

Assisting Families with Members who have a Criminal Background get Admitted to Federally Assisted Housing and Challenges to Banning and Trespass Policies

NATIONAL HOUSING LAW PROJECT (NHLP)
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Webinar
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HOUSING JUSTICE
National Housing Law Project

Today we will cover

- Laws affecting access to housing for persons with criminal record
- Advocacy strategies for helping applicants with a criminal record to obtain housing; Components of a reasonable admission policy
- Laws implicated banning & trespass policies
 - Primary Focus will be on the rights of residents
- Advocacy strategies for challenging banning and trespass policies; Components of a reasonable banning policy
- Case examples

The Problem for Applicants with a Criminal Record

- Applicants or family members, who will be on the lease, may have criminal records
- Many housing providers screen for criminal history in reviewing tenant applications.
- As a result, criminal history is frequently a barrier for applicants applying for and obtaining housing.

Housing and Criminal History: Laws and Rules

4

**AN OVERVIEW OF THE POLICIES THAT
AFFECT INDIVIDUALS WITH CRIMINAL
HISTORY WHO ARE APPLYING FOR HOUSING**

“Federally Assisted Housing”: Programs with Criminal History Restrictions

5

Public Housing Agency (PHA)-Administered Programs	HUD-Assisted Programs
Public housing	Project-based Section 8
Section 8 voucher program	Section 202 elderly housing
Section 8 moderate rehab	Section 811 supportive housing for people with disabilities
	Section 221(d)(3) Below Market Interest Rate Program
	Section 236 Rental Program

Rural Development (RD) Programs
Section 514 and 515* Rural Housing

*A federal statute extends the criminal history bars to Section 514 and 515 Rural Housing, but United States Department of Agriculture regulations do not make the bars mandatory.

Federal Housing Programs Without Restrictions

6

NO Federal Restrictions
Low-Income Housing Tax Credit (LIHTC)
Shelter Plus Care (serves homeless persons with disabilities)
Supportive Housing Program for the Homeless
Housing Opportunities for Persons with AIDS (HOPWA)

“Federally Assisted Housing”: Eligibility Criteria

7

- **MUST** deny admission to an applicant who:
 - Is subject to a lifetime registration requirement under a state sex offender registration law.
 - Was convicted of manufacturing or producing methamphetamine on the premises of “federally assisted housing.”
 - Note: The exclusion ONLY applies to applicants for the public housing, voucher, and Section 8 moderate rehab programs.
 - Was evicted from “federally assisted housing” for drug-related criminal activity within the previous three years UNLESS the applicant completed a drug rehabilitation program approved by the public housing agency (PHA) or changed circumstances.

*Note: A federal statute extends these bars to Section 514 and 515 Rural Housing, but United States Department of Agriculture regulations do not make the bars mandatory.

“Federally Assisted Housing”: Eligibility Criteria

8

- **MAY** deny admission to an applicant who committed:
 - Drug-related criminal activity.
 - Violent criminal activity.
 - “Other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees.”
- “Other criminal activity” is **limited** by statute.
 - The criminal activity **MUST** adversely affect the health, safety or right to peaceful enjoyment of the premises.
 - Criminal history that doesn’t affect health or safety—shoplifting, prostitution, or writing bad checks—should not be denied housing.

“Federally Assisted Housing” – Eligibility Criteria

9

- The criminal activity must have occurred within a “**reasonable time**” before the admission decision.
 - Referred to as “look-back” period
 - A “reasonable time” is not defined in the statute or HUD regulations.
 - HUD guidance
 - 5 years may be reasonable for serious offenses.
 - PHAs and HUD-assisted owners may use different periods for different categories of offenses.
 - Local policies, which must be developed: May be ideal time b/c of repositioning
 - PHA
 - Section 8 Administrative Plan – voucher program
 - Admissions and Continued Occupancy Policy (ACOP) – public housing
 - HUD-assisted owner – tenant selection plan
 - Rural Development (RD) owner – management plan
 - Research concludes that after 7 years a person with a criminal record and no subsequent criminal record is no more likely to commit a crime than a person without a criminal record

