

FAIR HOUSING PROTECTIONS FOR SURVIVORS OF DOMESTIC VIOLENCE

PRESENTED BY
MARLEY HOCHENDONER,
EXECUTIVE DIRECTOR,
NORTHWEST FAIR HOUSING ALLIANCE

HUD MEMO

[HTTP://NHLP.ORG/FILES/FHEO%20DOMESTIC%20VIOLENCE%20MEMO.PDF](http://nhlp.org/files/fheo%20domestic%20violence%20memo.pdf)

Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA)

February 9, 2011

- Guidance to FHEO HQ and field staff on assessing claims by domestic violence victims of housing discrimination under the FHA.

Statistics

- Statistics show that women are overwhelmingly the victims of domestic violence. An estimated 1.3 million women are the victims of assault by an intimate partner each year, and about 1 in 4 women will experience intimate partner violence in their lifetimes.
- The U.S. Bureau of Justice Statistics found that 85% of victims of domestic violence are women.
- In 2009, women were about five times as likely as men to experience domestic violence.
- These statistics show that discrimination against victims of domestic violence is almost always discrimination against women. Thus, domestic violence 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.

Federal Fair Housing Act

- Survivors aren't a protected class under the FHA, but most are female.

- The FHA does not explicitly prohibit housing providers from denying housing to applicants or evicting tenants based on their status as survivors of domestic violence.
- However, survivors may still be able to use fair housing laws to challenge denials of housing or evictions that are related to acts of dv committed against them.

National origin and race

- Certain other protected classes experience disproportionately high rates of domestic violence. For example, African-American and Native American women experience higher rates of domestic violence than white women.
- Black women experience intimate partner violence at a rate 35% higher than that of white females, and about 2.5 times the rate of women of other races.
- Native American women are victims of violent crime, including rape and sexual assault, at more than double the rate of other racial groups.
- Women of certain national origins and immigrant women also experience domestic violence at disproportionate rates. This means that victims of domestic violence may also have a cause of action for race or national origin discrimination under the Fair Housing Act.

Fair Housing Act

Theories of Discrimination

- I. **Direct Evidence**

- II. **Unequal (Disparate) Treatment theory** - Policy or practice that intentionally treats women differently from men

- III. **Disparate Impact theory** - Policy or practice that is neutral on face but in fact falls more harshly on women than men
 - Use of statistical evidence
 - Generally do not need to show discriminatory intent or motive

Direct evidence

- In some cases, landlords enforce facially discriminatory policies. These policies explicitly treat women differently from men. Such policies are often based on gender stereotypes about abused women. For example, if a landlord tells a female domestic violence victim that he does not accept women with a history of domestic violence as tenants because they
- always go back to the men who abuse them, his statement is direct evidence of discrimination based on sex. Investigations in direct evidence cases should focus on finding evidence about whether or not the discriminatory statement was made, whether the statement was applied to others to identify other potential victims, and whether it reflects a policy or practice by the landlord. The usual questions that address jurisdiction also apply.

Unequal treatment

- In some cases, a landlord engages in unequal treatment of victims of dv in comparison to victims of other crimes.
- Or a landlord's seemingly gender- neutral policy may be unequally applied, resulting in different treatment based on sex.
 - For example, a policy of evicting households for criminal activity may be applied selectively against women who have been abused by their partners and not against the male perpetrators of the domestic violence.
- If there is evidence that women are being treated differently because of their status as victims of dv, an unequal treatment theory applies. If an investigator finds evidence of unequal treatment, the investigation shifts to discovering the respondent's reasons for the differences and investigating each reason to determine whether the evidence supports or refutes each reason.
- If a nondiscriminatory reason(s) is articulated, the investigation shifts again to examining the evidence to determine whether or not the reason(s) given is supported by the evidence or is a pretext for discrimination.

