



## **Addressing Discriminatory Housing Barriers For Victims of Domestic Violence**

### ***A Toolkit for Advocates***

Domestic violence is a leading cause of homelessness for women and children and is a persistent problem in Pennsylvania. Discriminatory housing practices by landlords, local laws, and public housing agencies contribute greatly to the problem, as it often forces victims to choose between homelessness and returning to an abusive home. In one case, a private landlord evicted Emma, a victim of domestic violence, after she called police for a third time that year when her abusive ex-boyfriend broke into her apartment. While the landlord was sympathetic, he was forced to evict her or face fines pursuant to a local nuisance ordinance. As a result of her eviction, the local public housing authority terminated her Section 8 voucher.

**Federal and state laws provide protections and remedies that could have preserved Emma’s housing.**

This toolkit draws from the Pennsylvania eviction process and state and federal legal protections, including the:

- Pennsylvania Human Relations Act
- Violence Against Women Act
- Fair Housing Act
- Pennsylvania and United States Constitutions

**This toolkit provides advocates with information about how to help victims of domestic violence keep their housing.**

**For additional assistance, contact PCADV at 717-671-4767.**

## Should I Use This Toolkit?

### **Protection from Eviction – Discriminatory Nuisance Ordinances:**

1. Is the victim afraid she will be evicted if she calls the police? .....  yes
2. Has the victim received an eviction notice because police were called to her home in response to domestic violence? .....  yes

**If you answered yes to either question 1 or 2, see Part I.**

### **Protection from Loss of Public Housing Assistance – Federal Law:**

3. Do any of the following situations apply to the victim? .....  yes  
The victim:
  - Pays rent to a housing authority, and the housing authority owns her unit. (*Public Housing*)
  - Pays some money each month, but a local agency pays most of the money to her landlord. The landlord is a private person or corporation. (*Section 8 Housing Choice Voucher*)
  - Lives in private housing, and there is a subsidy that stays with the building. If she leaves, she will lose the subsidy. (*Project-Based Section 8*)
  - Lives in supportive housing for senior citizens or people with disabilities. (*Section 202 or 811*)
  - Receives housing assistance from a HOME Investment Partnership Program through the *Cranston-Gonzalez National Affordable Housing Act*.
  - Receives housing assistance through *McKinney-Vento Homeless Assistance Act*, including supportive housing, shelter plus care, single room occupancy, and emergency solutions grant programs.
  - Receives housing assistance because they are a person with AIDS (HOPWA).
  - Lives in a housing unit where the landlord receives tax credit assistance for providing low-income housing options.
  - Receives rural housing assistance.
4. Is/was she or someone in her household a victim of domestic violence, dating violence, sexual assault, or stalking? .....  yes
5. Did a public housing agency (PHA) or subsidized housing provider
  - Deny housing assistance for a reason related to her victimization OR
  - Initiate, threaten to initiate, or follow through with an eviction or termination of her housing assistance for a reason related to her victimization? .....  yes

**If you answered yes to all three questions (3, 4, and 5), see Part II.**

### **Remedies for Discrimination**

**If the victim fits within either section above, she may have additional remedies based on federal and state anti-discrimination laws. See Part III.**

## Toolkit Goal

The goal of this toolkit is to help domestic violence advocates work with victims to preserve and protect their housing and/or housing subsidy, their safety and their right to be free from housing discrimination based on their status as a victim of domestic violence, dating violence, sexual assault or stalking.

### **This toolkit provides information and resources for advocates and victims on:**

- The Pennsylvania eviction process
- How to challenge decisions by a public housing authority
- Victims' legal right to be free from discrimination based on their status as victims of domestic violence, dating violence, sexual assault or stalking
- Systems advocacy to remove housing barriers that result from enforcement of a local housing ordinance or lack of compliance with the Violence Against Women Act by housing authorities

### ***A Note on the Use of Gender-Specific Pronouns:***

An overwhelming majority of victims of domestic violence, dating violence, sexual assault, and stalking are women. Moreover, this toolkit is based, in part, on the premise that evicting a victim of domestic violence as a result of the violence she endured constitutes unlawful sex discrimination because domestic violence, dating violence, sexual assault, and stalking disproportionately impact women. This argument may not be available for male victims. Thus, the toolkit refers to victims as women.

However, it is important to note that the Violence Against Women Act's protections are gender neutral and apply equally to both male and female victims. Also, some Pennsylvania jurisdictions, such as Philadelphia, may have laws that explicitly prohibit discrimination against victims of domestic violence. In these jurisdictions, both men and women are arguably protected from housing discrimination based on their status as a victim of domestic violence.

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*Nothing in this toolkit is to be construed as legal advice. Individuals are responsible for obtaining such advice from an attorney. This publication is intended for educational and information purposes only.*

## Overview of Potential Strategies

***There are many avenues that a victim may explore to preserve her housing.***  
Detailed information and materials about each strategy are provided in this toolkit.

### Challenge an Eviction Based on Discriminatory Nuisance Ordinances

The victim can:

- Send a letter to her landlord
- Attend her eviction hearing in Magisterial District or Philadelphia Municipal Court
- Raise any affirmative defenses and counterclaims at the Magisterial District Justice hearing
- Appeal to the Court of Common Pleas, and ask for appeal fees to be waived

### Raise Violence Against Women Act (VAWA) Protections

The victim can:

- Explain to the public housing authority that she is protected by the Violence Against Women Act
- Ask the public housing authority to review a denial or termination of benefits
- Seek reconsideration or reinstatement of her benefits
- Request the removal of an abuser from her housing assistance voucher or lease
- Request an emergency transfer to allow her to move to a safer location

### Pursue Housing Discrimination Remedies

The victim can:

- File an administrative complaint with the Pennsylvania Human Relations Commission or with the Fair Housing and Equal Opportunity Office of the U.S. Department of Housing and Urban Development (known as HUD)
- File a civil complaint in federal or state court

***Please contact PCADV (888-235-3425) or the  
ACLU Women's Rights Project (212-519-7871) for additional  
information and strategies to assist the victim.***

*Advocates provide significant help to victims by supplying them with  
invaluable information about their rights,  
but should always be careful to avoid practicing law.*

***Advocates can also make an impact on the availability of housing relief for victims by engaging in systems advocacy.***

Successful systems advocacy impacts more than just one client and provides victims of domestic violence with a more responsive system designed to protect them from both unintentional and intentional discrimination.

*With permission from the domestic violence program's executive director, an advocate may:*

- Send educational letters to local officials and/or the local public housing authority about housing anti-discrimination protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- Contact local officials and the local public housing authority, and offer to provide training on the dynamics of domestic violence.

## Referrals (For Advocates Only)

Advocates can contact the individuals listed below on behalf of the victim, *but please do not give out the names of staff members or attorneys to victims*. Advocates may give victims contact information for an agency but not for specific individuals.

### National and Statewide Agencies

**ACLU of Pennsylvania**  
313 Atwood Street  
Pittsburgh, PA 15213  
412-681-7736  
Sara Rose, Staff Attorney  
srose@aclupa.org

**ACLU Women's Rights Project**  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004-2400  
212-519-7871  
Sandra Park, Staff Attorney  
spark@aclu.org  
<http://www.aclu.org/fairhousingforwomen>

**Pennsylvania Coalition Against Domestic Violence**  
3605 Vartan Way, Ste. 101  
Harrisburg, PA 17110  
717-671-4767  
888-235-3425  
800-553-2508 (TTY)  
<http://www.pcadv.org>

### Regional Agencies

#### **Western Region:**

**Community Justice Project of Pennsylvania**  
429 Forbes Ave., Ste 1705  
Pittsburgh, PA 15219  
412-434-6002  
866-482-3076  
Kevin Quisenberry,  
Staff Attorney  
kquisenberry@cjplaw.org

**Fair Housing Partnership of Greater Pittsburgh**  
2840 Liberty Ave., Ste. 205  
Pittsburgh, PA 15222  
412-391-2535  
Peter Harvey, Exec. Dir.  
peter@pittsburghfairhousing.org

**Neighborhood Legal Services**  
928 Penn Ave.  
Pittsburgh, PA 15222  
412-255-6700  
Eileen Yacknin,  
Litigation Director  
yacknine@nlas.us

#### **Middle Region:**

**Community Justice Project of Pennsylvania**  
118 Locust Street  
Harrisburg, PA 17101  
800-322-7572

#### **Eastern Region:**

**Community Legal Services**  
1424 Chestnut Street  
Philadelphia, PA  
19102-2505  
215-981-3700  
Rachel Garland,  
Staff Attorney  
RGarland@clsphila.org

#### **PRESERVE VICTIM CONFIDENTIALITY**

If you are working with a victim who has an attorney, and the attorney asks you for information about the victim, first discuss the pros and cons of the attorney's request with the victim.

You or the attorney may contact PCADV to review whether providing information could affect the victim's confidentiality. If the victim still requests the information disclosure, you must have her sign a consent form. The form must limit the disclosure to a short period of time and provide details about the type of information you are providing.

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## **PART I: DISCRIMINATORY NUISANCE ORDINANCES**

## Discriminatory Nuisance Ordinances: Legal Overview

Nuisance ordinances take several different forms and may also be referred to as “disorderly” or “disruptive house” laws. Problematic nuisance ordinances have at least one thing in common: When applied, these nuisance ordinances put victims of domestic violence at grave risk of harm, either by evicting the victim from stable housing or deterring victims from accessing the police protection they need.

### Tenant Fines:

Some nuisance ordinances require tenants to pay a fine each time the police are called to their home within a certain time period. For example, three calls within a 90-day period may result in a fine.

### Landlord Abatement / Eviction:

Some nuisance ordinances require the landlord to evict any tenant who has a certain number of police calls from or about her home within a certain period of time.

Even though a landlord may not want to evict the tenant, some nuisance ordinances require landlords to evict the tenant or be penalized with a fine or loss of their rental license or certificate.

### Crime-Free Ordinances:

“Crime-Free Rental Housing Ordinances” are designed to force eviction of tenants who repeatedly commit crimes, such as drug dealing or gang-related crimes. Unfortunately, domestic violence victims may be included in this category of targeted tenants if the abuser was charged with a crime such as assault or disorderly conduct at the residence. The tenant may receive an eviction notice even if she was the victim, not perpetrator, of the crime.

Any ordinance that imposes a negative consequence on a tenant for contacting police puts victims of domestic violence, dating violence and stalking at grave risk of harm.

If the victim is a subsidized housing tenant living in public housing, Section 8 project-based housing or Section 8 voucher housing, her right to housing is protected under the Violence Against Women Act (VAWA). VAWA is a federal law, so it overrides local ordinances. Under VAWA, a subsidized housing tenant cannot be evicted for incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, or for actual or threatened criminal activity relating to domestic violence, dating violence, sexual assault or stalking.

## Sample Nuisance Ordinance

### ***Excerpted from Berks County, City of Reading, Bill No. 28, 2007 Ch. 11, Housing – Rental.***

#### **§ 11.102 – Definitions**

Disruptive Conduct – Any form of conduct, action, incident, or behavior perpetrated, caused or permitted by any occupant or visitor of a rental unit that is so loud, untimely (as to hour of the day), offensive, riotous, or that otherwise disturbs other persons of reasonable sensibility in their peaceful enjoyment of their premises, or causes damage to said premises such that a report is made to a police officer and/or a public officer complaining of such conduct, action, incident, or behavior. It is not necessary that such conduct, action, incident or behavior constitute a criminal offense, nor that criminal charges be filed against any person in order for said person to have perpetrated, caused or permitted the commission of disruptive conduct, as defined herein. Provided, however, that no disruptive conduct shall be deemed to have occurred unless a public officer or a police officer shall investigate and make a determination that such did occur, and keep written records, including a disruptive conduct report, of such occurrences. The tenant and the owner, operator, responsible agent or manager shall be notified of such occurrences, in writing.

#### **§ 11-114 – Owner and Occupant Duties**

##### **B. Occupant Duties**

...

The occupant(s) shall conduct themselves and require other persons including, but not limited to, guests on the premises and within their rental unit with their consent, to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.

The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the rental unit or engage in disruptive conduct, or other violations of [this ordinance or other city codes or applicable state law].

#### **§ 11-124 – Disruptive Conduct**

##### **A.**

##### **B. Investigation and Report of Disruptive Conduct**

Police officers or public officers shall investigate alleged incidents of disruptive conduct. They shall complete a disruptive conduct report upon a finding that the reported incident constitutes disruptive conduct as defined herein. The information filed in said report shall include, if possible, the identity of the alleged perpetrators of the disruptive conduct and all other obtainable information, including the factual basis for the disruptive conduct described on the prescribed form. A copy of the disruptive conduct report shall be given or mailed to the occupant and mailed to the owner and local responsible agent within 10 working days of the occurrence of the alleged disruptive conduct.

C. Appeals

The occupant, owner or local responsible agent shall have 10 working days from the date of receipt of a disruptive conduct report to appeal the contents of said disruptive conduct report. The appeal shall be made in writing and submitted to the Manager of the Codes Enforcement Division. An appeal of the third disruptive conduct report within a 12-month period shall stop the eviction proceedings against the occupants until the appeal is resolved, only if the eviction proceedings were a direct result of the third disruptive conduct report.

D. Eviction

After 3 disruptive conduct incidents in any 12-month period by an occupant documented by disruptive conduct reports, the owner or local responsible agent shall have 10 working days from the date of his/her receiving the notice to begin eviction proceedings against the occupants. This paragraph is not intended to limit or inhibit the owner or local responsible agent's right to initiate eviction actions prior to the third disruptive conduct incident.

E. Suspension or Revocation of Rental Permit

Failure of an owner of [sic] local responsible agent to take action required in subsection C above will result in the commencement of the process to suspend a Rental Permit per the process established herein, notwithstanding any other requirements therefor [sic].

F. Reinstatement of Rental Property

The rental unit involved shall not have its Rental Permit reinstated until the reinstatement fee is paid and the disruptive occupants have been evicted, the Housing Board of Appeals has ruled in the occupant's favor, the Housing Board of Appeals has ruled in the owner's favor but has not ordered the eviction of the occupant(s), or the occupants have filed an appeal to a higher court thereby preventing their eviction. Notwithstanding this subsection, if there are points assessed against the owner per the provisions of this Ordinance which require suspension or revocation, a Rental Permit shall not be reinstated until compliance with the requirements therefor [sic] have occurred.

G. Reoccupation

The disruptive occupants, upon eviction, shall not re-occupy any rental unit on the same premises involved for a period of at least one (1) year from date of eviction.

H. Report Against All Occupants

The content of the disruptive conduct report shall count against all occupants of the rental unit. The content of the disruptive conduct report shall not count against all occupants of the rental unit if the complaint is initiated by one of the rental unit occupants.

I. Maintenance of List of Evicted Occupants

The Codes Enforcement Office shall maintain a list of the names of all occupants evicted as a result of the preceding paragraph. The names shall remain on the list for a period of five (5) years.

#### J. Appeals

Any person aggrieved by any decision of a police officer or public officer in regard to a disruptive conduct report or the revocation of a rental permit resulting therefrom may appeal to the Housing Board of Appeals. Such appeal must be filed with the appropriate fee with the Manager of the Codes Enforcement Division in writing, within 10 working days from the date of receipt of the Disruptive Conduct Report or notice of revocation.

## Overview of the Pennsylvania Eviction Process

Housing discrimination issues typically arise in the context of eviction cases, when tenants reveal unfair or discriminatory treatment as they attempt to save their housing. Therefore, it is important for advocates to recognize basic landlord-tenant issues and spot housing discrimination issues so that advocates can provide victims with

If a victim is being evicted based on enforcement of a nuisance ordinance, advocates are strongly urged to contact PCADV and/or the ACLU Women's Rights Project.

information to help them avoid eviction. Even if the tenant was already evicted, advocates should still ask about the circumstances and, if appropriate, provide the victim with information about her rights.

The tenant's housing may be preserved using a variety of legal defenses. Advocates should not act as attorneys but can provide information and referrals to survivors.

The following outline provides an overview of the eviction process. Sample documents and resources that you can provide to victims are included in this section of the toolkit.

### Applicable Law and Procedure:

- Pennsylvania Landlord and Tenant Act of 1951, 68 P.S. § 250.101 *et seq.*
- Manufactured Home Community Rights Act / Mobile Home Park Rights Act (MHPRA), 68 P.S. § 398.1 *et seq.*

*(Note: the MHPRA is supplemental to the Landlord Tenant Act. For the MHPRA to apply, the tenant lease space in a mobile home park.)*

- Rules of Civil Procedure for Magisterial District Judges (MDJ Rules)

Rule 501-521 covers eviction actions. To access these rules, visit:

<http://www.pacode.com/secure/data/246/chapter500/chap500toc.html>

*(Note: Philadelphia and Pittsburgh Municipal Courts are subject to the same rules and procedures as the Magisterial District Courts. This toolkit will hereinafter refer only to Magisterial District Courts.)*

### Pennsylvania Eviction Process

#### Written Notice

Unless the lease says otherwise, the landlord must give the victim written notice before filing an eviction case against her. The notice tells the victim when the landlord wants the victim to move out. The amount of time the eviction notice gives to move depends on the length of the lease and the reason the landlord is asking the victim to move.

The victim's lease may specify a time frame for the landlord to provide a notice of eviction. If the victim's lease does not include a time frame for notice of eviction, the landlord must give the victim notice within the following time frames:

- 10 days, if the victim did not pay the rent;
- 15 days, if the lease is for one year or less; or
- 30 days, if the lease is for more than one year.

If the victim has not moved out by the date stated on the written notice, the landlord cannot just throw the victim out. The landlord must file an eviction case in court.

### Reasons A Private Landlord Can Evict a Tenant

#### (1) Residential Eviction<sup>1</sup>

- Tenant did not pay rent.
- The lease expired.
- The tenant violated the lease (breach).

#### (2) Mobile Home Eviction<sup>2</sup>

- Tenant did not pay the rent.
- Tenant violated the rules of the mobile home park for the 2nd (or more) time in 6 months.
- Landlord changed the use of the park.
- Landlord closed the park.
- Tenant's lease expired.

If the victim is being evicted due to the enforcement of a housing ordinance, the reason for eviction may be listed as a "breach of the lease" on the Complaint.

According to the Bureau of Justice Statistics, women are the overwhelming majority of victims of domestic violence.

An eviction as a result of a housing ordinance may be unlawful discrimination against the victim because of her sex.

### Illegal Reasons for Eviction

A tenant cannot be evicted for any of the following reasons:

- Because of the victim's or household member's race, color, religion, ancestry, national origin, sex or age
- Because the victim or a member of her household is disabled or uses a guide dog or other support animal
- Because the victim is pregnant or has children

<sup>1</sup> 68 P.S. § 250.502-1(a).

