

# CALIFORNIA LANDLORD BASICS

## PESTS, MOLD, & LEASE TERMINATION



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# PART 1

of our **CALIFORNIA LANDLORD BASICS** webinar series



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# LEASE TERMINATION



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# LEASE EXPIRATION

## Fixed Term Lease

- Expires on Date in Contract
- No Notice Requirements
- Communicate with Tenants About Initial Inspection

## EXCEPTION –

If Landlord Accepts Rent, Converts To  
Month-to-Month Automatically



# LEASE RENEWAL

## Fixed Term Lease

- **Best Practice: New Lease Each Time**
  - **Update Lease Terms**
- **Communicate with Tenants About Renewing**
- **Shorts Forms & Addendums**
  - **Extends Fixed-Term Lease With Additional Terms**



# **FIXED TERM LEASE EXPIRATION**

**1 YEAR LEASE**

**NOT**



**RENEWING**

**BEST PRACTICE: INITIAL INSPECTION  
OF PROPERTY BEFORE TERMINATION**

# FIXED TERM LEASE RENEWAL

**RENEW!**

**1 YEAR LEASE**

**1 YEAR LEASE**



**BEST PRACTICE:**

**DRAFT A NEW  
LEASE**

# FIXED TERM LEASE RENEWAL

**1 YEAR LEASE**

**MONTH  
TO  
MONTH**

**MONTH  
TO  
MONTH**



**IF LANDLORD ACCEPTS RENT,  
AUTOMATICALLY  
CONVERTS TO MONTH-TO-MONTH**



# VOLUNTARY

## BREAKS IN LEASE

### Month-to-Month

- **Landlords Must Give 30 or 60 Day Notice, Depending On Length of Tenancy**
- **Tenants Must Give 30 Day Notice**
- **Initial Inspection of Property Before Termination**

# LEASE TERMINATION

If lease term is **LESS** than

**1 YEAR**



**30  
DAYS**

If lease term is **MORE** than

**1 YEAR**



**60  
DAYS**

# VOLUNTARY

## BREAKS IN LEASE

### Fixed Term

- Initiated By **LANDLORD** – Buyout
  - Typically When Selling Property
  - Still Must Follow 24-Hour Notice for Entry
- Initiated By **TENANT** – Breach of Contract Damages
- Landlord Duty to Mitigate
  - Damages are Mitigated by Re-Rental of Property





# LANDLORD MITIGATION

TENANT PAYS DAMAGES



TENANT  
  
BREACH

NEW  
  
TENANT

**1 YEAR LEASE**

  
**SEPT**

  
**NOV**

# INVOLUNTARY

## BREAKS IN LEASE

### Tenant Breaches

- **Failure to Pay**
  - **3-Day Notice to Cure**
    - **Amount of Rent**
    - **No Late Charge**
  - **Eviction/Unlawful Detainer Process**



# INVOLUNTARY

## BREAKS IN LEASE

### Tenant Breaches

- **Breach of Other Contractual Obligations**
  - **3-Day Notice to Cure**
  - **Extreme Case: 3-Day Notice Without Cure**
  - **Eviction Process**





# INVOLUNTARY

## BREAKS IN LEASE

### Landlord Breaches

- **Warranty of Habitability Issues**
  - **Pests, Mold, Floods**
- **Covenant of Quiet Enjoyment**



# HOLDOVER & POSSESSION

## Holdover

- When Tenant Keeps Possession Past Termination
- **MUST** Go Through Formal Eviction Process
- **NO** Self-Help (Without Court Order)
  - **NO** 3-Day Notice Required
  - **NO** Changing Locks
  - **NO** Turning Off Utilities

# ABANDONMENT

## REQUIREMENTS

### Notice of Belief of Abandonment

- **18 Days Minimum Notice**
- **ONLY After Rent 14 Days Late**
- **Factors To Show Abandonment**
  - **Property Empty**
  - **No Utilities**
  - **Personal Belongings Gone**





# MOLD, PESTS & WATER



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# DEFINITION OF HABITABILITY

