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Removing Housing Barriers for Victims of Domestic Violence – Part 2: *Understanding and Asserting Federal Housing Protections*



Objectives



Advocates will be able to:

- Identify housing protections provided by the Violence Against Women Act (VAWA)
- Be familiar with the PHRA / FHA Complaint process
- Safety Plan with victims around housing issues
- Make referrals to an appropriate attorney
- Recognize opportunities for systems advocacy

Housing Terminology



- **Private Housing**
- **Subsidized Housing**
 - ▣ Project-Based Section 8
 - ▣ Housing Choice Voucher Program
 - ▣ Other HUD Assistance Programs
 - ▣ Tax Credit Properties
 - ▣ U.S. Department of Agriculture Rural Housing

VAWA Housing Provisions



- **Who is entitled to protection?**
 - ▣ Victims of Domestic Violence
 - ▣ Victims of Dating Violence
 - ▣ Victims of Stalking
 - ▣ Victims of Sexual Assault (per VAWA4, signed into law last week!)

VAWA Housing Provisions



- **Which housing providers are covered?**
 - ▣ Public Housing Program
 - ▣ Housing Choice Voucher Program
 - ▣ Project-Based Section 8
 - ▣ Public Housing Authorities
 - ▣ Private Landlords Who Take Section 8

VAWA Housing Provisions

- ~~Which housing programs are not covered?~~ **THEY ARE NOW THAT VAWA WAS REAUTHORIZED!!!**
 - Other HUD Assistance Programs – COVERED!
 - Low-Income Housing Tax Credit Program – COVERED!
 - **U.S. IRS (Section 42)*
 - Rural Housing Program – COVERED!
 - **U.S. Department of Agriculture*

VAWA Housing Provisions



- **What do the housing provisions say?**
 - ▣ No discrimination in admissions
 - ▣ No termination of assistance
 - ▣ No evictions based on domestic violence
 - ▣ Must allow victim to move to protect safety
 - ▣ Must cut abuser out of lease
 - ▣ Must provide notice of VAWA protections
 - ▣ May request documentation

VAWA Housing Provisions



No Discrimination in Admissions

- *PHAs cannot deny an application for housing assistance because the applicant is a victim of domestic violence, sexual assault, dating violence, or stalking.*
 - No Automatic Eligibility
 - PHA Discretion

VAWA Housing Provisions



No Termination of Assistance

- *PHAs cannot terminate housing assistance because of an incident of actual or threatened domestic violence, sexual assault, dating violence, or stalking against a recipient.*

VAWA Housing Provisions

No Eviction

- *PHAs and owners/landlords who accept public housing vouchers or assistance cannot evict a tenant based on:*
 - Real or perceived incidents of domestic violence, sexual assault, dating violence or stalking or
 - Criminal activity directly relating to domestic violence, sexual assault, dating violence, or stalking.

VAWA Housing Provisions



Exception: Actual *and* Imminent Threat

Victims may be evicted or have their assistance terminated if the PHA or owner/landlord proves that the victim poses “an actual and imminent threat to other tenants or those employed at or providing service to the property.”

VAWA Housing Provisions



Prohibited Eviction

- Assault by family member
- Assault by significant other not living in the household
- Damage to apartment during incident of domestic violence
- Noise from domestic violence incident

VAWA Housing Provisions

Permissible Eviction

- Criminal activity not related to domestic violence, sexual assault, dating violence, or stalking
 - *Ex: drug activity, child abuse*
- Failure to pay rent
- Unauthorized person in the household
- Actual and imminent threat
 - *Remember: Must meet high standard*

VAWA Housing Provisions

“Porting” a Section 8 Voucher

- *A family may move to another jurisdiction (“port”) with their Section 8 voucher if the family:*
 - Complies with the terms of the program
 - Is moving to protect the health or safety of a victim of domestic violence, dating violence, or stalkingand
- Reasonably believes he/she is imminently threatened by further violence.

VAWA Housing Provisions

Emergency Transfers

~~A PHA may grant an emergency transfer and is urged to do so to ensure victim safety.~~

Agencies must have policy that allows emergency transfer if:

- Tenant expressly requests AND
 - (DV) Tenant reasonably believes threatened with imminent harm from further violence if the tenant remains within the same dwelling unit; OR
 - (SA) the sexual assault occurred on the premises during the 90 day period preceding the request for transfer
 - *See Toolkit at page 54 for sample letter*

VAWA Housing Provisions



Wait List Preference

PHAs are urged to adopt policies that give preference to victims of domestic violence, sexual assault, dating violence, and stalking.

VAWA Housing Provisions

“Bifurcation”

A PHA or Section 8 landlord may bifurcate a lease or Section 8 Voucher to evict, remove, or terminate assistance to the abuser while allowing the victim to remain.