<sup>2</sup> 68 P.S. § 398.3.

## Initiating an Eviction Case

In order to evict a tenant from a rental property, the landlord must file a Landlord And Tenant Complaint with a Magisterial District Judge (MDJ).

 The complaint form is included in this toolkit and can be found on the Pennsylvania Courts website, <http://www.pacourts.us/Forms/>, (scroll down to the “Landlord” section).

The tenant will receive notice of the complaint and will be given a hearing date within 7 to 15 days after the complaint was filed.

The landlord must list the reasons for requesting an eviction on the complaint. The landlord may list more than one reason. In the case of eviction because of a housing nuisance ordinance, the landlord will most likely list the reason as a violation or breach of the lease agreement.

## Defending Against an Eviction

### ***Counterclaims***

*A victim may raise “counterclaims” before the MDJ hearing by filing a cross-complaint against the landlord.* A counterclaim in an eviction case is a claim by the tenant that the landlord owes them some sort of relief. For example, if the victim believes the landlord owes her any money for damage to her property because of a leaky roof, she can raise that as a counterclaim against the landlord.

*Counterclaims must be raised before the hearing.*

The tenant can file their counterclaim(s) at the Magisterial District Court where the landlord complaint was filed. There is no filing fee for a counterclaim, but the victim/tenant will have to pay to have the counterclaim served on the opposing party. The fee for service will vary depending on where the victim lives.

Some counterclaims, such as a violation of the warranty of habitability or covenant of quiet enjoyment, are also defenses that can be raised before or during the hearing.

Examples of counterclaims that a victim can raise in her cross-complaint include:

#### (1) Warranty of Habitability

All residential leases in Pennsylvania include an implied “warranty of habitability” that the premises are safe, sanitary and fit for human habitation. Landlords cannot “waive” this warranty, which means that a lease cannot state that the tenant has no right to warranty of habitability. The landlord cannot make the tenant fix any habitability issues that the tenant did not create.

If the rental property was not “habitable” for any period of time, the tenant may be able to recover a portion of rent from the landlord for that period. A tenant may ask the landlord to pay for damages that happened because the landlord knew about a problem in the residence but failed to fix it in a timely manner. For example, if insects or mice destroyed food or a ceiling leak



destroyed clothes or furniture that had to be replaced, a tenant could ask for payment of those goods. Pictures of the problem in the home as well as any damage caused by the problem and receipts for replacement items are great evidence to show at the hearing.

(2) Covenant of Quiet Enjoyment (Privacy)

In addition to the warranty of habitability, residential leases in Pennsylvania also include a covenant of quiet enjoyment, which means that the tenant has the right to enjoy their rental property without interference.

Landlords may violate the covenant of quiet enjoyment by:

- Entering the property without prior notice or without a valid reason
- Clearing out a tenant's property and changing the locks to evict the tenant, among other things. If what the landlord does is damaging or aggravating enough, a judge can rule that the landlord must pay damages or penalties to the tenant.

**Defenses**

A victim must raise legal “defenses” either before or during the MDJ hearing. A defense is the reason(s) why the landlord should not be allowed to evict the victim. The victim can put her reason(s)/defense(s) in writing and submit them to the MDJ prior to the hearing, or she can raise them orally to the MDJ at the hearing.

Defenses the victim can raise include the following:

(1) Eviction Violates Victim's Civil Rights

To raise a civil rights defense, the victim must know how many times the police have been called to her home and the reasons that the police responded. If the calls were related to violence or stalking committed against her by her abuser, then this defense will apply. If the calls to the police were for actions committed by the victim, for example, drug possession or prostitution, then this defense may not be useful.

*a. Discrimination Based on Victim Status*

The Fair Housing Act and the Pennsylvania Human Relations Act protect tenants from discrimination based on sex, among other reasons. The victim can raise the defense that the housing ordinance on which the eviction is based discriminates against women because it prevents survivors of domestic violence, who are predominantly women, from contacting the police.

*b. Violation of Right to Seek Police Assistance*

The United States and Pennsylvania Constitutions provide citizens with the right to seek assistance from the government (in this case law enforcement). The tenant can raise the defense that eviction on the basis of contacts to the police to protect herself from abuse violates her right to exercise her constitutional rights.

 See Part III, *Housing Discrimination Remedies*, for more ways that a victim can protect against unlawful discrimination.

(2) Eviction Procedures Were Faulty

The landlord must comply with very strict rules in order to properly evict a tenant. If the landlord does not comply with these rules, the tenant can raise the landlord's noncompliance as a defense. Examples include:

- The landlord did not provide enough notice to vacate the residence.
- The residence had a lot of problems due to the landlord's failure to make repairs that reduce the rental value of the property.
- The landlord's reasons for wanting to evict the victim are untrue.

(3) Violation of Warranty of Habitability

*The warranty of habitability is discussed above under counterclaims.*

(4) Violation of Breach of Covenant of Quiet Enjoyment

*The covenant of quiet enjoyment is discussed above under counterclaims.*

(5) Retaliation

The landlord cannot evict a tenant in retaliation for the tenant accessing relief from the legal system. For example, if the tenant files a small claims suit against the landlord to recover money for damaged property or for injury to themselves, the landlord cannot evict them.

(6) Landlord Waiver

If the landlord accepts rent after the eviction notice period expires (see Requirements for Eviction above), the basis for eviction may be waived. The MDJ may rule that the "nuisance" eviction is not valid.

## Considerations for the Hearing

(1) Hearing Preparation

The victim can prepare for the hearing in the following ways:

*a. Arrive on Time.*

The victim should arrive on time and dress appropriately for the hearing.

*b. Bring Copies of All Documents and Supporting Evidence.*

The victim should bring any paperwork that is relevant to her case, for example, a copy of her lease, and any receipts or copies of checks for paid rent. If she is being evicted for non-payment of rent and has a written agreement with the landlord that allows her to make payments over time (installment payments), she should bring that agreement to the hearing. Likewise, if she didn't pay rent because of poor conditions in the apartment, she must bring pictures of those conditions, copies of the letters she sent to the landlord about the problems and proof that the rent money is in an escrow account. (Escrow accounts will be discussed in a later section.)

c. *Be Prepared to Raise All Issues and Provide Supporting Evidence.*

The victim should be brief, to the point and ready to explain each item of evidence that she brings with her such as a copy of the nuisance ordinance or photographs or receipts. Keep in mind that the landlord's complaint may not say that the eviction is based on the nuisance ordinance. However, if the victim believes she was evicted because of a nuisance ordinance, she should bring a copy of the ordinance and be prepared to tell why she thinks she was evicted because of the ordinance.

A victim should be able to explain each action she took. She may want to make a written outline or checklist to use at the hearing to be sure she covers every issue and presents all her evidence.

(2) At the Hearing

The hearing begins when the MDJ calls the hearing to order. The person filing the complaint is called the plaintiff; the person being sued is called the defendant. In an eviction case, the landlord is the plaintiff and the tenant is the defendant.

The landlord may have witnesses or evidence to support his or her case. After the landlord presents evidence and/or witnesses, the victim is given the opportunity to ask the landlord's witnesses questions. If the victim has questions or objects to any evidence, she should raise those questions or objections when the evidence is presented.

After the landlord presents all of his or her evidence, the tenant will have the opportunity to present her own evidence and can call her own witnesses. The landlord is given the opportunity to question the victim and her witnesses.

The MDJ is in charge of the hearing and should be treated with respect. If the MDJ interrupts to ask a question or give a ruling, the victim should listen carefully and respond if the questions are directed to her. The MDJ may ask any of the witnesses questions.



[An informational sheet, \*Tips for Representing Yourself at the Magisterial District Judge Hearing\*, is available in the resource section for advocates to give to victims who represent themselves \(called "pro se"\).](#)

(3) Magisterial District Court Decision

The MDJ will listen to all the evidence both parties have to present and will make a decision. Within three days of the hearing, the MDJ will issue a written decision called a Notice of Judgment. Copies of the judgment form must be given or mailed to each party or party's attorney.

The judgment will either grant or deny the landlord's request for possession of the property (that is, eviction of the tenant) and/or award money damages.

If the judgment is in the victim's favor, the landlord is required to do what the MDJ ordered. Normally, this means that the landlord cannot evict the tenant.

If the MDJ finds in favor of the landlord, the judgment will be entered against the tenant. There are three types of judgments that can be issued against a tenant:

- Possession Granted (to the landlord – tenant is evicted)
- Possession Granted if Money Judgment Not Satisfied (the tenant is evicted unless she pays the money owed to the landlord)
- Possession NOT Granted But Money Judgment Awarded (the tenant is not evicted but must pay money owed to the landlord)

#### *Order for Possession*

If the landlord's request for possession is granted in the judgment, the landlord can file a request for an Order for Possession with the MDJ ten days after the judgment is entered. Practically speaking, this gives an evicted tenant at least ten days after the judgment is issued to find new housing.

### **Appealing the MDJ Decision**

If the MDJ allows the eviction, another way to fight and delay the actual eviction is to appeal to the county court of common pleas within ten days of the MDJ decision. The appeal will prevent the landlord from obtaining an Order for Possession (and evicting the tenant) until the court of common pleas makes a decision. See below for additional requirements.

The advocate can explain to the survivor that if she is unsuccessful in the MDJ court, she can file an appeal to the county court of common pleas. The court of common pleas judge (CCP) hears the case as though it has not been heard before.

It is very important that advocates do not practice law, but the advocate can point out where the survivor can find the rules or laws that cover a situation. MDJ Rules 1001 through 1082 contain guidance for filing the appeal and defending the eviction in the court of common pleas. The victim can access these rules by visiting:

<http://www.pacode.com/secure/data/246/chapter1000/chap1000toc.html>.



An information sheet, *Appealing a Decision of the Magisterial District Judge*, developed and distributed by the Neighborhood Legal Services Association, can be accessed by visiting [http://nlsa.us/ProSe/MDJ\\_appeal.pdf](http://nlsa.us/ProSe/MDJ_appeal.pdf).



Appeal forms can be found at <http://www.pacourts.us/Forms>.

#### (1) Victim Files a Notice of Appeal.

A victim who wants to appeal must go to the county prothonotary's office and file a Notice of Appeal of the MDJ ruling. If the MDJ judgment grants possession to the landlord, the tenant must file the Notice of Appeal with the prothonotary within 10 days after the MDJ judgment. If the MDJ orders money damages, the victim has 30 days to file a Notice of Appeal.

A victim can temporarily stop the eviction by putting money in an "escrow" account with the prothonotary at the time that she files the Notice of Appeal.

The victim must deposit the equivalent of 3 months' rent OR the amount of rent the MDJ judgment said she owed at the time the appeal was filed, whichever is the lesser amount. The tenant must continue paying rent into the escrow account until the judge rules on the appeal.

If a tenant cannot afford to pay, the tenant may submit an appropriate form to ask the court to waive the escrow payment. To access the form, visit <http://www.pacode.com/secure/data/246/chapter1000/s1008.html>.

After filing the Notice of Appeal, the tenant must “serve” the landlord and the MDJ with a copy. To “serve” the Notice of Appeal, the tenant can hand a copy of the Notice to the MDJ and the landlord or send a copy of the Notice through the mail. If the tenant serves the Notice through the mail, she must send the Notice through the United States Postal Service via certified, registered mail, and she must request return receipt. The tenant must file proof with the prothonotary that she completed service within 10 days after filing the Notice of Appeal.

A tenant may be able to file the appeal after the 10-day deadline if she can show unique and non-negligent circumstances and/or that a breakdown in court procedure prevented her from meeting the deadline. This is called a *nunc pro tunc* appeal.

A victim can temporarily stop an eviction by putting money in an “escrow” account with the prothonotary at the time that she files the Notice of Appeal.

(2) Landlord Files a Complaint.

The landlord then has 20 days (after receiving the Notice of Appeal) to go to the prothonotary and file a complaint. If the landlord does not file, or files late, the judge can dismiss the suit. If the judge dismisses the suit, the Order for Possession is no longer valid, and the tenant can stay in her residence.

(3) Tenant Files an Answer to the Complaint.

The tenant will be notified, either in person or by mail, that the landlord filed a complaint. She has 20 days to file an Answer with the prothonotary. The victim should explain in her Answer why she should not be evicted and raise any defenses (such as those mentioned above) that she has. She may also raise any new issues or counterclaims (also discussed above) that she has against the landlord. If she does not file an Answer, the judge may rule in favor of the landlord by default.

(4) Judge Issues a Ruling.

After the Complaint and Answer are filed, the judge will issue a ruling either affirming or reversing the MDJ's decision. If the judge rules in favor of the landlord, the victim may appeal to the Superior Court, but the landlord will be allowed to proceed with the eviction. The victim would still have to move out if ordered to do so.

## Resources

Tips for Representing Yourself at the Magisterial District Judge Hearing

Sample Letter to Landlord

Information Sheet for Landlords

Sample Landlord and Tenant Complaint Form

Sample Civil Complaint Form

Sample Notice of Appeal

## Tips for Representing Yourself at the Magisterial District Judge Hearing

If your landlord sues you and you receive notice of a Magisterial District Judge hearing, the tips below can assist you to represent yourself if you are unable to hire an attorney. There is no guarantee that these suggestions will work in your case.

1. **You are entitled to at least 5 days notice of a hearing before the Magisterial District Judge.** This means that the hearing must be at least 5 days after the day you were served with the Complaint papers. A constable or sheriff's deputy will serve a copy of the Landlord and Tenant Complaint upon you by handing it to you or to an adult who lives with you or by posting it on the premises. You should also receive a copy of the Complaint in the mail. Read the Complaint carefully for the following information:
  - a. When is the hearing?
  - b. Is your landlord seeking possession of the premises, money, or both?
  - c. If your landlord is seeking possession, what are the reasons? Possible reasons could be listed as: end of lease term, breach of lease, or failure to pay rent.

If your landlord is seeking money, note how much money and for what.

2. **Decide if the landlord owes you any money.** If so, you may want to go to the Magisterial District Judge's office and file a Cross-Complaint against the landlord before the hearing. The Magisterial District Judge must schedule both Complaints for a hearing at the same time, on a date between 7 and 15 days after you file your Cross-Complaint. If your landlord owes you a lot of money, such as for personal injury, you should contact a private attorney before deciding to file a Cross-Complaint.
3. **Decide what parts of the Complaint you disagree with and what evidence and witnesses can help your case.**
  - a. Gather your evidence, such as a copy of the lease, receipts, letters to and from your landlord, notices from the Health Department and pictures of the premises.
  - b. On the back of each picture, note the date the picture was taken and what the picture shows.
  - c. If you forget to bring your evidence, the Magisterial District Judge cannot consider it.
4. **Gather and prepare your witnesses.** Tell them to dress neatly for the hearing and to be polite at the Magisterial District Judge's office.
  - a. If you want the Magisterial District Judge to know about a Health Department inspection, ask the inspector to come and testify for you.
  - b. You have the right to subpoena witnesses that won't come voluntarily. You may obtain subpoena forms from the Magisterial District Judge's office. You can serve them on (give or mail them to) the witnesses yourself, or you may hire a constable to do it.

5. **Make a list of the facts** you want to tell the judge when you testify. Organize what you want to say in an orderly and brief fashion. List questions you want to ask the landlord, his or her witnesses and your witnesses.
6. **Make sure you and your witnesses arrive early to the hearing.** If you are not present when the Magisterial District Judge calls the case, he or she may enter a default judgment against you.
7. **Before the hearing, ask the landlord if he or she would like to settle the case.** Suggest a proposal that will resolve the problem. If your landlord has a strong case against you for possession and money, you may want to agree to move out in less than 20 days and in exchange, the landlord agrees that you owe no money.

If you reach an agreement, write the terms down, and both you and the landlord sign the paper. Make sure the Magisterial District Judge knows that an agreement has been signed and that he should not hold a hearing or issue a judgment.

8. If the case cannot be settled, the Magisterial District Judge may try to shorten the hearing by trying to get you to say that you owe rent. **If you don't agree** that you owe rent, or disagree with the amount of rent the landlord is seeking, **make sure that you say so.**
9. Throughout the hearing, try to **remain calm and reasonable.** Try not to show anger. The Magisterial District Judge will ask everyone who plans to testify to swear or affirm that they will tell the truth.
10. The Magisterial District Judge will probably ask your landlord to testify first. Generally, **you should not interrupt the testimony** of the landlord (or his or her witnesses) even if they are lying.

**Good Reasons To Interrupt:**

- To object to “hearsay” testimony, such as testimony about something that someone else told your landlord (something your landlord didn't personally see, hear, or know).
  - To object to testimony and evidence about a new issue not mentioned in the Complaint. If your landlord raises a new issue, such as a new reason for why to evict you, you should object and say that you did not have notice of this issue because it is not listed on the Complaint.
11. **After the landlord testifies you may ask him or her some questions,** such as, "Did I notify you that the roof was leaking? Did you repair it?" You may also ask questions after each of the landlord's witnesses testifies. If you think the landlord or a witness will lie, it is usually best not to ask him or her questions.
  12. If your landlord is evicting you because of a nuisance ordinance, you will want to **get a copy of the ordinance, and bring it as part of the evidence.** You should ask the landlord questions about whether he is evicting you because of the ordinance. When it is your turn to testify, you should explain that you are a victim of domestic violence and that you called the police to stop someone from hurting you (if that is the reason you called the police).



You should testify that you believe an eviction based on the ordinance violates your civil rights and discriminates against you as a woman who is a victim of domestic violence. Also, you can mention that you believe the ordinance violates your right to contact the police under the First Amendment of the United States Constitution.

13. When it is your turn to testify, **use your list to help you remember** to tell the Magisterial District Judge all of the important facts. Answer any questions from your landlord or from the Magisterial District Judge honestly and politely. If the Magisterial District Judge thinks that you are not being honest on one small matter, it may affect whether he or she believes any of your testimony. If you believe that you owe only part of the rent, state how much you think you owe for each month and explain why.
14. **If you have witnesses, tell the Magisterial District Judge** that you want them to testify. You will have to ask them questions. Again, use your list so you will not forget anything.
15. **The Magisterial District Judge will issue a written decision** called a "Notice of Judgment" which will state if judgment was entered for you or for the landlord, and for how much money. It will also state whether possession was granted to the landlord. It may state that possession will be granted to the landlord only if you fail to pay the money judgment.

**IMPORTANT:** If you do not receive the "Notice of Judgment" in the mail within 2 or 3 days after the hearing, **call the Magisterial District Judge's office** to find out if a judgment was entered against you. You usually have only 10 days from the date of judgment to appeal the judge's decision.

