

Subsidized Housing: Relocation for Domestic & Sexual Violence Survivors

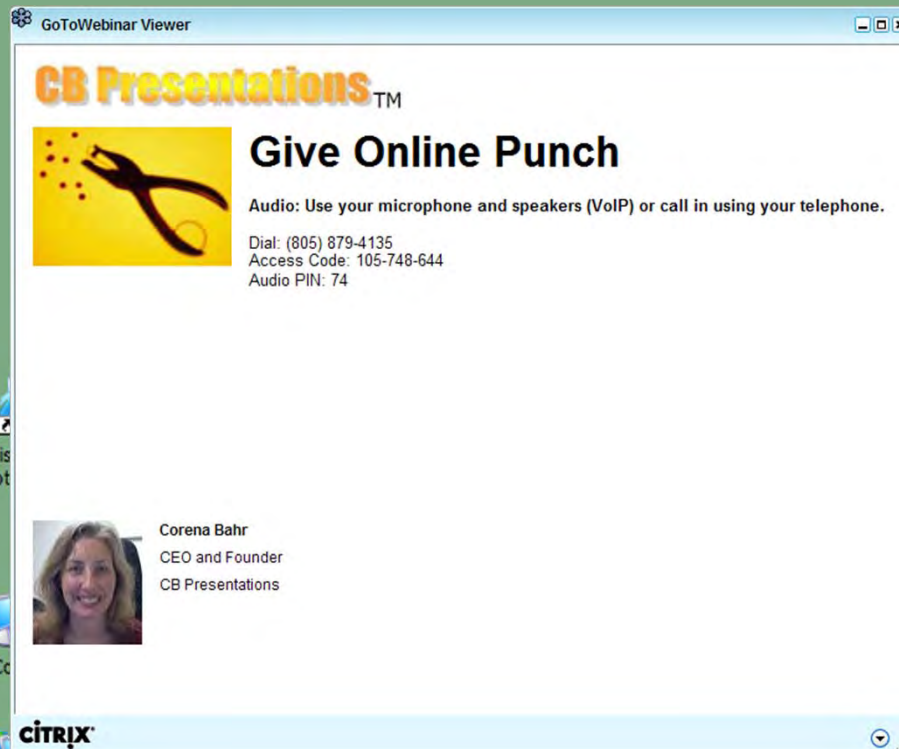
National Housing Law Project

HOUSING JUSTICE

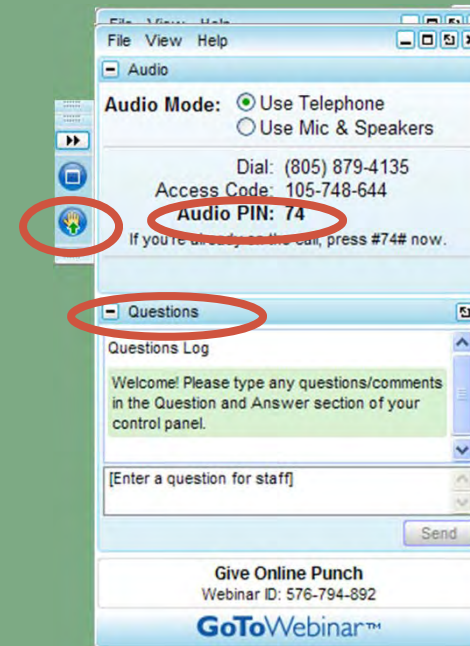
National Housing Law Project

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Housekeeping

- Materials were emailed to registrants and will be emailed again after the webinar, along with evaluations.
- Materials and recording will be posted at www.nhlp.org in the Attorney/Advocate Resource Center.
- MCLE certificates will be emailed to California attorneys.