Unequal/Disparate treatment claims

- Disparate treatment claims (also called intentional sex discrimination) have been raised in cases where housing providers treat female tenants differently from similarly situated male tenants.
 - Ex: a landlord evicts a female tenant after she is involved in a loud argument with a cotenant, but does not evict a male tenant who has been involved in similar noisy disturbances.
- To succeed on a disparate treatment claim, a plaintiff must provide proof that the housing provider had a discriminatory intent or motive.
- The intent can be inferred from the fact that the housing provider treated male tenants differently from similarly situated female tenants.

Disparate impact

- In some cases, there is no direct evidence of unequal treatment, but a facially neutral housing policy, procedure, or practice disproportionately affects dv victims.
- In these cases, a disparate impact analysis is appropriate.
- Disparate impact cases often arise in the context of "zero-tolerance" policies, under which the entire household is evicted for the criminal activity of one household member.
- The theory is that, even when consistently applied, women may be disproportionately affected by these policies because, as the overwhelming majority of dv victims, women are often evicted as a result of the violence of their abusers.

4 steps to a disparate impact analysis.

1. Identify the specific policy, procedure, or practice of the landlord's that is allegedly discriminatory.
 - both the identification of the policy, procedure, or practice and the examination of what types of crimes trigger the application of the policy.
2. Determine whether or not that policy, procedure, or practice was consistently applied.
 - This step is important because it reveals the correct framework for the investigation.
 - If the policy is applied unequally, then the proper analysis is unequal treatment, not disparate impact.
 - If the policy was applied consistently to all tenants, then a disparate impact analysis applies, and the investigation proceeds to the next step.

3. Determine whether or not the particular policy, procedure, or practice has a significant adverse impact on dv victims and if so, how many of those victims were women (or members of a certain race or national origin).
 - Statistical evidence is generally used to identify the scope of the impact on a group protected against discrimination.
 - These statistics should be as particularized as possible; they could demonstrate the impact of the policy as to applicants for a specific building or property, or the impact on applicants or residents for all of the landlord's operations.
 - For example, the investigation may uncover evidence that women in one apartment complex were evicted more often than men under a zero-tolerance crime policy. It would not matter that the landlord did not intend to discriminate against women, or that the policy was applied consistently.
 - Proof of disparate impact claims is not an exact science. Courts have not agreed on any precise percentage or ratio that conclusively establishes a prima facie case. Rather, what constitutes a sufficiently disparate impact will depend on the particular facts and circumstances of each case.

4. If the investigation reveals a disparate impact based on sex, race, or national origin, the investigation then shifts to eliciting the respondent's reasons for enforcing the policy. It is critical to thoroughly investigate these reasons.

- Why was the policy enacted?
- What specific outcome was it meant to achieve or prevent?
- Were there any triggering events?
- Were any alternatives considered, and if so, why were they rejected?
- Is there any evidence that the policy has been effective?
- What constitutes a sufficient justification will vary according to the circumstances. In general, the investigation will examine whether or not the offered justification is real and supported by a substantial business justification.
- An investigation must identify and evaluate the evidence supporting and refuting the justification.

- Even if there is sufficient justification for the policy, there may be a less discriminatory alternative available to the respondent.
- A disparate impact investigation must consider possible alternative policies and analyze whether each policy would achieve the same objective with less discriminatory impact.
 - For example, in a case of discriminatory eviction under a zero-tolerance policy, a landlord could adopt a policy of evicting only the wrongdoer and not innocent victims. This policy would protect tenants without unfairly penalizing victims of violence.
- In summary, an investigation of a disparate impact case must seek evidence that a specific policy of the landlord's caused a substantial, disproportionate, adverse impact on a protected class of persons. Proving a disparate impact claim will generally depend on statistical data demonstrating the disparity and a causal link between the policy and the disparity; discriminatory intent is irrelevant.

Fair Housing Cases Involving DV

- *Eviction Cases.*
 - Victims are often served with eviction notices following domestic violence incidents. Landlords cite the danger posed to other tenants by the abuser, property damage caused by the abuser, or other reasons for eviction. Several cases have challenged these evictions as violations of VAWA or the FHA.