“Federally Assisted Housing”: Eligibility Criteria

10

- **Mitigating circumstances**
 - Public housing – PHAs **MUST** consider the time, nature, and extent of the conduct, including the seriousness of the offense.
 - Voucher program and HUD-assisted housing – PHAs and owners **MAY** consider all relevant circumstances.
 - Section 514 and 515 Rural Housing – Owners cannot reject applicants on the basis of arbitrary criteria.

HUD’s Position

11

- **Highlights of 6/17/2011 Letter from HUD Secretary Donovan to all PHAs:**
 - Encourages PHAs to allow ex-offenders to rejoin their families in federally assisted housing, where appropriate
 - Says that PHAs should consider evidence of rehabilitation and evidence of the applicant’s participation in social services
 - Notes that there are only 2 explicit bans on occupancy based on criminal history
- **Letter can be used in working with housing providers on their admissions policies**

Voucher Program: Possibly two screenings

12

- **PHA must screen for the three required reasons and must deny a life time registered sex offender and for a conviction of meth. production in a federally subsidized unit**
- **PHA may or may not screen for other criminal activity**
 - Some do citing the need to preserve the integrity of the program
 - Others say that screening is the function of the landlord
- **Voucher landlord may or may not screen the family for criminal history**

Protections Specifically for DV Survivors

13

- **Violence Against Women Act (VAWA)**
 - Protects survivors of domestic violence, dating violence, and stalking during the admissions process.
 - Applies to applicants to public housing, Section 8 voucher, project-based Section 8, Section 202, and Section 811.
- **VAWA provides the following:**
 - "That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance."

HUD's Position on DV & Criminal History

14

- **HUD VAWA final regulations, 75 Fed. Reg. 66255, 24 C.F.R. 982.553(e):**
 - "HUD agrees that victims of domestic violence, dating violence, or stalking must not be denied assistance or terminated from programs based solely on a criminal history related to domestic violence dating violence, or stalking"

"Federally Assisted Housing": Informal Review

15

- **An applicant is entitled by statute, regulations, and/or due process to a review of the decision.**
 - The nature of the review varies by program.
 - The review must provide the applicant a reasonable opportunity to contest the basis for the decision.
- **The PHA or owner must provide a written decision within a reasonable period of time after the hearing stating the reasons supporting the decision and the evidence relied upon.**

“Federally Assisted Housing”: Denial Process

16

- **The notice must state:**
 - The reasons for the denial.
 - ✦ A simple statement that the “applicant did not meet the standards for admission” is not sufficient.
 - How and when the applicant can contest the decision.
 - A person with a disability may request a reasonable accommodation.
- **Applicant file should be available for review upon request.**
 - If criminal record obtained with consent forms, PHA must give record to the applicant and the subject of the record (if different).

“Federally Assisted Housing”: Denial Process

17

- Arrests may be considered by a PHA or owner
- However, arrests alone do not prove criminal activity
- If PHAs/owners screen for arrests, they should examine the facts underlying the arrests
- *See Landers v. Chicago Housing Authority, 936 N.E.2d 735 (2010)*
 - PHA failed to consider that public housing applicant’s homelessness had resulted in arrests, but no convictions.
 - The arrests were insufficient to show that the applicant was a threat to safety and welfare of the public housing community.
 - The court found the applicant was wrongly denied admission.

All Housing: Antidiscrimination Laws

18

- In general, a private landlord can deny an applicant on the basis of prior criminal activity.
- But, the Fair Housing Act offers some protection:
 - A blanket rule against renting to individuals with a prior arrest or conviction could constitute race discrimination due to its disparate impact on people of color.
 - Applicants with criminal history related to a disability may seek an exception to an admissions policy (see next slide)
- Local laws may also offer some protection:
 - A few cities bar discrimination based on criminal history.