Today We'll Cover:

- Brief discussion of the federally subsidized housing programs
- Assisting survivors in transferring to a different public housing unit
- Assisting survivors in using their Section 8 vouchers in another jurisdiction
- Assisting survivors in transferring to a different project-based Section 8 unit
- Advocacy examples
- Working with housing providers on relocation policies
- Maintaining survivors' safety and privacy when relocating within subsidized housing

Quick Overview of the Federally Subsidized Housing Programs

A basic review of public housing, project-based Section 8, and Section 8 vouchers

Subsidized Programs We'll Cover

- Today we'll focus on relocation for domestic and sexual violence survivors in the following federally subsidized programs:
 - Public housing
 - Project-based Section 8
 - Section 8 Voucher

Public Housing

- Owned & operated by a Public Housing Agency (PHA)
- PHA develops its own leases locally, in accordance with rules set out by the Dept. of Housing and Urban Development (HUD)
- Tenant pays either 30% of income toward rent or a flat rent
- Rental assistance is attached to the unit. Tenant's only option for moving and maintaining her assisted housing is to transfer to another public housing unit.
- PHA develops a local plan for running public housing, usually called the Admissions and Continued Occupancy Policy (ACOP)

Section 8 Vouchers

- Tenant receives a voucher from a PHA to rent a unit in the private market.
- Tenant enters into a lease with a landlord.
- PHA pays subsidy to the landlord.
- Tenant pays difference between the subsidy and the rent for the unit—usually 30% of the tenant's income
- Defining feature: **portability**. Tenant can use voucher anywhere in the country where there is a PHA
- PHA develops a local plan for running the voucher program, usually called the Administrative Plan

Project-Based Section 8

- Owners of project-based Sec 8 buildings are usually private individuals or corps. that have received HUD subsidies to provide affordable housing.
- Subsidy is attached to the rental unit. Unlike Section 8 vouchers, the subsidy doesn't travel with the tenant if she moves.
- Tenant pays 30% of income toward rent.

Clarifying the Terminology

- **Transfer:**
 - We will use “**transfer**” when referring to relocation within the public housing and project-based Section 8 programs. For example, a domestic violence survivor in public housing who wants to relocate needs to seek a **transfer** to another public housing unit.
- **Portability:**
 - We will use “**portability**” when referring to relocation within the Section 8 voucher program. For example, a domestic violence survivor with a voucher who wants to relocate needs to **port** her voucher to another area.

Discussion

- What are some common reasons why domestic and sexual violence survivors have difficulties in transferring to another public housing unit or moving with a Section 8 voucher?
- Enter your responses in the Questions box.

Public Housing Transfers

Many survivors need assistance in moving to another public housing unit to escape violence

Relocation in Public Housing

- A survivor in public housing who needs to move for her safety can seek an emergency transfer to another unit owned by the PHA. She may be placed on waitlist.
- PHAs have significant discretion in deciding when and how they will grant public housing transfers. There is little guidance in laws or regulations on transfers.
- A PHA's policies regarding public housing transfers are usually set forth in its Admissions and Continued Occupancy Policy (ACOP).
 - If the ACOP is not on the PHA's website, call and request it, or file a public records act request to obtain it.

Relocation in Public Housing

- PHA policies on transfers vary significantly.
 - Ex: Transfers for victims of DV or SA, tenants with disabilities, tenants in units that are too small or uninhabitable, tenants who need to relocate for work.
- Advocates assisting survivors who need transfers should examine the ACOP and determine the grounds under which a survivor could request a transfer.
- Poll: Does your PHA have a transfer policy for DV or SA?
 - This is an area for local advocacy.
 - HUD encourages PHAs to adopt DV transfer policies in its Public Housing Occupancy Guidebook, p. 218

Relocation in Public Housing

- Waiting times for a transfer to be processed vary significantly across the country.
- If survivor must temporarily relocate while her transfer request is being processed, notify the PHA in writing that the survivor has temporarily moved but intends to stay in the public housing program.

What if the PHA Doesn't Offer My Client a Transfer, or Delays in Responding?

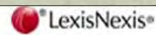
- Some arguments that could be used in a letter demanding that the PHA act on the transfer request:
 - Fair Housing Act: DOJ has sued PHAs that didn't transfer tenants who were threatened because of their race. Similar actions could be taken against PHAs that refuse to transfer tenants experiencing gender-based violence.
 - But see *Robinson v. Cincinnati Metro. Hous. Auth.*, 2008 WL 1924255 (S.D. Ohio 2008).
 - A PHA that is aware of danger to a tenant but does nothing could be liable under state tort law if the tenant is injured.

