

HOUSING JUSTICE

National Housing Law Project

Newsletter April 2011

DOJ: Property Owners Must Be Held Accountable for Sexual Harassment Against Tenants

In recent months, the Department of Justice (DOJ) has pursued several cases on behalf of tenants who have been victims of sexual harassment in their rental housing. This article provides updates on three of these cases.

United States v. Peterson

On March 3, 2011, a federal judge ordered an Ypsilanti, Michigan, property owner and manager to pay \$82,500 in civil penalties in a sexual harassment case. The penalty is in addition to a \$115,000 jury verdict that DOJ obtained on behalf of six victims of the harassment. In its decision, the court noted that property manager Glen E. Johnson repeatedly sexually harassed the tenants, and that his behavior “was egregious and interfered with the women’s peaceful enjoyment of their homes, which should have been the one place where they could turn for refuge.” Further, the court noted that property owner Ronnie Peterson failed to act after two of his tenants complained to him about Johnson’s conduct. According to the court, “At the very least, their troubling comments should have put [Peterson] on notice that he should have given closer attention to Johnson’s supervisory control over his tenants.”

In addition to the civil penalties, the court also ordered injunctive relief. The court permanently enjoined Johnson from operating, managing,

working in, or otherwise having any involvement in the management, rental, or maintenance of any dwelling. The court also ordered Peterson to adopt and implement a sexual harassment policy and complaint procedure at his properties. According to Assistant Attorney General Thomas E. Perez, “This decision makes clear that property owners can be held accountable for sexual harassment carried out by their rental agents. . . . Rental property owners must establish clear policies against sexual harassment, provide an avenue for tenants to make complaints directly to them, and take those complaints seriously.”

United States v. Sorensen

On March 25, 2011, DOJ filed suit against Rawland Leon Sorensen, who owns and manages more than 50 rental properties in Bakersfield, California. Sorensen has operated his rental business for more than 30 years.

According to the complaint, Sorensen on multiple occasions subjected female tenants to severe and pervasive sexual harassment. The alleged conduct included making unwelcome sexual advances and comments; exposing his genitals to female tenants; entering tenants’ residences without permission; groping tenants; offering housing benefits—such as reducing rent, purchasing new appliances, or terminating eviction proceedings—in exchange for sexual favors; and initiating eviction proceedings against tenants who would not grant the requested sexual favors.

DOJ alleges that Sorensen has denied housing or otherwise made a dwelling unavailable because

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of sex in violation of the Fair Housing Act (FHA); that he discriminated on the basis of sex in the terms or conditions of renting the dwellings; and that his conduct constitutes a pattern or practice of sex discrimination. DOJ seeks injunctive relief, damages, and civil penalties for Sorensen's conduct.

United States v. Bailey

On January 31, 2011, DOJ filed suit against Henry E. Bailey, who owns and manages several multi-family rental properties in the Cincinnati metropolitan area. According to the complaint, Bailey subjected female tenants to sex discrimination, including severe and pervasive sexual harassment. DOJ alleges that Bailey's conduct included making unwelcome sexual advances and comments to tenants; entering tenants' apartments without permission; groping tenants; offering reduced rent and repairs in exchange for sexual favors; and refusing to make repairs and initiating eviction proceedings against tenants who did not provide requested sexual favors. DOJ seeks damages, civil penalties, and injunctive relief barring future discrimination and requiring preventive measures.

Conclusion

DOJ's recent activity in enforcing the FHA against property owners and managers who sexually harass tenants indicates that the agency is making strides in combating this conduct. As stated by Assistant Attorney General Perez, "Every individual has the right under federal law to rent housing without being subjected to sexual harassment. Landlords who abuse their power and authority in this way should be on notice that the Justice Department steadfastly enforces the Fair Housing Act throughout the United States." More information about the cases discussed in this article is available at <http://www.justice.gov/crt/about/hce/caselist.php#sex>. ■

Resources on Addressing Sexual Harassment in Housing

NHLP, Introductory Outline on Sexual Harassment in Housing

<http://nhlp.org/node/436>

NHLP, Tenant Brochure: Sexual Harassment and Housing (also available in Spanish)

<http://nhlp.org/node/1483>

HUD, Questions and Answers on Sexual Harassment Under the Fair Housing Act

<http://nhlp.org/node/429>

Legal Momentum, Sexual Harassment in Housing: A Primer

www.legalmomentum.org/site/PageServer?pagename=publications_4

Jill Maxwell, Sexual Harassment at Home: Altering the Terms, Conditions and Privileges of Rental Housing for Section 8 Recipients

