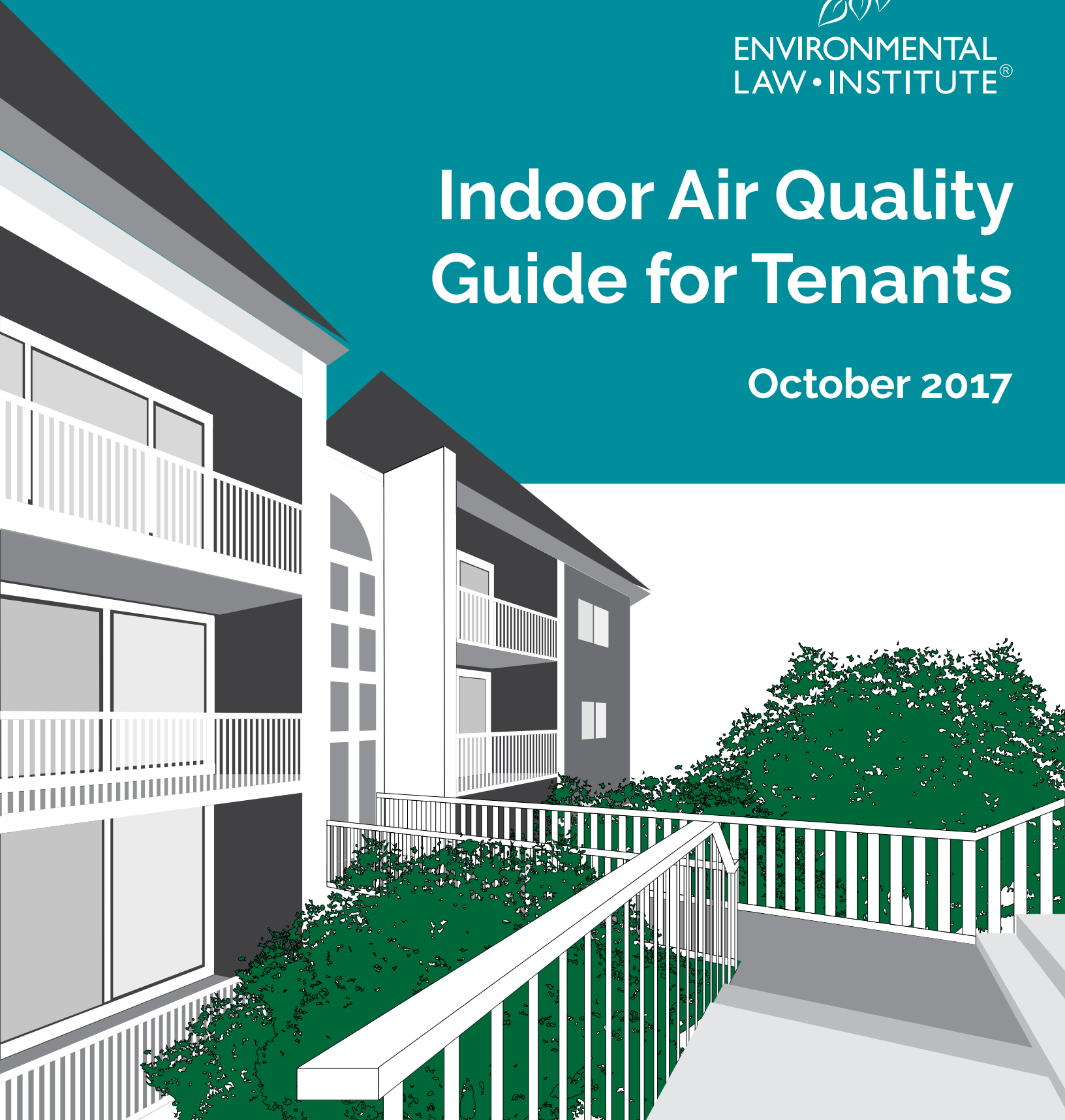




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Indoor Air Quality Guide for Tenants

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Indoor Air Quality Guide for Tenants

Indoor air quality (IAQ) is an important part of a healthy home. Exposure to indoor pollutants – from lead-based paint and mold to secondhand smoke – can affect your health. Children, older adults, and people with asthma and other medical conditions may be more vulnerable to the harmful effects of indoor air pollutants.

This guide offers tenants a starting point for learning about indoor air quality in their homes. It describes common IAQ problems and explains the types of laws that might apply to IAQ conditions in rental properties. It also suggests where to look for assistance resolving disputes over IAQ conditions. The guide can help both tenants and landlords get information about the proper ways to prevent and fix IAQ problems.



Important Note

This guide does not provide legal advice. It is not a substitute for consulting a lawyer about your specific situation.

Because rental housing laws are different from state to state, the guide does not describe the specific laws where you live. It explains how to find out about your state and local laws.

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Related Materials:

For links to more information on indoor pollutants, including best practices for preventing and fixing IAQ problems, see: [Selected Resources for More Information on Indoor Air Quality](#).

PART 1

Learning About Common Indoor Air Quality Problems

There are many things that affect the quality of the air you breathe indoors, including the ventilation provided in your home and the pollutants that are created indoors or drawn into the home from outside. According to the U.S. Environmental Protection Agency (EPA), indoor levels of pollutants may be much higher than outdoor levels. Fortunately, there are technical solutions for preventing and fixing many IAQ problems.

This part of the guide briefly describes several common indoor air quality problems that may occur in rental properties – mold/dampness, secondhand smoke, lead-based paint, pests/pesticides, radon, and poor ventilation. Other important IAQ issues not described here include exposure to asbestos and to other chemicals (such as formaldehyde) from building materials and consumer products.



Mold and Dampness. Exposure to indoor mold and dampness can cause a variety of health effects. The California Department of Public Health summarizes the possible health effects this way: “The presence in buildings of (a) visible water damage, (b) damp materials, (c) visible mold, or (d) mold odor indicates an increased risk of respiratory disease for occupants. Known health risks include: the development of asthma, allergies, and respiratory infections; the triggering of asthma attacks; and increased wheeze, cough, difficulty breathing, and other symptoms.”