16. If the Magisterial District Judge grants possession to the landlord based solely on your failure to pay rent, you have the right to "**Pay and Stay.**" You should contact the Prothonotary's office to pay the constable the rent owed and the court costs **before** you are evicted. Make sure you get a signed receipt from the constable. After the constable has locked you out, you cannot get back into the residence by paying the amount you owe.

Adapted from Neighborhood Legal Services Association, *How to Represent Yourself at the MDJ Hearing*, available at [http://nlsa.us/resources/landlord/H4\\_dj\\_hearing.html](http://nlsa.us/resources/landlord/H4_dj_hearing.html) (last visited Aug. 27, 2012).

## Sample Letter to Landlord

*Advocates can provide this letter to a victim as an example of the type of letter that she can send to the landlord.*

DATE

Name  
Management Agency  
Address

Dear [Landlord ]:

I live with my children at [ADDRESS]. I have lived at this address since [DATE]. You recently informed me that you were told that if the police were called to my residence any more you would have to evict me. You told me that the [police/borough or city official/code enforcement officer] informed you that you would have to evict me if the police were called again

I am writing to you to tell you that I am a victim of domestic violence and your decision to evict me violates my rights under fair housing laws. The calls to police involved incidents of violence by my abuser.

*[Write out information about the abuse you have suffered, and also detail any information about why the police were called on the dates that they came to your home. If the abuser no longer lives with you, you should make that clear. Make sure to specify whether you have a Protection From Abuse order and any information about it.]*

Attached is a notice for landlords about my rights under fair housing laws. The federal Fair Housing Act (FHA), 42 U.S.C. §§ 3601 *et seq.*, and the Pennsylvania Human Relations Act (PHRA), 43 P.S. §§ 951-963, prohibit discrimination in rental housing on several bases, including on the basis of sex. These Acts forbid both intentionally discriminatory acts and acts that have a discriminatory impact on persons in protected classes, such as women.

If you pursue an eviction against me because of the local housing nuisance law, I believe you would violate my rights under the law. It would be unfair and unreasonable to evict me for criminal behavior committed against me by someone else. Therefore, I am asking that you stop pursuing the eviction and allow me to stay in my housing unit.

Sincerely,

Name  
Phone

## Information Sheet for Landlords

# Landlords: Does Your City or State Have A Nuisance or Crime-Free Ordinance?



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PROTECT VICTIMS OF DOMESTIC VIOLENCE – DO NOT DISCRIMINATE  
KNOW YOUR RESPONSIBILITIES – AVOID LIABILITY

### WHAT IS A “NUISANCE ORDINANCE” OR “CRIME-FREE ORDINANCE?”

A “nuisance ordinance,” sometimes called a “crime-free ordinance,” holds landlords and property owners responsible for the criminal activity, noise or other disturbances occurring on their properties. Typically, these laws consider too many calls to the police from one address within a month or another time frame a “nuisance” or penalize landlords when crimes occur at the property. Unless landlords and property owners take action to eliminate (or “abate”) the nuisance, they will be penalized. Too often, landlords will try to resolve the problem by evicting all those who reside in the unit causing the nuisance.

Unfortunately, victims of domestic violence, stalking, or sexual assault often have to call the police for help, and almost always to the home. As a result, the landlord may receive a notice stating that a violation of the nuisance ordinance has occurred.

### THE SCENARIO

The landlord receives a notice stating that, as a result of the criminal activity or number of calls to the police coming from a unit in the building, he or she is violating the nuisance ordinance. The notice also states that the landlord will be fined or imprisoned if no action is taken to “abate” the nuisance.

The landlord decides to take one or more of the following actions: (1) issue an eviction notice citing violation of the nuisance law; (2) warn the tenant to stop calling the police; (3) refuse to renew a lease because the police have come to the property numerous times; or (4) adopt a “zero tolerance” or “one-strike” policy that allows the landlord to evict a tenant upon violation of a nuisance ordinance.

### WHAT ARE LANDLORDS’ RESPONSIBILITIES?

When facing a nuisance ordinance violation, the landlord should first investigate whether the incident related to domestic violence, stalking or sexual assault. By and large, victims of domestic violence, stalking or sexual assault are women. As a result, a landlord who punishes those who call the police frequently may be (a) discriminating against women and, as a result, (b) violating state and federal laws, which protect women from housing discrimination. In addition, landlords should not penalize a domestic violence victim if another tenant called the police for help.

Various laws protect victims of domestic violence, stalking or sexual assault in the housing context:

#### STATE AND LOCAL LAWS

Some state and local nuisance ordinances recognize that calls to police from victims of domestic violence, stalking or sexual assault should not be categorized as a “nuisance.” In addition, many states prohibit landlords from terminating a lease based on the tenant’s status as a victim of domestic violence.<sup>1</sup> Further, other states<sup>2</sup> protect tenants from eviction if it was based on the tenants’ status as a domestic violence victim.

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<sup>1</sup> AK, DE, DC, IN, LA, NH, NC, OR, RI, VA, and WA.

## FEDERAL LAWS

### ***Fair Housing Act (FHA): Applies to ALL Landlords***

The Fair Housing Act, among other things, prohibits sex discrimination in housing. Landlords are prohibited from purposely discriminating against women and also taking actions that predominantly affect women, even if landlords did not intend to discriminate. This law protects both prospective and current tenants.

If the landlord's response to a nuisance ordinance violation affects female victims of domestic violence more substantially than other kinds of tenants, the landlord may be discriminating against women and violating the FHA. In addition, a violation may occur if the landlord decides to screen out domestic violence victims during the application process because they are likely to call the police. Under the FHA, tenants who are denied or evicted from housing as a result of domestic violence may file sex discrimination complaints with the U.S. Department of Housing and Urban Development (HUD).

### ***Special Note for Landlords of Public or Section 8 Housing***

The Violence Against Women Act (VAWA) provides specific protections for victims of domestic violence who live in federally-subsidized housing.<sup>3</sup> Public or Section 8 housing providers (both voucher-based and project-based) cannot evict tenants because of an actual or threatened incident of domestic violence, dating violence, or stalking. This protection extends to the tenant's immediate family as well. The only exception to this rule is if the landlord can prove that other tenants face an "actual and imminent threat" if the domestic violence victim-tenant is not evicted and other ways of eliminating the threat are not possible.

Providers of Section 8 housing must remember the protections of VAWA when they are faced with a nuisance ordinance violation involving a domestic violence victim. Again, the landlord should first determine whether the tenant is a victim of domestic violence. The tenant can show proof of her status through a variety of means, including HUD forms, court records, police reports, or a document signed by someone helping her (like a counselor, attorney, or medical professional).

Like the FHA, VAWA applies to both prospective and current tenants. Thus, providers of Section 8 housing may not discriminate against victims of domestic violence in the application process.

## HOW SHOULD LANDLORDS RESPOND?

Instead of attempting to evict a victim of domestic violence, stalking or sexual assault who sometimes must rely on police protection, landlords can assist victims in the following ways:

- **"Bifurcate" the lease:** if the abuser and the abused are co-tenants, the landlord may be able to evict only the abuser's lease and allow the victim to remain. VAWA specifically allows for this option.
- **Allow tenant to transfer to a different unit**
- **Let tenant change locks without penalty**
- **Let tenant terminate lease early without penalty if the tenant wishes to do so**
- **Alert any security personnel that the abuser should not be allowed on the premises**
- **Contact law enforcement on the tenant's behalf and request more assistance**
- **Help advocate to change laws:** landlords can provide a powerful voice in resisting or amending nuisance ordinances that punish victims of domestic violence. Contact the ACLU Women's Rights Project at (212) 549-2644 or [womensrights@aclu.org](mailto:womensrights@aclu.org) for more information.

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<sup>2</sup> DC, IL, IA, LA, MD, NH, NM, OR, WI.

<sup>3</sup> Examples include public housing programs and Section 8 housing.

## Sample Landlord and Tenant Complaint Form

<p><b>COMMONWEALTH OF PENNSYLVANIA</b>  <b>COUNTY OF:</b> _____</p> <p>Magisterial District Number: _____</p> <p>MDU Name: _____</p> <p>Address: _____</p> <p>Telephone: ( ) _____</p>	<p><b>LANDLORD AND TENANT COMPLAINT</b></p> <p>PLAINTIFF: _____  <small>NAME and ADDRESS</small></p> <p style="font-size: 2em; font-weight: bold;">VS.</p> <p>DEFENDANT: _____  <small>NAME and ADDRESS</small></p>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Amount</th> <th style="text-align: center;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Filing Costs</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">/ /</td> </tr> <tr> <td>Postage</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">/ /</td> </tr> <tr> <td>Service Costs</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">/ /</td> </tr> <tr> <td>Constable Ed.</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">/ /</td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: center;"><b>\$</b></td> <td style="text-align: center;"><b>/ /</b></td> </tr> </tbody> </table>		Amount	Date Paid	Filing Costs	\$	/ /	Postage	\$	/ /	Service Costs	\$	/ /	Constable Ed.	\$	/ /	<b>Total</b>	<b>\$</b>	<b>/ /</b>	<p>Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.</p> <p>Docket No.: _____</p> <p>Date Filed: _____</p>
	Amount	Date Paid																	
Filing Costs	\$	/ /																	
Postage	\$	/ /																	
Service Costs	\$	/ /																	
Constable Ed.	\$	/ /																	
<b>Total</b>	<b>\$</b>	<b>/ /</b>																	
<p><b>TO THE DEFENDANT:</b> The above named plaintiff(s) asks judgment together with costs against you for the possession of real property and for:</p> <p>Lease is <input type="checkbox"/> Residential <input type="checkbox"/> Nonresidential.</p> <p><input type="checkbox"/> Damages for injury to the real property, to wit: _____</p> <p style="text-align: right;">in the amount of: \$ _____</p> <p><input type="checkbox"/> Damages for the unjust detention of the real property in the amount of \$ _____</p> <p><input type="checkbox"/> Rent remaining due and unpaid on filing date in the amount of \$ _____</p> <p><input type="checkbox"/> And additional rent remaining due and unpaid on hearing date \$ _____</p> <p><input type="checkbox"/> Attorney fees in the amount of \$ _____</p> <p style="text-align: right;"><b>Total \$ _____</b></p>	<p><b>THE PLAINTIFF FURTHER ALLEGES THAT:</b></p> <p>1. The location and address, if any, of the real property is _____</p> <p>2. The plaintiff is the landlord of that property.</p> <p>3. He leased or rented the property to you or to _____ under whom you claim.</p> <p>4. <input type="checkbox"/> Notice to quit was given in accordance with law, or  <input type="checkbox"/> No notice is required under the terms of the lease.</p> <p>5. <input type="checkbox"/> The term for which the property was leased or rented is fully ended, or  <input type="checkbox"/> A forfeiture has resulted by reason of a breach of the conditions of the lease, to wit: _____  <input type="checkbox"/> Rent reserved and due has, upon demand, remained unsatisfied.</p> <p>6. You retain the real property and refuse to give up its possession.</p> <p>I, _____ verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) relating to unsworn falsification to authorities.</p> <p style="text-align: right;">_____                  (Signature of Plaintiff)</p>																		
<p>The plaintiff's attorney shall file an entry of appearance with the magisterial district court pursuant to Pa.R.C.P.M.D.J. 207.1.</p> <p><b>IF YOU HAVE A DEFENSE</b> to this complaint you may present it at the hearing. <b>IF YOU HAVE A CLAIM</b> against the plaintiff arising out of the occupancy of the premises, which is in the magisterial district judge jurisdiction and which you intend to assert at the hearing, <b>YOU MUST FILE</b> it on a complaint form at this office <b>BEFORE THE TIME</b> set for the hearing. <b>IF YOU DO NOT APPEAR AT THE HEARING</b>, a judgment for possession and costs, and for damages and rent if claimed, may nevertheless be entered against you. A judgment against you for possession may result in your <b>EVICTED</b> from the premises.</p> <p>If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. <b>We are unable to provide transportation.</b></p> <p style="text-align: center; font-size: small;">Pennsylvania Summary of Foreclosure Proceedings Recorded on Reverse Side.</p>																			

ADPC 310A-11

# Sample Civil Complaint Form

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF:

## 1. CIVIL COMPLAIN



Magisterial District Number:
_____
MDJ Name: Hon.
_____
Address:
_____
Telephone: (     )
_____

PLAINTIFF:

NAME and ADDRESS

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DEFENDANT:

NAME and ADDRESS

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┘

Docket No.:
_____
Date Filed:
_____

			(b)	DATE PAID
FILING COSTS	\$	/		
POSTAGE	\$	/		
SERVICE COSTS	\$	/		
CONSTABLE ED.	\$	/		
TOTAL	\$	/		

***Social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1 - 213.7.***

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

**TO THE DEFENDANT:** The above named plaintiff(s) asks judgment against you for \$ \_\_\_\_\_ together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

AOPC 308A-11

I, \_\_\_\_\_ verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

\_\_\_\_\_  
(Signature of Plaintiff or Authorized Agent)

The plaintiff's attorney shall file an entry of appearance with the magisterial district court pursuant to Pa.R.C.P.M.D.J. 207.1.

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**IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.**

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing.

**If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.**

AOPC 308A-11

# Sample Notice of Appeal

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of

NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No.

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT	MAG. DIST. NO.	NAME OF MDJ
-------------------	----------------	-------------

ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
----------------------	------	-------	----------

DATE OF JUDGMENT	IN THE CASE OF ( <i>Plaintiff</i> )	( <i>Defendant</i> )
------------------	-------------------------------------	----------------------

DOCKET No.	vs	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT
------------	----	---

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B. This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

Signature of Prothonotary or Deputy

### PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

**PRAECIPE:** To Prothonotary

Enter rule upon \_\_\_\_\_ appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or attorney or agent

**RULE:** To \_\_\_\_\_, appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: \_\_\_\_\_, 20\_\_\_\_\_

Signature of Prothonotary or Deputy

**YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.**

AOPC 312-05




## **PART II: VIOLENCE AGAINST WOMEN ACT (VAWA) HOUSING PROVISIONS**

## Overview of the Violence Against Women Act Housing Provisions

The Violence Against Women Act (VAWA) is a federal law that was first passed in 1994 and then reauthorized with changes in 2000 and 2005. The 2005 reauthorization included legal protections for victims of domestic violence who live in public or subsidized housing. In 2013, VAWA was again reauthorized and expanded to further protect victims of sexual assault and to cover additional public and private housing programs.

The housing provisions in VAWA were passed because discrimination against domestic violence, dating violence, sexual assault and stalking victims is a widespread problem and a major cause of homelessness. Housing discrimination impacts women and families across the country. They are denied access to and evicted from public and subsidized housing because of their status as victims.<sup>3</sup> Victims often return to abusive partners because they cannot find long-term housing, which makes the lack of housing options a serious safety issue as well.<sup>4</sup>

Asserting protections under VAWA can be difficult and are best handled by an attorney. Contact PCADV or the ACLU Women's Rights Project for help finding an attorney to assist the victim.

 PCADV is available to help advocates and attorneys for domestic violence, dating violence and stalking victims with housing questions at 717-671-4767 or 1-888-235-3425.

### Step 1: Does VAWA Apply?

Before discussing VAWA's protections with a victim, it is important to determine whether VAWA applies. For VAWA protections to apply, the housing program must be covered by VAWA, and the victim's experience must fit within the definition of domestic violence, dating violence, sexual assault, or stalking.

It is important to determine the type of housing that the victim applied for, is being evicted from, or is facing termination of because different protections and procedures will apply.

### **Is the Victim's Housing Program Covered by VAWA?**

VAWA's protections only apply to certain government housing programs.

If the victim applied for or participates in any of the following housing programs, she may qualify for VAWA's protections<sup>5</sup>:

<sup>3</sup> 42 U.S.C. § 14043e(3).

<sup>4</sup> 42 U.S.C. § 14043e(7).

<sup>5</sup> 42 U.S.C. § 41411(a)(3)(defining "covered housing program").

## (1) Public Housing

Public housing is owned and operated by the local public housing authority (PHA). The tenant pays an income-based rent or a flat rate set by the PHA.

## (2) Section 8 Housing Choice Voucher

Section 8 Housing Choice Vouchers are given directly to the tenant. The tenant can use the voucher toward the payment of rent to a private owner/landlord. Usually, the family can keep their voucher even if they move.

## (3) Project-Based Section 8

Project-Based Section 8 housing provides a family with rental assistance if they live in a particular unit in a privately-owned housing project. The family can receive the rental assistance only if they stay in that unit.

## (4) Sections 202 and 811 Supportive Housing Program

The Supportive Housing Programs provide housing and services to persons who are elderly and/or have disabilities. They are operated by government entities and nonprofit agencies.

## (5) HOME Investment Partnership Program

The HOME Investment Partnership Program provides grants to state and local governments (often in partnership with non-profits) to fund a wide range of activities, including building, purchasing, or rehabilitating affordable housing for rent or sale or providing direct assistance to low-income people. HOME is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act.

## (6) McKinney-Vento Homeless Assistance Programs

- *Supportive Housing Programs*

Provides housing, including housing units and/or group quarters, that has a supportive environment and a planned service component.

- *Shelter Plus Care Programs*

Provides grants for rental assistance for homeless persons with disabilities.

- *Single Room Occupancy (SRO) Programs*

Provides rental assistance on behalf of homeless individuals in connection with moderate rehabilitation of SRO buildings.

- *Emergency Solutions Grants Programs*

Federal grants designed to assist individuals and families to regain permanent housing. Provides street outreach, emergency shelter services, homelessness prevention services, and rapid re-housing assistance.

(7) Housing Opportunities for Persons with Aids (HOPWA) Program

Housing programs may receive HOPWA Program funding for a range of housing assistance programs, including building acquisition and/or rehabilitation, new construction of housing units, rental assistance, and short-term payment assistance for homelessness prevention.

(8) Low Income Housing Tax Credit (LIHTC) Program

The LIHTC Program is based on Section 42 of the Internal Revenue Code, and provides tax credits to property developers and private housing providers who provide housing to low-income individuals and families.

(9) Rural Housing Program

The Rural Housing Program is funded through the United States Department of Agriculture and provides loans and grants for single-family homes and apartments for low-income persons or the elderly.

VAWA does not cover other public or private housing programs; however, every housing program is covered by the Fair Housing Act (FHA) and the Pennsylvania Human Relations Act (PHRA).



[For more information about the FHA and PHRA, see Part III of this toolkit.](#)

### Is the Victim Protected by VAWA?

To qualify for VAWA's protections, an individual must be a victim of actual or threatened domestic violence, dating violence, sexual assault, or stalking, as defined by law.<sup>6</sup> The victim's immediate family members are also protected.<sup>7</sup>

VAWA uses the following definitions:

(1) Domestic Violence<sup>8</sup>

Felony or misdemeanor crimes of violence committed by:

- Current or former spouse of the victim
- Person with whom the victim shares a child
- Person who is cohabitating (living) with or has cohabitated with the victim as a spouse
- Person similarly situated (similar) to a spouse of the victim under the

VAWA's protections are **gender neutral**. In addition to protecting women, VAWA protects male victims, victims in same-sex relationships, and ALL victims of sexual assault.

