 5,000 tenants in San Francisco, and hold a drop-in clinic Monday-Friday 9:30-11:30 AM and 1:00-3:00 PM. The EDC is closed the first Friday morning of each month and all court holidays. Please bring all related documentation to the clinic.

Housing Rights Committee of San Francisco, www.hrcsf.org

427 South Van Ness Avenue

San Francisco, CA 94103

Phone: (415) 703-8644

Email: info@hrcsf.org (please write “tenant question” in the headline)

Public Housing Renters Rights Hotline: (415) 354-6353

The Housing Rights Committee is a tenants rights organization in San Francisco that offers free counseling for tenants in all types of housing, including rent-controlled, public housing & Section 8. The Housing Rights Committee has a staff of five and offices in the Mission where they offer counseling four days a week (Monday through Thursday), and organize to protect and expand the rights of tenants throughout the city. Open Monday through Thursday 1pm to 5pm for drop-in counseling about housing issues. Counseling is usually available in Chinese (Mandarin and Cantonese), Spanish, sometimes Russian, and English. Check their website for Section 8/Public Housing clinics.

Oakland Tenant's Union, www.oaklandtenantsunion.org

Phone: (510) 763-0142

The Oakland Tenants Union meets regularly at 7:00 pm on the second Monday evening of each month. Monthly meetings are held in the Community Room of the Madison Park Apartments, 100 9th Street (at Oak Street, across from the Lake Merritt BART Station). To enter, gently knock on the window of the room to the right of the main entrance to the building. Though meetings begin at 7:00 pm, by advance arrangement, you can set up counseling sessions with a tenant attorney at 6:30 pm, in the same location just before the main OTU meeting. If you are experiencing rent and/or landlord problems, please call (510)763-0142 or (510)704-5276 if you want to request a counseling session.

San Francisco Tenant's Union, www.sftu.org

558 Capp Street

San Francisco, CA, 94110

Phone: (415) 282-6622 (call for counseling hours)

The San Francisco Tenants Union is a volunteer-based organization that fights for the rights of tenants and for the preservation of affordable housing in San Francisco. The Tenants Union is the city's leading advocate for tenants. The SFTU is 100% membership supported and this enables their advocacy to be uncompromising and immune to pressures from government or other funders. For both members and non-members, the SFTU operates a drop in counseling clinic.

San Francisco Public Defender's Office

555 7th Street

San Francisco, CA 94103

Phone: (415) 553-1671

Hours: Monday through Friday, 8am-5pm

To get help with an expungement and the Clean Slate Program in San Francisco, go to the San Francisco Public Defender's Office or call.

Transgender Law Center, www.transgenderlawcenter.org

870 Market Street, Room 400

San Francisco, CA 94102

Phone: (415)865-0176

Email: info@transgenderlawcenter.org

The Transgender Law Center (TLC) is a civil rights organization advocating for transgender communities. TLC provides direct legal services, engages in public policy advocacy and education and works to change laws and systems that fail to incorporate the needs and experiences of transgender people.

NATIONWIDE RESOURCES

Transgender-Specific Resources

National Center for Lesbian Rights, www.nclrights.org

Legal Helpline: 415.392.6257 (9AM-5PM PST)

Toll free: 1.800.528.6257 (9AM-5PM PST)

Email: info@nclrights.org

870 Market Street Suite 370

San Francisco CA 94102

The National Center for Lesbian Rights helps GLBT individuals and families nationwide through litigation, public policy advocacy, and public education. NCLR offers a legal helpline during regular business hours, and the best way to request assistance is by filling out an online help form on NCLR's website. NCLR provides referrals, assistance locating GLBT-aware attorneys, and offers limited direct services. The National Center for Lesbian Rights is committed to serving transgender communities, and is very welcoming to transgender clients.

National Coalition for Transgender Equality, <http://transequality.org/>

1325 Massachusetts Avenue NW, Suite 700

Washington, DC 20005

Phone: (202) 903-0112

The National Center for Transgender Equality (NCTE) is a 501(c)3 social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment. NCTE provides this presence by monitoring federal activity and communicating this activity to our members around the country, providing congressional education, and establishing a center of expertise on transgender issues. NCTE also maintains a federal transgender activists' network. NCTE's website include issue-based resources and information on topics including homelessness, immigration, employment, health care, and prisons.