All Housing: Fair Housing Act & Disability

19

- If a survivor's criminal history is related to a disability, she may be able to seek an exception to an admissions policy as a "reasonable accommodation"
 - Past addiction can be a disability. A housing provider can be asked to disregard a survivor's pre-rehabilitation convictions where the convictions arose from the survivor's addiction.
 - May be successful if survivor can show that she hasn't used substances for a period of time, criminal activity ceased once she entered rehab, and/or she is receiving supportive services.
 - Note: Current use of illegal substances is not a disability under the Fair Housing Act

All Housing: Consumer Laws

20

- Fair Credit Reporting Act (FCRA)
 - The FCRA applies if landlords use a consumer reporting agency to conduct a background check.
 - Contents of the report
 - ✦ A consumer report cannot include arrests over 7 years old.
 - ✦ Note: Some state laws are more restrictive. In California, for example, an agency cannot report:
 - Arrests that did not result in convictions.
 - Convictions over 7 years old.

All Housing: Consumer Laws

21

- Notice requirements
 - If a landlord denies an application due in part to information in a consumer report, the landlord must send a notice to the applicant. The notice must:
 - ✦ Include the name, address, and telephone number of the agency that made the report.
 - ✦ Explain that the applicant is entitled to a free report from the agency within 60 days.
 - ✦ State that the agency did not make the decision to deny the application.
 - ✦ Explain that the applicant is entitled to dispute the accuracy the report.

Advocacy Strategies

22

POTENTIAL OPTIONS FOR ASSISTING APPLICANT FAMILIES WITH MEMBERS WHO HAVE A CRIMINAL RECORD

Advocacy Strategies: All Housing

23

- Client should obtain and review his/her rap sheet.
- Client should apply to several housing providers, as some have more lenient policies than others.
- Client should gather letters of support showing that he/she will be a good tenant:
 - Employer, teacher, case worker, drug or alcohol treatment program, current or prior housing provider, parole, or probation officer.
 - Emphasize that circumstances have changed, client is motivated, responsible, gets along well with others, is not a threat to others, is receiving support/services, and wants to improve her life.
 - Note: Need for housing is usually not persuasive

Advocacy Strategies: All Housing

24

- Examples of other evidence that may be helpful:
 - Evidence of completion of rehabilitation programs, counseling, and social services programs (including while in custody).
 - Evidence of completion of job training programs.
 - Signed statement that client has not engaged in criminal activity during a specified period of time.
 - School transcripts.
 - Documents demonstrating history of paying rent & utilities.
 - Pay stubs and job performance evaluations.
 - Testimony from those familiar with the client's changed circumstances.

Letters of support
Building super

To Whom It May Concern:

I, [redacted] Superintendent of the building located at [redacted] Owner by [redacted] Management Corporation, certifies that I have known Mr. [redacted], and his family for more than 10 years.

During the time that I have been working in this building Mr. [redacted] and his family have demonstrated to be honest and reliable persons with high degree of responsibilities and obligation.

Mr. [redacted] and his family have been a good tenants and good neighbors with the rest of the people living in this building.

If I can provide additional information, please don't hesitate to ask.

[Signature]
Phone: [redacted]
Address: [redacted]
New York, NY 10032.

*Courtesy of Legal Action Center

Letters of support
Prison official

To Whom It May Concern:

Please be advised that [redacted] was incarcerated at the New York State Department of Correctional Services from [redacted] 1995 thru [redacted] 2003. During the period of July 16, 2001 thru January 2, 2003, Ms. [redacted] was employed as a teacher's aide in our pre-GED Program. Prior to this, she worked as a porter, laundry helper, and as a forest worker.

Ms. [redacted] received satisfactory evaluations, in her job assignments and while incarcerated she attained her GED (2000). In addition to her paid work assignments, Ms. [redacted] volunteered to work throughout the facility.