Controlling moisture is the key to controlling mold indoors. Molds can grow almost anywhere there is moisture. Indoor mold contamination can be caused by problems such as flooding from heavy rains, roof or plumbing leaks, uncontrolled humidity, or condensation. According to public health experts, mold testing is usually not necessary for cleaning up mold and correcting the water problem. It is important to act *quickly* to: fix water problems; clean or remove moldy materials; and dry or throw out damp materials.



Secondhand Smoke. Secondhand smoke is exhaled by smokers and given off by burning tobacco products. Secondhand smoke contains more than 7,000 chemicals. According to the Centers for Disease Control and Prevention (CDC), exposure to the smoke causes tens of thousands of adult deaths each year from heart disease, stroke, and lung cancer. In children, exposure can cause more frequent and severe asthma attacks, respiratory infections, ear infections, and sudden infant death syndrome. People may also be exposed to “thirdhand smoke” – the contamination from smoking that stays on furniture, carpets, hair, and clothing even after cigarettes and other tobacco products have been put out.

The only way to have a smoke-free environment is to eliminate smoking in the building. The U.S. Surgeon General has stated that actions such as ventilating buildings, separating smokers from nonsmokers, and using air cleaners do not completely eliminate exposure to secondhand smoke.



Lead-Based Paint. Lead is a naturally-occurring metal with a long history of use. Many lead sources (such as lead in gasoline and paint) have been eliminated or reduced in the U.S. However, lead poisoning remains a significant children's health problem. Millions of homes still have lead-based paint and lead hazards such as deteriorated paint and lead dust. Peeling lead paint is a common cause of lead poisoning in young children.

If lead-based paint or lead dust is swallowed or inhaled, the lead can accumulate in the blood and affect many different organs and body systems. For children under six, the CDC warns: "No safe level of lead exposure has been identified. Even very small quantities of lead can damage the rapidly developing body of a young child and result in stunted growth, lower IQ, behavior and learning problems, anemia, and hearing problems."

Lead poisoning can be prevented. There are well-established procedures to evaluate, reduce, and eliminate lead-based paint hazards in a safe and effective way.



Pests and Pesticides. Insect and rodent infestations can create a variety of problems for landlords and tenants – damaging buildings, contaminating food, and affecting the health of tenants with allergies and asthma. Effective control of pests is necessary for a sanitary and healthy environment.

However, the use of pesticides to control pests might harm the health of tenants who breathe in or come into contact with the chemicals in pesticides. These health effects depend on the type of pesticide used and how a tenant is exposed to the pesticide. According to the U.S. EPA, possible health effects can include skin/eye irritation, harm to the endocrine (hormone) and nervous systems, and cancer.

Integrated pest management (IPM) is a set of pest control practices that uses chemical pesticides only as a last resort. IPM focuses on limiting pest entry into a home and conducting regular inspections of the home. IPM uses non-chemical methods to control pests and least-toxic pesticides only as needed – routine spraying of pesticides inside a home is strongly discouraged.



Radon. Radon is a naturally-occurring radioactive gas found in all parts of the U.S. It is formed by the breakdown of uranium in soil, rock, and water. Radon gas can move up from the ground into a home through cracks and other holes in the foundation. If you have a well, radon can be released from the well water to the air indoors during showering or other water uses.

Indoor exposure to radon is the second-leading cause of lung cancer in the U.S. According to the U.S. EPA, indoor radon exposure is responsible for about 21,000 lung cancer deaths in the country each year.

You can't see or smell radon. The only way to know the radon level inside your home is to conduct a radon test. Radon test kits can be purchased online or in home improvement stores. EPA has established a radon "action level" of 4 pCi/L (picoCuries per liter of air) – the level at which a building owner should take action to reduce radon indoors. However, there is no known safe level of exposure to radon, and EPA has found that most homes today can be reduced to 2 pCi/L or lower. A radon reduction system can be installed in a home to reduce radon levels.



Ventilation. Building ventilation is provided by supplying air to and removing air from a home. Ventilation can help control temperature and humidity. It can also help reduce pollutants created by indoor activities such as cooking. Ventilation can occur naturally through windows and other openings, or mechanically through HVAC (heating, ventilation, and air conditioning) systems or exhaust fans.

Bringing outside air into a home is important, but it also means that outdoor air pollution may enter a home. One way to reduce exposure to outdoor pollutants in your home is to use filters on mechanical ventilation equipment and replace those filters regularly. In some situations, you might consider a portable air cleaner to help filter the air in your home (but public health officials recommend against using air cleaners that produce ozone gas).

*** FOR MORE INFORMATION.....**

See ELI's Selected Resources for Information on Indoor Air Quality at: <https://www.eli.org/buildings/iaq-guide-tenants-selected-resources>. There you can find sources for the brief background provided above, as well as more detailed written materials on indoor pollutants.

PART 2

Preventing and Fixing Indoor Air Quality Problems

There are steps that landlords and tenants can take to keep rental properties healthy and safe. For example, to help prevent indoor air quality problems tenants can:

- Run the bathroom ventilation fan after a shower and use the kitchen fan while cooking, to control moisture and other pollutants;
- Use vacuums with good filtration (such as a high-efficiency particulate air or HEPA filter) to control dust; and
- Properly store food and other items that may attract pests.

Preventing and fixing many types of IAQ problems will be the responsibility of the landlord. For example, it is usually the landlord who fixes a plumbing or roof leak, maintains and repairs ventilation equipment, controls lead-based paint hazards, and addresses pest infestations in a multi-unit building.



Notifying the Landlord of a Problem. A landlord needs to be aware of an IAQ problem in order to fix it. Your rental agreement (lease) might describe how to notify the landlord when there is a problem in your rental unit. In addition, state laws may determine how a tenant should notify the landlord, and how much time the landlord has to fix the problem. (Parts 3 and 4 of this guide discuss how to learn more about your state laws.)



Making Sure Problems are Fixed Properly. If an IAQ problem occurs, it is important that repairs are carried out promptly and correctly. For most IAQ issues, there are well-established practices for fixing the problem and for protecting occupants while the work is being done. It is important that tenants and landlords – and the people hired to do the job – know about these best practices.