Sylvia Rivera Law Project, www.srlp.org

322 8th Avenue, 3rd Floor

New York, NY 10001

Phone: (212) 337-8550

SRLP provides free legal services to transgender, intersex and gender nonconforming low-income people and people of color in the New York area. SRLP provides advice and referral for a wide variety of legal issues. Sometimes, they can also provide more help, such as advocacy, help with a case you are bringing on your own, or, more rarely, representation in a legal action.

Transgender Law and Policy Institute, www.transgenderlaw.org

The Transgender Law and Policy Institute is a non-profit organization dedicated to engaging in effective advocacy for transgender people. TLPI bring experts and advocates together to work on law and policy initiatives designed to advance transgender equality.

General Housing Resources

National Alliance of HUD Tenants, www.saveourhomes.org

42 Seaverns Avenue

Boston, MA 02130

Phone: (617) 267-9564

Email: naht@saveourhomes.org

The National Alliance of HUD tenants is a multi-cultural, tenant-controlled alliance of tenant organizations in privately-owned, multifamily HUD-assisted housing. Hundreds of tenant associations representing thousands of tenants in every region of the country are already involved, working together to preserve and improve affordable housing, protect tenants' rights, develop tenant empowerment, promote resident control and ownership, improve the quality of life in HUD-assisted housing and to make HUD accountable to its constituents. Their website includes resources and a state-by-state directory of organizations. This is an excellent place to begin searching for local support.

National Coalition for the Homeless, www.nationalhomeless.org

The National Coalition for the Homeless is a national network of people who are currently experiencing or who have experienced homelessness, activists and advocates, community-based and faith-based service providers, and others committed to a single mission: to end homelessness. Toward this end, the National Coalition for the Homeless (NCH) engages in public education, policy advocacy, and grassroots organizing. Work is focused in the following four areas: housing justice, economic justice, health care justice, and civil rights. NCH's website has resources for people who are experiencing homelessness or at risk of losing housing, and includes a national directory of state-by-state resources. This is another excellent place to begin searching for support.

National Housing Law Project, www.nhlp.org

National Housing Law Project

614 Grand Ave., Ste. 320

Oakland, CA 94610

Phone: (510) 251-9400

Email: nhlp@nhlp.org

The National Housing Law Project (NHLP) is a national housing law and advocacy center. The goal of NHLP is to advance housing justice for the poor by increasing and preserving the supply of decent affordable housing, by improving existing housing conditions, including physical conditions and management practices, by expanding and enforcing low-income tenants' and homeowners' rights, and by increasing opportunities for racial and ethnic minorities. NHLP works to achieve that goal by providing legal assistance, advocacy advice and housing expertise to legal services and other attorneys, low-income housing advocacy groups, and others who serve the poor. NHLP's primary areas of emphasis are public policy advocacy, litigation assistance, training, and research and writing, focusing on issues and problems that will have the greatest impact on the housing rights of the poor.

LSS Financial Counseling Service, www.cccs.org

424 West Superior St. Suite 600 Duluth, MN 55802

1-888-577-2227

Phone: (888) 577-2227

LSS Financial Counseling Service offers credit counseling services. LSS FCS has financial counselors who are trained to work with all people, including those who are facing financial crisis. They have offices throughout the state of Minnesota, and also serve the country by phone and online counseling services.

HELPFUL DOCUMENTS

Lisa Mottet and John M. Ohle, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*. www.transadvocacy.com/documents/TransitioningOurShelters.pdf

Boston Public Health Commission, *Protocol for Serving Transgender Guests and Health Services Guidelines for Serving Transgender Guests*. <http://www.transgenderlaw.org/resources/transprotocol.pdf>

Transgender Law Center, *California Transgender Law 101*.

www.transgenderlawcenter.org/pdf/ca_trans_law_101_overview.pdf

A brief review of California state laws as they affect transgender people. Updated in April, 2009.