She was recognized for her positive efforts for assisting in Bayview's Re-accreditation Audit through the American Correctional Association.

Sincerely,
[Signature]
Shelda Washington,
Asst. Deputy Supt. of Programs

*Courtesy of Legal Action Center

Excerpts from Advocacy Letters and Testimony

(27)

Program director of Family Services Department said she has been working with Mr. X since 2004. Mr. X is an exceptional father. He insures that his daughter is in school, and participates in family counseling. He has rehabilitated herself and is an exemplary client.

Counselor of the Family Services Department said he was Mr. X counselor and said that Mr. X was cooperative and looked for ways to improve himself. He pursued training in culinary arts and was a volunteer in a day care center for a year before he was brought on to the payroll.

Mr. X initially volunteered in our school for about a year. He assisted young children in an after school program to read and write and play basketball. He is now a full time employee with full staff responsibilities for both preschool and afterschool care. He continues to provide both academic assistance and sports instruction. He has been a paid employee for 17 months.

This is a letter of recommendation for our church member. He is in good standing with our church and this community. Signed by the Pastor

Advocacy Strategies: "Federally Assisted Housing"

28

- Check to see if the housing provider is following the federal rules and its own policies as outlined in the Section 8 Admin Plan, Public Housing ACOP, tenant selection plan, or management plan.
- Client should request an informal hearing or review.
 - Before the hearing:
 - Request all documents and information about the denial from the PHA or owner.
 - Obtain a copy of his or her criminal record.
 - This information will assist client in hearing and if rejected to improve application for another unit.

Discussion: Enter Answers in the Chat Box

29

- Have you assisted a client with criminal history in obtaining housing? What advocacy approaches did or did not work?

Advocacy Strategies: Improving Local Policies

30

- Encourage housing providers to adopt reasonable policies on prior criminal activity
 - Advocates have successfully advocated for
 - Policies that would not consider arrests as proof of criminal activity
 - Policies that looked at criminal convictions, regardless how old
 - Improved policies to require consideration of mitigating circumstances
 - Improved policies to require consideration of the needs of domestic violence survivors

Everyone Home
Property Management Partner Guidelines

31

- Prohibit consideration of arrests
- Consider the seriousness and nature of the conviction
- Consider only convictions that are a direct threat to property or health and safety of residents and staff
- Consider the length of time since conviction
- Consider change in circumstances
- Consider evidence of rehabilitation
- Require notice of procedural review rights, and
- Right to reasonable accommodation

**Housing and Criminal History:
 Laws and Rules**

32

AN OVERVIEW OF THE LAWS AFFECTING
 TRESPASS AND BANNING POLICIES

**The Problem: Combatting crime and maintaining
 residents' rights to have guests**

33

- Residents want
 - A home/community that is free of crime and illegal drugs
 - Have an interest in keeping out violent or criminal non-residents
 - Trespass policies may protect residents who are victims of domestic violence
- Residents do not want
 - Lose the right to have guest of their choosing
 - Family or friends who provide care to elderly or minors
 - Large % of residents are elderly, disabled or minors
 - Parent or family of a minor providing educational support
 - Non threatening individuals excluded

Problem: Non-residents should not be subject to criminal trespass without cause

34

- **Community concerns**
 - Criminalization of non-residents, community members
 - Policies that are overbroad and vague
 - Too much discretion provided to police or PHA
 - Realignment (CA)
- **Most arrests on PH sites are of non residents:**
 - True
 - False
- **Are there other tenant and/or community concerns?**

Overview

35

- **Most (?) policies are enforced by police**
- **Different standards may apply depending upon the owner of the housing**
 - public housing; privately owned federally assisted housing or privately owned and no federal assistance
- **Banning policies are more commonly adopted by PHAs (?)**
- **Different issues/arguments depending upon who is objecting to the policy: resident or non resident; guest or other non resident**
- **Courts take different approaches with similar facts**

What is a Banning Policy?

