

# Hell No, Don't Go

**ERIC CARLSON, OF THE ADVOCACY GROUP JUSTICE IN AGING**, says the biggest mistake made by people facing evictions from nursing homes and other elder care facilities is to do as they're told.

"The resident needs to be prepared to say, 'No, I'm not leaving. I disagree with you. And I will assert my appeal rights.' There's so many of these cases where residents just panic when they hear anything about eviction. And I get it. It seems intimidating for them. They think that if a facility doesn't want them, they don't want to be there. But I think that's a counterproductive response. What people should do is stay put."

When residents faced with eviction do assert their appeal rights, Carlson says, "their chances of winning are pretty good. But the majority of them don't get that far, because they're intimidated by the whole concept of eviction."

Justice in Aging has produced an online toolkit for fighting nursing home evictions. It tells how to recognize improper evictions and provides sample briefs to seek administrative hearings in response to various stated grounds for kicking elderly people out. The group also has a guide called "25 Common Nursing Home Problems—& How to Resolve Them." Problem number fourteen is the eviction of residents while they are hospitalized. It argues that nursing home residents should be allowed to return home while their appeals are pending.

The protections are often much lower for people in other long-term care arrangements. And even in nursing homes and states with strong laws, violations are common.

Drawing on advice given by Justice in Aging and other groups, as well as on my own experience, I have come up with a list of six ways to fight the folks who throw elderly people out of their homes:

## ASK NOW, KNOW LATER

Whether you're just moving in or already there, ask the facility whether it has evicted residents, and under what circumstances. Ask about specific issues including dementia, incontinence, and falls. Ask about facility staffing levels and how they affect these decisions.

## BE PREPARED

Have a plan in place to fight an eviction before you need it. Look for lawyers in advance. Maybe even stow some money away in a personal legal defense fund. If you cannot afford an attorney, use the resources provided by the toolkit from Justice in Aging. To watch a video on how to use it, visit <https://vimeo.com/647818672>.

## DOCUMENT EVERYTHING

The moment that you learn of a possible eviction, keep a detailed log of all contacts, efforts to make contact, letters and emails sent and received, and information on the condition of the resident. Record key conversations with one-party consent, if your state allows this. Most do. (For a listing see: <https://www.justia.com/50-state-surveys/recording-phone-calls-and-conversations>.)

## DON'T RELY ON THE GOVERNMENT TO HELP

Yes, do complain to state health care officials and seek assistance from your state's Long-Term Care Ombudsman Program, but do not count on them to act quickly and resolve your problems. Ombudsmen have no power to impose penalties, and state regulators can be bureaucratic and deferential to providers.

## REFUSE TO COMPLY

If you or a loved one is asked to leave, refuse to go, insisting on the right to appeal. If it's possible to sneak in a resident who has been told not to return, do that.

## SEEK JUSTICE

Find an attorney to sue for monetary restitution for wrongful evictions, or pursue an action in small claims court. In egregious cases, as many are, ask the local district attorney to consider bringing criminal charges, possibly for endangerment. The more you can do to balance the scales of justice, the better.

—Bill Lueders



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—Eric Carlson, directing attorney with Justice in Aging, a Los Angeles-based advocacy group