<sup>6</sup> 42 U.S.C. §§ 1437d(l)(6)(A) (public housing), 1437f(c)(9)(C)(i) (project-based Section 8), 1437F(o)(20)(C) (Section 8 voucher).

<sup>7</sup> 42 U.S.C. §§ 1437d(u)(3)(D) (public housing), 1437f(F)(11) (project-based Section 8 and vouchers), 24 C.F.R. § 5.2003.

<sup>8</sup> 42 U.S.C. § 13925(a)(6), 24 C.F.R. § 5.2003; see also 42 U.S.C. §§ 1437d(u)(3)(A), 1437f(f)(8).

domestic or family violence laws of the jurisdiction receiving grant monies

- Any person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The definition of domestic violence incorporates the state law definition found in the Protection From Abuse (PFA) Act, which covers "family or household members."<sup>9</sup> Family or household members include:

The law does not require a "minimum" number of incidents for the protections to apply. One incident or threat is enough to trigger VAWA's protections.

- Spouses or former spouses
- Persons living as spouses
- Persons who formerly lived as spouses
- Parents and children
- Individuals related by blood or marriage
- Current or former sexual/intimate partners
- Individuals who have a child together<sup>10</sup>

### (2) Dating Violence<sup>11</sup>

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

The existence of such a relationship is determined based on:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

### (3) Stalking<sup>12</sup>

The definition does not require an intimate relationship between the victim and perpetrator. It includes stalking by an acquaintance or stranger.

The definition of stalking has two parts.

First, the perpetrator must:

- (I) follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass or intimidate; or
- (II) place under surveillance with the intent to kill, injure, harass, or intimidate another person

<sup>9</sup> 23 Pa. C.S. § 6102.

<sup>10</sup> *Id.*

<sup>11</sup> 42 U.S.C. § 13925(a)(8), 24 C.F.R. § 5.2003.

<sup>12</sup> 42 U.S.C. §§ 1437(u)(3)(C) (public housing definition), 1437f(f)10 (project-based Section 8 and vouchers); 24 C.F.R. § 5.2003.

Next, the perpetrator's action must place a person in reasonable fear of death or serious bodily injury, or cause substantial emotional harm to that person, a member of that person's immediate family or that person's spouse or intimate partner.

#### (4) Sexual Assault<sup>13</sup>

Sexual assault is defined as conduct prohibited by federal sexual abuse crimes; including aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, abusive sexual contact, and sexual offenses resulting in death. The definition includes offenders who are strangers to the victim and offenders related to the victim by blood or marriage.

### **Step 2: What Does VAWA Prohibit and/or Protect?**

After determining that VAWA's housing protections apply, advocates should explain VAWA's protections and prohibitions to the victim.

#### **No Discrimination in Housing Application**

VAWA prohibits public housing agencies and subsidized housing providers from denying an application for housing benefits or admission to a subsidized housing unit based on the applicant's status as a victim of domestic violence, dating violence, sexual assault, or stalking.<sup>14</sup> As a matter of policy, the federal Department of Housing and Urban Development (HUD) encourages preferential treatment for victims of domestic violence.<sup>15</sup>

Even if a victim's application was denied for a reason other than her status as a victim – such as negative rental or credit history, or criminal history – the victim may still be protected by VAWA if the reason given for denying her application is linked to her victimization.<sup>16</sup> A Public Housing Authority (PHA) has the discretion to consider all relevant factors in its decisionmaking, including an applicant's status as a victim.<sup>17</sup>

*When there is unfavorable information about the applicant, HUD requires the PHA to consider the nature and extent of an applicant's negative history.*<sup>18</sup> The PHA, as well as owners and managers of HUD multi-family assisted housing, have the discretion to consider mitigating circumstances, such as domestic violence, to offset the applicant's negative history.<sup>19</sup> *So, it is important for the victim to document the link between the negative history and abuse.*

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<sup>13</sup> 42 U.S.C. §13925(a)(23); see also 18 U.S.C. Chapter 109A.

<sup>14</sup> 42 U.S.C. § 41411(b); see also 42 U.S.C. §§ 1437d(c)(3) (public housing), 1437f(c)(9)(A) (project-based Section 8), 1437(o)(6)(B) (Section 8 vouchers); 24 C.F.R. § 5.2005(a); see also VAWA 2013 Reauthorization, 42 U.S.C. § 41411(b)(1).

<sup>15</sup> 24 C.F.R. § 960.206.

<sup>16</sup> 42 U.S.C. § 41411(b).

<sup>17</sup> 24 C.F.R. §§ 960.203(d) (public housing), 982.552 (c)(2) (Section 8 voucher).

<sup>18</sup> *Id.*; see also Nat'l Housing Law Project, Domestic Violence and Housing: A Manual for California Advocates, at 70 (2009) (citing 24 C.F.R. § 960.203(d)).

<sup>19</sup> *Id.* (citing HUD, Public Housing Occupancy Guidebook, 218 (2003)).

### No Discrimination in Eviction or Termination of Assistance

VAWA prohibits public housing agencies and subsidized housing providers from evicting tenants or terminating benefits on the basis of actual or threatened domestic violence, dating violence, sexual assault, or stalking against the victim/tenant.

In particular, VAWA provides that **a victim *can't be evicted or lose benefits because:***

- (1) The victim or her perpetrator committed a crime or engaged in criminal activity related to the perpetrator's abuse, assault, or stalking.<sup>20</sup>

VAWA does not define the type of criminal activities that are "directly relating to domestic violence, dating violence, sexual assault, or stalking."<sup>21</sup> Therefore, it is important for the victim to be able to explain how the criminal activity is related to the abuse, assault or stalking.<sup>22</sup>

A victim of domestic violence, dating violence, sexual assault, or stalking *may* be evicted for criminal activity or lease violations that are not related to their victimization. However, the victim may not be held to a higher standard than other tenants.

- (2) The perpetrator's violence or threats violated her lease.

VAWA creates an express exception to the federal "One-Strike Rule" by providing that "an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as ... a serious or repeated violation of the lease" by the victim.<sup>23</sup> Likewise, such incidents do not constitute "good cause" for terminating a victim's tenancy or occupancy rights.<sup>24</sup>

- (3) The victim acted in self-defense.

A victim who acts in self-defense may still be protected by VAWA. In one case, *Metro N. Owners, LLC v. Thorpe*, a New York court found that a woman who stabbed her former partner during a domestic dispute was entitled to VAWA's housing protections.<sup>25</sup> The landlord in the case sought to evict the victim for engaging in illegal and violent behavior during domestic disturbances in and around the building. The court found that the woman was a victim of domestic violence and was entitled to VAWA's protections. The provisions of VAWA did not permit the landlord to terminate her Section 8 tenancy or evict her.

<sup>20</sup> 42 U.S.C. § 41411(b)(3); *see also* 42 U.S.C. §§ 1437d(l)(6)(A) (public housing), 1437f(c)(9)(C)(i) (project-based Section 8), 1437f(o)(20)(C) (Section 8 voucher); 24 CFR § 5.2005(b).

<sup>21</sup> 42 U.S.C. § 41411(b)(3).

<sup>22</sup> Nat'l Housing Law Project, *Domestic Violence and Housing: A Manual for California Advocates*, at 74 (2009) (citing 24 C.F.R. § 960.203(d)).

<sup>23</sup> 44 U.S.C. § 41411(b)(2)(A); *see also* 42 U.S.C. §§ 1437d(l)(5) (public housing), 1437f(c)(9)(B) (project-based section 8), 1437f(o)(20)(B) (Section 8 voucher); 24 C.F.R. § 5.2005(a).

<sup>24</sup> 42 U.S.C. § 41411(b)(2)(B).

<sup>25</sup> *Metro N. Owners, LLC v. Thorpe* 870 N.Y.S. 2d 768 (N.Y. Civ. Ct. 2008).

- (4) *Exception: When there is actual and imminent threat to other tenants and/or employees, a victim may be evicted to protect their safety.*

Victims **may be evicted** if the PHA or landlord demonstrates that allowing the victim to remain would pose “an actual or imminent threat to other tenants or those employed at or providing service to the property.”<sup>26</sup> “Actual or imminent threat” is defined as “a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm.”<sup>27</sup>

### **Right to “Port” Section 8 Vouchers**

Section 8 vouchers can be used anywhere within the jurisdiction of the PHA or the county in which a PHA is administering a voucher program. This is called portability, and moving to another jurisdiction is called “porting.”

The ability to port is a particular advantage for victims who may need to leave their area in order to keep themselves and their families safe. Victims of domestic violence, dating violence, sexual assault, and stalking are exempt from some porting requirements.

A family may port their voucher to another PHA’s jurisdiction if the family:

1. Complies with the terms of the program.
2. Is moving to protect the family or someone in the household from domestic violence, dating violence, sexual assault, or stalking.
3. Reasonably believes the family or a household member is immediately threatened by further violence if they remain.<sup>28</sup>

*VAWA exempts victims of domestic violence, dating violence, sexual assault, and stalking from some porting restrictions. For example, the PHA cannot limit the number of times or how often a victim may move. Also, a victim may port her voucher even if she left the old unit in violation of the lease.*

**If a victim has children, it is important for the victim to contact an attorney before relocating to a new housing unit.**

Pennsylvania custody law has **very specific requirements for parents** who want to relocate with their children.

Advocates can provide victims who wish to relocate with the PCADV pamphlet “*Things to Know If You Want to Move With Your Children*”

<file://localhost/Volumes/clr/Custody/Relocation Broc.pdf>

Advocates can contact PCADV’s legal department at 717-671-4767 for more information, assistance, and referrals.

If a victim is denied portability because she owes back rent or money for repairs related to the domestic violence, she should ask for an informal hearing. She or her attorney can argue that her safety needs must be considered. VAWA supports

<sup>26</sup> 42 U.S.C. §§ 1437d(l)(6)(E) (public housing), 1437f(o)(7)(D)(v) and (o)(20)(D)(iv) (Section 8 voucher), 1437f(c)(9)(C)(v) & (d)(1)(B)(iii)(V) (project-based Section 8).

<sup>27</sup> 24 C.F.R. 5.2005(d), (e).

<sup>28</sup> See 42 U.S.C. §§ 1437f(r)(5) and (ee).



strong public policy to protect victims. See Step 4 for more information about challenging a PHA decision.

To “port” a voucher, the victim must inform her current PHA that she wants to move to another jurisdiction. Her current PHA must provide her with contact information for the new (receiving) PHA and contact the receiving PHA on the tenant’s behalf. The receiving PHA will then provide a local voucher to the tenant and will be responsible for processing her lease and future recertifications.

**Request for Emergency Transfer (Public Housing Only)**

Victims of domestic violence, dating violence, sexual assault, or stalking may request an emergency transfer. A victim may be granted a transfer if she reasonably believes that she is at risk of imminent harm from further violence or if she was sexually assaulted on the premises during the 90 days prior to the request.<sup>29</sup>

Under VAWA, federal agencies that administer covered housing programs (e.g. HUD, IRS, Department of Agriculture) are required to adopt a model emergency transfer plan for use by PHAs, owners, and managers that allows victims to safely transfer to another available and safe dwelling.<sup>30</sup> The plan must include reasonable confidentiality measures to ensure that the victim’s new location is not disclosed to the perpetrator of domestic violence, dating violence, sexual assault, or stalking.<sup>31</sup>

If the victim leaves her unit temporarily, she should inform the PHA in writing that she temporarily moved out but wishes to remain in public housing. She may need to continue to pay rent for her unit.

HUD is in the process of developing policies under which a victim requesting an emergency transfer may receive voucher assistance.<sup>32</sup> Under these policies – if adopted by the local PHA, owner, or manager – a victim may ask to change from public housing to a Section 8 Housing Choice Voucher if that will make her safer.

**Right to Amend the Lease to Remove An Abuser**

A victim may need to take steps to protect her safety during the eviction process, such as obtaining a Protection From Abuse order and/or temporarily relocating.

VAWA provides that the PHA, owner, manager or other housing provider can *bifurcate* (split apart) the lease to remove a household member from the residence.<sup>33</sup> Bifurcation or removal allows the housing program or provider to evict, remove, terminate occupancy rights of, or terminate assistance to a tenant who engages in criminal activity directly related to domestic

<sup>29</sup> 42 U.S.C. § 41411(e).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> 42 U.S.C. § 41411(f).

<sup>33</sup> 42 U.S.C. § 41411(b)(3)(B) This VAWA provision applies to individuals in public housing, project-based Section 8 housing, and Section 8 voucher programs.

violence, dating violence or stalking *without interrupting the rights of the victim to retain her housing assistance or subsidy*.<sup>34</sup> In other words, the PHA can evict the abuser, but let the victim stay.

If the abuser is the sole tenant eligible to receive assistance under the covered program, the PHA or owner *must* provide the remaining family members or tenants with the opportunity to establish eligibility and give them a reasonable time to find new housing.<sup>35</sup>

When evicting a perpetrator, the landlord must follow federal, state and local eviction laws. It may be weeks or even months before the court issues a final order ending the abuser's tenancy rights. The victim may need to take steps to protect her safety during the eviction process.

Once an abuser is removed from the victim's lease, she may ask the PHA to recertify the household income. The victim may end up paying less rent because the abuser's income is no longer included in the rent calculation.

The PHA may use the abuse or other criminal history to prevent the abuser from receiving assistance in the future. It is important to discuss with victims that removing the abuser from the lease or Section 8 voucher may create problems in the future should she wish to reconcile with the abuser.

### **Right to Amend the Section 8 Voucher to Remove Abuser**

Just as with removing an abuser from the public housing lease, VAWA also lets PHAs remove the abuser from the Section 8 Housing Choice Voucher while leaving the voucher in place for the victim and the rest of the family. HUD regulations state that when a voucher family breaks up as a result of domestic violence, dating violence, sexual assault or stalking, the PHA must ensure that the victim retains assistance.<sup>36</sup>

### **Notice to Tenants About Their Rights Under VAWA**

PHAs and subsidized housing providers must notify tenants of their rights under VAWA, including the right to confidentiality.<sup>37</sup> Notice must be included in all public housing leases and the lease addendum in Section 8 Voucher and Project-Based Voucher programs, and must be provided in multiple languages.<sup>38</sup> The notice also must be posted in a public area of the housing.<sup>39</sup>

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<sup>34</sup> 42 U.S.C. § 41411(b)(3)(B); *see also* 42 U.S.C. §§ 1437d(l)(6) (public housing), 1437f(c)(9)(C)(i) (project-based Section 8), 1437F(o)(20)(C) (Section 8 voucher); 24 C.F.R. § 5.2005(c).

<sup>35</sup> 42 U.S.C. § 41411(b)(3)(B).

<sup>36</sup> 24 C.F.R. § 982.315(a)(2); *see also* Nat'l Housing Law Project, *Maintaining Safe and Stable Housing for Domestic Violence Survivors* ¶ 6.9.2 (2012).

<sup>37</sup> 42 U.S.C. § 41411(d); *see also* 42 U.S.C. §§ 1437d(u)(2)(B), 1437f(ee)(2)(B).

<sup>38</sup> 42 U.S.C. § 41411(d); *see also* 42 U.S.C. §§ 1437(d)(1)(5), (6), 1437f(o)(20), 1437(o)(7)(C), (D).

<sup>39</sup> 42 U.S.C. § 41411(d)(5).

## Recognition of Court Orders

PHAs and subsidized housing providers must honor court orders addressing rights of access to or control of property. For example, they must honor a PFA order granting exclusive possession or other housing-related remedies to a victim, and they have a duty to recalculate a household's rent to reflect the family composition.

## Plan To Assist Victims

In its annual plan for public housing and the voucher program, each PHA must include a description of any activities, services or programs being undertaken to assist victims of domestic violence, dating violence, sexual assault or stalking. PHAs must also include a description of goals, objectives, policies, and programs they use to serve victims' housing needs in their five-year plan.<sup>40</sup>

 For more information about the PHA's planning requirements and how advocates can be involved in the process, see Part IV, System Advocacy.

### Step 3: Does a Victim Qualify For VAWA's Protections?

PHAs and subsidized housing providers do not necessarily know whether a tenant or assistance recipient is a victim of domestic violence, dating violence, sexual assault, or stalking. There are several ways that a victim can notify the housing agency or subsidized housing provider about her status as a victim.

#### Victim Can Provide a Statement

The housing provider has the discretion to provide VAWA protections based solely on the individual's statement or corroborating evidence, without asking for certified documentation that she is a victim of domestic violence.<sup>41</sup>

#### Victim Can Provide Certification

A housing provider that wants certification must submit a written request to the victim.<sup>42</sup> The victim has 14 business days to provide the requested certification, but the victim can request extra time.<sup>43</sup> If the

To protect the victim's confidentiality, advocates should encourage victims to fill out a self-certification form or ask a different third party to certify on their behalf.

An advocate may certify on behalf of a victim; however, **the advocate must obtain a written, time-limited release before disclosing any information about a victim.**

<sup>40</sup> 42 U.S.C. §§ 1437c-1(a)(2), 1437c-1(d)(13), 12705(b)(1).

<sup>41</sup> 42 U.S.C. § 41411(c)(5) ("Nothing in this subsection shall be construed to require an owner or manager of housing assisted under a covered housing program to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking."); see also 42 U.S.C. §§ 1437d(u)(1)(D), 1437f(ee)(1)(D) (project-based Section 8 and vouchers).

<sup>42</sup> 42 U.S.C. § 41411(c)(1).

<sup>43</sup> 42 U.S.C. § 41411(c)(2); see also 42 U.S.C. §§ 1437d(u)(1)(B) (public housing), 1437f(ee)(1)(B) (project-based Section 8 and vouchers); 24 C.F.R. § 5.2007(a)(1).

victim does not provide the documentation within the time frame allotted, the housing provider may start the process to evict the tenant or deny assistance.<sup>44</sup>

A victim can take any of the following documents to the PHA to certify that she is a victim of domestic violence, dating violence, sexual assault, or stalking:

- Self-Certification HUD Forms<sup>45</sup>

*NOTE: The victim does not need to disclose the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking on the self-certification form.*<sup>46</sup>

- Qualified Third-Party Statement from a domestic violence advocate, medical professional or attorney<sup>47</sup>
- Police, administrative, or court record<sup>48</sup>
- Alternative documentation or statement by the victim, at the discretion of the owner or manager of the covered housing program<sup>49</sup>



Self-Certification HUD Forms can be found in the Resources Section of the toolkit or at <http://www.hud.gov/offices/adm/hudclips/forms/>.