36

- **Owner authorizes police department to issue no trespass warnings and arrest non-residents for criminal trespass if they ignore warnings**
- **Owner bans non-residents for public nuisance and/or loitering**
- **Owner bans all non-residents who are not invited or have no legitimate business on the property**
- **What kinds of policies have you seen?**

What laws apply to banning and trespass policies?

37

- Common Law
- Constitutional Law
- Federal Housing Law
- Fair Housing and Civil Rights Laws
- State or Local Law

Common law right of invitation

38

- Resident: A guest invited by lawful resident cannot be prosecuted for trespass
 - It is the resident who has the right to invite (who is the resid.?)
 - Scope of invitation is limited
 - Applies to apartment and to walkways to apt.
 - Does not apply to places on the property far away from the destination apartment
 - Are standing invitations acceptable or must it be express for the situation?
- Issue of who is an invitee is different for resident vs. guest
 - Tenant clearer as to whether the person is invited or not

Common law right of invitation

39

- Guests (who may be criminal trespass defendant) using the defense of an invitation
 - Ambiguities of what is the extent of an invitation
 - Does the guest have standing to raise the defense?
 - Does place an obligation on police to determine if non resident has been invited on to the property by a tenant
 - Practical problems: Police banging on the door saying that "D'mar says that he is here to visit you, open up and let him in." Would a resident be reluctant to open the door? Are police stopping everyone?
 - Will tenant risk tenancy and invite a banned individual to visit?

Common law covenant of quiet enjoyment

40

- The covenant is an assurance that the tenant shall not be evicted or disturbed in possession of the leasehold or any part thereof
- The covenant is violated by any breach of duty by the LL which effectively deprives the resident of the enjoyment of the premises
 - Denying the right to invite a guest reduces the value of the lease agreement and interferes with the residents possession

Problems with common law defense

41

- Who may raise the defense: Resident/Non Resident
- Landlord may be able to restrict
 - LL concerns about liability for acts of third parties
 - LL may impose reasonable rules or a lease provision to protect property and other residents
 - ✦ Some may argue rule or lease prevents a valid invitation
 - ✦ Construe narrowly in manner most favorable to accused
 - ✦ Can lease alter criminal law through contract? (evict vs crim trespass)
 - ✦ Lease void as unreasonable restriction on resident's right
- State preemption of common law
 - BUT: Generally except invitees expressly or implied

Federal housing statutes

42

- Leases must have reasonable provisions, including reasonable accommodation of guests
 - PH: 42 USC 1437d(l)(2); 24 CFR 966.4(d); Project-based: 12 USC 1715z-1b(b)(3)
- PH statute and leases for other federally assisted housing also says and tenant may be evicted for criminal acts of guests
 - Language supports claim that residents may have guests
 - Tenants bear the risk of eviction if their guest engages in criminal activity
 - ✦ This is the balance that Congress created
- Only resident may enforce

Constitutional challenges

43

- **Rational basis**—is the policy rationally related to a legitimate government interest?
 - Legitimate b/c aimed at creating a safe drug free environment
- **Strict scrutiny**—does policy interfere with a fundamental right?
- **Constitutional claims are applicable to**
 - Public entities such as PHA
 - Police activity if responsible for placing names on the banned list, enforcement, etc.
 - ✦ Thus because of police activity constitutional claims may be applicable to other types of housing
 - ✦ What if off duty police?