Alvera v. C.B.M. Group Inc. Alvera v. C.B.M. Group, Inc., No. 01cv857 (D. Or. July 10, 2001).

- Used disparate impact theory to challenge a zero tolerance for violence policy.
- Ms. Alvera was assaulted by her husband in their apt. She obtained a restraining order against him, and he was arrested and jailed. She provided a copy of the restraining order to the property manager. The property manager then served her with a 24-hour eviction notice based on the dv. The notice specified: "You, someone in your control, or your pet, has seriously threatened to immediately inflict personal injury, or has inflicted personal injury upon the landlord or other tenants." Alvera submitted an application for a 1-bedroom apt. in the same building. Management denied the application and refused her rent. After a 2nd application, management approved her for a 1-bedroom apt., but warned that "any type of recurrence" of dv would lead to her eviction.
- She filed a complaint with HUD alleging that her landlord had discriminated against her on the basis of sex.

On April 13, 2001 HUD issued a determination that there was reasonable cause to believe the policy violated the FHA.

HUD found that:

- the "policy of evicting innocent victims of domestic violence because of that violence has a disproportionate adverse impact on women and is not supported by a valid business or health or safety reason by the [apartment management]."
- national statistics showing that women are 5 to 8 times more likely than males to be victimized by an intimate, and that 90% to 95% of victims of domestic violence are women.
- the landlord's policy of evicting the victim as well as the perpetrator of an incident of violence between household members had a disparate impact based on sex, due to the disproportionate number of female victims of domestic violence.

HUD noted that:

- the apartment management may have neutral reasons for their zero tolerance policy.
- In this case, there was no evidence to support an assumption that persons living near a household that has incidents of domestic violence will themselves become victims of that violence.
- apartment managers need to take into account the individual circumstances of each case, as well as the actions a victim of domestic violence has taken to prevent a recurrence.

Alvera v. CBM Group, Case No. 01-857 (D. Or. 2001)

- She then elected to pursue the case in federal court. The NOW Legal Defense & Education Fund, Legal Aid Services of OR, Advocates for Victims of DV and the ACLU joined in the suit to challenge the landlord's policy of "zero-tolerance" of violent conduct.
- The case settled. The consent decree requires that the management group agree not to "evict, or otherwise discriminate against tenants because they have been victims of violence, including domestic violence" and change its policies accordingly. Employees of the management group must participate in education about discrimination and fair housing law. The management group also agreed to pay compensatory damages to the victim.

- Ms. Alvera had also asserted that the property management company intentionally discriminated against her on the basis of her sex because other tenants in the complex had been the victims of violence, yet had not received eviction notices.

Warren v. Ypsilanti Housing Authority,
Case No. 4:02-cv-40034 (E.D. Mich. 2003).

- The victim's ex-boyfriend broke into her house and physically abused her. She called the police to report the attack. When the Ypsilanti Housing Authority (YHA) learned of the attack, it attempted to evict the victim and her son under its zero-tolerance crime policy.
- The ACLU sued the YHA for discrimination, arguing that because victims of dv are almost always women, the policy of evicting dv victims based on the violence perpetrated against them had a disparate impact based on sex in violation of the FHA.
- The parties reached a settlement, under which the YHA agreed to cease evicting dv victims under its "one-strike" policy and pay money damages to the victim.

