**Sample Doctor’s Note**

*(should be on doctor’s stationery)*

[ Date ]

To Whom It May Concern:

[ Patient ] has been under my care for [ describe period of time (e.g., months, years) ]. [ Patient ] has [ name of condition ] which significantly interferes with [ her/his ] ability to [ describe limitations, especially related to respiratory impairment ]. As a result   
[ patient ] qualifies as disabled under the federal Fair Housing Act and the California Fair Employment and Housing Act.

[ Patient ] has reported to me that tobacco smoke is drifting into [ her/his ] unit from [ identify where smoke is coming from (e.g., neighboring unit) and how it is entering the unit, if known (e.g., through the heater vent ) ]. [ Patient ] says that the smoke enters [ her/his ] apartment [ describe the frequency (e.g., every day) ].

Due to [ patient ]’s condition, exposure to tobacco smoke is detrimental to [ her/his ] health and increases the risk of [ patient ] suffering an adverse event, such as [ describe negative health impact ].

I urge you to grant [ patient ]’s accommodation request to [ describe the accommodation request (e.g., ban smoking in the common areas, allow to move to a vacant unit away from the drifting smoke, make the surrounding units nonsmoking, release from rental agreement so can move, etc.) ]. This accommodation is necessary to ameliorate the conditions of [ patient ]’s disability.

Sincerely,

[ Signature ]

Dr. [ doctor’s name ]

Sample Demand Letter

[ Tenant’s Name ]

[ Address ]

[ Phone Number ]

[ Date ]

Dear [ Landlord or Property Manager ]:

I am writing to request that you make a reasonable accommodation for my disability. Both federal and state fair housing laws require that housing providers grant reasonable accommodation requests for tenants with disabilities. 42 U.S.C. § 3604(f)(3)(b) and Cal. Gov’t Code § 12927(c)(1). *See also Giebeler v. M&B Associates,* 343 F.3d 1143, 1147, 1156-8 (9th Cir. 2003).

I have a disability that significantly impairs my ability to breathe, and this condition is made worse by exposure to tobacco smoke. Tobacco smoke has been entering my unit and is coming from [ identify where smoke is coming from (e.g., neighboring unit) and how it is entering your unit (e.g., seems to be coming in through the heater vent ) ]. The smoke enters my apartment [ describe the frequency (e.g., every day) ]. A log is attached listing the dates of my exposure. This continuous exposure to secondhand tobacco smoke has aggravated my disability by [ describe your symptoms ]. A doctor’s letter is attached, documenting my condition and symptoms.

The U.S. Surgeon General has concluded that there is no safe level of exposure to secondhand smoke. *See* U.S. Dept. of Health and Human Services. *News Release, New Surgeon General’s Report Focuses on the Effects of Secondhand Smoke.* June 27, 2006. Available at: *www.hhs.gov/news/press/2006pres/20060627.html.* In addition, the California Air Resources Board declared secondhand smoke a “toxic air contaminant,” which means that it may cause and/or contribute to death or serious illness. *See* Air Resources Board, Cal. Dept. of Environmental Protection Agency. *News Release, Environmental Tobacco Smoke: A Toxic Air Contaminant.* Oct. 18, 2006. Available at: *www.arb.ca.gov/newsrel/nr012606.htm.*

California courts and the U.S. Department of Housing and Urban Development (HUD) have required that reasonable accommodations be made for persons whose disabilities are aggravated by drifting tobacco smoke. *See County of Fresno v. Dept. of Fair Employment and Hous. Comm’n,* 226 Cal. App. 3d 1541 (employer liable for failure to accommodate two employees whose disabilities were aggravated by co-workers’ smoking); *in re U.S. Dep’t of Hous. and Urban Dev. and Park Tower Apartments,* HUD Case Nos. 05-97-0010-8 and 05-97-11-0005-370 (1998) (in response to complaint by disabled tenant with respiratory illness, landlord was required to include no-smoking term in all new tenants’ leases).

I am requesting [ describe your accommodation request (e.g., ban smoking in the common areas, allow to move to a vacant unit away from the drifting smoke, make the surrounding units nonsmoking, release from rental agreement so can move, etc.) ]. This change will eliminate my exposure to drifting tobacco smoke and alleviate the symptoms of my disability.

The only reason a housing provider may reject an accommodation request is if granting the accommodation would cause an **undue** financial or administrative burden. *See Giebeler,* 343 F.3d, at 1157. However, a housing provider is required to bear some financial and/or administrative burden. S*ee U.S. v. Cal. Mobile Home Park Mgmt. Co.,* 29 F.3d 1413, 1416-17 (9th Cir. 1994).

My request to [ describe your accommodation request (e.g., move to a vacant unit away from the drifting smoke, make the surrounding units nonsmoking, release from rental agreement so can move, etc.) ] is reasonable because there will be little, if any, burden on you if you grant the accommodation.

Please respond in writing to this letter by [ date ] confirming whether or not you will grant my accommodation request. I would like to resolve this issue amicably and informally, if possible. If that cannot be done, please be aware that failure to grant a reasonable accommodation can subject a housing provider to a discrimination claim in which compensatory and punitive damages are awarded, along with prevailing party’s attorneys’ fees. 42 U.S.C. § 3613(c).

Thank you for your consideration and prompt attention in this matter.

[ Signature ]

cc: [ Property Management Firm, Homeowners’ Association Board, etc. ]

Enclosures:

Letter from Dr. [ doctor’s name ]

Log of exposure to drifting smoke

**You may also want to include some or all of the following resources with your letter:**

• How Landlords Can Prohibit Smoking in Rental Housing [http://talc.phlpnet.org/pdf\_files/0076.pdf](http://talc.phlpnet.org/pdf_files/0076.pdf )

• There Is No Constitutional Right to Smoke

[http://talc.phlpnet.org/pdf\_files/0051.pdf](http://talc.phlpnet.org/pdf_files/0051.pdf )

• Secondhand Smoke: The Science (fact sheet from Americans for Nonsmokers’ Rights)

[http://no-smoke.org/pdf/SHS.pdf](http://no-smoke.org/pdf/SHS.pdf )

• There Is No Risk-Free Level of Exposure to Secondhand Smoke

(fact sheet based on the 2006 U.S. Surgeon General’s Report) [www.surgeongeneral.gov/library/secondhandsmoke/factsheets/factsheet7.html](file:///home/interviewtest-4/Desktop/%5Da/www.surgeongeneral.gov/library/secondhandsmoke/factsheets/factsheet7.html)