Freedom of association

44

- **Freedom of assoc: freedom of expression** (generally not implicated with banning esp. after *Virginia v. Hicks*, 539 U.S. 113 (2003) holding policies will not be struck down b/c of overbroad infringements of 1st Amend speech) (case brought by non resident seeking to visit a resident)

AND

- **Freedom of intimate association** (protected by the due process clause) (no person shall be deprived of life, liberty or property without due process)

Freedom of intimate association

45

- **Two steps**
- **First step**
 - Familial relationships such as one: "creating and sustenance of a family—marriage, childbirth, the raising and education of children and cohabitation with one's relatives"
- **Second step**
 - Intimate association some courts have said there is a right to live together (co-habitation protected) but the right does not necessarily extend to a right to visit
- **Must be tailored to serve compelling state interest**

Overbreadth and Vagueness

46

- **Overbreadth: inhibits First Amendment rights**
 - *Hicks* rarely, if ever will an overbreadth challenge succeed against a law or regulation that is not specifically addressed to speech or to conduct necessarily associated with speech”
- **Vagueness: due process violation**
 - Fails to define criminal offense with sufficient definiteness
 - Authorizes/encourages arbitrary discrim. law enforcement
 - *Hicks* received hand delivered notice as to him policy could not have been clearer; not a public place
 - But in other cases, may continue to be an issue as who defines who is a “legitimate guest?”
 - × Unannounced visit to family, standing invitation, invited but family not at home, etc.

Procedural due process

47

- **Resident may have a right to object to placement of guest on ban list or to get guest removed**
 - Two step analysis 1. denied property interest in their homes for no legitimate reason; 2. procedures are insufficient
- **Property interest**
 - Liberty interest to associate with guests
 - Common law right
 - Reasonable rules
 - State law
- **Process that is due, such as notice and an opportunity to be heard,**
 - PH grievance procedure may provide the process

Procedural due process

48

- **For Non-Resident**
- **Policy may authorize police and/or PHA to stop, arrest and detain individuals for mere exercise of constitutional rights to freedom of asso. and assembly and intimate asso.**
 - Harder case to establish property interest
- **What if:**
 - Lack of notice of reasons
 - No process and/or notice of process to object
 - No ability to be removed from the ban list

Freedom of association and assembly and unreasonable search and seizure

49

- **Freedom of association and assembly (1st and 14th Amendments)**
 - Non residents who are organizers, distributing political materials, etc.
- **Unreasonable Search and Seizure (4th and 14th Amendments)**
 - If banning policy authorizes illegal stop, arrests and detention of individuals without reasonable suspicion or probable cause to believe any crime has been committed, while individuals are merely exercising constitutional rights

Fair housing laws

50

- **In general, a private landlord can deny a non-resident from trespassing on development property on the basis of prior criminal activity engaged in on the premises**
- **But, the Fair Housing Act offers some protection:**
- **A blanket rule banning all non-residents with a prior arrest or conviction (not necessarily related to the premises or ban not time limited) could constitute race discrimination due to its disparate impact on people of color or ethnic minorities.**

Fair housing laws

51

- **If a non resident's criminal history is related to a disability: request a "reasonable accommodation"**
- **Past addiction can be a disability.**
 - May be successful if nonresident can show that he/she hasn't used substances for a period of time, criminal activity ceased once he entered rehab, and/or he is receiving supportive services.
- **Note: Current use of illegal substances is not a disability under the Fair Housing Act**

Elements of a reasonable policy

52

- **Narrowly tailored to achieve the goal to fight crime**
 - What is the crime rate, incidence of crime at development?
 - Tailored to criminal activity of the banned person
 - Not too broad to implicate right to freedom of movement or to interfere with right to association or violate fair housing laws
 - Based upon sufficient justification
 - Offenses warranting banning clearly enumerated
 - Time limited, not banned for life or unreasonable period
- **Exception for invitees**
- **Policies should provide procedural safeguards**
 - Notice of banning and how to be removed from list provided to non-resident and residents

Procedures for shaping or challenging the policies

53

- **Public Housing**
 - PHA plan process
 - ✦ To shape the policies
 - ✦ Get information—numbers banned, reasons, first time offense, residents object, etc.
 - ✦ Use constitutional, common law, federal law to frame issues
 - Grievance procedures
 - ✦ For individual residents who want to remove a non-resident from the banned list
 - ✦ As a group strategy by residents to challenge banning policies by complaining about each person on the list
- **Litigation**