What if lease is in abuser’s name?

■ Then PHA “shall provide any remaining tenant an **opportunity to establish eligibility** for the covered housing program” and if she can’t, then PHA “shall provide the tenant a **reasonable time ... to find new housing** or to establish eligibility for housing under another covered housing program.”

■ *See Toolkit at page 56 for sample letter* 17

VAWA Housing Provisions



Recognition of Court Orders

Public housing agencies and subsidized housing providers must honor court orders addressing the rights of access to or control of property.

VAWA Housing Provisions



Documentation of Status as Victim

Competing Claims of Abuse

In cases where two or more household members claim that they are a victim of domestic violence, dating violence or stalking, the PHA or landlord can resolve the dispute by requiring third-party certification.

VAWA Housing Provisions

Documentation of Status as Victim

A PHA, owner or manager may ask the victim to provide documentation (certification) of domestic violence, sexual assault, dating violence, or stalking.

- ❑ *Request must be in writing*
- ❑ *Victim has 14 days to comply, PHA can extend to longer than 14 days*

VAWA Housing Provisions

Documentation of Status as Victim

■ Types of Documentation

- Victim Statement
- Self-Certification HUD Form
- Affidavit from Professional
- Police/Court Record
 - *See Toolkit at pages 49-52 for sample forms*

VAWA Housing Provisions



Documentation of Status as Victim

Confidentiality

Documentation of abuse must be kept confidential by the PHA landlord unless they are required to disclose it by law.

VAWA Housing Provisions



Notice Requirements

- ***PHAs, owners and managers must notify tenants of:***
 - VAWA's housing protections
 - Tenant's right to confidentiality

VAWA Housing Provisions

PHA Planning Requirements

PHAs must include specifics about their VAWA implementation in their Annual, Five-Year, and Consolidated Plans.

- Approved plans:
<http://www.hud.gov/offices/pih/pha/approved/>
- Sample plans (Form HUD-50075):
www.hud.gov/offices/pih/pha/templates/rtf/phaplans.rtf

VAWA Housing Provisions



PHA Planning Requirements

Annual Plans:

PHAs must include a description of **activities, services and/or programs** offered by the PHA or other service providers to child and/or adult victims of domestic violence, dating violence, sexual assault, or stalking.

VAWA Housing Provisions



PHA Planning Requirements

5-Year Plans:

PHAs must include a description of any **goals, objectives, policies and/or programs** they have in place to serve the housing needs of child and adult victims of domestic violence, dating violence, sexual assault and stalking.

VAWA Housing Provisions

Using VAWA to Challenge a PHA Decision

- **A victim can:**
 - ❑ Reach out to the PHA
 - ❑ Request a hearing or informal review
 - ❑ Gather documents / evidence
 - ❑ Contact potential witnesses
 - ❑ Consider Settlement
 - ❑ Present Case
 - ❑ Appeal PHA decision
 - ❑ File FHA / PHRA complaint (next slides)

Other Housing Protections



Federal Fair Housing Act (FHA)

Prohibits housing providers from discriminating on the basis of race, color, religion, sex, handicap, familial status or national origin.

Other Housing Protections

Pennsylvania Human Relations Act (PHRA)

PHRA prohibits housing providers from discriminating on the basis of race, color, familial status; religious creed; ancestry; handicap or disability; age; sex; national origin; the use of a guide or support animal because of the blindness; deafness or physical handicap of the user; or because the user is a handler or trainer of support or guide animals.

Other Housing Protections



FHA and PHRA

Application to Victims of Domestic Violence:

*When policies or practices have a **disparate (disproportionate) impact** on victims of domestic violence, those policies or practices may equate to sex discrimination because a majority of victims are women.*

Filing a PHRA or FHA Complaint

- Filing an administrative complaint is free
- Complaint triggers investigation (also free)
- Investigation may result in finding that discrimination occurred
- If discrimination found, then conciliation/settlement
- If no conciliation/settlement, then may sue in court (may sue any time, but may benefit from having agency finding first)
- *Even if tenant does not win money damages, process of filing a Complaint still has benefits because it holds housing providers accountable to the law and improves policies and treatment of other tenants in the future!*

Filing a PHRA or FHA Complaint

- **See Toolkit at page 65 for PHRA Complaint Form**
 - ▣ Complaints may be filed either by mail or online at the PHRC website: <http://www.phrc.state.pa.us>
- **See Toolkit at page 71 for FHA Complaint Form**
 - ▣ Victims can visit the HUD website, <http://www.portal.hud.gov>, for more information or to file an online complaint.

Safety Planning

■ Stay in Location


- Request Safety Improvements
- Obtain PFA Order
- Plan / Practice Escape Routes

■ Relocate

- Secure Communications
- Plan Ahead
- Confidentiality
- Housing Security



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