Other Strategies

- Advocates can file complaints with HUD's office of Fair Housing & Equal Opportunity, or HUD field offices.
- File a public records act request to seek information on numbers of tenants seeking transfers and the amount of time they've been waiting.
- Use a media strategy to expose problems in securing emergency transfers.
- Raise the issue before the housing authority's board.
- If no safe alternative public housing unit is available, ask PHA whether a Section 8 voucher is available.

Press coverage of Robinson v. Cincinnati Metro. Hous. Auth.

Housing rule change sought



CMHA official doubts move will ensure safety

dhorn@enquirer.com

A federal judge and housing officials will consider next week whether a woman's fear of her ex-boyfriend is reason enough to transfer her to another rent-subsidized home.

Yolaunda Robinson's case heads to U.S. District Court on Monday and to the Cincinnati Metropolitan Housing Authority's board meeting Tuesday.

Robinson sued the authority this week after the agency refused to transfer her and her two children to a different home, even after police issued an arrest warrant for the man she claims beat her and threatened her life.

She said Charles E. Davis Sr. broke into her Springfield Township home in January, beat her with a vacuum cleaner and threatened her life.

Housing Authority officials refused to transfer her and that decision has raised questions about the agency's responsibility to residents.

The agency's priority is to provide a structurally sound house or apartment that is in compliance with fire and health codes.

Domestic problems, such as an abusive boyfriend, are left to the renters and law enforcement to solve.

"My personal opinion is this was a matter for police," said Arnold Barnett, a Housing Authority board member. "If we had any inkling at all that this would have stopped him, she would have been moved."

He said such a move probably would not have made a difference because Robinson's new address would not be a secret.

Barnett said requests such as Robinson's put housing officials in a tough spot. That's why agency policy allows emergency transfers only when a house or apartment is no longer habitable.

"You're damned if you do and you're damned if you don't," Barnett said.

But Robinson and her lawyer, Nick DiNardo, said the agency's inflexibility endangers her life and the lives of her two children.

They say a big part of the problem was Davis' proximity to Robinson: He lived on the same street and frequently came to her house unannounced. She said he slashed her tires, made threatening calls and, on at least one occasion, broke into the home.

"He lived right down the street," Robinson said. "It was always a threat."

After the January attack, which left her with a gash on her head, Robinson went to the police and to court. Springfield Township police charged Davis with aggravated burglary, but they have not arrested him because they can't find him.

"We took the incident very seriously," said Sgt. Paul Szymik.

A Hamilton County magistrate later granted a protective order requiring Davis to stay away from Robinson.

Robinson said she isn't taking any chances. She has not spent a night in the house since the January attack, although she does continue to pay rent and utilities totaling about \$500 a month.

She said her 9-year-old daughter refuses to go with her to pick up things. When she complained to an agency official about her daughter's fears, Robinson said, she was told to "teach her not to be afraid."

"How can I teach her not to be afraid when I'm afraid?" Robinson said.

Her lawsuit challenges the agency's transfer policy under the Fair Housing Act, claiming that the failure to consider domestic violence as a factor in transfers discriminates against women.

The Housing Authority grants emergency transfers only when the home is no longer habitable.

She wants U.S. District Judge Michael Barrett to order the agency to grant her transfer and to change its policy. A conference among the lawyers and the judge is set for Monday.

State Sen. Eric Kearney, D-Cincinnati, urged the board to reconsider its transfer policy. He said he's received other complaints about the agency that suggest officials there too often choose strict interpretations of policy over common sense.

Info needed

Anyone with information about Charles E. Davis Sr. can contact Crime Stoppers at 513-352-3040 or the Springfield Township Police Department at 513-729-1300. Davis

Press coverage of public housing transfers in San Francisco

July 3, 2010

Public Housing Residents Await Urgent Transfers

By ZUSHA ELINSON

After her apartment was repeatedly broken into, Georgina Jenkins thought she had found a ticket out of Alemany, the public housing project known to residents as the Black Hole. The San Francisco Housing Authority had placed her on its priority transfer list, reserved for tenants facing immediate danger or urgent medical need, according to Ms. Jenkins and her attorney.