Getting Information on Preventing and Fixing IAQ Problems. Government agencies and other organizations in your own state might have technical information and other practical resources to help you understand the IAQ problems in your home and the proper way to fix them.

Public Health Departments. Many state and local health departments provide IAQ information on their web sites. Some also offer tips on hiring qualified IAQ professionals. Indoor air quality information might be located on the health department's asthma, healthy homes, or environmental health web pages.

For a listing of state health departments throughout the U.S., see: <https://www.cdc.gov/mmwr/international/relres.html>. Your state health department website may include contact information for your local (county, city, or town) health department.

Other state agencies that regulate specific issues might also provide useful information on their web sites – for example, the agriculture department (pest control) or the fire marshal (carbon monoxide and other fire safety issues). These or different agencies may be in charge of state licensing for pest control operators, radon professionals, or other businesses hired to do IAQ-related work.

Universities. Some universities have programs that address specific IAQ issues. Many have “extension” programs that provide community education on environmental and health issues, such as radon and pest control. For a listing of extension programs around the country, see: <https://nifa.usda.gov/extension>.

Non-Governmental Organizations. There are many non-governmental organizations that work on tenants’ rights, healthy homes, and public health issues. These groups may be able to provide you information and advice on how to prevent or fix an IAQ problem. Your public health department may be able to help you find organizations that work in your state or community.

*** FOR MORE INFORMATION.....**

See ELI’s Selected Resources for Information on Indoor Air Quality at: <https://www.eli.org/buildings/iaq-guide-tenants-selected-resources>. There you can find written materials on the best practices for preventing and fixing IAQ problems.

BEFORE YOU MOVE IN....

Finding out about common IAQ issues can be helpful *before* you move into a rental home. When you visit the house or apartment, you can look for signs of potential problems, such as peeling paint, pests, water damage, or musty odors. You can ask about past problems and about the landlord’s smoking policy for the building.

Federal law requires property owners to inform tenants about lead-based paint in pre-1978 housing. And some state and local laws require landlords to give tenants information about specific IAQ issues.

For example, the District of Columbia (D.C.) requires landlords to give tenants information about mold and lead-based paint, along with a copy of the D.C. Tenant Bill of Rights. The states of Washington and Virginia require landlords to provide mold information to new tenants. And laws in states such as Maine, Oregon, and Washington require disclosure of the smoking policy for multi-unit buildings. ELI provides more information about these laws at: <https://www.eli.org/buildings/indoor-air-quality-rental-dwellings>.

PART 3

Understanding the Types of Laws that Address Indoor Air Quality in Rental Housing

If you are concerned about the indoor air quality in your home, it may be helpful to know the legal requirements that apply in your situation. Below is a short description of the main types of state and local laws that address health and safety conditions in rental housing – housing codes, landlord-tenant laws, and IAQ-specific laws. These laws usually apply to rental homes whether or not there is a written lease and regardless of the amount of rent paid. There may be other state and local laws that cover specific types of rental homes – such as mobile homes or state-subsidized housing.

It is important to remember that the legal requirements for rental housing conditions are different from state to state and from one local community to another. Therefore, this guide provides only a *general overview* and does not describe the specific legal requirements of your state or local community. Part 4 describes how to learn about and look up the laws where you live.



Housing Codes. Housing codes (sometimes called property maintenance codes) are the main type of law establishing minimum standards for rental housing. These codes often include general housing standards, as well as a list of specific conditions that must be maintained on the property. (Housing codes are different from building codes, which apply to new building construction.) Some housing codes are based on a model code known as the International Property Maintenance Code (IPMC).

Housing codes may be adopted at the state or local (county, city, or town) level.

- **State Housing Code:** Many (but not all) states have adopted some type of housing code that covers the whole state.
- **Local Housing Code:** Many (but not all) local communities have housing codes. Even if you are covered by a state-wide housing code, there may also be a local housing code for the county, city, or town where you live.
- **No Housing Code:** Some communities are not covered by either a state or a local housing code.

State and local housing codes are *enforced publicly*, by local housing departments or other government agencies that handle code enforcement. These local agencies usually have authority to inspect rental properties to make sure they meet the standards in the housing code. When a violation is found, the code enforcement agency can take action to make sure the property owner corrects the problem. Depending on the violation and the owner's response, these enforcement actions may involve orders, citations, fines, administrative hearings, or court cases.



Landlord-Tenant Laws. All states have laws that establish the rights and responsibilities of landlords and tenants. These laws cover issues such as security deposits and landlord access to the rental unit. Unlike housing codes, landlord-tenant laws usually include only *general* requirements for maintaining the property – such as keeping the property clean, safe, and in good repair. However, landlord-tenant laws often require landlords to comply with housing codes and other laws that may contain more detailed housing standards.

Some cities or counties have their own local landlord-tenant laws, though this is less common. If your city has rent control or rent stabilization, there may be additional laws that apply.

Landlord-tenant laws are enforced through private legal action by landlords or tenants. The laws establish the legal options (remedies) tenants and landlords have if there are violations of the law or the lease. For example, if a landlord does not maintain the property as required by law, a state landlord-tenant law might allow the tenant to end the lease or to file a lawsuit. Many state landlord-tenant laws allow courts to order the losing party in a lawsuit to pay the other side's attorney's fees in certain situations.

It is important to understand the legal remedies and specific procedures provided in your own state law before taking action to address potential violations of the law or your lease.



Other Laws. In addition to housing codes and landlord-tenant laws, states and local governments might have laws that deal with specific IAQ issues. Examples include state and local laws on smoking, lead-based paint, and carbon monoxide alarms. If your state or local community has such a law, you can check whether it includes requirements for rental housing. There may also be state or local laws that prohibit public “nuisances,” and some public health agencies have used such laws to address serious public health threats in housing.

*** FOR MORE INFORMATION.....**

Appendix A - Overview of State Law provides an overview and examples of how some housing codes, landlord-tenant laws, and other state laws address specific IAQ issues in rental housing.