Bouley v. Young-Sabourin

394 F. Supp. 2d 675 (D. Vt. 2005).

- Plaintiff Quinn Bouley was assaulted in her apartment by her husband. She called the police, obtained a restraining order, and informed her landlord. The landlord spoke to her about the incident, encouraging her to resolve the dispute and seek help through religion. The victim told her landlord that she would not let her husband return to the apt. and was not interested in religious help. The landlord served her with a notice of eviction, stating that it was "clear that the violence would continue."
- Ms. Bouley filed an action under the FHA alleging that her landlord unlawfully terminated her lease on the basis of sex and religion.
- In deposition testimony, the landlord stated she did not believe Ms. Bouley was a victim of dv because she "wasn't in shock, she wasn't concerned about her husband." She also stated that she considered Ms. Bouley to be equally responsible for the dv. Ms. Bouley argued that the landlord's decision to evict her was based on impermissible stereotypical beliefs regarding the characteristics of an innocent female victim of dv.
- In a ruling on the parties' cross-motions for summary judgment, the court held that the victim had presented a prima facie case of sex discrimination under the FHA.
- The case later settled.

TJ v. St. Louis Housing Authority (2005).

- The victim endured ongoing threats and harassment after ending her relationship with her abusive boyfriend. He repeatedly broke the windows of her apt. when she refused to let him enter. She obtained a restraining order and notified her landlord, who issued her a notice of lease violation for the property damage and required her to pay for the damage, saying she was responsible for her domestic situation. Her boyfriend finally broke into her apt. and, after she escaped, vandalized it. The HA attempted to evict her.
- The victim filed a complaint with HUD, which conciliated the case. The conciliation agreement requires the HA to relocate her to another apt., refund the money she paid for the broken windows, ban her ex- boyfriend from the property where she lived, and send its employees to dv awareness training

Lewis v. North End Village, Case No. 2:07-cv-10757 (E.D.Mich. 2007).

- The victim obtained a protection order against her abusive ex-boyfriend. Months later, the ex-boyfriend attempted to break into the apt, breaking the windows and front door. The management company that owned her apt. evicted the victim and her children based on the damage caused by the ex-boyfriend. With the help of the ACLU of MI, she filed a complaint against the management company in federal court, alleging sex discrimination under the FHA.
- The case settled, with the management company agreeing to new, nondiscriminatory dv policies and money damages for the victim.

Brookzyn Landlord v. R.F
(Civil Court of Kings County 2007).

- The victim's ex-boyfriend continued to harass, stalk, and threaten her after she ended their relationship. He came to her apt. in the middle of the night, banging on the door and yelling. The building security guard called by the victim was unable to reason with her abuser, who left before the police arrived. One week later, the abuser came back, confronted the same security guard, and shot at him. The victim was served an eviction notice from her Section 8 landlord.
- The victim filed a motion for summary judgment which asserted defenses to eviction under VAWA and argued that the eviction constituted sex discrimination prohibited by the FHA. The parties reached a settlement under which the landlord agreed to take measures to prevent the ex-boyfriend from entering the property.

Jones v. Housing Authority of Salt Lake County (D. Utah, filed 2007).

- The victim applied for and received a Section 8 voucher in 2006. She and her children moved into a house in Keams, UT. She allowed her ex-husband, who had previously been abusive, to move into the house. Shortly after he moved in, the victim discovered that he had begun drinking again. After he punched a hole in the wall, the victim asked him to move out. When he refused, she told the HA that she planned to leave the home with her children to escape the abuse. The HA required her to sign a notice of termination of her housing assistance. The victim requested a hearing to protest the termination, and the HA decided that termination of her assistance was appropriate, noting that she had never called the police to report her husband's violent behavior.
- With the help of UT Legal Services, she filed a complaint in federal court against the HA, alleging that the termination of her benefits violated VAWA and the FHA.

Cleaves-Milan v. AIMCO Elm Creek LP, 1:09-cv-06143 (N.D. Ill., filed October 1, 2009)

- The victim moved into an Elmhurst, IL apt. complex with her fiancé and her daughter. Her fiancé became abusive and she ended the relationship. He produced a gun and threatened to shoot himself and her. She called police, obtained an order of protection, and removed him from the lease with the consent of building management. When she attempted to pay her rent, building management told her she was being evicted because "anytime there is a crime in an apartment the household must be evicted." She filed a complaint against the management company for sex discrimination under the FHA.