Ms. Jenkins, a 25-year-old aspiring medical technician, said she was offered a unit at North Beach Place, a renovated project on the other side of the city. She was preparing to move when she was informed in March that her security problem, dire as it was, could not be resolved until she paid thousands of dollars in back rent.

Sitting in her darkened apartment, with holes in the wall and a boarded-up bathroom window, Ms. Jenkins said she was tired of waiting — the last break-in was in February.

"Anybody that has an emergency transfer needs to be moved in a nice amount of time," she said. "I'm trying to get out of here."

There are 246 people on the Housing Authority's little-known priority transfer list, according to the agency. Ms. Jenkins's still-unresolved case underscores the complicated issues that arise as San Francisco tries to overhaul its crime-plagued public housing buildings, which has about 6,000 units.

According to documents released in late May under a public records request by Bay Area Legal Aid, which represents low-income communities, 233 people — or 95 percent of those on the list — have waited more than three months to be relocated, and 176 have waited more than a year. The list, which is compiled by the Housing Authority in consultation with the police, includes people seeking protection from hate crimes, violence, repeated robberies, domestic abuse and medical conditions that may be worsened by their surroundings.

Tenants rights advocates say the statistics show that the Housing Authority is failing in its most basic function: keeping low-income residents safe.

"If 95 percent of your emergency cases are three months out and still waiting, it doesn't seem

much like an emergency," said Minouche Kandel, a lawyer at Bay Area Legal Aid.

Housing officials acknowledge that the delays are a serious problem. But they say they are the result of a lack of space — 28,000 people are awaiting public housing in San Francisco — and other factors that have little to do with security. As the city renovates public housing units across the city, it is turning over management of some facilities to private companies that, by most accounts, have made them cleaner and safer — but they have also made it much harder to gain admittance.

North Beach Place, a gated, clean community near Fisherman's Wharf, is one of them.

"We don't have the inventory of units where people want to go; that's really the dilemma on the transfer list," Henry A. Alvarez III, executive director of the Housing Authority, said in an interview.

As a result, some residents whom city officials and the police have deemed to be in immediate need of protection have been unable to gain admittance to the buildings where they would be safest.

In March 2008, for example, Alejandro Aguilar, a 40-year-old day laborer, severely beat a woman in her apartment at Valencia Gardens, a public housing development in the Mission district, according to police records and an account by the victim. After being taken into custody, Mr. Aguilar said twice that "next time" he intended to kill the woman, according to the police.

Mr. Aguilar was charged with assault after the woman accused him of attempted rape.

Terrified by the threats and by the prospect of testifying against Mr. Aguilar, the woman was placed on the priority transfer list. But after she was shown an apartment at North Beach Place, the facility's manager, the John Stewart Company, denied her an apartment because of bad credit, according to e-mail messages between the Housing Authority, the company, and the woman's advocates at the Housing Rights Committee of San Francisco.

Justine Minnis, an official with the John Stewart Company, wrote in an e-mail message in July 2008 that the woman "did not meet the resident selection criteria," because her "credit history has changed since she was originally screened at Valencia Gardens."

Loren Sanborn, a senior vice president with the management company, said screening criteria were important to the success of North Beach Place.

"We believe that everyone should be treated the same," Ms. Sanborn said.

Eventually, the Housing Authority, which is strapped because of budget cuts, agreed to intervene to guarantee any unpaid rent owed to the management company and cover the woman's moving expenses up to \$50,000. She finally moved in September 2008.

Section 8 Voucher Portability

Survivors with Section 8 vouchers can relocate to any jurisdiction with a PHA that operates a voucher program

Portability and Vouchers

- The basics:
 - Portability allows Sec 8 voucher holders to move to a rental unit that is outside the jurisdiction of the PHA that first issued the voucher.
 - The PHA that first issued the voucher is known as the “initial PHA.” The PHA in the jurisdiction where the tenant will be moving is called the “receiving PHA.”
 - PHAs’ obligations regarding portability are set forth in HUD regulations, HUD PIH Notices, HUD’s Housing Choice Voucher Program Guidebook, and each PHA’s Section 8 Administrative Plan.