Appendix B - Additional Housing Standards for Federally-Assisted Housing describes federal housing standards that may apply (in addition to applicable state and local laws) if you live in federally-subsidized housing.

Legal Protection from Housing Discrimination on the Basis of Disability

Whether you live in public or privately-owned rental housing, there are federal laws that protect tenants from discrimination on the basis of disability. The Fair Housing Act (FHA) prohibits such discrimination in most housing. The Americans with Disabilities Act (ADA) and the Rehabilitation Act (Section 504) apply to housing that receives federal assistance and to areas of private housing developments that are open to the public.

All three laws define disability in mainly the same way: a physical or mental impairment that limits one or more major life activities (such as breathing, eating, working, or going to school). This definition may include “episodic” impairments such as asthma, where the symptoms occur only occasionally.

A tenant who meets the federal definition of disability is entitled to “reasonable accommodation” from the landlord. This may include a change in policies, practices, or services to give the tenant an equal opportunity to use the dwelling unit or common space. For example, in the case of a tenant with respiratory disease, reasonable accommodation might include fixing an IAQ problem such as pest infestation or mold/dampness, or relocating a tenant to another unit.

In 2013, New York City public housing residents with asthma brought a class-action lawsuit because of widespread mold contamination. The lawsuit was based partly on the protections provided by federal disability law. The city housing authority settled the lawsuit by agreeing to promptly remove mold and fix underlying water problems in public housing properties. The city also agreed to change its policy on reasonable accommodation for tenants who suffer from asthma and have mold contamination in their apartments.

Whether or not a tenant is entitled to reasonable accommodation under federal law depends on the specific facts of the case. If a tenant requests accommodation but the landlord does not respond in an acceptable manner, the tenant can consider filing a federal complaint.

The U.S. Department of Housing and Urban Development (HUD) provides general information about housing discrimination, including links to the federal laws, at: https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/inhousing. HUD provides information on how to file a complaint at: https://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination.

Tenants may also be protected by state or local housing discrimination laws, which have their own enforcement processes. Check with your state Attorney General’s office to find out what laws apply in your state.

PART 4

Finding Information About the State and Local Laws Where You Live

If you are concerned about indoor air quality in your rental home, it can be helpful to understand the housing maintenance standards included in your state or local laws. It can also be helpful to understand what legal remedies are available to you. For example, if the landlord does not correct an IAQ problem, does your state law allow you to make the repairs and deduct the cost from your rent? In what situations may you end the lease and move out? What are the procedures you must follow if you decide to use the legal tools provided in the law?

It is also important to find out if your state law protects you from *retaliation* for making a complaint or taking other action to exercise your legal rights. Most states have laws that prohibit landlords from retaliating against a tenant in certain situations.

This chapter describes where to look for your state and local laws and for information about your rights and responsibilities as a tenant.



Finding Educational Materials that Explain Your State Laws. One way to find out about your rental housing laws is by reading pamphlets, manuals, and other educational materials that describe the laws. These materials do not provide individual legal advice, but they can help you understand what the laws say and where to find them.

When searching for this information, look for materials that describe the laws of your *own* state or local government, since the laws are different from one place to another. Following are some suggestions for finding this information.

The State Attorney General. The Attorney General (AG) is the top legal office in the state government. Many state AG offices have websites with educational materials that explain landlord and tenant rights and responsibilities under state law. The websites often include links to electronic (internet) versions of the laws. The AG may also have a hotline or other phone number you can call. For a listing of all state Attorney General offices, see: <http://www.naag.org/naag/attorneys-general/whos-my-ag.php>.

Other State and Local Agencies. In some states, information about rental housing laws might be found on a different government website, such as the Consumer Protection or Housing/Community Development agency. If you have a local housing code, your local health or housing agency might have a website with information describing what the code requires.

State and Local Courts. The websites for state and local courts (or the clerk of the court) might also provide information about housing codes and landlord-tenant laws, as well as court procedures and required forms for filing a legal action.

Non-Governmental Organizations. In addition to government agencies, you may be able to find helpful information on the website of your local legal aid office or other organizations in your state that work on tenant's rights or healthy housing issues.

You can also look for materials that describe IAQ-specific laws. For example, your state health department may have information about your state's no-smoking law, the agriculture agency might provide information about state pesticide laws, and the fire marshal might have information about any state requirements for carbon monoxide alarms. To find out which state agency addresses a particular issue, you can do a general internet search or search the main web page of your state government.



Finding Your State Laws and Regulations Online. The offices described above might provide internet links to IAQ and rental housing laws. You can also look up your laws directly.

All states provide online versions of their laws (also known as “statutes” or “codes”). When searching for state laws online, look for the laws on an official state government page (most government web sites end in “.gov”). In many states, the laws are provided through the website of the state legislature.

Once you locate your state laws on a state government website, you can usually find the landlord-tenant law in the section titled “Landlord-Tenant” or “Property.” In some states there may be more than one law. If your state has a state-wide housing or property maintenance code, it might be located under “housing,” “health,” “buildings,” or another section of the laws. Individual IAQ-related laws (such as smoking or lead paint) are often adopted as part of the health section of the laws, though they may be in other sections as well.

In some states, the housing code and other legal requirements may be in the form of a regulation (a rule that carries out a law). States maintain online versions of their regulations, which are also known as the “administrative code.” These codes are often found on the web page of the state legislature or the department of the secretary of state.



Finding Your Local Laws and Regulations Online. Some counties, cities, and towns provide an online version of their municipal laws and regulations, also known as “ordinances” or “codes.” You may be able to access these laws through the main website of your local government. If there is a local housing code, it might be available through the web page of the housing agency that enforces the code.

Many local governments make their codes available for free through third-party commercial web sites, such as the Municipal Code Corporation or the American Legal Publishing Corporation.

PART 5

Resolving Disputes About Indoor Air Quality Problems

Tenants and landlords can often work together to make sure IAQ problems are fixed. However, a dispute may arise if a landlord knows about an IAQ-related problem but has not taken proper steps to correct the condition.

