

Are Your Tenants Overcrowding Your Unit? by Daniel Costas, Attorney

Under Los Angeles Rent Control, the landlord is forced to shoulder the burden of additional wear and tear on a unit and utility expenses because the tenant brings in additional occupants.

With a written rental agreement limiting the number of occupants, a landlord could serve a 3-day Notice to Perform or Quit to enforce the terms of the rental agreement or increase the rent 10% per additional occupant but may be limited depending on the status of the additional occupant.

If you have too many occupants, the law requires YOU to do something about it. The revised Los Angeles Municipal Code states that no person shall allow an overcrowding condition to exist.

Without a rental agreement, the landlord could increase the rent 10% of the existing rent but still not cover the additional utility and wear and tear expense.

The Los Angeles Municipal Code restricts how many persons can occupy a particular unit. If you have too many occupants the law requires YOU to do something about it.

Prior to the change in occupancy limits, the arcane law stated that every dwelling unit must have at least one room of not less than 150 square feet of floor area and other habitable rooms must have an area of not less than 70 square feet but did not include kitchens. It further stated that if more than two persons occupied a room then the required floor area would be increased by 50 square feet for each occupant in excess of two. In order for a landlord to determine if a unit was overcrowded, the landlord would measure each room and calculate the floor area, excluding cabinets resting or attached to the floor and including a living room or dining area, then determine how many persons could occupy the unit. In essence, the calculation would allow 10 occupants in a 550 square foot apartment and permit one additional person for every additional 50 square feet.

Although The Rent Adjustment Commission enacted good faith rules by which the landlord must comply under the old regulations, a landlord should continue to act in good faith in both determining unit size and calculating occupancy limits prior to proper notification of both the law and the violation before beginning an Unlawful Detainer action. In addition, the obsolete law stated that any overcrowding condition would require the landlord offer any other vacant unit to the tenant to resolve the overcrowding condition and considered the removal of the number of persons overcrowding as a reduction in services requiring an appropriate reduction in tenants.

The regulations still reference the Municipal Code Sections which no longer exist (L.A.M.C. 91.1207) or reference an ordinance that has nothing to do with occupancy limits (L.A.M.C. 91.1208).

The revised Los Angeles Municipal Code states that no person shall allow an overcrowding condition to exist. There must be 200 square feet of living space per occupant. If the number of persons occupying the unit exceeds that number, then the unit is overcrowded. Specific notification must be given to each unit of the complex and further notification to each overcrowded unit. The tenant must be given time to correct the overcrowding condition. If the tenant refuses to or does not comply within the time specified in the notice, the tenant may be evicted for an illegal use. **Unlike what you have been told, the landlord does have rights!**

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