HUD v. Southgate Apartment Company

Oct. 2014

- Charged w/ violating the FHA by refusing to renew the lease of a female tenant and her two sons after she and her older son were stabbed by her then boyfriend.
- According to HUD's [charge](#), the woman had resided with her two sons in the apartment complex for several years w/out incident. One evening, her then boyfriend came to her unit and, after a brief argument, stabbed the woman and her 18-year-old son, who had attempted to aid his mother. The woman spent several days in a hospital as a result of her injuries. Shortly after she was released from the hospital, the property manager issued her a 30-day notice to vacate, which asserted that she had violated her lease because police had to be called to her home in response to "domestic issues and weapons being discharged." The owner and property manager later refused to renew the family's lease.
- The woman filed a complaint with HUD.

HUD v. Norristown, PA

Oct. 2104

- Allegations that the municipality violated the FHA when it enacted ordinances that held landlords responsible for evicting tenants cited for "disorderly behavior," including domestic violence incidents, or risk being fined or losing their rental license. Norristown's City Council subsequently repealed the original law but passed a similar ordinance that same day which called for charging landlords mounting fines for tenants that display disruptive behavior.
- Several tenants were cited for disorderly behavior that included calls to police for domestic disturbances. In one case, a female tenant was cited for disorderly behavior three times stemming from three instances when her ex-boyfriend forced his way into her unit and assaulted her. The third instance resulted in the tenant being airlifted to the hospital after being stabbed by her ex-boyfriend. The tenant's ex-boyfriend was charged with assault and other charges and incarcerated, yet the tenant received the third citation for disorderly behavior, causing Norristown officials to pressure her landlord to evict her.
- ACLU settlement: Norristown repealed the revised ordinance, removing any potential actions against survivors of domestic violence, and paid \$495,000 toward a named victim.
- HUD Conciliation Agreement:
 - Norristown must publish a notice of repeal of its ordinance in the local newspaper; offer fair housing training to city and public safety officials; print and distribute a fair housing rights brochure that specifically encourages all tenants to call the police when they are in need of help; and work with a local domestic violence advocacy group to develop and promote an annual community service day or other activity to raise awareness of domestic violence.

HUD v. CITY OF BERLIN, NH (2/19/15)

- Allegations that municipality violated the FHA when it enacted an ordinance requiring landlords to evict tenants cited three or more times for “disorderly action,” including domestic violence incidents.
- The ordinance made no exception for victims of domestic violence, which are overwhelmingly women and who needed police assistance.
- Conciliation Agreement
 - Berlin will amend its ordinance to include language stating that the “...ordinance is not intended to be used against victims of reported incidents of domestic violence.”
 - The city will modify its definition of “disorderly action” to state that “disorderly action” will not include the actions of victims of reported domestic violence incidents.
 - City will post the Conciliation Agreement on its web site, host and publicize an activity to raise awareness of dv, and provide fair housing training to the mayor, councilmembers, city manager, chief of police, and all other city employees who interact with victims of crime or abuse.

Transfer Cases

- Victims will also sometimes request transfers within a housing authority in order to escape an abuser.
- Two recent cases have challenged the denial of these transfers as sex discrimination under the FHA, with mixed results.

Blackwell v. H A. Housing LP, Civil Action No. 05-cv-01225-LTB-CBS (D. Colo. 2005).

- The victim's ex-boyfriend broke into her apt. and, over the course of several hours, raped, beat, and stabbed her.
- She requested a transfer to another complex. The property management company had a policy of transferring tenants under “special circumstances,” and at least two other tenants had been transferred to other complexes under this policy. Building management refused to grant her the transfer, forcing her and her children into hiding while police pursued her ex- boyfriend.
- Blackwell was denied a transfer because she did not have a “good history” with the property due to a history of domestic violence and a poor payment record.