Before considering how to resolve a dispute with your landlord, it is important to review the terms of your written lease, if you have one. It is also helpful to understand what your state and local laws say – about landlord and tenant responsibilities, and about the legal remedies tenants have for addressing unhealthy conditions. And if you have only spoken with the landlord about the problem, it is usually recommended that you notify the landlord in *writing* before taking other actions.

This part of the guide describes two possible sources of assistance for resolving a dispute over IAQ problems – *housing code enforcement agencies* and *legal assistance providers*. There are also other approaches not described here. For example, some courts and agencies offer mediation programs, where an impartial person helps landlords and tenants reach a voluntary agreement.



Housing Inspections by Local Government Agencies. Many, but not all, local jurisdictions in the U.S. have a state or local housing (or property maintenance) code. If the town, city, or county where you live enforces a state or local housing code, there will usually be a local government agency that conducts rental housing inspections in response to tenant complaints.

If a government housing inspector finds violations of the housing code, the inspection agency can order the owner to fix the problems. If necessary, the agency might file an administrative or court case to require the owner to correct the violations. The law may also establish fines for violations of the housing code.

Code enforcement officials only have authority to enforce the requirements and standards that are included in the state or local housing code. When making a complaint, it is helpful to describe the problem fully and to include any specific code requirements you believe are being violated.

For example, if you have mold contamination, your housing code might not include a requirement specifically about “mold.” But the code might require walls to be kept in sanitary condition or in good repair. It also might require landlords to fix the kind of underlying water problem that is causing the mold – such as plumbing leaks or ongoing dampness. Unless the underlying water problem is addressed, the mold is likely to return. Therefore, it would be useful to include in your complaint any information you have about the underlying water damage or structural problem, as well as the unsanitary conditions.

A strong housing code enforcement program is important for making sure that unhealthy and unsafe housing conditions are fixed. However, many communities have limited public resources for inspecting rental housing. And tenants with few housing

options may be worried about filing a complaint. See *Appendix C* for examples of some communities that have developed special code enforcement programs to make sure that unhealthy housing conditions are repaired quickly.

If your city, town, or county does not have a housing code, there may be other state or local laws that allow your local government to investigate nuisances or other serious threats to public health and safety. Call your local health department or the local city/county attorney to find out if they can help. If you are not able to find a local agency, you might contact your state Attorney General's office to ask whether a state or local agency has authority to investigate.

- * You can contact your local code enforcement office to find out how to make a housing complaint and how the office investigates complaints. The code enforcement office is usually located in the housing agency, or it might be part of the health, building, planning, or other local agency. Your city hall, town office, or main county government office can help direct you to the right place.



Legal Assistance Providers. Landlord-tenant laws set out the legal actions that landlords and tenants can take if there is a violation of the law or the lease. There may also be common law (court-established) legal remedies in your state. If you have a dispute with your landlord over repairs to your home, you may want to seek legal help.

Lawyers can help you find out about your rights under the law where you live. They can provide advice about whether to bring a legal case based on the facts of your situation. They can also explain what kinds of defenses you may have if a housing case is brought against you. A lawyer can help you navigate the court procedures that must be followed if you are party to a court case. Legal aid offices and other private law firms are possible sources of legal representation for tenants.

Non-Profit Legal Aid Organizations. Private, nonprofit legal aid organizations provide legal representation on housing and other matters. Legal aid organizations serve mainly low-income clients, but some programs also serve the elderly or other populations regardless of income. There are legal aid organizations in every state. You can call the legal aid office in your area to find out if you are eligible for representation. If you are not eligible, the office might be able to provide information about the law or suggest other possible sources of free or fee-based legal representation.

The Legal Services Corporation provides a map and list of legal aid offices around the country, at: <http://www.lsc.gov/what-legal-aid/find-legal-aid>.

Other Private Law Firms. If you are not eligible for legal aid assistance, you may wish to contact another law office in your area for representation or advice. State and local bar associations sometimes provide referrals to local attorneys who handle landlord-tenant and other types of cases. Private law firms typically charge a fee for their services. Sometimes firms provide “pro bono” or volunteer services for free or at a reduced cost. The local bar association may have information about any pro bono legal services that are available.

You can search for your state and local bar associations on the website of the American Bar Association: <https://www.americanbar.org/directories/bar-associations.html>.

If you do not have an attorney, you can still bring or defend a housing lawsuit on your own (“pro se”). The legal process involves technical procedures and can be intimidating, even if you are familiar with the rental housing laws that apply in your community. Legal aid organizations, other private lawyers, or bar associations may be able to provide general information or advice even if they can’t represent you in court. The local court clerk or other court employees may be able to provide information about courtroom procedures and assist you in filling out the necessary forms. Sometimes those forms, along with other information prepared specifically for pro se parties, are available on the court’s website.

Some counties and cities have created special programs to assist tenants who don’t have lawyers. For example, New York City recently passed a law requiring the city to set up a program that will provide lawyers to low-income tenants facing eviction. *Appendix C* describes a variety of legal assistance programs established in the District of Columbia.

The Role of Medical Professionals

If you suffer from asthma or another medical condition that may be affected by IAQ problems in your home, you may wish to see your health professional for advice on how to protect your health. Your health care provider may also be able to help you determine what would be a reasonable accommodation for your medical condition and help you communicate with your landlord about fixing the problem. In some cases, you may need a medical certification of your health issue (or disability) to request a reasonable accommodation.

Many hospitals and other health care facilities around the U.S. participate in innovative programs called *Medical-Legal Partnerships* (MLP). MLPs work with health care providers in a variety of ways to address housing and other issues that may be affecting a patient’s health. For example, some MLPs connect patients with volunteer legal service providers. MLP attorneys may provide patients with advice on working with their landlord, or they may refer patients to the local code enforcement agency. In some cases, MLP attorneys represent tenants in court. To find out if your medical provider participates in the MLP program, see the map and listing provided by the National Center for Medical Legal Partnerships: <http://medical-legalpartnership.org/partnerships/>.

The U.S. EPA has developed an introduction to indoor air pollutants specifically for health professionals: <https://www.epa.gov/indoor-air-quality-iaq/indoor-air-pollution-introduction-health-professionals-printable-version>.

