July 23, 2024

Liability in Vacation Rental Injuries in California

Martin Gasparian

Maison Law

+ Follow Contact

The vacation rental industry claims over two million properties throughout the United States. According to the Miliken Institute, California had 128,000 short-term vacation rental listings in 2022. The Big Bear region in Southern California boasted almost three times as many short-term rental units as hotels. Guests stay in these units for days or a few weeks, but usually not more than a month.

Rentals come in various forms, but private residences lead in popularity. According to a 2023 study, roughly six out of every ten guests prefer homes. Nearly 6.8 million of the 28.2 million listings on Expedia consist of homes and apartments.

Safety Risks from Vacation Rentals

As reported by the National Fire Protection Association, it is estimated that a short-term vacation rental injury happens every 44 seconds. The National Safety Council says homes accounted for 57 percent of accidents in 2021. Homes may present risks not common to commercial, industrial, or office establishments.

The hazards and defects in homes and other properties used for short-term rentals may include:

- No smoke detectors or ones without batteries
- Lack of fire extinguishers

- Pools without enclosures or markers of water depth
- Faulty or exposed electrical wires
- Falling or insecure light or ceiling fan fixtures
- Broken porch rails or steps
- Hidden holes in floors
- Excessively hot bath or shower water
- Exposed nails in steps or floors
- Unrestrained or dangerous dogs on the premises
- Doors lacking deadbolts
- No exit routes in case of fire
- Weakened roofs that collapse
- Insufficient outdoor or security lights
- Placement or use of gas grills on balconies, garages, or indoor areas

A survey of 120,109 Airbnb rentals found only 42 percent of them had fire extinguishers. First-aid kits were found in barely a third of these places.

These hazards expose guests to a vast array of potential injuries, such as burns, smoke inhalation, fractures, concussions, and other injuries from fires, bites, criminal attacks, and falls onto the ground. For instance:

- Trip, slip, and fall incidents generate nearly 83 percent of claims from short-term rental accidents, according to a Proper Insurance study cited by the

National Fire Protection Association.

- Over 100 children drowned in pools at short-term rental properties
- In 2019 and 2020, fire departments received an average of 4,200 fire incidents at recreation vehicle (RV) short-term rentals, with fatalities numbering 15, injuries reaching 125, and losses running at over $60 million

Overall, dog bites in California present serious threats to individuals, whether in short-term rentals or otherwise. According to the Insurance Information Institute, California's 2,104 claims for injuries from dog bites led the nation in 2023. Dog bites rank second nationwide among liability claims overall, with settlements exceeding $1 billion.

Bases for Liability

Those injured at vacation rentals may have premises liability claims against the owners or managers. As with property owners in general, vacation rental owners and operators must use reasonable care. This means generally not creating or allowing hazards and warning guests of dangers. Below are some ways that short-term vacation property owners and managers might fall short of the mark.

Failing to Inspect and Remedy

Property owners and managers in California must reasonably inspect and take reasonable measures to keep them safe.

One such occasion for inspection is each time new guests are to occupy the premises. Such inspections may reveal hazards, including those created by previous occupants or during previous occupations. California law holds vacation rental owners and other premises owners liable for conditions that a reasonable inspection would have revealed.

Owners fail to fix floors and steps or remove objects often because they fail to reasonably inspect the property. Rental owners may not check or appropriately change batteries. Beeps from smoke or carbon monoxide detectors alert the owner of the need to change batteries. The duties to keep rentals reasonably safe may require vacation rental owners to keep a fire extinguisher in the unit so that patrons might quickly put out a fire before it spreads and consumes much more.

Negligent Security

The statutory duty to use reasonable care in managing property includes the prevention of reasonably foreseeable criminal attacks. Normally, what makes a criminal attack reasonably foreseeable turns on a variety of factors considered together. These may include:

- Prior crimes in the area or on the premises
- Similarity of attack or other incident
- Location in a secluded area

Proof of previous criminal incidents may come from local police, sheriff, or California Highway Patrol reports. Typically, personal injury victims or their lawyers must subpoena these records from law enforcement agencies to prove a prior history of incidents.

The required security measures often determine what level of foreseeability applies to the particular attack. When the measures impose a considerable burden, more is required to show that the attack was reasonably foreseeable. Short-term vacation rental owners might not be required to have security cameras or patrols. However, the foreseeability threshold tends to be lower with less costly or burdensome matters. As such, victims of criminal attacks at these rentals may have better success on claims due to broken lights, locks, or security cameras; absence of deadbolts; or

doors that do not require a code for unlocking and entry.

Unsafe Pools

California statutes and regulations impose various safety standards for pools, including those at short-term vacation rentals. The requirements or acceptable measures for pools at private residences are found in California Civil Code Section 115922 and include at least some of the following:

- Enclosures at least 60 inches, or five feet, high
- Alarms for “accidental or unauthorized” entry into pool water
- Safety pool covers that meet the American Society for Testing Materials performance standards

Dog Bites

When it comes to dog bites, California is a “strict liability” state. Under California Civil Code Section 3342(a), dog owners must compensate victims of bites even if the dog has not previously attacked anyone or another animal. It does not matter if the owner did not have previous knowledge of the dog’s tendencies to bite, attack, or otherwise present danger. Even reasonable care in confining or restraining dogs does not relieve the dog owner of liability.

The strict liability rule comes into play especially when the vacation rental owner owns the dog. However, the property owner might avail themselves of defenses such as contributory negligence, especially if the guest provokes the dog. Those who stay somewhere knowing that there is a dog with dangerous propensities might find claims barred by the "assumption of the risk" defense.

Making Claims

Homeowner's insurance can pay liability claims arising from injuries on the premises. However, these policies do not cover injuries at residences (or the portions thereof) used as vacation rentals.

To handle such risks, vacation rental owners rely on vacation rental insurance. Vbro offers liability insurance of $1 million to its participating owners. Airbnb hosts can access liability coverage with limits of $1 million as well.

Send Print Report

LATEST POSTS

- **Liability in Vacation Rental Injuries in California**
- **Social Media as Evidence in a Car Accident Claim**
- **Personal Injury Claims for Undocumented Immigrants in California**
- **California Uber Accidents and Personal Injury Claims**
- **Personal Injury Claims Involving Uninsured Drivers in California**

See more »

DISCLAIMER: Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.

© Maison Law 2024 | Attorney Advertising

WRITTEN BY:

Maison Law

Contact + Follow

Martin Gasparian + Follow

PUBLISH YOUR CONTENT ON JD SUPRA NOW

- Increased visibility
- Actionable analytics
- Ongoing guidance

Learn More

PUBLISHED IN:

AirBnB + Follow

Bodily Injury + Follow

Damages + Follow

Dog Attacks + Follow

Homeowner's Insurance + Follow

Insurance Claims + Follow

Liability + Follow

Negligence + Follow

Premises Liability + Follow

Property Owners + Follow

Slip and Fall + Follow

Vacation Rentals + Follow

more

MAISON LAW ON: