

## Housing Issue-Spotting in Legal Services

**2009 Intro to Legal Services  
Trainings for Deferred Associates**  
Western Center on Law and Poverty  
November 16, 2009

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### Approaches to Housing Advocacy

- Protection
- Preservation
- Production

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### Local Rent Control

Berkeley	Beverly Hills	East Palo Alto	Glendale
Hayward	Los Angeles	Maywood	Oakland
Palm Springs	Richmond	Ridgecrest	San Diego
San Francisco	Santa Monica	Thousand Oaks	West Hollywood

See also <http://www.ci.banning.ca.us/archives/48/Appendix%201%20-%20arentcontroljurisdictionmodified2.pdf> 3

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## Evictions: Notice to Quit

- Notice to Quit (CCP §1161 et seq.)
  - 3 day
    - Non-payment of rent
    - Breach of Covenant
    - Nuisance
    - Owner-occupied foreclosure
  - 30 day
    - Tenants with less than one year residency
  - 60 day
    - Tenants with more than one year residency
    - Mobilehome park – homeowners only

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## Evictions: Notice to Quit

- 90 day
  - Section 8 tenants (CCC §1954.535)
    - Good cause required during lease term
  - Tenants in foreclosed property
    - Pub. Law 111-22, §§ 701-704
- 6 month - 1 year
  - Mobilehome park conversions
    - CCC §798 et seq.
  - Section 8 project-based contracts
    - Gov't Code §65863.10

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## Evictions: Notice *Exceptions*

- End of a lease term
- Death of tenant
- Domestic violence
  - CCC §1946.7
  - VAWA: 42 USC § 1437f
- Servicemembers Civil Relief Act
  - 50 USC App. §535
- Termination from employment
  - CCP §1161(1)
- State-licensed Community Care Facilities

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## Unlawful Detainer – Summary Proceedings

- Summons & Complaint
- Responsive motions
- Answer
- Discovery
- Motion Summary Judgment
- Trial
- Judgment
- Writ of Possession
- Notice to Vacate



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## California Eviction Resources

- Rutter Group
  - *California Practice Guide: Landlord/Tenant*
- Continuing Education of the Bar
  - *CA Eviction Defense Manual*
  - *CA Landlord Tenant Practice*

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## CA Foreclosure Resources: Tenants

- Western Center on Law and Poverty
  - *Practice Tip: Housing – New Federal Protections Help California Tenants in Foreclosed Housing* (July 2009)
  - *Foreclosure-Based Eviction Defense Packet for Advocates* (Updated November 2009)
- National Housing Law Project, Resource Center – Foreclosure Crisis and its Impact on Tenants:  
<http://nhlp.org/resourcecenter?tid=68>
- Tenants Together: <http://www.tenantstogether.org/>

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## Tenant & Homeowner Resources

- Public Interest Clearinghouse:  
<http://www.foreclosureinfoca.org/>
- Benchmark Institute: Foreclosure Watch:  
[http://www.benchmarkinstitute.org/t\\_by\\_t/foreclosure/index.htm](http://www.benchmarkinstitute.org/t_by_t/foreclosure/index.htm)
- Housing and Economic Rights Advocates:  
<http://www.heraca.org/>

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## Subsidized Housing

- Section 8 Voucher
  - Low rent / Utilities
  - Good cause eviction = lease term
- Public Housing
  - 30% of AI for rent
  - 14 day notice for nonpayment
  - Good cause & Grievance procedure
- Project Based Section 8
  - 30% of AI for rent
  - Good cause eviction
- Tax Credit properties
  - Low rent
  - Good cause eviction



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## National Housing Law Project

- The National Housing Law Project:  
[www.nhlp.org](http://www.nhlp.org)
  - National Housing Law Project, *HUD Housing Programs: Tenants' Rights*
- National Low Income Housing Coalition:  
<http://www.nlihc.org/template/index.cfm>
  - NLIHC, *2009 Advocates Guide to Housing and Community Development Policy*

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## Other Tenant Protections

- Retaliation
  - CCC 1942.5
  - Common law retaliatory eviction
- Implied Warranty of Habitability
  - "Untenantable" dwellings (CC § 1941.1)
  - Other housing standards
  - Defense to non-payment of rent

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## Other Tenant Protections

- Discrimination
  - Title VIII of the Civil Rights Act of 1968
    - <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>
  - Fair Employment and Housing Act
    - <http://www.dfeh.ca.gov/DFEH/default/>
- Protected classes (actual or perceived)
  - Federal: race, color, sex, national origin, disability, religion, familial status
  - State: All of the above, plus marital status, ancestry, sexual orientation and source of income

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## Producing & Preserving Low-Income Housing

- Enforcing state and local housing laws
  - Promote and zone for housing for all income levels
  - Ensure that a certain percentage of new units are "affordable"
  - Replace lost or destroyed units
  - Require "affordability covenants"
  - Relocate low and moderate income households when displaced by federal or state funds or a public entity

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## Defining “low income” in California

- Income Categories (state definitions)
  - <http://www.hcd.ca.gov/hpd/hrc/rep/state/inc2k9.pdf>
    - Extremely low - <30%
    - Very low - <50%
    - Lower - <80%
    - Median
    - Moderate >120%
- HUD definitions
  - [http://www.huduser.org/datasets/il/index\\_il2009.html](http://www.huduser.org/datasets/il/index_il2009.html)

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## What is “affordable housing”?

- In California, *based on ability to pay*:
  - Affordable “housing cost” = 30% (or 28%)
    - or
  - “Affordable rent, including reasonable utility allowance, shall not exceed 30%
    - . . . of area median income adjusted for family size appropriate for the unit

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## State Income Limits

Alameda County  
Area Median Income: \$89,300

Individual:

Extremely Low      \$18,750

Family of Four:

Extremely Low	\$ 26,800
Very Low Income	\$ 44,650
Lower Income	\$ 66,250
Median Income	\$ 89,300
Moderate Income	\$107,150

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## Local Housing Policy

- Housing Element
  - Gov't Code § 65583
  - Assess housing needs
  - Create a viable land inventory
  - Zone for homeless shelters
  - Mitigate constraints
  
- Public Interest Law Project:  
<http://www.pilpca.org/www/publications.html>

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## Local Housing Policy

- Community Redevelopment Law
  - Health & Safety Code §§ 33000 et seq.
  - Eliminate blight in urbanized areas
  - Tax Increment:
    - Low & Moderate Income Housing Fund
  - Other Housing Obligations
    - Replacement Units
    - Production Units
    - 55 year/ 45 year affordability covenants on all affordable housing units
    - AB 987 Lists
  
- Western Center on Law and Poverty: [www.wclp.org](http://www.wclp.org)
  - Contact Andrea Luquetta: [aluquetta@wclp.org](mailto:aluquetta@wclp.org)

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## Other Local Housing Plans

- Consolidated Plan
  - 5 year plan w/ annual reviews and updates
  - HOME, CDBG, HOPWA, ESG
  - Fair Housing Plans
  
- Relocation Plans
  - Federal, state or local government displacement
  - Watch for mass evictions

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