21 WIS. WOMEN'S L.J. 223 (2006)

Robert G. Schwemm & Rigel C. Oliveri, A New Look at Sexual Harassment Under the Fair Housing Act

2002 WIS. L. REV. 771 (2002)

National Law Center on Homelessness and Poverty, Preventing Homelessness and Ensuring Housing Rights for Victims of Landlord Sexual Assault

http://www.nlchp.org/content/pubs/NLCHP_sexual_assault_and%20housing%20_08-20061.pdf

Actions Under the Fair Housing Act Based on Sexual Harassment or Creation of Hostile Environment

144 A.L.R. Fed 595

Domestic Violence Agencies Using Homelessness Prevention and Rapid Re-housing Strategies

A new report by the National Alliance to End Homelessness highlights the efforts of communities to use homelessness prevention and rapid re-housing strategies to meet the needs of domestic violence survivors. The report notes that while emergency shelter remains an essential element of responding to domestic violence, some survivors can avoid homelessness if provided with assistance to stay in their existing homes or find new permanent housing. Providers are using a variety of tools to help survivors avoid homelessness or quickly find housing in order to minimize their periods of homelessness.

Homelessness Prevention

Many domestic violence programs are instituting programmatic innovations that address survivors' housing needs. According to the report, "Some providers help with housing costs, advocate for survivors around tenant rights, and intervene with landlords to redress barriers to housing based on domestic violence-related evictions and debts." For instance, some programs offer short-term rental assistance to assist survivors in maintaining their housing while they seek steady income to afford housing independently.

As an example, the report notes that the Bill and Melinda Gates Foundation is funding four domestic violence programs in Washington state to help with housing. These programs have the flexibility to use the funds for rental assistance, advocacy, and other efforts that promote housing stability. The programs are enhancing their ability to serve survivors' housing needs by developing relationships with landlords, housing authorities, and homeless and housing service providers. The state's domestic violence coalition is providing technical assistance to the programs and educating the community about the importance of permanent housing options for survivors. It is hoped that this project will result in lessons that

can be shared with providers nationally.

Programs are educating their clients and housing providers about legal protections for domestic violence survivors, including the Violence Against Women Act, the Fair Housing Act, and state and local laws. Survivors, landlords, and public housing agencies are often unaware of the housing protections these laws provide. As a result, programs are educating landlords about survivors' housing rights and safety issues while seeking to address landlords' concerns. The report notes that in many instances, "a landlord may be willing to increase the physical safety of rental units, make payment arrangements that allow a survivor to pay arrears over time, or file a no trespassing

On the Web

Homelessness Prevention and Rapid Re-Housing for Survivors of Domestic Violence,
<http://www.endhomelessness.org/content/article/detail/3822>

court order for the entire property against the abusive ex-partner to offer greater security and maintain a survivor's tenancy."

As an example, the report notes that the District Alliance for Safe Housing (DASH) in Washington, D.C., holds forums for landlords and provides education and advocacy assistance to survivors. These trainings have helped DASH establish relationships with many landlords who help re-house survivors in DASH's domestic violence program. In turn, landlords seek assistance from DASH when they believe their tenants are victims of violence.

Rapid Re-Housing

Programs are providing rapid re-housing assistance to survivors who lack permanent housing by offering housing search assistance, landlord advocacy, and rental assistance. According to the report, programs that have adopted a rapid re-housing approach have demonstrated that families assisted remain stably housed. One study found that 85% of families remained stably

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housed 18 months after a housing placement. A variety of strategies are used to achieve rapid re-housing.

Housing Search Assistance

The report states that housing search assistance is critical to the success of rapid re-housing programs. Providers report that explaining the impact of domestic violence and building relationships with housing providers can increase landlords' willingness to offer reduced rent or waive credit history checks for survivors. Another strategy is to have a landlord guarantee fund, which will pay for repairs if a unit is damaged.

Rental Assistance

Rapid re-housing programs usually offer some funds to help survivors pay for housing. Programs differ as to the duration and amount of subsidies. According to the report, programs work to find a balance between serving families who need long-term rental assistance (usually 18 months or longer) and families who need short-term assistance (a few months' rent, or a security deposit). Programs also vary in terms of how much of the survivor's rent they will subsidize, and whether they provide a flat subsidy or require the survivor to pay a percentage of her income for rent. The report notes that whatever the actual policies, programs should ensure that they are clear to all parties involved.