Portability and Vouchers

- Steps (from HUD Notice PIH 2011-3):
 - Tenant initiates the process by letting the PHA know of her interest in moving to another jurisdiction
 - Initial PHA provides information to the tenant to help her contact and request assistance from receiving PHA.
 - Initial PHA notifies the receiving PHA to expect the tenant and transmits paperwork to receiving PHA.
 - Within 2 weeks, receiving PHA issues tenant a voucher so she can search for housing in the new jurisdiction.
 - Note: Receiving PHA can deny assistance to a tenant based on her criminal history, so it's critical to know the receiving PHA's rules on criminal background.

Reasons a PHA Can Deny a Tenant's Request to Move

- A PHA can deny a request to move for these reasons:
 - Tenant is in violation of program regulations (including drug and criminal activity);
 - Tenant has not resided in the initial PHA's jurisdiction for at least 12 months;
 - Tenant is not income-eligible in the area in which the tenant initially seeks to lease a unit;
 - The requested move violates the PHA's rules on timing and frequency of moves;
 - PHA does not have enough funds to support a move to a higher-cost jurisdiction; OR
 - Tenant moved out of assisted unit in violation of the lease

Responding to Denial of a Survivor's Request to Move

- Initial PHA denies the survivor's request to move to another area because she hasn't lived in the initial PHA's jurisdiction for at least 12 months.
 - Response: Violence Against Women Act (VAWA) regulations provide that PHA policies restricting the timing of moves do not apply when a tenant has been a victim of DV, and the move is needed to protect her health or safety. See 24 C.F.R. § 982.314

Responding to Denial of a Survivor's Request to Move

- Initial PHA denies the survivor's request to move to another area because she has already moved more than once during the past 12 months.
 - Response: VAWA regulations provide that PHA policies restricting the frequency of moves do not apply when a tenant has been a victim of DV, and the move is needed to protect her health or safety. See 24 C.F.R. § 982.314

Responding to Denial of a Survivor's Request to Move

- Initial PHA denies the survivor's request to move because she moved out of her Section 8-assisted unit before her lease ended, and she did not get a written agreement from the landlord to end the lease.
 - Response: VAWA regulations state that a PHA may not refuse to issue a voucher to a family due to the family's failure to seek PHA approval before moving if the family moved to protect a DV victim's safety. 24 C.F.R. § 982.314.
 - Denying assistance to a DV victim who has been forced to move due to violence could violate VAWA.
 - Advocates should determine whether their state has an early lease termination law for DV survivors.

Responding to Denial of a Survivor's Request to Move

- Initial PHA denies the survivor's request to move because she seeks to move to a higher-cost area, and the PHA says it has a funding shortfall.
 - A PHA may not deny a request simply because a family seeks to move to a higher-cost area.
 - The PHA must be able to document that granting the port would result in termination of other families.
 - If PHA improperly denies a family's request to port due to insufficient funding, it can face sanctions from HUD.
 - PHAs are required to address portability and insufficient funding in their Section 8 Administrative Plans.
 - See HUD PIH Notice 2011-3.

Project-Based Section 8 Transfers

Many survivors need assistance in moving to another project-based Section 8 unit to escape violence

Relocation in Project-Based Section 8

- Project-based Sec 8 transfers are often hard to obtain:
 - HUD hasn't developed procedures for transferring tenants from one project-based Sec 8 building to another. The issue isn't addressed in VAWA.
 - Survivors face obstacles in moving to another project-based Sec 8 building because each building usually has a separate waitlist (which can be lengthy). In response:
 - Advocates have asked HUD regional offices to facilitate project-based Sec 8 transfers
 - Advocates have worked with local project-based Sec 8 owners to develop admissions preferences for DV/SA survivors
 - Advocates have filed fair housing litigation to challenge denials of project-based Sec 8 transfers (discussed later).