PHA Plan Process Applicable to V, PBV, PH and Mod Rehab Programs

54

Action	Jan 1 FY Start date	April 1 FY Start Date	July 1 FY Start Date	Oct 1 FY Start Date
PHA should begin to develop plan for coming year. RAB and tenants should review prior year plan, develop issues, determine progress on prior year goals and strategies. Current year approved plan, attachments and supporting documents are available for review	May (Prior Year) 8 mos	Aug (Prior Year) 8 mos	Nov (Prior Year) 8 mos	Feb 8 mos
PHA should have available a draft plan and should be discussing the plan with RAB and tenants and other advocates, such as housing advocates, disability rights groups, homeless advocates and other agencies such as welfare and jurisdiction consolidated plan agency	Mid-July (Prior Year) 5.5 mos	Mid-Oct (Prior Year) 5.5 mos	Mid-Jan 5.5 mos	Mid-April 5.5 mos
Notice of hearing, proposed plan on file for review, RAB members names published	Mid-Aug (Prior Year) 4.5 mos	Mid-Nov (Prior Year) 4.5 mos	Mid-Feb 4.5 mos	Mid-May 4.5 mos
Public hearing (time should be allowed between public hearing and date plan is due at HUD to make revisions based upon public comment)	First week Oct (Prior Year) 3 mos	First week Jan 3 mos	First week April 3 mos	First week July 3 mos
Plan due at HUD	Mid-Oct (Prior Year) 2.5 mos	Mid-Jan 2.5 mos	Mid-April 2.5 mos	Mid-July 2.5 mos
HUD approves plan and notifies PHA. PHA provides RAB with a copy of approved plan, notice of approval and funding awards. Or plan rejected	Jan 1	April 1	July 1	Oct 1

PHA Plan Process

55

- The Plan process rules are the same for many PHAs
 - But there are different rules for “qualified PHAs” (less than 550 combined PH and V units and not troubled or failing)
 - Some PHAs may file a streamlined Plan
- All PHAs must have and consult with a Resident Advisory Board (RAB)
 - There are rules on how RAB is established, its function and how it is supported by PHA
- May be mid-year substantial amendments to the Plan—PHA can define “substantial amendment.”
 - Same public and RAB process before HUD submission.

Public Housing Grievance Hearing

56

- A grievance is any dispute a tenant may have regarding PHA action or failure to act in accordance with tenant lease or PHA regulations, which adversely the tenant’s rights, duties, welfare or status
 - Includes challenges to PHA policy regarding banning
- Process must include informal review and settlement before a grievance hearing (prompt and reas. place)
- Grievance hearing: review and copy documents pre hearing, may be represented, confront and cross examine, written decision based on facts presented, before impartial hearing officer (panel); appealed

People v. Johnson (Superior Court 5/24/2011)

57

- SFHA filed civil complaint against Johnson (J) for private nuisance and sought an injunction (no claim of criminal convictions); Court entered default judgment ordering J to stay-away: 150 yards from any SFHA property, entering any SFHA property and any streets running thru or bordering SFHA property.
- J violated order, charged with contempt and demurred: Court found injunction unconstitutional (right to travel, association and petition government) not narrowly tailored (stay away perpetually from 53 properties, area encompassed the Courts not tailored to dissuade J from nuisance and outlawed even presence) and vague (no point of reference to measure 150 yards, not clear which streets and what part of streets, therefore not clear how to conform

Resources

58

- NHLP's Guidebook, An Affordable Home on Reentry, <http://nhlp.org/guidebooks>
- NHLP's Reentry website, <http://nhlp.org/resourcecenter?tid=86>
- NHLP's VAWA website, <http://nhlp.org/resourcecenter?tid=62>

Thank you for participating

59

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