## Court Definition

- *Green v. Superior Court (1974)*

## Implied Warranty of Habitability

- Landlords Must Provide Habitable Space

## Intentional Statutory Vagueness

- Minimum Requirements
- Court Interpretation, If Condition Is Substantially Lacking
  - *Cal. Civil Code Section 1941.1*



# DEFINITION OF **HABITABILITY**

## Why Discuss Mold, Pests, & Water Damage?

- In 2016, Mold Added as Uninhabitable
- More Significant Remediation Requirements
  - Requires **FASTER** Response Times
  - Involves **HIGHER** Potential Costs In Damages (Hospital Bills, Pain & Suffering, Etc.)
  - Difficulty in Determining Responsibility, Often Litigated



# MOLD

## HEALTH EFFECTS

- **Mindful of Health Impact, Could Be Responsible for Hospital Bills, Additional Damages**

## TOXIC VS. NON-TOXIC

- **Individual States Set Permissible Level of Mold**
- **Based on Most Sensitive Class of Citizen**
- **California Department of Health**
  - **Reaction-Based Bright Line**


# LANDLORDS

## RESPONSIBLE FOR MOLD

### Determined By Cause Of Mold

- **Landlord Responsible If:**
  - Failure to Remediate Known Issue
  - Leaks Not Corrected
  - Negligent Maintenance/Upkeep
- **Mold Accumulates and Spreads Quickly**
  - Courts Typically Favor Tenants, so **BE PROACTIVE**
  - Cause of Mold **Not Always Clear**
    - When Litigated, Courts Usually Against Landlord





# TENANTS

## RESPONSIBLE FOR MOLD

### Tenant Behavior Causes Mold

- **Poor Ventilation**
- **Failure to Maintain Level of Cleanliness**
- **Use of Humidifier**
- **Negligence**





# **MOLD & HABITABILITY**

## **Can Tenant Terminate the Lease?**

- **YES - SB 655 (Jan 2016)**
- **Mold = Uninhabitable**
  - **Violated Implied Warranty of Habitability**

## **Repair Requirements**

- **Accelerated Time Frame to Repair**
- **Best Practice: Repair At First Sight Always**
- **Discover – Inspect – Remediate**



# TENANT VS. LANDLORD COST COVERAGE

## Displacement Costs

- **Hotel Paid By Landlord**
- **City Ordinances Dictate, Vary By City**

## Remediation & Repairs

## Rent

- **If Not Repaired In Timely Manner, Tenant Can Withhold Rent, or Repair & Deduct**

# DAMAGE FROM WATER & FLOODS

## Causes

- Leaky Roofs
- Broken Pipes

## Floods & Water Damage = Uninhabitable

- Civil Code Section 1941.1



# LIABILITY FOR FLOOD DAMAGE

## Duty Usually Falls on Landlord...

- California Courts Very Tenant-Friendly

## ...Unless Substantial Violation By Tenant

- Properly Use & Operate Plumbing
- No Destruction Of Structure
- Use Premises For Intended Purpose



# AVAILABLE REMEDIES

## Repair & Deduct Likely Not Available

- Cost of Repairs Exceed 1 Month Rent Amount

## IN SEVERE SITUATIONS (MOLD, FLOOD)



# ABANDONMENT

## OF UNIT

### Costs Exceed 1 Month's Rent

### Requirements

- **Serious Impact On Tenant Health & Safety**
- **Tenant Not Cause Defect**
- **Reasonable Time To Repair**
- **Notice**



