



GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS

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April 1, 2014

TO: Owners and Management Agents
FROM: Office of Portfolio Management
SUBJECT: HUD's Violence Against Women Act (VAWA)
Required for all Tax Credit and HUD funded communities

Effective 4/1/14, all owner/managers of housing programs covered under HUD and the Tax Credit program must implement a policy to address the protections under the Violence Against Women Act (VAWA). DCA will include the review of documents pertaining to the VAWA protections in all file reviews conducted after 90-days of this notice, July 1, 2014.

HISTORY

Since 2005, the Violence Against Women Act (VAWA) has provided protections to families applying for and receiving rental assistance payments under the Project Based Section 8 program. VAWA protects victims of domestic violence, dating violence, sexual assault, or stalking, as well as affiliated individual(s), generally, from being denied housing assistance or being evicted as a result of an incident of domestic violence, dating violence, sexual assault, or stalking that is reported and confirmed.

2013 VAWA POLICY CHANGE, (Federal Register Vol. 78, No. 151, August 6, 2013)

March 7, 2013, President Obama signed the Violence Against Women Act Reauthorization, which expands the housing protections to include the following programs:

1. HOME Investment Partnerships program (HOME)
2. Low-Income Housing Tax Credit properties (LIHTC)
3. USDA Rural Housing properties
4. Section 236 Supportive Housing (Elderly)
5. 811 Supportive Housing for persons with disabilities
6. Section 221(d)(3) Below Market Interest Rate Program (BMIR)
7. HOPWA housing program
8. HUD McKinney-Vento homeless programs

The VAWA 2013 reauthorization enhances judicial and law enforcement tools to combat violence against women, improves services for victims, and strengthens the health care system's response to violence against women. It should be noted that protections for VAWA-covered violence covers sexual assault, women, men, and people in same-sex relationships.

PROTECTIONS FOR TENANTS

Tenants cannot be denied tenancy based upon a previous incident of violence. Victims have a right to privacy. All information provided by the tenant must be kept confidential. Incidents of threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a "serious or repeated lease violation" by the victim, or "good cause" to terminate the tenancy rights of the victim. The tenant can also request a transfer if they believe that they are threatened with imminent harm from further violence if they remain in the same unit.

For household receiving rental assistance, if a household member engages in a criminal act(s) of violence against another household member, VAWA allows for lease bifurcation. This means that the owner/manager may evict or remove the person responsible for the violent act(s) without evicting or removing the victim(s) from the lease agreement. If the victim participates in a housing program and cannot establish eligibility for the housing program, the owner/manager must give a reasonable amount of time for the victim to find new housing or establish eligibility under another covered housing program.

PROTECTIONS FOR THE OWNER/MANAGER

The VAWA protections are not meant to limit the owner/manager from honoring court orders issued to either protect the victim or address the distribution of property in case a household breaks up. Nor, do the protections limit the owner/manager from terminating the victim's lease for lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking.

If the owner/manager can show that the victim's presence poses an actual and imminent threat to other tenants or employees, the landlord may choose to end the lease term. The landlord must show reasonable actions to reduce or eliminate the threat prior to seeking eviction.

Tenants who are victims of domestic violence, dating violence, sexual assault, and/or stalking must contact their owner/manager as soon as possible to report any issue(s). The owner/manager may request that the tenant provide documentation of the abuse. Failure to report and document an occurrence of domestic violence, dating violence, sexual assault, or stalking within the required (14-days) or agreed upon deadline can be considered a lease violation if the tenant was properly notified of the VAWA protections.

VAWA IMPLEMENTATION AT YOUR SITE

If your community has Project Based Section 8, or ACC/Public Housing units used with Tax Credits or HOME, and you have already implemented a VAWA lease document and the VAWA Certification form to address the VAWA protections, then you can make a copy of the completed documents and file them with your Tax Credit paperwork for audit purposes. You must ensure that the document meets the 2013 requirements for all programs.

VAWA LEASE ADDENDUM - The Owner/Management Agent must implement a VAWA lease addendum for all current and new tenants effective 4/1/14. Although HUD provides a VAWA lease addendum (HUD Form 91067), this is not a mandatory DCA form. The owner/manager can incorporate the VAWA protections in your current lease and forms, or create your own lease addendum with the required language.