### Confidentiality of Documentation

Information about domestic violence, dating violence, sexual assault, or stalking *must be kept confidential* by the PHA or landlord.<sup>50</sup> The PHA must take steps to ensure confidentiality, and certifications may **not** be kept in a database or provided to another PHA, landlord or agency.<sup>51</sup>

A PHA or landlord may only disclose the information if disclosure is requested by the victim in writing, required for use in an eviction proceeding or by law.<sup>52</sup>

### Competing Claims of Victimization

If two or more members of a household claim to be a victim and name the other as the perpetrator, the PHA or landlord may **require** third-party documentation. The PHA, landlord or manager must honor any court order addressing rights to property, including civil protection orders (PFA orders).<sup>53</sup>

<sup>44</sup> 42 U.S.C. § 41411(c)(2); *see also* 42 USC § 1437d(u)(1)(B) (public housing), 42 USC § 1437f(ee)(1)(B) (project-based Section 8 and vouchers); 24 CFR § 5.2007(a)(2).

<sup>45</sup> 42 U.S.C. § 41411(c)(3)(A); *see also* 24 CFR 5.2007(a)(1). The forms are available at <http://www.hud.gov/offices/adm/hudclips/forms/>. Sample forms can also be found in this section of the toolkit. Form HUD-50066 is for public housing or Section 8 voucher programs, and Form HUD-91066 is for project-based Section 8 developments.

<sup>46</sup> 42 U.S.C. § 41411(c)(3)(A)(iii).

<sup>47</sup> 42 U.S.C. § 41411(c)(3)(B); *see also* 42 USC § 1437f(ee)(1)(C) (project-based Section 8 and vouchers), 42 § 1437d(u)(1)(C) (public housing)

<sup>48</sup> 42 U.S.C. § 41411(c)(3)(C).

<sup>49</sup> 42 U.S.C. § 41411(c)(3)(D).

<sup>50</sup> 42 U.S.C. § 41411(c)(4); *see also* 42 USC § 1437d(u)(2)(A); 42 USC § 1437f(ee)(2)(A).

<sup>51</sup> 42 U.S.C. § 41411(c)(4).

<sup>52</sup> *Id.*

<sup>53</sup> 24 CFR 5.2007(e).

### **Step 4: How Can a Victim Use VAWA to Challenge the PHA Decision?**

If a victim is denied housing assistance or has her assistance terminated as a result of domestic violence, dating violence, sexual assault, or stalking, she can challenge the denial or termination. The procedures for challenging a PHA decision vary, depending on the program. Local procedures and practices, including important deadlines, can also vary greatly from one PHA to the next.

Victims can request a copy of the local PHA's Section 8 Administrative Plan and/or Public Housing Admissions and Continued Occupancy Policy to help them understand the local process.

A good relationship between the advocate and the local PHA, as part of regular community advocacy, may help to streamline this process for victims.



See Part IV, Systems Advocacy, for more information about outreach opportunities.

#### **Challenging the Denial of a Victim's Application for Assistance<sup>54</sup>**

PHAs must provide notice to applicants who are denied housing assistance. The notice must state the reason for the denial and that applicants have a right to an informal review or hearing. Contents of the notice vary, depending on the type of housing at issue.

If a victim's application for public assistance is denied despite VAWA's protections, the victim may be able to appeal the denial by requesting an informal review or hearing. She can contact the local PHA about the informal hearing and/or review process (which must be outlined in the PHA's administrative plan). The time limit to request a hearing or review is typically short, between five and seven days.

At the informal hearing or review, the applicant must be given an opportunity to present written or oral objections to the PHA decision.<sup>55</sup>

The victim can use the informal hearing or review process to explain how any negative rental or credit history is tied to her victimization.

#### **Challenging Termination of a Victim's Housing Assistance**

Before terminating a housing subsidy or assistance, PHAs and housing providers must provide recipients with written notice that states:

- The grounds for the termination
- The right to a review of the termination decision

The process and procedure for termination varies, depending on the type of assistance the victim receives and the local rules and procedures.

<sup>54</sup> 24 C.F.R. §§ 982.554, 960.208.

<sup>55</sup> 24 C.F.R. § 982.554.

## Preparing to Challenge a PHA Decision

If the victim is preparing to challenge a PHA decision, she can:

### (1) Reach Out to the PHA

If time allows, the victim can try to resolve the problem before resorting to the review process by contacting the PHA to explain her special circumstances as a victim and how the abuse affects her tenancy.

### (2) Request a Hearing

As explained above, a victim whose application for assistance is denied or who faces termination of her assistance can request a review of that decision. This review may be called an informal meeting, a grievance hearing or an informal hearing, depending on the program.<sup>56</sup> The specific procedures for requesting a review will also vary. Victims should be referred to their local PHA's plans, policies, and procedures for more information.

Exception: If termination is based on criminal activity that threatens health or safety or involves drug-related activity, a PHA is permitted to terminate assistance without any review, even if the abuser committed the activity.<sup>57</sup> If the basis of the termination is due to the abuser's conduct, the victim could ask the PHA to reconsider and/or provide the victim with a hearing.

### (3) Gather Documents and Other Evidence

The victim, or the victim's attorney, has the right to access and review her PHA file before the hearing. Victims can read and request copies of relevant documents, which may include:

- The lease
- Written complaints
- Agreements to pay back rent or repairs
- Witness statements
- Notes of conversations
- Damage claims
- Police reports

The PHA may charge a fee for providing copies, but the victim can ask for such fees to be waived if she cannot afford to pay.

The victim or her attorney can ask the housing provider to identify the documents the provider intends to rely on as evidence of grounds for terminating the victim's tenancy or assistance.

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<sup>56</sup> 42 U.S.C. § 1437d(k); 24 C.F.R. pt. 966 (public housing); 24 C.F.R. pt. 982 (Section 8 voucher); HUD, Occupancy Requirements of Subsidized Multifamily Housing Programs Handbook 4350.3 (2003) (project-based Section 8).

<sup>57</sup> 24 C.F.R. § 966.51(2).

#### (4) Contact Potential Witnesses

The victim should think about whether friends or family members' testimony might be helpful to prove her case. She should consider asking those individuals to attend her hearing and testify in support of her case, either by confirming that she was abused or stalked, or by supporting her character. Examples may include neighbors, family members or public benefit service providers. To best protect the victim's confidentiality, advocates should not testify on behalf of a victim.

#### (5) Consider Settlement

A victim may want to try to reach a settlement agreement before the hearing. Settlements will contain the terms and conditions that are necessary for the victim to continue receiving assistance. Examples of settlement terms may include a probationary rental or benefit period, permanent exclusion of the abuser, repayment of back rent, payment of repair costs, and/or periodic inspections by the housing provider.

Violation of a settlement agreement can be cause for termination or eviction.

To avoid future termination or eviction, a victim should be encouraged to agree to a settlement only if she can fully comply with the terms.

Advocates should discuss safety issues with the victim with regard to settlement. Safety concerns include, but are not limited to, the following:

##### a. *Exclusion of an Abuser*

An agreement may include a condition for the victim to permanently remove the abuser from the residence or benefit, particularly in cases where the abuser has disturbed the other tenants and/or committed criminal acts. Discuss with the victim whether this is feasible, especially if the abuser picks up the children for visits or has previously visited with the children at the residence.

##### b. *Safety*

The victim may want to request that the housing provider agree to offer additional safety precautions to assist the victim. If the victim and PHA agree to certain safety conditions, those conditions should be written into the settlement agreement.

##### c. *Protection From Abuse Orders*

The agreement should **NOT** include a requirement that the victim get a PFA if the victim does not feel it will make her safer. Protection orders are effective tools for some victims, but for other victims court intervention may not be the best option. If the court denies a victim's PFA petition, she may find it more difficult to convince the PHA to consider her an abuse victim. The victim must be the one to decide whether to pursue a PFA.



*d. Repayment of Back Rent or Other Costs*

If the agreement includes payment of costs or back rent, a victim may request to pay over time so that payments are more affordable. If the abuser created the cost, she can request that the housing provider seek reimbursement for damages from the abuser. However, she should consider whether such a request might place her at risk of retaliation or harm. Discuss this safety risk with the victim.

(6) Present Case at the PHA Hearing

The hearing procedure, as well as the rights and responsibilities of the tenant and the PHA with respect to the hearing, vary depending on the type of application or termination. The victim can present her evidence and witnesses to her abuse for the PHA to consider.

*A hearing or informal review by the PHA does not waive or otherwise affect any rights the tenant has to pursue remedies in state or federal court.*

(7) Appeal PHA Decision to State Court or File Action in State or Federal Court

If the victim wants to appeal the decision or seek alternative avenues for relief, such as the Fair Housing Act or the Pennsylvania Human Relations Act, she should be encouraged to speak with an attorney. State and federal court remedies are complex and should be handled by an attorney. Advocates can contact PCADV for help in making an appropriate referral.



*See Part III of this toolkit for more information about other avenues of relief that may be available to victims pursuant to state and federal housing discrimination laws.*

**This Document was adapted, with permission, from the following materials:**

- Nat'l Housing Law Project, *The Violence Against Women Act: A Housing Toolkit for Advocates* (2008).
- Kelly Miller, *Domestic Violence/Sexual Assault Survivors' Housing Rights under VAWA, FHA, ADA and Section 504: Training for Attorneys, Presenter's Guided Curriculum* (2010) (on file with PCADV).
- Meliah Schultzman, Nat'l Housing Law Project, *Maintaining Safe and Stable Housing for Domestic Violence Survivors* (2012), available at <http://nhlp.org/node/1428>.



## Resources

HUD Form 50066: Certification of Victimization [Public Housing and Section 8 Vouchers]

HUD Form 91066: Certification of Victimization [Project-Based Section 8]

Sample Letter to Housing Authority: Asserting VAWA Protections

Sample Letter Requesting Emergency Public Housing Transfer

Sample Letter Requesting Hearing to Allow Victim to Retain Voucher

Sample Letter Requesting Removal of Perpetrator From Voucher

## HUD Form 50066: Certification of Victimization [Public Housing and Section 8 Vouchers]

### CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0249 Exp. (02/28/2014)

Office of Public and Indian Housing

**Purpose of Form:** The Violence Against Women and Justice Department Reauthorization Act of 2005 (“VAWA”) protects qualified tenants, participants, and applicants, and family members of tenants, participants, and applicants, who are victims of domestic violence, dating violence, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** This is an optional form. A PHA, owner or management agent presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence or stalking (herein referred to as “Victim”) has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. The Victim has the option of either submitting this form or submitting third-party documentation, such as:

- (1) A Federal, State, tribal, territorial, or local police or court record; or
- (2) Documentation signed by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation.

If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from the PHA, owner or management agent. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the PHA, management agent or owner, the Victim cannot be assured s/he will receive VAWA protections.

If the Victim submits this form, the PHA, owner or management agent cannot require any additional evidence from the Victim.

**Confidentiality:** All information provided to a PHA, owner or management agent concerning the incident(s) of domestic violence, dating violence, or stalking relating to the Victim shall be kept confidential by the PHA, owner or management agent, and such details shall not be entered into any shared database. Employees of the PHA, owner, or management agent are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

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### **TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING:**

**Date Written Request Received by Victim:** \_\_\_\_\_

**Name of Victim:**

\_\_\_\_\_

**Names of Other Family Members Listed on the Lease:**

\_\_\_\_\_

\_\_\_\_\_

**Name of the Perpetrator:**

\_\_\_\_\_

**Perpetrator’s Relationship to Victim:**

\_\_\_\_\_

**Date(s) the Incident(s) of Domestic Violence, Dating Violence or Stalking Occurred:** \_\_\_\_\_

**Location of Incident(s):**

Description of Incident(s) (This description may be used by the PHA, owner or management agent for purposes of evicting the perpetrator. Please be as descriptive as possible.):

[INSERT TEXT LINES HERE]

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, or stalking and that the incident(s) in question are bona fide incidents of such actual or threatened abuse. I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Executed on (Date) \_\_\_\_\_

**Public reporting burden** for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. Information provided is to be used by PHAs and Section 8 owners or management agents to request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking. The information is subject to the confidentiality requirements of the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

## HUD Form 91066: Certification of Domestic Violence, Dating Violence, or Stalking - [Project-Based Section 8]

### CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

U.S. Department of Housing and Urban Development

Office of Housing

OMB Approval No. 2502-0204 Exp. (03/312014)

**Public reporting burden** for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. Information provided is to be used by owners and management agents administering Section 8 project-based assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) to request a tenant to certify that the individual is a victim of domestic violence, dating violence, or stalking. The information is subject to the confidentiality requirements of the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

**Purpose of Form:** The Violence Against Women and Justice Department Reauthorization Act of 2005 protects qualified tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking (collectively "domestic violence") from being evicted or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** If you have been a victim of domestic violence, you or a family member on your behalf must complete and submit this certification form, or submit the information described below under "Alternate Documentation," which may be provided in lieu of the certification form, within 14 business days of receiving the written request for this certification form by the owner or management agent. The certification form or alternate documentation must be returned to the person and the address specified in the written request for the certification form. If the requested certification form or the information that may be provided in lieu of the certification form is not received by the 14th business day or any extension of the date provided by the owner or management agent, none of the protections afforded to victims of domestic violence under the Section 8 project-based assistance program will apply. Distribution or issuance of this form does not serve as a written request for certification.

**Alternate Documentation:** In lieu of this certification form (or in addition to it), the following documentation may be provided:

(1) A federal, state, tribal, territorial, or local police or court record; or

(2) Documentation signed by an employee, agent or volunteer of a victim service provider, an attorney or medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident(s) in question are bona fide incidents of abuse, and the victim has signed or attested to the documentation.

### **TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE:**

1. Date written request is received from owner or management agent: \_\_\_\_\_

2. Name of victim:

\_\_\_\_\_

3. Your name (if different):

\_\_\_\_\_

4. Name(s) of other family members listed on the lease:

\_\_\_\_\_

5. Name of the abuser:

\_\_\_\_\_

6. Relationship of the abuser to the victim:

\_\_\_\_\_

7. Date of incident:

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8. Time of incident:

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9. Location of incident:

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{Page two must be completed and attached to this form.}

Description of Incident:

In your own words, describe the incident (Attach more sheets if needed. Initial and number each attachment.):

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This is to certify that the information provided is true and correct, and that the individual named above in Item 2 is a victim of domestic violence, dating violence, or stalking. The incident(s) in question is a bona fide incident(s) of such actual or threatened abuse. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for termination of Section 8 project-based assistance or eviction from assisted property.

Signature \_\_\_\_\_ Executed on (Date)\_\_\_\_\_

Pursuant to 42 U.S.C. 1437f(ee)(2)(A), all information provided to an owner or management agent related to the incident(s) of domestic violence, dating violence or stalking, including the fact that an individual is a victim of domestic violence, dating violence or stalking shall be retained in confidence by the owner or management agent and shall neither be entered into any shared database nor provided to any related entity, except to the extent that such disclosure is:

- (1) Requested or consented to by the victim in writing;
- (2) Required for use in an eviction proceeding or termination of assistance; or
- (3) Otherwise required by applicable law

## Sample Letter to Housing Authority: Asserting VAWA Protections

TO: Housing Authority / Section 8 Program / Landlord

FROM: Name:

Address:

Date:

I am, or my immediate family member is, a victim of domestic violence, dating violence, sexual assault, or stalking. As you know, the Violence Against Women Act (VAWA), Pub. L. 109-162 (January 2006); 42 U.S.C. § 41411, applies to public housing applications; lease terminations; evictions; and protects victims of domestic violence, dating violence sexual assault, or stalking from being treated differently than others for reasons that are the result of the domestic violence, dating violence sexual assault, or stalking. VAWA's protections apply to my family member and/or me.

Please apply my VAWA rights ***[insert any of the following rights that are applicable to your case]***

- When reviewing my application
- When reviewing any alleged lease violation
- And take my abuser off my lease and make a new lease agreement with me
- When considering termination of my lease
- And give me new Section 8 Voucher papers to move
- And give me new Section 8 Voucher papers to port my Voucher out of your program to a new location
- And take my abuser's name off of my Section 8 Voucher and issue a new Section 8 Voucher in my name
- And (add other relief requested).

Please contact me for any information that you need in order to provide me with my rights under VAWA. **Pursuant to 42 U.S.C. §§ 41411(c)(4), 1437(d)(u)(2)(A), 1437(ee)(2)(A) and 24 CFR 5.2007(a) (4), please do not give out the information in this Notice to anyone, especially my abuser, without my written permission.**

(Signature)

**(KEEP A COPY OF THIS NOTICE FOR YOUR RECORDS)**

This Form was adapted from Fact Sheet H-22 Fall 2011 developed by Minneapolis Legal Aid – CLE, MN Legal Services Coalition, 2324 University Avenue W- Suite 101B, St. Paul, MN 55114 available at [www.lawhelpmn.org](http://www.lawhelpmn.org).

## Sample Letter Requesting Emergency Public Housing Transfer

*The facts of this sample letter are taken from Robinson v. Cincinnati Metro. Hous. Auth., 2008 WL 1924255, No. 08cv238 (S.D. Ohio 2008)*

[Housing authority staff member]  
[Housing Authority of [jurisdiction]]

[Date]

### Re: Request for an Emergency Transfer

Dear [Name]:

I am a public housing tenant who lives at [address]. I am writing to request that the housing authority reconsider its decision to deny my request for an emergency transfer to another public housing unit. As I explained in my transfer request, my ex-boyfriend, Mr. X, attacked me at my public housing unit and tried to stab me. My safety is at risk if I am not able to move to another unit.

While I continue to pay rent and utilities at my current public housing unit, I am unable to live there since [Date], after being severely beaten by Mr. X. Mr. X threatened to kill me if I returned to the unit. I am afraid for my safety and the safety of my family, and have been staying at various undisclosed locations.

[INSERT FACTS ABOUT VICTIMIZATION]

On [Date], I completed a transfer request form and returned it to my property manager, \_\_\_\_\_. A copy of the transfer request is attached to this letter. \_\_\_\_\_ subsequently informed me that my request for a transfer was denied and that my situation did not qualify for a transfer under the housing authority's policy.

The housing authority's denial of my request directly contradicts its own policies regarding transfers. As you are aware, the housing authority's Admissions and Continued Occupancy Policy allows tenants to transfer in several circumstances, including, but not limited to, when the unit "poses an immediate threat to resident life, health, or safety" and for "residents who are victims of federal hate crimes or extreme harassment."