# **RENT** **WITHHOLDING**

**Failure To Fix Serious Defects**

**More Serious Than Repair & Deduct**

- **Collapsed Bathroom Ceiling**
- **Continued Presence of Rats**



# **METHODS FOR VALUING RENT WITHHELD**

## **1. Percentage Reduction In Rent**

- **% of Unit Uninhabitable = % Reduction in Rent**

## **2. Reasonable Value Of Unit**

- **Market Value — Value In Defective State = Rent**

**Determined During Course of Litigation**



# NEW LAW REGARDING **BED BUGS**

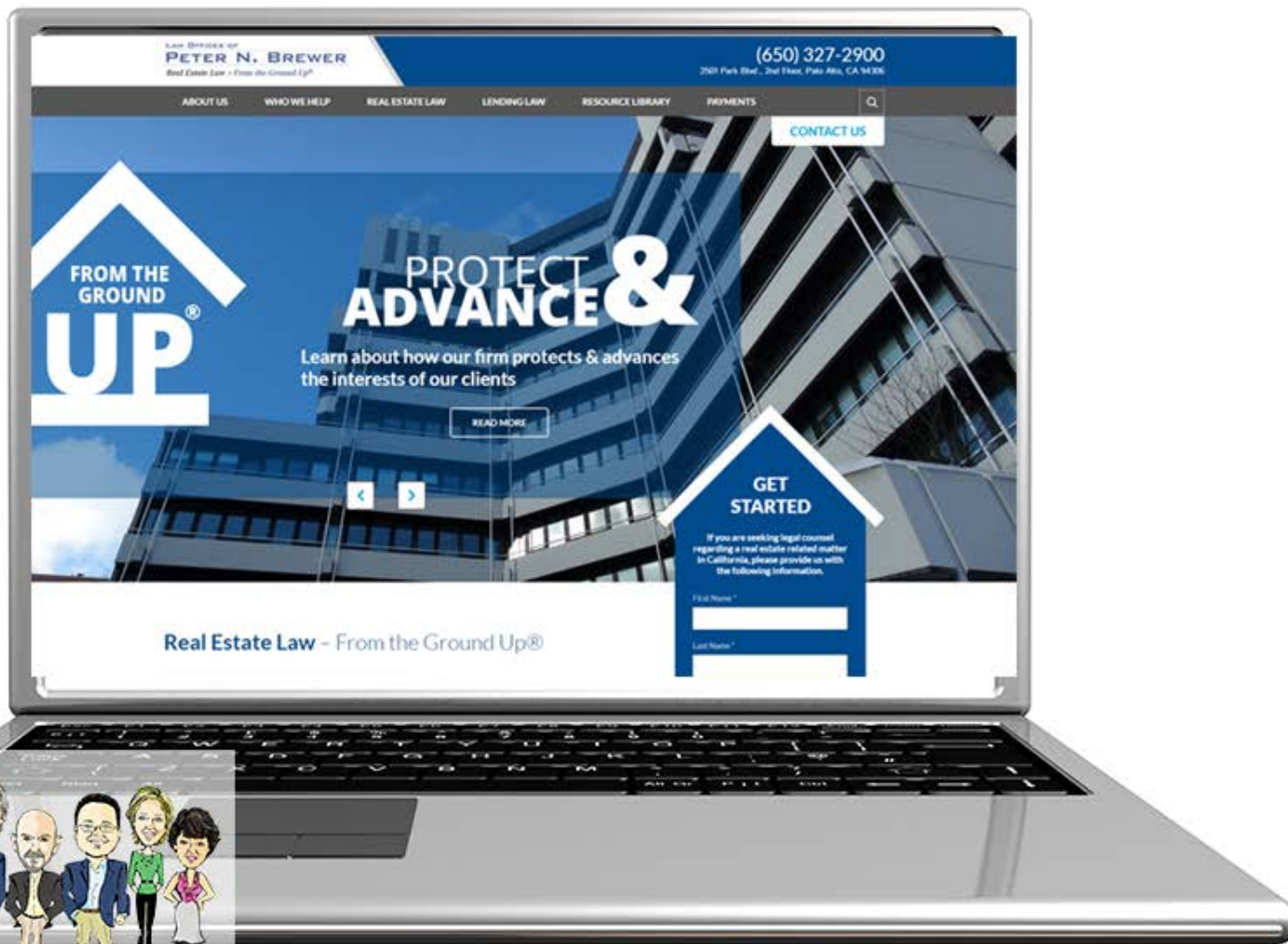
## **New Bed Bug Law in 2017**

- **No Landlord Duty to Inspect**
- **Duty for Landlord to Respond**
- **No Retaliation (180 Days)**
- **Must Provide Bed Bug Notice to All**



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