APPENDIX A

State Laws Addressing Indoor Air Quality in Rental Housing: Overview and Examples

This guide does not discuss the housing codes, landlord-tenant laws, and other relevant policies of every state and local jurisdiction in the U.S. However, this Appendix describes how *some* state and local laws address specific IAQ issues in rental housing. The following overview and examples may give you a sense of the types of provisions to look for in the laws and regulations where you live. But keep in mind that the requirements described below might not be included in your own state or local laws. It is also possible that your laws may include important items not described here.

The Environmental Law Institute provides additional information about how state laws address IAQ in rental homes, at: <https://www.eli.org/buildings/indoor-air-quality-rental-dwellings>.

Housing or Property Maintenance Codes

State and local housing codes vary. Many are based on a model called the International Property Maintenance Code (IPMC). Others are developed independent of that model code. Housing codes are enforced publicly by local agencies, which typically conduct inspections and issue citations for violations. Following are examples of IAQ-related requirements found in some (but not all) state and local housing codes across the U.S.

General Standards. Virtually all housing codes include some type of general maintenance standard. These standards may require that the property be kept in good repair, in clean or sanitary condition, or free from health and safety hazards. Significant IAQ problems may violate this type of general standard, depending on the particular condition. However, housing code enforcement is more likely to take place and to be effective if there is a more specific housing code provision that applies. When requesting assistance from housing officials, it is helpful to refer to specific housing code requirements, if possible.

Mold and Dampness. Most housing codes do not mention mold specifically. One exception is California's State Housing Law, which has a list of substandard conditions that includes: "Visible mold growth, as determined by a health officer or a code enforcement officer....excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their [proper] functioning and intended use" (Ca. Health & Safety Code §§17920 & 17920.3). An example of a local housing code that mentions mold is Hillsborough County, Florida, which states that the interiors of all buildings and facilities "shall be kept free of any visible or otherwise demonstrable growth of mold or mildew" (Hillsborough County Municipal Code §8-115).

Because mold growth results from moisture and dampness problems, there may be other housing code provisions that can address the underlying problem. For example, many codes include requirements to:

- Fix leaks in the plumbing, the roof, or elsewhere;
- Maintain the property free from dampness or moisture;
- Keep the components of the premises weathertight or water tight; or
- Prevent and fix defective or deteriorated walls, floors, or other structural elements.

Ventilation. Ventilation can help prevent the buildup of moisture and air pollutants indoors. Housing codes usually require landlords to provide adequate ventilation – either through natural ventilation (windows) or mechanical ventilation systems – and to properly maintain ventilation equipment. Some housing codes specifically require ventilation in bathrooms, a frequent location of dampness and mold problems. Housing codes might also specify that bathroom fans and clothes dryers must be exhausted to the *outside* of the building in order to prevent moisture problems inside. For example, Vermont’s rental housing code (Vt. Admin. Code §13-140-031) states: “Every bath, toilet or shower room shall be ventilated by direct access with the external air either by window, airshaft or ventilation fan. If a ventilation fan is used, it shall be vented directly to the exterior of the building and be of sufficient size to prevent the buildup of moisture.”

Pests and Pesticides. Housing codes commonly require properties to be maintained free of pest infestations. The codes may specify when landlords and tenants are responsible for addressing infestations in common areas and within rental units in multi-family buildings. It is important to make sure that the pest control itself does not pose a health risk to tenants. Housing codes usually do not dictate the methods of pest control. Some codes may follow the model IPMC (chapter 3), which requires insect and rodent extermination by acceptable processes that will not be harmful to human health.

Lead-Based Paint. Housing codes typically include only general requirements to correct chipping, peeling, or deteriorating paint. New Jersey is an example of a state with a rental housing code that is more specific. The state’s multiple dwellings regulation (N.J. Admin. Code §5:10-6.6) requires: a lead inspection and risk assessment; regular visual examinations for deteriorated paint; prompt and safe repair of deteriorated paint and the causes of deterioration; and any necessary lead hazard control measures. Many states have separate lead laws with more detailed requirements for correcting lead hazards (see below).

Landlord-Tenant Laws

The legal rights and responsibilities set out in state landlord-tenant laws are enforced through private legal action by landlords and tenants. Each state’s law determines the legal remedies that a tenant or landlord may use to address violations of the law or the lease.

General Requirements. State landlord-tenant laws usually include general property maintenance requirements to ensure that the rental premises will be habitable or livable. These requirements may include, for example: keeping the premises safe and clean; addressing conditions that threaten health and safety; and maintaining plumbing and other systems or appliances. Such general standards could be used to address an IAQ condition, depending on the nature of the problem.

Landlord-tenant laws typically do not include the more specific standards found in housing codes. However, most landlord-tenant laws require landlords to comply with housing codes and other applicable state and local laws. In some cases, this may allow tenants to use the legal remedies in landlord-tenant laws to enforce maintenance standards in the state or local housing code.

Specific Requirements. In some states, landlord-tenant laws themselves include more specific maintenance standards – for example, the requirement to maintain the premises in a watertight or weathertight condition or to address pest infestation. At least a few states, including Montana, North Carolina, and Oregon, require property owners to provide carbon monoxide (CO) alarms

in rental homes as part of the state landlord-tenant law. (Some states require CO alarms through other types of laws, such as the fire code, health and safety code, or property code.)

Virginia's landlord-tenant law is unusual in addressing a landlord's duty to remedy mold contamination. The law (Va. Code. §§55-248.11—18) requires Virginia landlords to repair mold contamination using approved methods. The law also requires tenant relocation at the owner's expense if necessary during mold remediation. The District of Columbia also has a notable law requiring mold remediation in rental properties. That law (D.C. Code §§8-241.01--09) requires a certified professional for large projects and establishes technical mold guidelines for landlords who fix smaller mold problems themselves.

Other Laws Addressing Specific IAQ Issues

State and local laws on a specific IAQ issue might establish requirements that apply in rental housing. Following are some examples from around the country.

Secondhand Smoke. State laws that ban smoking in public places (and are usually enforced by local agencies) might include a *ban on smoking in common areas* in multi-family residential buildings. The smoking laws in Arizona, Colorado, and Minnesota are three examples of this approach; in Colorado the ban includes marijuana smoke. This type of approach does *not* address exposure to secondhand smoke that drifts from individual rental units.

