



# CALIFORNIA LANDLORD BASICS

---

## FUNDAMENTALS OF EVICTIONS



**ATTORNEY  
ASHLEE D.  
ADKINS**



**ATTORNEY  
HENRY  
CHUANG**

# DISCLAIMER

You agree, by participating in this webinar, that the information presented does not constitute legal advice and is being presented for informational purposes only. You agree that no attorney-client relationship is established or assumed by participating in this webinar and that the information or suggestions presented in this broad overview may not apply to your specific circumstances.

ATTORNEY  
**ASHLEE D. ADKINS**



LAW OFFICES OF  
**PETER N. BREWER**  
*Real Estate Law - From the Ground Up®*





ATTORNEY  
**HENRY CHUANG**

LAW OFFICES OF

**PETER N. BREWER**

*Real Estate Law - From the Ground Up®*

Check out

# PARTS 1 & 2

of our **CALIFORNIA LANDLORD BASICS** webinar series



# EVICTIION PROCESS



**HENRY  
CHUANG**

# EVICITION CAUSES

## Reasons You Can Evict

- **Failure to Pay Rent**
- **Breach of Contract**
  - **Illegal Use of Property – Airbnb, Drug Use, Etc.**
  - **Illegal Occupants**
- **Other**
  - **Expiration of Lease**

# HOW LANDLORDS **DISCOVER** ISSUES

## Limited Right of Entry

## Methods of Discovery

- Talking to Neighbors
- Code Enforcement
- Police Reports





# **WARNING!**

## **NO SELF HELP ALLOWED**

- **Not Allowed to Change Locks**
  - **Not Allowed to Turn Off Utilities**
- 

# EVICTON PROCESS

## Notice

- **3-Day Notice to Perform or Quit**
- **3-Day Notice to Quit**
- **30/60-Day Notice of Termination**

# EVICITION PROCESS

## File Lawsuit

- **Only After Time to Cure has Expired**
- **Summons, Complaint, Civil Case Coversheet, Prejudgment Claim to Right of Possession**
- **Service of Unlawful Detainer Action**
- **5 Days to Respond – Extended Based on Service**

# EVICITION PROCESS

## Litigation

- **Default Judgments**
- **Settlement Conference**
- **Discovery and Motions**
- **Trial**

# TECHNICAL PITFALLS



**ASHLEE D.  
ADKINS**

# TECHNICAL PITFALLS

## Most Common Pitfalls

- **Improper Notice**
- **Filing Suit Too Early**
- **Accepting Rent from Tenant**
- **Service Issues Re: Unlawful Detainer Complaint**

# TECHNICAL PITFALLS

## Improper Notice

- **Specify Violation and Time to Cure**
  - **Varies based on breach (i.e. 3,30, and 60 day notices)**
- **Must Wait Until Required Cure Period Ends**
- **Invalid Notice is a Complete Defense**

# TECHNICAL PITFALLS

## Filing Suit Too Early

- Occurs when landlord files unlawful detainer complaint prior to expiration of notice
- To Cure, Have to Restart Process
- Filing Suit Too Early is a Complete Defense



# TECHNICAL PITFALLS

## Accepting Rent

- **Waiver**
  - **After 3, 30, or 60 day notice served, accepting any rent from tenant acts as a waiver**
- **Notice is considered “cured”**
- **Acceptance of rent by landlord during notice period is a complete defense for the tenant**



# TECHNICAL PITFALLS

## Service Issues

- **Serve All Tenants**
- **Personal, Substituted, Notice and Acknowledgment, and Posting and Mailing**
  - **All effective, but each gives tenant different amount of time to cure**
- **Judgment may be Set Aside for Service Issues**
  - **Landlord forced to start entire process over**

# TENANT DEFENSES



**ASHLEE D.  
ADKINS**

# TENANT DEFENSES

## TO AN EVICTION

### Tenant Defenses

- **Illegal Unit (Unpermitted Unit)**
- **Discrimination**
- **Habitability**
- **Delay**

# TENANT DEFENSES

## TO AN EVICTION

### Tenant Defenses

- **Illegal Unit (Unpermitted Unit)**
  - **Tenant has same rights as tenant in legal unit**
    - **Including Rent Control in some cities**
  - **In some areas, tenant may be able to recover ALL rent paid in an illegal unit**
  - **LA Court of Appeal Case-tenant not responsible for rent increases, still required to pay base rent**

# TENANT DEFENSES

## TO AN EVICTION

### Tenant Defenses

- **Discrimination**
  - **Landlord cannot discriminate based on family size, race, gender, etc.**
    - **Most Common: Familial Status and Gender**
    - **Common Situations**
      - **Family has a baby, landlord moves to evict based on it**
      - **Unfair terms based on race/gender**

# TENANT DEFENSES

## TO AN EVICTION

### Tenant Defenses

- **Habitability- Retaliatory Eviction**
  - **Eviction considered retaliatory if within 6 months of tenant doing any of the following:**
    - **Tenant exercised legal right (i.e. Repair and Deduct Remedy)**
    - **Complained about a problem in the unit**
    - **Causes a public entity to inspect unit and/or issue citation**
  - **Landlord bears burden of proof**

# TENANT DEFENSES

## TO AN EVICTION

### Tenant Defenses

- **Delay**
  - **In some instances, tenant may be able to delay eviction by filing bankruptcy**
  - **Typical delay: 1 to 2 months**

**Eviction matter is stayed until bankruptcy over**





# EVICTIION LAWSUITS



**HENRY  
CHUANG**

# PREPARING FOR EVICTION PROCEEDINGS

## Lawsuit & No Answer

- Request for Entry of Default
- Request for Default Judgment

# PREPARING FOR EVICTION PROCEEDINGS

## Lawsuit & Answer

- Request for Trial
- Jury Trial or Bench Trial
- Discovery and Motions
- Settlement Conference
- Judgment