Examples of Relocation Advocacy for Survivors

A variety of strategies may be used on behalf of survivors who are facing obstacles to relocation in subsidized housing.

Isabel: Relocation with a Voucher

- Isabel rented an apartment with her husband and children using a Section 8 voucher.
- Isabel's husband became increasingly violent toward her and the children.
- Isabel contacted the PHA, described the violence, and asked that she and the children be allowed to move.
- The PHA refused, stating that Isabel was prohibited from breaking her lease and moving.
- When Isabel moved for her safety, the PHA terminated her voucher.

Poll

- Did the PHA's conduct in terminating Isabel's voucher violate VAWA?

Isabel: Advocacy Approaches

- Isabel's attorney wrote a letter to the PHA explaining:
 - Restrictions on moving during the first year of a Sec 8 lease don't apply to moves for safety
 - Even if Isabel moved without notifying the PHA, it could not terminate her voucher, as she had moved for her safety
 - The PHA's termination of Isabel's voucher violated VAWA because the PHA knew she had moved due to DV

Isabel: Advocacy Approaches

Dear [REDACTED]

As you know, the Housing Authority terminated [REDACTED] housing assistance after a hearing on April 3, 2007. Although the Housing Authority stated it terminated [REDACTED] assistance because she broke her lease, in fact, she had no other choice but to leave her home because of domestic violence.

The U.S. Department of Housing and Urban Development's PIH 2006-42 states, "[t]he Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) protects tenants and family members of tenants who are victims of domestic violence . . . from being evicted or terminated from housing assistance based on acts of such violence against them. These provisions apply to both public housing agencies . . . and Section 8 programs."

[REDACTED] not only told her case worker that she was in an abusive situation in early February, but also told her that he had punched a hole in the door and that the violence was escalating. [REDACTED] also told the Housing Authority in her request for a hearing and at the hearing that there was a history of domestic violence and that, she needed to leave the apartment, not because she wanted to break the lease, but because she needed to protect herself and her children. She did not call the police because she feared further abuse from her husband. The Housing Authority noted in its hearing notes that it was aware of the domestic violence, but still chose to terminate her housing because she broke the lease.

[REDACTED] called the police in the past because of her husband's violence against her and the children, which included threats to kill her, throwing her to the ground and grabbing her by the throat. She called the police numerous times to have him removed from the house because of escalating violence. When [REDACTED] allowed her husband to move into her apartment, she believed that she and her children were safe. However, [REDACTED] began drinking again and [REDACTED] quickly realized that the cycle of violence was going to begin again. The police reports attached to this letter verify that [REDACTED] has been a victim of domestic abuse repeatedly over the

past several years. When [REDACTED] requested that she be able to move and break her lease, it was based on a very real need to leave her apartment for her own safety. [REDACTED] had begun to exhibit the same behavior that had led to physical abuse in the past, including punching a hole in the door, which [REDACTED] had to repair. The receipt for that repair is also attached.

VAWA amended provisions of 42 U.S.C. § 1437d and f to forbid housing authorities from using domestic violence as a basis for termination of assistance. "An incident or incidences of actual or threatened domestic violence . . . will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence." VAWA, Pub. L. 109-162, 119 Stat. 2960, 3041-42 (2006). Additionally, while housing authorities may terminate assistance on other grounds other than domestic violence, the termination cannot be based on the violence. *Id.* at 3042. "Nothing . . . limits . . . the public housing agency to terminate assistance to a tenant for any violations of a lease not premised on the act or acts of violence in question against the tenant." *Id.*

Here, the Housing Authority, while purporting to terminate [REDACTED] assistance because she wanted to break the lease, is ignoring the underlying reason she needed to leave the apartment. [REDACTED] was abusing her and she was frightened for her own safety and that of her children. The warning signs had appeared - [REDACTED] drinking increased, he had begun to threaten her and verbally abuse her and he had punched a hole in the door. [REDACTED] long record of verbal and physical abuse is an ample record to show that [REDACTED] had a legitimate fear for her life and needed to leave.

The Housing Authority's decision left [REDACTED] not only with no other option than to leave her apartment and lose her assistance. The decision is in violation of VAWA and we urge you to reconsider and restore [REDACTED] assistance as soon as possible.