As the [police report, physician's letter, restraining order] indicates, remaining in my current unit poses an immediate threat to my life, health, and safety. Further, Mr. [PERPETRATOR]'s acts of violence against me constitute harassment, and I will be subject to continued harassment if I remain in my existing unit. Accordingly, I clearly qualify for a transfer under housing authority's policy and should be permitted to relocate to a safe unit as soon as possible.

The Housing Authority's denial of my request contradicts the most recent amendments to the Violence Against Women Act, 42 U.S.C. § 41411(e)(emergency transfer), as well as earlier guidance from HUD as set forth in its Public Housing Occupancy Guidebook (issued June 2003), <http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebooknew.pdf>.

As well as violating the letter of the law, the Housing Authority's denial of my request is also inconsistent with the intent and purpose of the Violence Against Women Act (VAWA). VAWA's purpose is to protect the safety of victims of domestic violence who reside in public housing. See 42 U.S.C. § 14043e-1. VAWA provides that incidents of domestic violence are not good cause for terminating the assistance of the victim of such violence. See 42 U.S.C. § 1437d(l)(5). By refusing to grant my emergency transfer request, the housing authority has essentially terminated my public housing assistance because I can no longer safely reside in my existing public housing unit. As a result of the acts of violence committed against me, I cannot reside in my public housing unit and have been forced to live in various undisclosed locations.

In order to comply with both the letter and the intent of VAWA, the housing authority must grant me a transfer as soon as possible.

For all of the reasons discussed above, please reconsider your decision to deny my emergency transfer request.

Sincerely,

[NAME]  
Address

CC:[LANDLORD/PHA]



## Sample Letter Requesting Removal of Perpetrator From Voucher

DATE

Name  
Public Housing Agency  
Address

RE: [CLIENT/PERPETRATOR] Section 8 Voucher  
Family Break-Up: Request to Transfer Voucher to [CLIENT]'s Name

Dear [Public Housing Agency]:

Mr. X and I are participants in the Section 8 program administered by the [Housing Authority] and are currently leasing a property at [Address]. Mr. X is listed as the head of household; however, throughout the family's participation in the Section 8 program, I [and my children] have been listed on the voucher and the lease and my income has been counted towards household income for rent calculation purposes.

For many years I have been the victim of emotional abuse and physical abuse by [PERPETRATOR]. [INSERT FACTS ABOUT VICTIMIZATION]

On [DATE], Mr. X voluntarily left the residence/ I obtained a protection order that evicted him from the residence. I do not know where he is residing / He resides at Y. However, he has continued to harass me, and I continue to be afraid of him. Since leaving the household, Mr. X has contributed nothing towards household income and I have been managing, with difficulty, to pay the full rent myself. The family has broken up.

This letter is a request that you make me the head of household on the voucher and remove Mr. X's name pursuant to the Violence Against Women Act, 42 U.S.C. § 41411(b)(3)(B). I also request that the family's portion of the rent be recalculated based upon my income alone, deleting that of Mr. X.

Based on the Family Break-Up Policy in your Section 8 Administrative Plan, as well as the requirements set forth in the Violence Against Women Act, 42 U.S.C. § 41411(b)(3)(B), I should retain the voucher. I am the victim of violence, perpetrated against me by Mr. X. I have custody of the children and intend to remain in the assisted unit. Because our household has broken up, I would like to request that you recalculate my family's rent share to reflect that Mr. X is no longer a part of the family makeup. Please contact me at [NUMBER] to discuss transferring the Section 8 Voucher to me, identifying me as Head of Household and recalculating the rental share to reflect the current household income.

Sincerely,  
[CONTACT INFORMATION]

## Sample Letter Requesting Hearing to Allow Victim to Retain Voucher

DATE

Name  
Public Housing Agency  
Address

RE: Request for Remedies - Section 8 Voucher Program

Dear [Public Housing Agency]:

This is an urgent situation. Imminent eviction of my family is in process. I reside with my [NUMBER OF] (#) children at [Address].

I lived with my husband and children at the above address for about [LENGTH OF TIME] under the HUD Section 8 voucher program with [Housing Authority]. Mr. X was then, and is now, a recipient of SSD from the Social Security Administration. During the period of his residence with the family, [Housing Authority] considered Mr. X “head of household.” During the [PERIOD OF TIME] that we lived in the apartment, we both went to the [Housing Authority] each year to execute the income recertification forms. Mr. X left the family’s residence on [DATE].

I received a summons and complaint for non-payment of the contract rent on the above apartment of \$\_\_\_\_\_ a month from [Date (partial rent) through Date], totaling [\$\_\_\_\_\_]. The trial date is set for [Date].

On [DATE], Mr. X contacted [Housing Authority] and requested that it issue a “Request for Tenancy Form” so that he could leave the present apartment and live by himself in a new apartment at [ADDRESS]. While Mr. X’s request was in the process of being reviewed, I contacted [NAME OF PERSON] at the [Housing Authority] and asked that I be allowed to continue my Section 8 status, notwithstanding Mr. X’s notice to the Authority that he wanted to take the Section 8 status with him to a new address. I was told that the [Housing Authority] could do nothing about my husband’s request because he was the head of household under Authority’s records, and he was disabled.

[Housing Authority] gave the family Section 8 voucher to Mr. X when he vacated in [DATE] and now my children and I face eviction.

[Insert facts about victimization, including any information about protection orders granting exclusive possession of the home or other relief relevant to the housing issue.]

HUD regulation 24 CFR § 982.315(b) sets forth certain criteria that PHAs, such as [Housing Authority], must follow in the establishment of their Section 8 Administrative Plans. These include assessing factors when a family break-up occurs, such as whether the assistance should remain with the family members remaining in the original assisted unit, the interest of minor children, and whether family members are or have faced

actual or threatened physical violence against a spouse. Other factors are also considered pursuant to the individual housing authority's annual plan.

I ask that [Housing Authority] exercise its discretion under the HUD regulation and [Housing Authority]'s Administrative Plan. Please consider my needs as a victim of domestic violence as well as the needs of my children and reconsider the decision to award the Section 8 voucher to my husband at the time of the family break-up.

I hope that this matter can be resolved informally. If not, I request that [Housing Authority] hold a *prompt administrative hearing on the issue of my right to continue receiving Section 8 housing assistance*.

Sincerely,

[Name]  
Contact Information

## **PART III: HOUSING DISCRIMINATION REMEDIES**

### **THE PENNSYLVANIA HUMAN RELATIONS ACT & THE FAIR HOUSING ACT**

## Housing Discrimination Remedies: Legal Overview

An advocate should never present one option as the “best” option. Recommending one option over another may be viewed as practicing law without a license.

Some options, such as a lawsuit in federal court, should only be pursued with an experienced attorney. PCADV is available to help advocates or attorneys for domestic violence victims with housing questions at 717-671-4767 or 1-888-235-3425

The following housing discrimination remedies may restore a victim’s right to remain in a residence, move back into a residence, or restore housing assistance. Other outcomes may include financial reimbursement or fines to punish a landlord or housing provider. After reviewing this section, advocates will be better able to explain the process, protections and possible outcomes for victims who wish to seek a remedy for housing discrimination.

Victims can pursue a remedy for housing discrimination by filing a complaint with the following agencies or courts:

- Pennsylvania Human Relations Commission (PHRC);
- Federal Department of Housing and Urban Development (HUD)
- Pennsylvania Court of Common Pleas
- Federal District Court

Local remedies may also be available in some jurisdictions, such as Philadelphia, that have a local anti-discrimination ordinance.

### Filing a Complaint with the Pennsylvania Human Relations Commission

The Pennsylvania Human Relations Act (PHRA) prohibits housing discrimination based on sex. Prohibited acts include *direct, intentional discrimination* against a protected group (e.g., a landlord has a policy to never rent to women) and *indirect acts that have a disparate impact* on a protected group (e.g., a landlord evicts a victim because the police were called to respond when her boyfriend caused a disturbance). The PHRC is the administrative agency charged with enforcing the provisions of the PHRA. If a tenant believes she was discriminated against, either directly or indirectly, she may file a complaint with the PHRC.

**“Disparate impact”** means that an action *disproportionately* affects one group of people.

Housing restrictions on victims of domestic violence have a disparate impact on women because the majority of victims of domestic violence are women.

Filing a PHRA Complaint is free and it triggers an investigation into the landlord's actions. Even if the tenant does not win money damages, the process of filing a PHRA Complaint still has benefits because it teaches the landlords about the law so that they can improve their policies and treatment of other tenants in the future.



Advocates should refer victims to the PHRC website, <http://www.phrc.state.pa.us>, for more information or to file an online complaint. An example of the complaint form is in this section of the toolkit.

#### (1) Submitting a PHRA Complaint

A victim can file the complaint with or without the help of an attorney. The complaint form is designed to be easy for a person to fill out without an attorney.

Complaints may be filed either by mail or online at the PHRC website: <http://www.phrc.state.pa.us>.

The complaint must be specific, not just a general allegation of discrimination, so victims should include as many details as they can about the discrimination. **Victims may contact the PHRC for assistance.**

The PHRC complaint process and investigation can take several months. It is possible that, if the eviction is in the early stages, the PHRC could rule in time to stop an eviction.

**Advocates should discuss housing options that do not depend on the PHRC's decision.**

#### (2) Investigation

After a Complaint is filed, the PHRA will investigate the allegations of discrimination. The investigation may include interviews, reports, and document review. Investigators may subpoena relevant documents or testimony if necessary. Investigation of a PHRA Complaint can take several months.

When a complaint is filed with the PHRC that also violates the federal Fair Housing Act (FHA), the PHRC will automatically file the complaint with the federal Department of Housing and Urban Development (HUD). Both agencies will investigate and issue findings.

### (3) Outcome of Investigation

#### a. *No Probable Cause*

The PHRC may conclude that the actions the landlord took do not support the allegations of discrimination in the victim's complaint.

If the PHRC finds for the landlord, the case will be dismissed. The victim will receive notice of the PHRC's decision that will include information about to appeal.

It is critical that a victim who files PHRA or FHA Discrimination Complaints stays in touch with the investigator assigned to her claim and informs the investigator whenever her contact information changes.

#### b. *Probable Cause*

If the investigation finds enough proof to show that unlawful discrimination occurred, the PHRC will ask the parties to settle. If the settlement process (called "conciliation") fails, the PHRC will hold a hearing to review the evidence, hear testimony, and make a decision. At the hearing, an attorney from the PHRC will represent the victim or, if she chooses, her own attorney can represent her.

After the hearing, the PHRC will issue a legally enforceable order. If the PHRC finds for the victim, the PHRC may issue a "cease and desist" order to stop the landlord or PHA from evicting or terminating the victim's housing assistance. The PHRC can also order the landlord or housing agency to pay money damages, which may include compensation to the victim for her emotional distress. The PHRC's order can be appealed to the Pennsylvania Commonwealth Court within 30 days of the decision.

### **Filing a Complaint with the U.S. Department of Housing and Urban Development (HUD)**

The federal Fair Housing Act (FHA) also prohibits housing discrimination based on sex. Like the PHRA, the FHA prohibits both *direct intentional discrimination* and *indirect acts that have a disparate impact* on a protected group. Housing nuisance ordinances may lead to discrimination that a victim can challenge under the FHA.

The U.S. Department of Housing and Urban Development (known as "HUD") is the administrative agency charged with enforcing the provisions of the FHA.

#### (1) Submitting an FHA Complaint

A tenant who wishes to bring a discrimination action may choose to submit an FHA complaint with HUD. The FHA complaint can be submitted by phone, mail or online. There is no charge to file a HUD complaint.



Victims can visit the HUD website, <http://www.portal.hud.gov>, for more information or to file an online complaint. An example of the complaint form, along with instructions for filing an FHA complaint, is in this section of the toolkit.

## (2) Investigation

The HUD investigator has the power to conduct interviews and on-site visits, gather documents and make someone testify or turn over documents.

HUD's investigation may produce information useful to the victim regardless of whether HUD charges the landlord with discrimination.

If HUD determines after their investigation that no discrimination has occurred, the victim should formally withdraw the complaint before HUD issues a finding. A finding of no discrimination on the record can be detrimental if the victim wants to file a lawsuit in state or federal court.

## (3) Outcome of Investigation

There are three potential outcomes of a HUD investigation:

### a. *Settlement*

The parties agree to settle the case through the conciliation process before any finding about discrimination and the case is closed.

### b. *No Reasonable Cause*

If HUD does not find reasonable cause to believe that housing discrimination occurred, it will issue a determination of "no reasonable cause" and the case will be closed. The victim can ask for reconsideration.

### c. *Reasonable Cause*

If HUD finds reasonable cause to believe that housing discrimination occurred, it will issue a determination of "reasonable cause."

The landlord will be charged with violating the law, and the charges will go before an Administrative Law Judge from HUD who will decide the case.

The judge can award damages, attorneys' fees, stop the eviction and/or restore the tenant's housing rights and benefits.

## **Filing a Complaint in the Court of Common Pleas**

In some cases where a victim has experienced housing discrimination, the victim can file a complaint in the Pennsylvania Court of Common Pleas instead of filing with the PHRC. A complaint in Common Pleas court may be appropriate if the PHRC complaint is dismissed or if the PHRC does not resolve the complaint in a timely manner (within one to two years). Victims should be referred to an attorney before pursuing this type of relief.

## **Filing A Civil Lawsuit in Federal Court**

There is no requirement that the victim/plaintiff begin with an administrative complaint (PHRC or HUD). She may file a civil lawsuit in federal court without initiating an administrative complaint. However, the investigation by HUD or PHRC is free and may produce useful information for a civil lawsuit. So, as a practical matter, she may want to begin with an administrative complaint before moving forward with a federal civil suit.



## Resources

Pennsylvania Human Relations Commission Complaint Form  
Fair Housing Act (HUD) Complaint and Instructions

Victims who are interested in pursuing relief in state or federal court should be referred to an attorney before pursuing a federal civil lawsuit. Filing a federal suit without appropriate representation may impact her ability to access relief from the courts in the future.

***For more information or referrals, please contact  
PCADV at 717-671-4767 or  
The ACLU Women's Rights Project at 212-519-7871.***

# Pennsylvania Human Relations Commission Complaint Form

Revised 08.05

### PA Human Relations Commission Use Only

Docket No.
HUD No.
Social Security No.

PHRC can investigate complaints of discrimination in: (1) Employment based upon race, color, religion, ancestry, age (40 and above), sex, national origin, non-job related handicap or disability, known association with a handicapped or disabled individual, possession of a diploma based on passing a general education development test, or willingness or refusal to participate in abortion or sterilization; and (2) Public Accommodations based upon race, color, religion, sex, ancestry, national origin, handicap or disability, known association with a handicapped or disabled person, use of a guide or support animal due to blindness, deafness or physical handicap or because the user is a handler or trainer of such animals.

## H FORM - HOUSING QUESTIONNAIRE

Questionnaire on the incident you are complaining about

To avoid rewriting your answers, please read this short questionnaire from beginning to end before filling out your answers to individual questions. Please answer every applicable question as fully as possible, and to the best of your present knowledge, information and belief. If you are unsure of your answer, please say so. It is your responsibility to notify this Agency of a change of address or times of unavailability. Failure to notify this Agency may result in dismissal of the matter.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

County \_\_\_\_\_ Phone H: \_\_\_\_\_ Phone W: \_\_\_\_\_

May we call you at work? (Circle one)      **YES**      **NO**

### Information about the Organization your complaint is against:

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Type of Business \_\_\_\_\_

County \_\_\_\_\_ Phone No. \_\_\_\_\_

Number of units owned or managed by above. Please circle one.

- |             |            |           |         |
|-------------|------------|-----------|---------|
| Less than 2 | 2 to 14    | 15 to 100 | Unknown |
| 101 to 200  | 201 to 500 | 501 plus  |         |

H FORM

Housing Questionnaire

Page 2

Name and address of person who will know how to contact you and who does not reside in your home.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. Home \_\_\_\_\_ Phone No. Work \_\_\_\_\_

In this Questionnaire, you will see the word "class" mentioned. **Class means the person's race, sex, age, ancestry, religion and so on.** Depending on the issues in the complaint, you may belong to two or more classes. For example, a Black female could belong to two classes: race/Black and sex/female. A White male could belong to race/White and sex/male. All persons named in the complaint or questionnaire should be identified by their class as follows: John Doe (White male), John Doe (under age 40), Jane Doe (Black female). or example, if your complaint is based on race, include the race of all persons mentioned. If it is a sex complaint, mention the sex of all persons mentioned.

1 Please indicate your class (i.e. race (Black), sex (male), etc.) for each class you feel was a factor in discrimination.

\_\_\_\_\_ Sex \_\_\_\_\_ National Origin \_\_\_\_\_ Age

\_\_\_\_\_ Race \_\_\_\_\_ Retaliation

\_\_\_\_\_ Color \_\_\_\_\_ Religion

\_\_\_\_\_ Disability

Identify your disability: \_\_\_\_\_

\_\_\_\_\_ Familial Status (1 or more children under age 18 and housed by parent or person with legal custody or pregnant)

\_\_\_\_\_ Number of children \_\_\_\_\_

\_\_\_\_\_ Under age 18 \_\_\_\_\_

\_\_\_\_\_ Pregnancy/Birth of a child

\_\_\_\_\_ Association with someone with a disability

\_\_\_\_\_ Trainer/Handler/User of support animal(s)

2 Discrimination means difference of treatment. Please explain what happened to you and why you feel you were treated differently. In other words, what happened to persons of a different class that makes you feel they received more favorable treatment than you. Give specific dates.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3 How was your class a factor in your treatment?

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4 Has anyone else been treated as you were? Please list them and identify by race, sex, age, etc.

Name Race, Age, Sex, etc.

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4a What happened to him or her?

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5 Name other people who have been treated differently. Please list them and identify by race, sex, age, etc.

Name Race, Age, Sex, etc.

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5a What happened to him or her?

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6 Do you have any documents, such as receipts, letters, applications to back up what you are saying?

YES NO If yes, please attach copies.

7 Were there any witnesses to what happened to you?

YES NO

If yes, please list them.

Name/Title \_\_\_\_\_

Class \_\_\_\_\_

Address \_\_\_\_\_

Phone No. \_\_\_\_\_

What will he/she be able to tell us? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8 What do you hope to achieve by filing your complaint? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9 What other relevant information do you want the Commission to review that pertains to your complaint? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10 Have you filed a complaint about this matter with any other commission or agency? If so, please specify the Commission or agency and the date you filed, to the best of your recollection.

Name of Agency or Commission \_\_\_\_\_

Date Filed \_\_\_\_\_

Docket No. \_\_\_\_\_

11 Have you taken any court action regarding this matter? If so, please specify in what court and the date you filed, to the best of your recollection.