As an example of a rental assistance program, the report cites Clackamas Women's Services in Oregon City, Oregon, which received federal Homelessness Prevention and Rapid Rehousing Program funds. Instead of using a rigid formula, the program works with each household individually to determine how to best structure the rental assistance.

Supportive Services

Rapid re-housing programs also offer housing-focused support services and advocacy. For example, programs offer landlord mediation, tenants' rights trainings, budgeting support, and help connecting survivors to community-based services.

Generally, services are offered as long as is required to help the survivor maintain stable housing, sometimes for a year or more. Even after housing-focused services have ended, many programs continue to provide follow-up assistance on an as-needed basis to promote housing retention.

As an example, the report notes that Home Free in Portland, Oregon, provides a variety of services to survivors in its Housing First program. Such services include support groups, children's services, accompaniment to hearings and appointments, advocacy with law enforcement and child welfare offices, and services to improve access to employment. Home Free offers services selected by each survivor based on her individualized plan, rather than requiring a set of services for each participant. Home Free also uses mobile advocacy, which may include home visits or meetings at the survivor's workplace, in order to reduce barriers to supportive services.

Income and Employment Assistance

Rapid re-housing programs prioritize access to income and employment. Some programs build relationships with employers and provide job search assistance, or form partnerships with organizations that have expertise in career development for low-income families. As an example, the report cites Redevelopment Opportunities for Women in St Louis, Missouri. Once survivors are re-housed, the program focuses on helping them to increase their employment income and overcome barriers to employment, such as criminal records. The program then focuses on issues such as credit problems and asset-building.

Conclusion

An increasing number of domestic violence providers are developing homelessness prevention and rapid re-housing strategies. These approaches are promising because they can help preserve emergency shelter for those with immediate needs, while minimizing the additional stress that survivors may experience from homelessness. ■

2010 Domestic Violence Census Shows a Rise in Demand for Services as Funding Decreases

For the fifth consecutive year, the National Network to End Domestic Violence conducted its annual National Census of Domestic Violence, a snapshot of services requested and provided during a 24-hour period, as well as a count of requests for services that were unmet. Of the 1,920 local domestic violence programs identified nationwide, 1,746 programs, or 91%, participated in the 2010 Census taken on September 15, 2010. This Census contains a variety of findings regarding housing needs of domestic violence survivors.

The 2010 Census found that 70,648 adults and children sought services from domestic violence programs and shelters. About 37,500 of these individuals received emergency shelter or transitional housing from a domestic violence program. Of those served, 34% found safety in emergency shelters, while 19% were living in transitional housing. In addition, 33,000 individuals received non-residential services, including support, advocacy and counseling. On survey day, 33% of the programs provided bilingual advocacy, where survivors could work with someone who spoke their native language. In addition, 40% of the programs provided advocacy specifically related to housing/landlord issues. Throughout the year, 81% of these programs provided the same housing advocacy service.

The economic recession has adversely impacted domestic violence programs and survivors alike. Although approximately 49% of the programs received stimulus funds from the American Recovery and Reinvestment Act, 77% of them still indicated a decrease in funding. These cuts have led to staff layoffs and reductions in services for survivors. In 2010, local programs laid off or did not replace 2,000 employees. The 2010 Census showed over 9,500 unmet requests for services – 38% of which were due to a critical shortage of funds. Sixty percent of the unmet requests were from survivors seeking emergency shelter or transitional housing. Meanwhile, 24% of the pro-

grams reported no available beds in shelters or money for a hotel stay.

The recession has forced many domestic violence programs to scale back and provide only basic rather than comprehensive services. An Illinois advocate emphasized the dire urgency of the situation: “Reduced funding directly relates to domestic violence deaths. If we cannot provide a safe place for victims to go, they have no choice but to become homeless or stay in a dangerous situation.”

Nevertheless, requests for services continue to increase due to persistent job loss and decreased community resources. Eighty-two percent of the programs indicated a rise in demand for services as 64% reported reductions in community resources. Local programs further reported that homeless shelters were shutting down and legal services were limiting their pro bono assistance. Without this local support, domestic violence programs become increasingly stretched thin as they work to meet a greater demand for services.

To view “Domestic Violence Counts 2010: A 24-Hour Census of Domestic Violence Shelters and Services,” visit <http://nnedv.org/resources/census/2010-report.html>. ■

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This project was supported by Grant No. 2008-TA-AX-K030 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.