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Americans for Safe Access

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March 1, 2005

Name
Address

Dear **Name**:

I am an attorney for Americans for Safe Access -- a Bay Area-based non-profit that advocates for medical marijuana patients. **Name**, a tenant of your property, recently contacted Americans for Safe Access. We have informed **Name** of his rights as a medical marijuana patient under state law and provide to you the following information.

Under California law, “seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana. . . .” Cal. Health & Safety Code § 11362.5(b)(1)(A).

While landlords have some discretion to determine whom they lease to, that discretion is not unlimited. In particular, under California Civil Code § 1942.5(c), “[i]t is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because he or she . . . has lawfully and peaceably exercised any rights under the law.” *See Barela v. Superior Court* (1981) 30 Cal.3d 244, 252; *Rich v. Schwab* (1998) 63 Cal.App.4th 803, 810-11. Furthermore, under the Bane Civil Rights Act, it is illegal for anyone to “interfere[] by threats, intimidation or coercion, with the exercise or enjoyment of any constitutional or statutory right. *See* Cal. Civil Code § 52.1; *Bay Area Rapid Transit District v. Superior Court* (1995) 38 Cal.App.4th 141, 144. Because California law now provides for the rights of seriously ill Californians to cultivate and possess marijuana for medical purposes, Cal. Health & Safety Code §

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Defending Patients’ Access to Medical Marijuana!

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11362.5(b)(1)(A), the eviction or threatened eviction of a qualified marijuana patient simply for exercising these statutorily-conferred rights constitutes unlawful retaliation and violates the Bane Civil Rights Act. Violation of these provisions may subject the violator to compensatory damages, punitive damages and attorney fees. *See* Cal. Civil Code §§ 52.1(h), 1942.5(f) & (g).

I write to request that you not take any action that would result in the eviction of **name** for his cultivation or possession of medical marijuana, thereby ignoring his status as a qualified patient. While I appreciate that your drug possession policy is motivated by the best intentions, I believe that in this particular case it must be reconsidered. I hope that we can work together to resolve this matter in a cordial and expeditious manner.

Sincerely,

Joseph D. Elford
Staff Attorney
Americans for Safe Access
(415) 573-7842

cc: **name**