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- Ms. Blackwell asserted that her request for a transfer was due to special circumstances, that the management company refused to transfer her because of her sex, and that this denial constituted intentional discrimination on the basis of her sex in violation of the FHA.
- The victim filed a complaint in federal court, alleging that the failure to grant her transfer request constituted impermissible discrimination on the basis of sex based on a disparate impact theory.
- The case eventually settled. The landlord agreed to institute a new dv policy, prohibiting discrimination against dv victims and allowing victims who are in imminent physical danger to request an emergency transfer to another Section 8 property.

Robinson v. Cincinnati Metropolitan Housing Authority, Case No. 1:08-CV-238 (S.D. Ohio 2008).

- The victim moved into a public housing unit with her children. She began dating a neighbor, who physically abused her repeatedly. When she tried to end the relationship, he beat her severely and threatened to kill her if she ever returned to the apartment.
- She obtained a protection order and applied to the HA for an emergency transfer, but was denied. The victim was paying rent on the apartment but lived with friends and family for safety reasons.
- The victim filed a complaint against CMHA in federal court, alleging that by refusing to grant her occupancy rights granted to other tenants based on the acts of her abuser, CMHA intentionally discriminated against her on the basis of sex.
- The court denied her motion for a temporary restraining order and preliminary injunction, finding that CMHA policy allows emergency transfers only for victims of federal hate crimes, not for victims of dv. The court also distinguished cases of domestic violence-based eviction from the victim's case, saying that CMHA did not violate her rights under the FHA by denying her a transfer.

HUD AND NEW HAMPSHIRE LANDLORDS SETTLE ALLEGATIONS OF DISCRIMINATION AGAINST DOMESTIC VIOLENCE VICTIM

The agreement is the result of two complaints filed by a woman with HUD in Dec. 2013:

1. The woman alleged that TKB Properties and the New England Family Housing Management Organization **refused to renew her lease** because of police visits responding to her domestic violence-related 911 calls.
2. The woman was searching for another home after her lease was not renewed, alleging that landlord Michael Warren **refused to rent** her an apartment based on the previous domestic violence-related police visits.

- Under the terms of agreement **one** and agreement **two**,
- the woman will receive \$13,550 from the three respondents.
 - The landlords have agreed to participate in fair housing training and undergo monitoring by HUD.
 - TKB Properties and New England Family Housing also will revise their policies and leases for all HUD-subsidized properties to comply with the Violence Against Women Act and **HUD's regulations providing protection for victims of domestic violence** in public and federally-funded housing.

http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-089

Reasonable Accommodations

- Survivors with physical or mental disabilities may have claims for discrimination if the landlord fails to make exceptions to certain policies in order to accommodate their disabilities (e.g., post-traumatic stress disorder)

Practical Considerations When Working with a Victim of DV

- When working with a victim of dv, be sensitive to the victim's unique circumstances. She is not only a potential victim of housing discrimination, she is also a victim of abuse. Often, a victim facing eviction or other adverse action based on dv also faces urgent safety concerns. She may fear that the abuser will return to harm her or her children.
- Be aware of resources available to dv victims & refer a victim to an advocacy org. or to the police.
- A victim may be hesitant to discuss her history. Victims are often distrustful of "the system" after negative experiences with PHAs, police, or courts. Be patient and understanding and try not to appear judgmental or defensive.

STATE LAW PROTECTIONS

State/Local Laws

- Other protections for survivors under state/local law, for example states may require:
 - Lock changes (usually paid for by tenant)
 - Installation of security system (usually paid for by tenant)
 - Breaking leases

Washington Residential Landlord Tenant Act (RLTA), RCW 59.18

- Definition of domestic violence in RCW 26.50.010: – physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members. "Family or household members" include:
 - spouses, former spouses, people who have a child in common
 - adults related by blood or marriage
 - adults residing together now or in the past
 - those 16 years old or older who have or have had a dating relationship who reside together now or in the past
 - people with a biological or legal parent-child relationship (including stepparents/stepchildren and grandparents / grandchildren).