The state of Utah has enacted a nuisance law that *defines drifting smoke as a nuisance*; this might provide tenants with legal recourse in certain circumstances. And at least three states (Maine, Oregon, and Washington) have laws that *require disclosure to tenants* of the smoking policy for the building, while California's landlord-tenant law requires notice to tenants of any smoking ban. (For more information about these laws, see: <https://www.eli.org/buildings/indoor-air-quality-rental-dwellings>.)

As noted in Appendix B, federal regulations require all public housing to be smoke-free by July 2018. Some states have banned smoking in buildings financed or subsidized by the state. And at the local level, there are many municipalities in California requiring multi-family housing to be completely smoke-free.

Lead-Based Paint. State lead-based paint laws and regulations may include requirements for addressing lead hazards in rental housing. Many states, for example, have laws authorizing the health or other agency to inspect housing and to order property owners to address lead hazards; typically investigations are triggered when a child has been found to have an elevated blood lead level.

Some states have lead laws with broader requirements. For example, Vermont's lead law (18 Vt. Stat. §1759) requires that owners of pre-1978 rental housing take a number of actions, including: providing tenants with an educational brochure; posting a notice asking people to report chipping or damaged paint; and having a trained person complete certain "essential maintenance practices" every year. The Massachusetts lead law (Mass. General Laws, ch. 111, §§189--199) requires a property owner to remove or cover lead-based paint hazards in pre-1978 rental units where any children under six live.

There are federal lead laws that apply throughout the country even if the housing does not receive federal funding. For example, federal law requires lead hazard reduction to be done by qualified professionals who receive training and certification. Additionally, anyone paid to

perform general renovation, repair, or painting work that disturbs paint in pre-1978 housing must be certified, and they must follow specific work practices to reduce exposure to lead-based paint hazards created by the renovation. In addition, federal law requires that before signing a lease for pre-1978 housing, tenants must receive from the landlord a pamphlet and warning statement on lead-based paint hazards, plus any known information about lead-based paint or lead-based paint hazards in the building. Some states may have their own laws to carry out these federal requirements. For more information on federal lead regulations, see: <https://www.epa.gov/lead/lead-regulations#paint>.

Pesticide Use Notification. Advance notice of pesticide applications can give tenants time to discuss the situation with their landlord and take steps to limit their exposure to pesticides. Some states (for example, California, Maine, New York, Texas, and Virginia) have laws requiring notice to tenants before pesticides are applied indoors. The laws cover when notice must be given, what type of information must be provided, and who is required to provide the information. Other state laws have more limited protections, such as creating a state registry of pesticide-sensitive persons to receive notifications. Pesticide notice laws are typically found in the environmental protection or pesticide control sections of state statutes. States may also have laws that require certification of pest control professionals.

Radon. The state of Maine is unusual in having a law (14 Me. Stat. §6030-D) that requires landlords to test their rental units for radon and give the results to new and existing tenants. Illinois law (Il. Stat. chap. 420, §46/25) does not require testing, but if a landlord knows of elevated radon levels in the property, they must disclose this information to new and existing tenants. In addition, more than a dozen states have laws that require certification of professionals who test for and fix radon problems.

Mold. Apart from mold-related standards in housing codes and landlord-tenant laws, there are several states and the District of Columbia that have laws requiring certification of mold professionals.

Model Housing Codes and Landlord-Tenant Laws that Address IAQ Issues

A model healthy housing standard developed by the National Center for Healthy Housing and the American Public Health Association includes many IAQ provisions that go beyond the standards found in existing state and local housing codes. You can view the model code at: <http://www.nchh.org/Policy/NationalHealthyHousingStandard.aspx>.

Many landlord-tenant laws are based in part on a model law, the Uniform Residential Landlord Tenant Act (URLTA). The URLTA was revised in 2015, partly in order to establish additional maintenance standards. The Revised Uniform Residential Landlord Tenant Act (RURLTA) requires landlords to take steps to prevent exposure to unsafe levels of radon, lead paint, asbestos, mold, and other hazardous substances. See the model law at: <http://uniformlaws.org/Act.aspx?title=Residential%20Landlord%20and%20Tenant%20Act%202015>.

APPENDIX B

Additional Housing Standards for Federally-Assisted Housing

Rental housing that receives federal funding may be covered by additional property maintenance requirements in federal laws, rules, and policies. For example, the federal Lead Safe Housing Rule sets out the lead hazard control requirements specifically for federally-assisted housing.

The U.S. Department of Housing and Urban Development (HUD) is the primary federal housing agency providing financial assistance for tenants. Below are short descriptions of two important HUD housing programs – public housing and the housing voucher program. Enforcement of federal housing standards for these programs is the responsibility of HUD (usually through local housing authorities), rather than local officials. However, state and local officials are still responsible for enforcing any state and local legal requirements that apply to these properties.

HUD Public Housing Program. HUD has Physical Condition Standards (rules) that apply to public housing managed by local public housing authorities (PHAs). The rules require public housing to be “decent, safe, sanitary, and in good repair.” The housing units must also “have proper ventilation and be free of mold, odor...or other observable deficiencies.” The housing must comply with lead-based paint requirements and be free from health and safety hazards including vermin infestations, septic tank back-ups, sewer hazards, garbage, and debris. For information about HUD’s public housing program and links to the rules (24 Code of Federal Regulations (C.F.R.) § 5.703), see: https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph.

In 2016, HUD adopted an important new rule that requires all PHAs, by July 30, 2018, to adopt a smoke-free policy. The rule applies to all public housing units, interior areas, and outdoor areas within 25 feet of the housing. For more information about the rule (24 C.F.R. §§ 965.651—655), see: https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/smokefree.