Name of Court \_\_\_\_\_
Date Filed \_\_\_\_\_
City \_\_\_\_\_
County \_\_\_\_\_
State \_\_\_\_\_

12 Is an attorney representing you in this matter? YES NO

Name \_\_\_\_\_
Address \_\_\_\_\_
Phone No. \_\_\_\_\_

If there are other facts you feel should be considered, record these on the last page of the questionnaire (Continuation Page).

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 PA.C.S. Section 4904, relating to unsworn falsification to authorities.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Phone No. Home \_\_\_\_\_

Phone No. Work \_\_\_\_\_

Phone No. Cell \_\_\_\_\_



## Fair Housing Act (HUD) Complaint and Instructions

Are You a  
Victim of  
Housing  
Discrimination?

Fair Housing is Your Right!

If you have been denied your housing rights...you may have experienced unlawful discrimination.



U.S. Department of Housing and Urban Development



**WHERE TO MAIL YOUR FORM OR  
INQUIRE ABOUT YOUR CLAIM**

**For Connecticut, Maine, Massachusetts,  
New Hampshire, Rhode Island, and Vermont:**

**NEW ENGLAND OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Thomas P. O'Neill, Jr. Federal Building  
10 Causeway Street, Room 321  
Boston, MA 02222-1092  
Telephone (617) 994-8320 or 1-800-827-5005  
Fax (617) 565-7313 • TTY (617) 565-5453  
E-mail: [Complaints\\_office\\_01@hud.gov](mailto:Complaints_office_01@hud.gov)

**For New Jersey and New York:**  
**NEW YORK/NEW JERSEY OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
26 Federal Plaza, Room 3532  
New York, NY 10278-0068  
Telephone (212) 264-1290 or 1-800-496-4294  
Fax (212) 264-9829 • TTY (212) 264-0927  
E-mail: [Complaints\\_office\\_02@hud.gov](mailto:Complaints_office_02@hud.gov)

**For Delaware, District of Columbia, Maryland,  
Pennsylvania, Virginia, and West Virginia:**  
**MID-ATLANTIC OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
The Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107  
Telephone (215) 656-0663 or 1-888-799-2085  
Fax (215) 656-3419 • TTY (215) 656-3450  
E-mail: [Complaints\\_office\\_03@hud.gov](mailto:Complaints_office_03@hud.gov)

**For Alabama, the Caribbean, Florida, Georgia, Kentucky, Missis-  
sippi, North Carolina, South Carolina, and Tennessee:**  
**SOUTHEAST/CARIBBEAN OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Five Points Plaza  
40 Marietta Street, 16th Floor  
Atlanta, GA 30303-2808  
Telephone (404) 331-5140 or 1-800-440-8091  
Fax (404) 331-1021 • TTY (404) 730-2654  
E-mail: [Complaints\\_office\\_04@hud.gov](mailto:Complaints_office_04@hud.gov)

**For Illinois, Indiana, Michigan, Minnesota,  
Ohio, and Wisconsin:**  
**MIDWEST OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Ralph H. Metcalfe Federal Building  
77 West Jackson Boulevard, Room 2101  
Chicago, IL 60604-3507  
Telephone (312) 353-7776 or 1-800-765-9372  
Fax (312) 886-2837 • TTY (312) 353-7143  
E-mail: [Complaints\\_office\\_05@hud.gov](mailto:Complaints_office_05@hud.gov)

**For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:**  
**SOUTHWEST OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
801 North Cherry, 27th Floor  
Fort Worth, TX 76102  
Telephone (817) 978-5900 or 1-888-560-8913  
Fax (817) 978-5876 or 5851 • TTY (817) 978-5595  
E-mail: [Complaints\\_office\\_06@hud.gov](mailto:Complaints_office_06@hud.gov)

**For Iowa, Kansas, Missouri and Nebraska:**  
**GREAT PLAINS OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Gateway Tower II  
400 State Avenue, Room 200, 4th Floor  
Kansas City, KS 66101-2406  
Telephone (913) 551-6958 or 1-800-743-5323  
Fax (913) 551-6856 • TTY (913) 551-6972  
E-mail: [Complaints\\_office\\_07@hud.gov](mailto:Complaints_office_07@hud.gov)

**For Colorado, Montana, North Dakota, South Dakota,  
Utah, and Wyoming:**  
**ROCKY MOUNTAINS OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
1670 Broadway  
Denver, CO 80202-4801  
Telephone (303) 672-5437 or 1-800-877-7353  
Fax (303) 672-5026 • TTY (303) 672-5248  
E-mail: [Complaints\\_office\\_08@hud.gov](mailto:Complaints_office_08@hud.gov)

**For Arizona, California, Hawaii, and Nevada:**  
**PACIFIC/HAWAII OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
600 Harrison Street, Third Floor  
San Francisco, CA 94107-1300  
Telephone (415) 489-6524 or 1-800-347-3739  
Fax (415) 489-6558 • TTY (415) 436-6594  
E-mail: [Complaints\\_office\\_09@hud.gov](mailto:Complaints_office_09@hud.gov)

**For Alaska, Idaho, Oregon, and Washington:**  
**NORTHWEST/ALASKA OFFICE**

Fair Housing Hub  
U.S. Dept. of Housing and Urban Development  
Seattle Federal Office Building  
909 First Avenue, Room 205  
Seattle, WA 98104-1000  
Telephone (206) 220-5170 or 1-800-877-0246  
Fax (206) 220-5447 • TTY (206) 220-5185  
E-mail: [Complaints\\_office\\_10@hud.gov](mailto:Complaints_office_10@hud.gov)

***If after contacting the local office nearest you, you still have ques-  
tions – you may contact HUD further at:***

U.S. Dept. of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 7th Street, S.W., Room 5204  
Washington, DC 20410-2000  
Telephone (202) 708-0836 or 1-800-669-9777  
Fax (202) 708-1425 • TTY 1-800-927-9275

To file electronically, visit: [www.hud.gov](http://www.hud.gov)

Part III: Housing Discrimination Remedies

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PLACE  
POSTAGE  
HERE

MAIL TO:

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Public Reporting Burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Department of Housing and Urban Development is authorized to collect this information by Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, (P.L. 100-430); Title VI of the Civil Rights Act of 1964, (P.L. 88-352); Section 504 of the Rehabilitation Act of 1973, as amended, (P.L. 93-112); Section 109 of Title I- Housing and Community Development Act of 1974, as amended, (P.L. 97-35); Americans with Disabilities Act of 1990, (P.L. 101-336); and by the Age Discrimination Act of 1975, as amended, (42 U.S.C. 6103).

The information will be used to investigate and to process housing discrimination complaints. The information may be disclosed to the United States Department of Justice for its use in the filing of pattern and practice suits of housing discrimination or the prosecution of the person(s) who committed that discrimination where violence is involved; and to State or local fair housing agencies that administer substantially equivalent fair housing laws for complaint processing. Failure to provide some or all of the requested information will result in delay or denial of HUD assistance.

Disclosure of this information is voluntary.



# HOUSING DISCRIMINATION INFORMATION

Departamento de Vivienda y Desarrollo Urbano    Oficina de Derecho Equitativo a la Vivienda  
 U.S. Department of Housing and Urban Development    Office of Fair Housing and Equal Opportunity

**Instructions:** (Please type or print) Read this form carefully. Try to answer all questions. If you do not know the answer or a question does not apply to you, leave the space blank. You have one year from the date of the alleged discrimination to file a complaint. Your form should be signed and dated.

_____ Your Name		
_____ Your Address		
_____ City	_____ State	_____ Zip Code
_____ Best time to call	_____ Your Daytime Phone No	_____ Evening Phone No

## Who else can we call if we cannot reach you?

_____ Contact's Name		_____ Best Time to call	
_____ Daytime Phone No		_____ Evening Phone No	
_____ Contact's Name		_____ Best Time to call	
_____ Daytime Phone No		_____ Evening Phone No	

## 1 What happened to you?

How were you discriminated against?

For example: were you refused an opportunity to rent or buy housing? Denied a loan? Told that housing was not available when in fact it was? Treated differently from others seeking housing?

State briefly what happened.

## HOUSING DISCRIMINATION INFORMATION

Departamento de Vivienda y Desarrollo Urbano    Oficina de Derecho Equitativo a la Vivienda  
U.S. Department of Housing and Urban Development    Office of Fair Housing and Equal Opportunity

### 2 Why do you think you are a victim of housing discrimination?

Is it because of your:

• race • color • religion • sex • national origin • familial status (families with children under 18) • disability?

For example: were you denied housing because of your race? Were you denied a mortgage loan because of your religion? Or turned down for an apartment because you have children?

Briefly explain why you think your housing rights were denied and circle the factor(s) listed above that you believe apply.

### 3 Who do you believe discriminated against you?

For example: was it a landlord, owner, bank, real estate agent, broker, company, or organization?

Identify who you believe discriminated against you.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

### 4 Where did the alleged act of discrimination occur?

For example: Was it at a rental unit? Single family home? Public or Assisted Housing? A Mobile Home?

Did it occur at a bank or other lending institution?

Provide the address.

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

### 5 When did the last act of discrimination occur?

Enter the date

\_\_\_\_/\_\_\_\_/\_\_\_\_

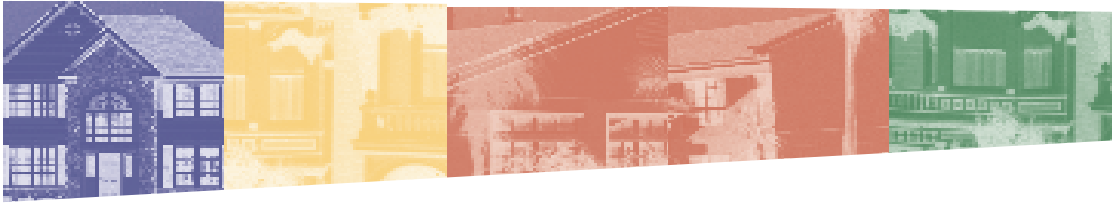
Is the alleged discrimination continuing or ongoing?

Yes No

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Send this form to HUD or to the fair housing agency nearest you. If you are unable to complete this form, you may call that office directly. See address and telephone listings on back page.



### It is Unlawful to Discriminate in Housing Based on These Factors...

- Race
- Color
- National origin
- Religion
- Sex
- Familial status (families with children under the age of 18, or who are expecting a child)
- Handicap (if you or someone close to you has a disability)

### If You Believe Your Rights Have Been Violated...

- HUD or a State or local fair housing agency is ready to help you file a complaint.
- After your information is received, HUD or a State or local fair housing agency will contact you to discuss the concerns you raise.

Detach here. Fold and close with glue or tape (no staples)

Keep this information for your records.

Date you mailed your information to HUD: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Address to which you sent the information:

Office \_\_\_\_\_ Telephone \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

If you have not heard from HUD or a State or local fair housing agency within three weeks from the date you mailed this form, you may call to inquire about the status of your complaint. See address and telephone listings on back page.

## ARE YOU A VICTIM OF HOUSING DISCRIMINATION?

“The American Dream of having a safe and decent place to call ‘home’ reflects our shared belief that in this nation, opportunity and success are within everyone’s reach.

Under our Fair Housing laws, every citizen is assured the opportunity to build a better life in the home or apartment of their choice — regardless of their race, color, religion, sex, national origin, family status or disability.”

Alphonso Jackson  
Secretary

## HOW DO YOU RECOGNIZE HOUSING DISCRIMINATION?

### Under the Fair Housing Act, it is Against the Law to:

- Refuse to rent to you or sell you housing
- Tell you housing is unavailable when in fact it is available
- Show you apartments or homes only in certain neighborhoods
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Advertise housing to preferred groups of people only
- Refuse to provide you with information regarding mortgage loans, deny you a mortgage loan, or impose different terms or conditions on a mortgage loan
- Deny you property insurance
- Conduct property appraisals in a discriminatory manner
- Refuse to make reasonable accommodations for persons with a disability if the accommodation may be necessary to afford such person a reasonable and equal opportunity to use and enjoy a dwelling.
- Fail to design and construct housing in an accessible manner
- Harass, coerce, intimidate, or interfere with anyone exercising or assisting someone else with his/her fair housing rights



## **PART IV: SYSTEMS ADVOCACY**



## Systems Advocacy Overview

Systems advocacy means working with decision-makers in various systems (such as the Public Housing system, the child welfare system, or the court system) to improve the policies and practices that affect the way the system responds to domestic violence victims. Successful systems advocacy impacts more than just one client, and provides victims of domestic violence with a more responsive system designed to protect them from both unintentional and intentional discrimination.

Advocates should not pursue systems advocacy on behalf of a particular client. Doing so could put the advocate at risk of engaging in the **unauthorized practice of law.**

***Advocates must have approval from their executive director before engaging in the advocacy strategies outlined below.***

***For additional guidance or technical assistance, please call PCADV at 717-671-4767.***

### Collaborating with Allies

The old saying “there is strength in numbers” is true in systems advocacy. Working with other interested stakeholders in your community can increase the effectiveness of your advocacy and achieve better results with local government or the housing authority. The Pennsylvania Coalition Against Domestic Violence (PCADV) is always available to provide support and technical assistance.

Potential allies include:

- Other domestic violence service providers in your area
- Housing and/or legal aid attorneys
- Legal services organizations
- Anti-poverty service providers
- Mental health and intellectual disability service providers
- Community and social organizations *such as churches, volunteer programs, and special interest groups*
- Consumer advocacy organizations
- District attorneys’ offices
- Landlord organizations
- Tenant associations
- Members of the housing authority’s board of commissioners
- Members of the public housing resident advisory board (RAB)

### **Discriminatory Nuisance Ordinances: Potential Strategies**

Work with your allies to develop and implement appropriate strategies that will take into account the dynamics in your community. For example, if your area has a nuisance ordinance, but it is not enforced, you may want to start by approaching the appropriate local official to discuss how the ordinance can be amended or repealed. Or, you may decide that it is best to delay any action. If your area is aggressively enforcing an ordinance against victims of domestic violence, it may be more appropriate to start by sending an education letter or demand letter. If you do not currently have a nuisance ordinance in your area, but one is being considered, you may want to contact the solicitor or another local official to discuss the far-reaching implications and unintended consequences that a nuisance ordinance may have for domestic violence victims.

Potential strategies include:

- Sending letters to local officials from your executive director  
The local officials may not be aware of the heightened housing protections for victims of domestic violence. They also may not realize that a nuisance or crime-free ordinance has an unlawful impact on victims of domestic violence.  
A letter outlining the issue may be sufficient to stop inappropriate evictions. A sample letter and VAWA factsheet is included in this section of the toolkit.
- Offering to provide trainings and/or technical assistance  
Local officials may be receptive to offers for training and technical assistance about housing and/or domestic violence. PCADV and the ACLU can assist with the development and delivery of trainings for your area.
- Negotiating with landlords or local officials to ease the overall impact of nuisance ordinances on victims of domestic violence
- Using the local media to raise awareness about the impact of the ordinance
- Seeking to amend or repeal discriminatory provisions or ordinances  
Approach local policy and ordinance drafters to explain why these ordinances hurt victims of domestic violence. Ask them to consider repealing or amending the discriminatory provisions.

### **Violence Against Women Act Compliance: Potential Strategies**

#### **Develop a Relationship with the Local Public Housing Authority/Authorities**

If your organization does not already have a working relationship with your local housing authority, consider building one. PCADV is engaged in a statewide outreach strategy, and we may have been in contact with your PHA as part of that effort. Please contact PCADV for more information about our PHA outreach efforts.

PCADV and its partners, including the ACLU Women's Rights Project, provide training and technical assistance and can assist you with systems advocacy. (See page 5 for contact information).

With permission from an executive director, advocates can request a meeting with the housing authority's executive director and staff members who oversee the public housing and Section 8 voucher programs. Issues that should be raised with the housing authority include:

- Whether the housing authority has trained its staff and Section 8 landlords on compliance with VAWA's domestic violence, dating violence and stalking provisions
- Whether and how the housing authority notifies tenants and Section 8 landlords of their rights and obligations under VAWA
- Whether the housing authority has procedures to keep confidential information regarding a tenant's victimization
- Whether the housing authority has written procedures for staff members who become aware that a tenant is a victim of domestic violence, dating violence, sexual assault and stalking

Consider scheduling periodic meetings with housing authority staff members to discuss issues related to domestic violence, dating violence and stalking and to give staff members an opportunity to discuss best practices for handling such cases.

### **Become Involved in the Public Housing Agency (PHA) Planning Process**

Most PHAs that administer public housing units and Section 8 vouchers are required to submit an Annual Plan and a 5-Year Plan to the Department of Housing and Urban Development (HUD).<sup>58</sup>

Five-Year Plans must contain a statement regarding the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking.<sup>59</sup> Annual Plans must describe the activities, services, or programs offered to victims of domestic violence, dating violence, sexual violence, and stalking.

PHAs are required to follow a process for creating their Annual and 5-Year Plans. For example, PHAs must allow the public to view the draft plan and provide a formal period during which the public can comment on the contents of the plans. PHAs must also hold a public hearing. If the Annual and Year Plans do not meet VAWA's requirements, the program may want to consider submitting comments or attending the PHA's public hearing to discuss its concerns.

**If your program submits comments on the PHA Plan, request a follow-up meeting with the PHA to discuss concerns and offer assistance with compliance efforts.**

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<sup>58</sup> See HUD, Public Housing Agency (PHA) Five-Year and Annual Plan Process for all PHAs, PIH 2008-41 (Nov. 13, 2008).

<sup>59</sup> 42 U.S.C. § 1437c-1. In the 5-Year Plan, PHAs are required to include a statement of the goals, objectives, policies, or programs that will enable the PHA to serve the needs of victims of domestic violence, dating violence, sexual assault, or stalking. In the Annual Plan, the requirements are more extensive. A PHA's description of the activities, services, or programs offered to victims of domestic violence must be readily available to the public. *HUD, Instructions Form HUD-50075, at 1 (2005).*

## Resources

Education Letter to Local Officials: Nuisance Ordinance

VAWA Information Sheet (Public Housing)

***\*\*Does not reflect VAWA 2013 amendments***

VAWA Information Sheet (Project-Based Section 8)

***\*\*Does not reflect VAWA 2013 amendments***

## Education Letter to Local Officials: Nuisance Ordinance

DATE

BY US MAIL AND FACSIMILE

Name  
Management Agency  
Address

Dear :

It has come to our attention that [you/the Municipality/etc] recently passed an ordinance that requires landlords to evict tenants who contact police X times. Enforcement of this nuisance ordinance against victims of domestic violence violates the Fair Housing Act and the Pennsylvania Human Relations Act. Moreover, such enforcement would violate the First Amendment right to petition the government for redress, resulting in irreparable damage for victims of domestic violence. We ask that you consider amending this ordinance to prevent such harm from occurring.