The RLTA process for ending a lease in a DV situation

The tenant may terminate the rental agreement and quit the premises w/o further obligation if she:

1. Either obtains a valid protection order –or– the tenant has reported the dv to a qualified third party acting in his or her official capacity (includes law enforcement officers, state court employees, doctors, nurses and other health care professionals, licensed mental health professionals or counselors, members of the clergy, or crime victim/witness program advocates).
- 2. Notifies the housing provider in writing that she was a victim of dv and provides a copy of the protection order or the record of the report to a qualified third party.
- 3. Notifies the housing provider she will be moving out within 90 days of the dv incident.

RLTA

- A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. RCW 59.18.575.
- The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1).
- A tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280.
- Other tenants who are parties to the rental agreement (except household members who are the victims of sexual assault, stalking, or domestic violence) are not released from their obligations under the rental agreement or other obligations under this chapter.

Other protections RLTA provides for domestic violence victims

- A housing provider may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement just because a tenant or applicant is a victim of dv, or previously terminated a rental agreement under the RLTA.
- A housing provider who refuses to enter into a rental agreement in violation of this law may be liable to the tenant or applicant in a civil action for damages.
- When a tenant has a valid court order excluding someone on the lease from the home, the tenant can provide a copy of the order to the housing provider and request for the **locks to be changed** at the tenant's expense. The housing provider cannot give copies of the new keys to the excluded tenant.

VIOLENCE AGAINST WOMEN ACT (VAWA)

- HUD Programs: Violence Against Women Act Conforming Amendments; Final Rule, 75 Fed. Reg. 66246 (October 27, 2010).

Violence Against Women Act (“VAWA”)

- VAWA protections for evictions and anti-discrimination **only covers Public Housing and Section 8 (vouchers and project-based)** for the discriminatory evictions and denials based on domestic violence, dating violence and stalking.
- It **does NOT cover private housing or other federally subsidized housing.**

Violence Against Women Act (“VAWA”)

- An individual’s status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of admission or denial of housing assistance.
- VAWA explicitly creates an exception to the federal “One-Strike Rule” which states that any drug-related and certain other criminal activity by any household member is grounds for eviction.

Violence Against Women Act (“VAWA”)

- VAWA 2005 prohibits evictions based on real or perceived domestic violence, dating violence or stalking - sexual assault is specifically not included in these provisions.
- Examples of prohibited causes of eviction under VAWA:
 - 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

Violence Against Women Act (“VAWA”)

- A survivor MAY be evicted for other violations of the lease, but they may not be held to a higher standard than other tenants (or this would be discrimination).
- A survivor MAY be evicted if the PHA/Landlord can show that having the victim remain would pose an “actual and imminent threat” to staff or other tenants (not just to victim).

Violence Against Women Act (“VAWA”)

Victims have the right to:

- Have the batterer removed from the lease to stay in the unit
- Have DCHA and Section 8 landlords honor a civil protection order, specifically if it addresses the batterer’s access to where the survivor lives
- Have the right to not lose housing if criminal activity related to the domestic violence occurs

Violence Against Women Act (“VAWA”)

Victims have the right to:

- Seek an emergency transfer
- Have locks changed for safety reasons
- Stay in the unit even if there is criminal activity that is directly related to the domestic violence

Violence Against Women Act (“VAWA”)

- Housing Authorities may (but are not required to) ask for a certification in writing of the violence or stalking. Requests must be made in writing and the victim has 14 business days to file the certification.
- Forms of certification include:
 - HUD-approved certification form,
 - police or court record, or
 - a qualified third party (domestic violence counselor, attorney or medical record)

Violence Against Women Act (“VAWA”)

- Certifications must be kept confidential by landlords and the Housing Authority unless they are required to disclose it by law.

Violence Against Women Act (“VAWA”)

- **Portability** – Family with a Section 8 voucher may move to another jurisdiction if family has complied with all other obligations of the program and is moving to protect health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking even if moving otherwise would be lease violation