



## Top Ten Attorney Questions & Answers

CalOHA provides our members with the Legal Hotline Program, a program that allows a park owner/manager to speak with an RV park specialized attorney for free. This complimentary call is a single subject, 15-minute call to get a legal definition or solution to a specific situation. Check out these top ten most asked questions and answers from our attorney partners.

### **What are the real differences between an occupant, tenant, and resident?**

An **occupant** has been lawfully in the park for 30 days or less. An occupant can be removed by local law enforcement upon 72-hour notice without the need to file an eviction lawsuit upon a payment or rule violation.

A **tenant** has been in the park for more than 30 consecutive days. A tenant can be served a three-day notice to vacate for failure to pay rent. A tenant can also be served a 30-day no cause notice; this means a tenant can be given notice to vacate for no reason provided upon 30-day notice. If the tenant does not timely vacate, then an eviction lawsuit will need to be filed.

A **resident** has been in the park for nine months or more. A resident may only be given a 60-day notice to vacate for one of the seven reasons provided in Civil Code section 799.70, which include failure to pay rent (after service of a 3-day notice and no cure of payment) and failing to comply with the park rules (after service of a 7-day notice and no cure of rule violation).

### **I have an occupant that I want out of the park because he or she is “bad news”. They have paid their rent and have not violated any park rules.**

#### **Can I serve a 72-hour notice on an occupant for no cause?**

No, you can only serve a 72-hour notice on occupants for either a failure to pay for occupancy or failure to comply with park rules.

#### **Can an occupant cure a 72-hour notice for failure to pay for occupancy?**

Yes, a defaulting occupant may correct his or her payment deficiency within the 72-hour period during normal business hours.

#### **Can an occupant cure a 72-hour notice for failing to comply with park rules?**

The law is unclear. While Civil Code section 799.55 expressly states that a payment deficiency may be cured within the 72-hour period during normal business hours the statute is silent as to whether a rule

violation may be cured within the 72-hour period. A conservative approach would be to allow an occupant to cure the rule violation within the 72-hour period.

**What rights of tenancy, if any, does a guest have at the park?**

None. While a guest, as permitted by the park, may occupy a RV in the park, the registered occupant, tenant, or resident shall be responsible for the actions of his or her guests.

**Do you need a written agreement with an occupant, tenant, or resident?**

Yes, California law requires a written registration agreement and/or a rental agreement.

**What do you do if you do not have a written agreement?**

We encourage you to seek cooperation to obtain a written agreement with all occupants, tenants, or residents.

**Can you enforce an oral tenancy in eviction court?**

Yes, judges do enforce oral tenancies, but the judge may only award the park possession and may not award any back due rent if you do not have a written agreement with the occupant.

**What is required in a written registration agreement?**

The written registration agreement must include the term of the occupancy, the rental amount, any fees to be charged for services provided by park, a statement of the grounds for which a defaulting occupant's RV may be removed without a judicial hearing after service of a 72-hour notice for failure to pay rent or comply with park rules, and the telephone number of the local traffic law enforcement agency.

**Does the park have to provide a copy of the park rules to the occupant, tenant, or resident?**

Yes, the park rules must be provided to the occupant, tenant, or resident at the time of registration. It is also a good idea to have the park rules posted somewhere conspicuous in the park.

Still need legal assistance? Activate the CalOHA free Legal Hotline Program, submit a request, and get connected with our attorney partners – they are waiting to hear from you!