Housing Protections for Victims/ Survivors of Domestic Violence

Survivors of domestic violence often face housing discrimination because of their history or acts of their abusers. The Violence Against Women Act (VAWA) protects survivors of domestic violence, dating violence, sexual assault, or stalking, in public and other federally subsidized housing, from denial of housing, eviction, or termination of assistance based on violence perpetrated by their abusers.

HUD guidance confirms that the Fair Housing Act provides some protections to survivors of domestic violence in private housing, or housing not covered by VAWA. Statistics demonstrate that women are overwhelmingly the victims of domestic violence and therefore discrimination against survivors of domestic violence is almost always discrimination against women. Approximately 1.3 million women are victims of assault by an intimate partner each year; and 1 in 4 women will experience intimate partner violence in their lifetimes. Therefore, survivors who are denied housing, evicted, or deprived of assistance based on the violence in their homes may have a cause of action for sex discrimination under the Fair Housing Act.

Types of Public and Subsidized Housing Protected under VAWA:

- Public housing
- HOME Investment Partnerships program
- § 202 supportive housing for the elderly
- Section 236 Rental Program
- § 811 supportive housing for people with disabilities
- Section 221(d)(3) Below Market Interest Rate (BMIR) Program
- Section 8 & Project-based Section 8
- HOPWA (Housing Opportunities for Persons with AIDS) housing program
- HUD’s McKinney-Vento homeless programs
- Low-Income Housing Tax Credit properties
- U.S. Department of Agriculture Rural Housing properties

Key provisions of VAWA:

Prohibits covered housing providers from denying admission based on an individual’s status as a victim of domestic violence, dating violence, sexual assault, or stalking.

Prohibits covered housing providers from evicting a victim of domestic violence, dating violence, sexual assault, or stalking based solely on criminal activity related to an act of violence against her. Domestic violence incidents or threats of abuse cannot be considered a serious or repeated violation of the lease or any other “good cause” to evict the victim of the abuse.

Requires covered housing providers to honor protection orders, divorce decrees, and other court orders that address access to or control of the housing unit.

Permits lease bifurcation if both the victim and the perpetrator of domestic violence, dating violence, sexual assault, or stalking are parties to the lease, in order to evict the perpetrator and allow the victim to remain.

Allows covered housing providers to request documentation that he/ she is a victim of domestic violence, dating violence, sexual assault, or stalking including, but not limited to:
- A written, signed statement from a victim services provider, medical professional, or attorney saying that he/she believes the incidents in question were acts of domestic violence, dating violence, or stalking against the tenant.
- A police record or court record that indicates the tenant was a victim of domestic violence, dating violence, or stalking.

Requires covered housing providers to maintain victim-tenant confidentiality, unless the tenant agrees that the housing provider can share the information with someone else, or if the information is necessary to an eviction proceeding (e.g. to evict an abuser).

Requires appropriate agencies to develop a notice of rights under VAWA for tenants and provide that notice when a person applies for housing, when a person is admitted as a tenant, and when a tenant is threatened with eviction or termination of housing benefits.