DCA VAWA Lease Document Requirements

1. **VAWA Protections (Required Language)**
 - a. VAWA confidentiality required language must notify the resident that their statement(s) will be retained in confidence and will not be entered into a shared database, or provided to another entity without prior written consent or if required by law. All documentation must also be kept in a secure location separate from the tenant files.
 - b. The Landlord may not consider incidents of domestic violence, dating violence, sexual assault, or stalking as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy or occupancy rights of the victim of abuse.
 - c. The Landlord may not consider criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, cause for termination of assistance, tenancy, or occupancy rights if the tenant or affiliated individual(s) of the tenant's family is the victim or threatened victim of that abuse.
 - d. The Landlord may request in writing that the victim, or a family member, or affiliated individual, on the victim's behalf, certify that the individual is a victim of abuse and that the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-91066, or other documentation as noted on the certification form, be completed and submitted within 14 business days, or an agreed upon extension date, to receive protection under the VAWA. Failure to provide the certification or other supporting documentation within the specified timeframe may result in eviction.
2. The lease addendum must be signed by all tenants required to sign the lease agreement according to your management policy.
3. The lease addendum must also be signed with the same frequency as your other lease addendums. It is a good practice to review this policy with your Tenants annually during the lease renewal process.
4. Each site must provide the VAWA notice of rights to tenants at the time a person applies for housing, when a person is denied residency, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination

VAWA CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING – The VAWA Certification form (HUD Form 91066) can be used to document occurrences of violence at your site and certify that the individual is a victim of domestic violence. This form is not mandatory. However, if the owner/manager chooses to create their own form, the form must notify the victim(s) of the VAWA confidentiality requirements and the date, time, location of the incident, with a description of the incident signed under penalty of perjury.

TENANT SELECTION POLICY – Having a tenant selection policy is a good practice for all communities. The tenant selection policy should describe the marketing and outreach activities, waiting list management, and tenant selection during the application period for your community. Under VAWA, potential tenants cannot be denied tenancy based upon a previous incident(s) of violence. The VAWA language must be included in your tenant selection policy with details on how the owner/manager will process applications with documented occurrence(s) of domestic violence, dating violence, sexual assault, or stalking.

The owner/manager must adopt a policy to address requests for emergency unit transfers as a result of a documented occurrence of domestic violence, dating violence, sexual assault, or stalking.

VAWA FORMS - DCA has revised HUD form 91067, the VAWA lease addendum and HUD form 91066, the VAWA Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking with a revision date of 4/1/14. The DCA forms have been revised to include the 2013 date for Re-Authorization of VAWA protections, the OMB number and expiration date of 3/31/14 has been removed, affiliated individual has been added to replace immediate family member, and sexual assault has been added in the list of protections under VAWA.

These forms can be revised for use at your site. When notifying your tenants of the VAWA protections, you must include the required language and create a process for collecting supporting documentation if you have a tenant who experiences a violent occurrence.

RESOURCES FOR TENANTS & LANDLORDS

The owner/manager should reaffirm with their tenants at move-in and recertification, the importance of calling 911 if they feel that they are in immediate danger. Victims of domestic violence, dating violence, sexual assault, or stalking can get help by calling the National Domestic Violence Hotline at 1-800-799-SAFE (7233). There is also a state-by-state list of local resources at <http://www.thehotline.org/get-help/help-in-your-area>.

Federal Register VAWA Notice <http://www.gpo.gov/fdsys/pkg/FR-2013-08-06/pdf/2013-18920.pdf>

One CPD <https://www.onecpd.info/news/reauthorization-of-the-violence-against-women-act-vaawa/>

National Housing Law Project compendium of State and local laws that affect domestic violence survivors' rights <http://nhlp.org/files/Domestic%20violence%20housing%20compendium%20FINAL7.pdf>

National Housing Law Project Comments on VAWA (Example Notice to Tenants included) <http://povertylaw.org/sites/default/files/files/housing-justice/13-10-7-NHLP-Shriver-HUD-VAWA-comments.pdf>

FAILURE TO IMPLEMENT THE VAWA POLICY

Form 8823 will not be filed for failure to implement the VAWA required lease language; however a finding of non-compliance will be noted for your community and may affect scoring in future funding rounds for the owner/manager.

If a housing provider refuses to rent, evicts, or otherwise treats someone differently because of that person's status as a victim of domestic violence, HUD or the courts may find a violation under the Fair Housing Act due to direct discrimination, unequal treatment, or disparate impact.

As of the date of this memo, HUD is developing regulations to codify the VAWA protections and provide additional guidance on the statutory provisions of "reasonable time" in the case of bifurcation and the remaining household member no longer qualifies, and "notice of rights", which is required at application, move-in and when there is an occurrence of violence reported by your tenant.

If you have any questions regarding this memo, please feel free to send them to compliance@dca.ga.gov.