Enforcement of this ordinance against a victim of domestic violence would constitute unlawful sex discrimination in violation of the federal Fair Housing Act and the Pennsylvania Human Relations Act. The federal Fair Housing Act, 42 U.S.C. §§ 2501 *et seq.*, and the Pennsylvania Human Relations Act, 43 P.S §§ 951 – 963, prohibit discrimination based on sex, including both intentional discriminatory acts and acts that have a discriminatory impact based on sex. The overwhelming majority of victims of domestic violence are women; therefore, policies and practices that have a disparate impact on victims of domestic violence have a discriminatory impact on women. Courts and agencies considering the question have repeatedly found that housing practices that disparately affect victims of domestic violence unlawfully discriminate on the basis of sex.

Moreover, such enforcement against a victim of domestic violence would substantially interfere with the victim's constitutional right to petition the government pursuant to the First Amendment of the United States Constitution. The First Amendment guarantees that the people may petition their government for the redress of grievances. This right has been interpreted by the United State Supreme Court to include a right to contact the police for assistance. Enforcement of [nuisance ordinance/disorderly house ordinance/Crime Free Rental Housing Ordinance] would discourage victims from reporting future crimes committed against them and would have a chilling effect on their ability to exercise First Amendment rights.

We ask that the [City/Municipality] cease any effort to enforce the ordinance as written and take steps to redraft the ordinance in such a way to exempt victims of domestic violence from its scope.

Enclosed, please find suggested language for amending the [nuisance ordinance/disorderly house ordinance/Crime Free Rental Housing Ordinance] in order to protect the rights of crime victims. We welcome the opportunity to discuss its enactment with you.

Sincerely,

[Joint Signatures of Appropriate Collaborating Partners]

## **VAWA Information Sheet [Public Housing]**

*Note: NOT UPDATED WITH 2013 VAWA AMENDMENTS*

**Disclaimer:** *This information is advisory in nature and was prepared by the National Housing Law Project*

### **The Violence Against Women Act of 2005 (VAWA): A Fact Sheet for Public Housing Agencies**

#### **When did VAWA become effective, and who is required to comply with the law?**

VAWA's housing provisions became effective January 5, 2006. HUD has issued notices instructing public housing agencies (PHAs) to implement the law without waiting for HUD to issue regulations. PHAs administering the public housing and Section 8 voucher programs and all landlords, owners, and managers participating in the Section 8 voucher and project-based programs must comply with VAWA.

#### **What types of housing does VAWA cover, and whom does VAWA protect?**

VAWA applies to public housing, the Section 8 voucher program, and project-based Section 8. VAWA protects anyone who is:

- (1) A victim of actual or threatened domestic violence, dating violence, or stalking, or an immediate family member of the victim (spouse, parent, sibling, child, or any other person living in the household who is related by blood or marriage); AND
- (2) Living in, or seeking admission to, public, Section 8 voucher, or project-based Section 8 housing.

#### **How does VAWA affect admissions and terminations?**

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 establishes an exception to the "one-strike" criminal activity eviction rule. Actual or threatened criminal activity directly relating to domestic violence, dating violence, or stalking does not constitute grounds (either as a "serious or repeated violation of lease", or as "good cause") for terminating assistance, tenancy, or occupancy rights of the victim or an immediate family member of the victim.

Despite the protections described above, a PHA may still evict the victim if the PHA can demonstrate an "actual and imminent threat" to other tenants or employees of the property if the victim is not evicted. VAWA does not define "actual and imminent threat" or explain what evidence a PHA must provide.

#### **What about criminal activity unrelated to abuse?**

VAWA does not protect tenants if the criminal incident for which they are being evicted or denied admission is unrelated to domestic violence, dating violence, or stalking. In determining whether to evict, a PHA or owner may not hold a victim of abuse to a more demanding standard than other tenants.

#### **Can the abuser alone be evicted or terminated?**

A PHA may bifurcate a lease to evict or terminate assistance to a tenant who commits acts of violence against family members. This action may be taken without evicting or terminating assistance to the victim who is also a tenant. Bifurcation is applicable to all leases in the public housing or Section 8 programs. The eviction or termination must comply with federal, state, and local law.

#### **How does VAWA affect portability?**

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A PHA may permit a family with a Section 8 voucher to relocate if the family is moving to protect the health or safety of an individual who is or has been the victim of abuse. A PHA may permit the family to move even if the family's lease term has not yet expired. A PHA may ask for documentation regarding the family's desire to move.

### **Can a PHA ask for proof of the abuse?**

PHAs may, but are not required to, ask an individual for certification that he or she is a victim of abuse if the individual seeks to assert VAWA's protections. At their discretion, PHAs may apply VAWA to an individual based solely on the individual's statement.

A PHA may request that the individual certify that he or she is a victim of abuse by filling out a HUD-approved certification form. Instead of the certification form, the victim may provide:

- Documentation signed by the victim and a victim service provider, an attorney, or a medical professional in which the professional attests under penalty of perjury to the professional's belief that the victim has experienced bona fide incidents of abuse.
- A federal, state, tribal, territorial, or local police or court record.

After a PHA requests certification, an individual has fourteen business days to respond. If an individual fails to respond, a PHA may terminate assistance. However, a PHA is free to extend this timeframe.

Any information provided must be kept confidential. PHAs may not enter the information into any shared database or provide it to any related entity. The only exceptions are: (1) the victim consents to disclosure in writing; (2) the information is required for use in an eviction proceeding; or (3) disclosure is otherwise required by law.

### **Must a PHA provide notice of VAWA to tenants and owners?**

PHAs must inform tenants and owners of their rights and obligations under VAWA. The information also must be included in public housing leases, Housing Assistance Payments contracts for the Section 8 Voucher program, tenancy addendums for the voucher program, and Project-Based Section 8 contracts.

### **How does VAWA affect the PHA planning process?**

A PHA must include in its annual plan a description of any activities, services, or programs being undertaken to assist victims of domestic violence, dating violence, stalking, or sexual assault. A PHA must include in its five-year plan a description of any goals, objectives, policies, or programs it uses to serve victims' housing needs.

### **What guidance is available?**

- VAWA's public housing provisions are located at 42 U.S.C. § 1437d; the project-based Section 8 provisions are at 42 U.S.C. § 1437f(c), (d); the voucher provisions are at 42 U.S.C. § 1437f(o).
- HUD Notice PIH 2006-23: Directs PHAs to notify tenants and owners of VAWA.
- HUD Notice PIH 2006-42: Transmits Certification Form HUD-50066 and provides guidance to PHAs and owners regarding certification and confidentiality.
- Form HUD-50066: The HUD-approved certification form that applicants and tenants in public housing and the Section 8 voucher program may use to certify that they are victims of abuse.
- HUD Notice PIH 2007-5: Transmits the revised Housing Assistance Payments contract and Tenancy Addendum; provides guidance to PHAs and owners on bifurcation and portability.
- Form HUD-52641, Form HUD-52641A: The HAP contract and tenancy addendum as revised by HUD to reflect tenants' protections under VAWA.

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## **VAWA Information Sheet [Project-Based Section 8]**

Note: NOT UPDATED WITH VAWA 2013 AMENDMENTS

**Disclaimer:** This information is advisory in nature and was prepared by the National Housing Law Project

### **Notice to Project-Based Section 8 Owners Regarding the Violence Against Women Act (VAWA)**

To all project-based Section 8 owners:

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence Against Women Act, or “VAWA.” This notice explains your obligations under VAWA.

#### **Protections for Victims**

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

#### **Permissible Evictions**

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard than tenants who are not victims.

#### **Removing the Abuser from the Household**

You may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

#### **Certification of Domestic Violence, Dating Violence, or Stalking**

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to ask for official documentation and may rely upon the victim’s statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business

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days to provide documentation. You are free to extend this deadline. A tenant may certify that he or she is a victim by providing any one of the following two documents:

- By providing a statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
- By providing a police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

### **Confidentiality**

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking, unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, you should inform the victim before disclosure occurs so that safety risks can be identified. If disclosure of the information would place the victim's safety at risk, you should work with the victim to determine whether there are alternatives to disclosure.

### **VAWA and Other Laws**

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

### **Additional Information**

- An overview of VAWA's housing provisions is available at <http://hmis.info/ClassicAsp/documents/March%2016,%202007%20HUD%20Notice%20on%20VAWA.pdf>

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## Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines “domestic violence” as felony or misdemeanor crimes of violence committed by:

- (1) a current or former spouse of the victim;
- (2) a person with whom the victim shares a child in common;
- (3) a person who is cohabitating with or has cohabitated with the victim as a spouse;
- (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies;
- (5) any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction [i.e., California].

VAWA also protects persons who are covered by state law definitions of domestic violence.

California law defines “domestic violence” as abuse perpetrated against the victim by:

- (1) The victim’s spouse or former spouse.
- (2) Someone the victim lives with or lived with in the past.
- (3) Someone the victim is dating or has dated.
- (4) Someone the victim has a child with.
- (5) Someone to whom the victim is related by blood, marriage, or adoption (including the victim’s parent, grandparent, child, grandchild, brother, or sister)

VAWA defines “dating violence” as violence committed by a person--

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim;

AND

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

VAWA defines “stalking” as

(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; OR

(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person;

AND

(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to--

- (i) that person;
- (ii) a member of the immediate family of that person; or
- (iii) the spouse or intimate partner of that person

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## **PART V: ADDITIONAL RESOURCES**

## Legal Information

### ACLU Women's Rights Project

- <http://www.aclu.org/fairhousingforwomen>
- Provides know your rights materials; pleadings, briefs, and court decisions in housing cases involving domestic and sexual violence; and policy advocacy letters and memos.

### National Housing Law Project

- <http://www.nhlp.org>
- Provides access to a bank of webinars and online training and resources for pursuing federal litigation. NHLP also distributes information about domestic violence and housing, including a manual for working with victims of domestic violence from the federal perspective.

### PA Law Help

- <http://www.palawhelp.org>
- Provides a wealth of information related to landlord/tenant proceedings as well as public and subsidized housing. You should review the information about representation in an eviction proceeding prior to taking on representation of a client.
- Key information found on this website includes:
  - Sample Notices
  - Sample Filings
  - Sample Petition for Cost Waiver
  - Tenant Rights Brochures
  - Legal Assistance Referrals
  - Local Court Information

### Fair Housing Rights Center of South-Eastern Pennsylvania

- <http://www.fairhousingrights.org/>
- 866-576-1968, 215-576-7711
- Provides information, referrals and free representation for housing discrimination cases.

## Statutes and Regulations

**42 U.S.C. § 41411 (General VAWA housing protections)**

**42 U.S.C. § 1437f (VAWA housing protections for project-based Section 8 and Section 8 vouchers)**

**42 U.S.C. § 1437d (VAWA housing protections for public housing)**

**42 U.S.C. § 1437c-1 (VAWA provisions regarding public housing agency plans)**

**42 U.S.C. § 14043e (VAWA findings)**

**24 C.F.R Part 5: Protection for Victims in Public and Section 8 Housing**

## State and Federal Housing Information

### **Pennsylvania Human Relations Commission**

- <http://www.phrc.state.pa.us>
- Provides overview of housing protections and information about the complaint process. Also provides access to online complaint form.

### **Department of Housing and Urban Development: Pennsylvania**

- <http://portal.hud.gov/hudportal/HUD?src=/states/Pennsylvania>
- Provides access to complaint forms as well as local housing office information.

### **HUD, Office of Public Housing in Pennsylvania**

- <http://www.hud.gov/local/pa/working/ph/index.cfm>
- Provides contacts for HUD staff overseeing public housing agencies in Pennsylvania.

### ***HUD, Multifamily Housing Contacts, Philadelphia, PA***

- <http://portal.hud.gov/hudportal/HUD?src=/states/pennsylvania/working/mf/phicontacts>
- Provides contacts for HUD staff overseeing project-based Section 8 owners in Pennsylvania.

### **HUD Client Information and Policy System (HUDCLIPS)**

- [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/)
- Provides access to client benefit information and local housing office information, including contact information, policies, procedures, and compliance plans.

## Court Resources

### **Administrative Office of Pennsylvania Courts: Forms**

- <http://www.pacourts.us/Forms/>
- Provides forms and instructions for various stages in an eviction proceeding.

## Safety Planning Strategies

Advocates can use the screening tool at the start of this toolkit to help evaluate the victim's housing needs.

This document is designed for advocates and suggests possible ways to assist victims of domestic violence to find and keep safer housing. Not every strategy will work for every victim, so advocates should discuss the pros and cons of each and, when necessary, should connect the victim with an attorney for legal advice.

### Connect Victim with Legal Assistance

#### Local Legal Services

If you find that the victim needs help with an eviction or problem with a public housing authority, finding legal help from an attorney might be the first step. Each county in Pennsylvania has a legal services program that assists low-income people. Provide the victim with the phone number of the legal services program in your county. Visit <http://www.palegalaid.net/> for more information.

#### PaLawHELP.org

Another valuable tool for you and the victim is [PALawHELP.org](http://PALawHELP.org), which is part of a national network to provide information and referrals. The homepage provides easy-to-use icons to get relevant information on housing issues and other topics.

#### Pro Bono Programs

You might also refer the victim to the local bar association for assistance in finding an attorney. Many county bar associations have pro bono programs that might be available to victims who meet income guidelines. Law school clinics may be another useful place to find legal assistance.

#### Contact PCADV

You or the attorney can contact PCADV's legal department for assistance or for a referral to a legal service provider.

#### **PRESERVE THE VICTIM'S CONFIDENTIALITY**

If you are working with a victim who has an attorney, and the attorney asks you for information in your files, first discuss the pros and cons of the attorney's request with the victim.

You or the attorney can contact PCADV to review whether providing information could affect the victim's confidentiality.

If the victim still requests the information disclosure, you must have her sign a consent form. The form must limit the disclosure to a short period of time and provide details about the type of information you are providing.



### **Include Housing Options in Safety Planning Discussions**

Victims of domestic violence, dating violence and stalking are often faced with the difficult decision of whether to remain in their current housing or relocate. With the help of an advocate, victims can make an informed choice that accounts for safety as well as the realities of private and/or public housing. The following considerations should be discussed with the victim to help inform her choice.

#### **Stay in Current Housing**

A victim may have many reasons for wanting to stay in her current residence. Whatever the victim's reason may be, it is important to discuss with the victim ways that she may be able to both stay in her home and feel safe.

- *Request Safety Improvements*

Safety may include ensuring lights, doors and window locks, smoke detectors and fire extinguishers are working. If not, the victim can ask the landlord to provide these items or allow her to purchase and install the items herself and deduct the cost from her rent. The victim can also ask the landlord to change the locks and/or add a deadbolt. If the landlord will not change the locks, the victim can ask the landlord for permission to change the locks and pay for it herself.

Victims can also ask the landlord to trim shrubbery back from doors and windows to eliminate hiding places, or install a motion detector on the outdoor lights that will come on automatically if anyone comes near the windows or doors.

- *Obtain PFA Order*

If the victim wants to file for a PFA, assist the victim to get a PFA order. She can ask the court to order the abuser to leave the residence and to pay for new locks, a new door, or other property damaged by the abuser. If the victim is leaving the residence, she can ask the court to order the sheriff to stand by while she gets her belongings. In the PFA petition, she can list the items that she needs. For the sheriff to enforce the PFA order in this manner, the order must specify the items the court says she may take.

The victim can decide whether she would feel safer if those around her knew about her PFA. If she feels comfortable doing so, she can provide copies of the PFA to neighbors, her landlord, employer, family and friends. She can ask these trusted people to call the police if they see the abuser hanging around her residence.

- *Plan and Practice Escape Routes*

Discuss how the victim could plan an escape route and practice it with her children. Explore important emergency considerations, such as a distress signal or the location of important documents, keys, and credit cards or bank information.

## Relocate

A victim may wish to relocate in order to be safer or closer to relatives, friends, and other support, to find a better job or for more opportunities. If the victim wishes to relocate, for any reason, discuss her safety during the move. If the victim plans to relocate to a confidential location, safety is an even greater concern, as she will need to ensure that the abuser does not follow her to the new address.

Here are a few additional considerations to discuss with the victim:

- *Using a Secure Method of Communication to Plan for a Relocation*

Discuss how the victim could use a secure method of communication with the landlord, family, or friends about her planned relocation. For example, the victim could use a new email account on a safe computer. If calls are necessary, suggest that the victim use a cell phone that the abuser cannot access.

- *Developing a Plan to Leave the Current Residence Quickly*

Before moving, the victim should develop a plan to leave the current address quickly. If the victim cannot take all her possessions in one trip, she could ask for the Sheriff to escort her to collect any remaining items that the PFA order allows.

- *Considering the Address Confidentiality Program*

If applicable and appropriate, discuss with the victim the address confidentiality program. More information is available at [http://www.paacp.state.pa.us/portal/server.pt/community/address\\_confidentiality\\_program/11192](http://www.paacp.state.pa.us/portal/server.pt/community/address_confidentiality_program/11192).

- *Using a PO Box or Alternative Address*

Discuss with the victim about using a post office box or the address of a friend for mail and packages. If the victim expects a security deposit from the previous landlord, the victim can ask that landlord mail it to a trusted family member, friend or the domestic violence program, if appropriate.

- *Explaining the Importance of Confidentiality with Friends and Family*

Discuss how the victim can discuss the importance of confidentiality with friends and family to be sure that they do not reveal her new address to anyone. Many abusers are able to locate their victims by the inadvertent slip of friends and family. The victim can ask family and friends to get the name and number of the person looking for her so that the victim can decide whether she wants to contact that person.

**If the victim has children, it is very important that she talk to an attorney before relocating with her children.**

Provide the victim with the pamphlet, "Things to Know If You Want to Move With Your Children" that PCADV provided to all domestic violence programs.

[http://pubs.pcadv.net/palegal/Custody\\_Relocation\\_Broc.pdf](http://pubs.pcadv.net/palegal/Custody_Relocation_Broc.pdf)

- *Talk to Housing Security Team*

If the victim's housing has a security team, and she feels it is safe to do so, she could talk to housing security about the abuser. If she has a PFA order, she can supply a copy of the PFA and photos of the abuser and his vehicle to the security team. If there is a no-trespass list that prohibits perpetrators of certain crimes from entering the property, the victim could ask for the abuser to be included on the list. Advocates should discuss with the victim whether this will enhance her safety or put her in more risk of harm (if the abuser retaliates for being banned).



See Part II of this toolkit for more information about VAWA's protections that may assist a victim to relocate, such as the right to transfer and/or remove an abuser from the lease or from the assistance voucher.

This toolkit was developed in coordination with the  
ACLU Women's Rights Project.

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