# POST-JUDGMENT ENFORCEMENT

## Possession

- Obtain Writ of Possession
- Submit to Sheriff to Execute – No Self-Help

## Damages

- After Tenant Vacates, Seek Damages



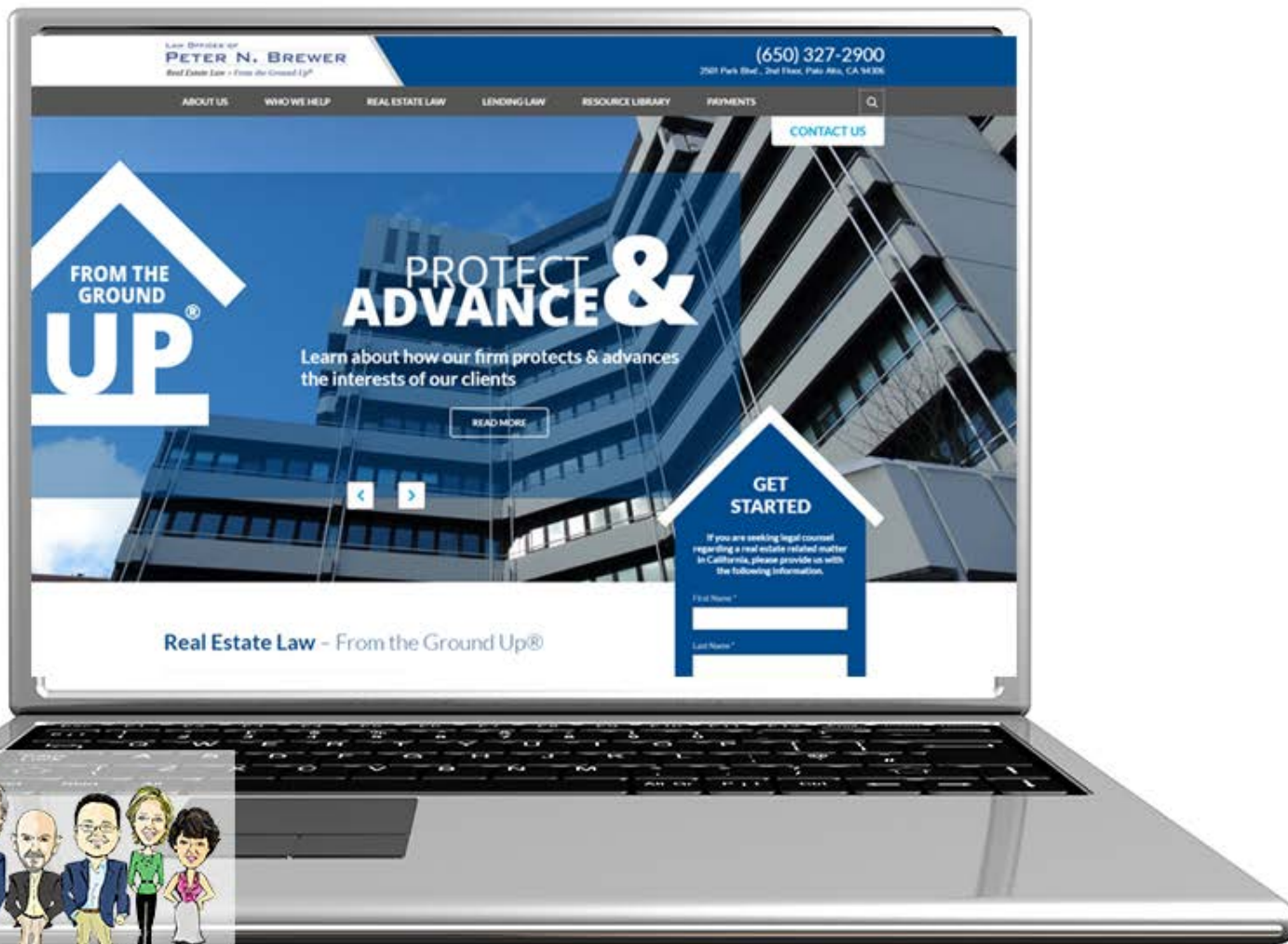
# ABANDONED PROPERTY

## Handling Property

- Inventory & Store Property
- Send Notice to Tenant of Abandoned Property

## Liquidating Property

- Determine Worth of Property
  - If **LESS THAN \$700**, dispose of property
  - If **MORE THAN \$700**, sell the property



Law Offices of  
**PETER N. BREWER**

*Real Estate Law - From the Ground Up®*

(650) 327-2900

7501 Park Blvd., 2nd Floor, Palo Alto, CA 94306

ABOUT US

WHO WE HELP

REAL ESTATE LAW

LENDING LAW

RESOURCE LIBRARY

FAQS

Q

CONTACT US



PROTECT  
**ADVANCE &**

Learn about how our firm protects & advances  
the interests of our clients

READ MORE



**GET STARTED**

If you are seeking legal counsel regarding a real estate related matter in California, please provide us with the following information.

First Name \*

  
Last Name \*

Real Estate Law - From the Ground Up®



CHECK OUT OUR  
NEW & IMPROVED  
WEBSITE!

**BREWERFIRM.COM**



# CALIFORNIA LANDLORD BASICS



*ATTORNEY*  
**HENRY CHUANG**

**(650) 327-2900 x20**  
**henry@brewerfirm.com**



*ATTORNEY*  
**ASHLEE D. ADKINS**

**(650) 327-2900 x22**  
**ashlee@brewerfirm.com**