HUD Voucher Program. HUD has separate rules that apply to the Housing Choice Voucher (HCV) program. The rules establish Housing Quality Standards for a number of IAQ-related conditions. Units must be “free of pollutants in the air at levels that threaten the health of the occupants,” and have safe levels of “carbon monoxide, sewer gas, fuel gas, dust,” and other pollutants. Units must have “adequate air circulation” and bathrooms must have an openable window or other form of adequate ventilation. Dwelling units may not contain unvented room heaters that burn gas, oil, or kerosene, and they must be free of vermin and rodent infestation. Federal lead-based paint laws apply to HCV housing. For information on the HCV program and links to the rules (24 C.F.R. § 982.401), see: https://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.

If you have questions for your local PHA about your federally-subsidized housing, HUD provides a listing of PHAs throughout the country, at: https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/contacts/.

APPENDIX C

State and Local Model Programs for Enforcing Rental Housing Standards

In many states and local jurisdictions, there are laws that establish property maintenance standards for rental housing. Even when there are laws on the books, however, it is often difficult to make sure those legal requirements are enforced. Some states and local communities have established innovative programs to help tenants seeking repair of sub-standard housing conditions.

This Appendix describes model programs for: (1) improving the housing code inspection process, and (2) providing legal assistance for tenants in housing court.

State and Local Programs to Improve Housing Code Inspections and Enforcement

Enforcement of housing codes by local officials helps promote community welfare, preserve the housing supply, and maintain property values. Obstacles to effective code enforcement include limited government resources and scarce affordable housing options. Below are two examples of innovative code enforcement programs that aim to overcome these obstacles.

Breathe Easy at Home Program. The Breathe Easy at Home (BEAH) program helps doctors, nurses, and other health care providers refer asthma patients to local housing officials for inspections. The city of *Boston* developed the voluntary program to make sure inspections are carried out quickly if there are asthma triggers or other unhealthy conditions in the home. If a health care provider refers a patient to the city housing agency, trained inspectors identify asthma triggers that are covered by the housing code (for example, moisture problems, pest infestations, and poor ventilation). BEAH inspectors then work with the property owners to eliminate the sub-standard housing conditions. The program website includes forms for making a housing inspection referral, healthy homes fact sheets, and other resources. (See: <https://www.boston.gov/civic-engagement/breathe-easy-home>.)

The state of *Rhode Island* has established a Breathe Easy at Home program based on the Boston model, to connect health care providers and housing officials in the cities of Providence, Pawtucket, Central Falls, and Woonsocket. The program uses a web-based referral system administered by the Rhode Island Department of Health. The Department manages the BEAH program, and cases remain open from the time a referral is made until the housing code violations have been corrected. The program aims to improve the quality of asthma care and to improve the health of children with asthma by addressing the environmental needs in their homes. (See: <http://health.ri.gov/projects/breatheeasyathome/>.)

Code Enforcement Outreach Program. The *San Francisco* Department of Building Inspection (DBI) runs the Code Enforcement Outreach Program to improve living conditions in rental housing by getting repairs made as quickly as possible. The program speeds up the city's code enforcement process and brings housing into compliance by "setting out tenant and property owner's respective rights and responsibilities, mediating, and improving communication between the parties." The program is a partnership between DBI and several nonprofit organizations that represent tenants and property owners. Those organizations provide information and advice to

tenants and landlords, help resolve disputes, and help all parties communicate during the code enforcement process. (See: <http://sfdbi.org/ceop>.)

In addition to these two programs, some cities in the U.S. have established *proactive* housing inspection programs. In these cities, a local agency inspects some or all rental housing units on a regular basis, even if there is no complaint. Regular inspections may help prevent code violations in the first place, and they may take some of the pressure off tenants to report violations.

Legal Assistance for Tenants in Housing Court – The District of Columbia Model

There are a variety of programs in the District of Columbia (D.C.) courts that assist tenants in rental housing cases. These programs address a common problem throughout the country: Tenants are rarely represented by lawyers in bringing or defending lawsuits involving their rental homes.

Legal Advice and Information. Since 2004, the D.C. Bar Pro Bono Center has operated a Landlord Tenant Resource Center in the D.C. courthouse. The Center is staffed with volunteer lawyers who answer questions from landlords and tenants who do not have their own lawyers. The Center helps people understand court proceedings and prepare forms, coaches people on how to present their cases in court, and makes referrals to legal service providers. The Center also provides low-income individuals information about other financial and social service resources that might be available. Each year the Landlord Tenant Resource Center helps approximately 5,000 individuals understand their rights and obligations in the landlord-tenant relationship and navigate the court system. (See: <https://www.dcbbar.org/for-the-public/help-for-individuals/landlord-tenant.cfm>.)

Legal Representation. There are a variety of organizations in the District of Columbia that provide free legal representation to tenants in rental housing cases, including the D.C. Bar Pro Bono Center, the Legal Aid Society of the District of Columbia, Bread for the City, D.C. Neighborhood Legal Services Program, D.C. Law Students in Court, and Legal Counsel for the Elderly. The District of Columbia Office of the Tenant Advocate is a government agency that provides legal representation to tenants in some cases, makes referrals to other attorneys, and publishes the D.C. Tenant Bill of Rights. In addition, the D.C. Bar Pro Bono Center has also partnered with the Legal Aid Society, Bread for the City, and Legal Counsel for the Elderly to launch the Housing Right to Counsel Project, to provide representation to subsidized-housing tenants who are facing eviction. In such cases, tenants may be unaware that they can raise housing code violations as a defense to the eviction.

Informal and Expedited Court Hearings on Housing Condition Cases. In 2010, the D.C. courts established the Housing Conditions Calendar, a special process for tenants seeking to enforce compliance with the D.C. housing code. Cases on the Housing Conditions Calendar usually have their first hearing scheduled within a few weeks. The hearings use less formal procedures than regular landlord-tenant court cases, and most tenants appear without a lawyer.

The court provides a form that tenants can use to file the case (which includes a list of possible housing code violations), along with instructions on how to notify the landlord of the court case. During the initial hearing, the tenant describes the problems in their rental unit, and the judge orders a D.C. government housing inspector (who is assigned specially to the Housing Conditions Calendar) to investigate. Additional hearings are held to determine what repairs need to be made and to monitor progress in the case. (See: <https://www.dccourts.gov/services/civil-matters/housing-conditions-calendar>.)

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