Isabel: Advocacy Approaches

- When the PHA refused to reinstate Isabel's voucher, she filed suit in federal court under VAWA and the federal Fair Housing Act
- The PHA subsequently reinstated Isabel's voucher and allowed her to move.

45. The Housing Authority has shown no valid interest in terminating [REDACTED] housing assistance. The Housing Authority alleges that it terminated the assistance because Ms. [REDACTED] moved out before the lease was up, but she had no choice in the matter. She needed to move because of the escalating violence against her and her children.

46. The Housing Authority's decision to terminate [REDACTED] voucher because she moved from the Home during the first year of her lease was a violation of VAWA 2005, as she was forced to leave the Home due to the domestic violence.

Jane: Relocation with a Voucher

- Jane rented an apartment using her Section 8 voucher.
- Jane's ex-boyfriend came to the unit on multiple occasions and assaulted her.
- Jane requested that the PHA allow her to take her voucher out of state to protect her safety.
- The PHA began the process to allow Jane to move her voucher, but required that she receive the landlord's permission to terminate the lease early.
- After more incidents of violence, Jane repeated her request. The PHA stated that she needed the landlord's agreement to end the lease, as well as a police report and restraining order.
- The PHA initiated voucher termination proceedings alleging that Jane allowed her former boyfriend to reside with her.

Jane: Advocacy Approaches

- Jane's attorney sent a letter to the PHA demanding reinstatement of her voucher. The PHA refused.
- Jane filed a complaint with HUD's Office of Fair Housing and Equal Opportunity, alleging that the termination of her voucher violated the Fair Housing Act.

two attorneys. The Complainants allege the unauthorized tenant issue was a pretext for discrimination based on gender for seeking a transfer to escape domestic violence and to seeking legal and police protection from the domestic violence at her dwelling. The Complainants also allege the Respondent PHA and the hearing officer ignored the issue of domestic violence during the informal hearing and refused to consider that the Complainant had not been advised of her rights under VAWA.

Jane: Advocacy Approaches

- Jane's attorney also filed a complaint with the HUD field office for the PHA's jurisdiction.

In violation of the program requirements of VAWA, the [REDACTED] PHA failed to advise Ms. [REDACTED] of her rights as a victim of domestic violence on several occasions. First, her initial request for transferring to [REDACTED] on March 20, 2008 was based upon her fear of Mr. [REDACTED]; and, as a victim of domestic violence, she should have been informed about her rights to terminate her lease with her former landlords prior to the expiration of the first lease on July 31, 2008. Second, during Ms. [REDACTED]'s re-examination of her Section 8 Voucher on August 1, 2008, the [REDACTED] PHA never advised her of her rights under VAWA. HUD had published a notice March 16, 2007 which required all housing authorities to notify participants of their rights and responsibilities under VAWA which was effective upon its enactment of the law on January 5, 2005. Third, the [REDACTED] PHA staff informed Ms. [REDACTED] on January 16, 2009 that she would need to go to the [REDACTED] Police Department and file a police report and file a restraining order before she could terminate her lease with her current landlords prior to the lease expiration of July 31, 2009. During the informal hearing it was made clear that these staff instructions were not part of HUD's program requirements for victims of domestic violence and were also not required under the Administrative Plan (See Exhibits 5 & 6).

Jane: Advocacy Approaches

- HUD investigated Jane's complaint that the PHA had violated the Fair Housing Act by denying her request to move with her voucher and by terminating her voucher.
- As part of a conciliation agreement, the PHA reinstated Jane's voucher and allowed her to move out of state.

Wyneneicka:

Project-Based Section 8 Transfer

- Wyneneicka was a project-based Section 8 tenant. She requested a transfer to a different complex owned by the same owner after her ex-partner sexually assaulted and beat her at her apartment.
- The complex had a policy of transferring tenants for “special circumstances.” At least 2 tenants had been transferred to other complexes under this policy.
- The complex denied Wyneneicka’s transfer because she did not have a “good history” with the property due to incidents of domestic violence

Wyneneicka: Advocacy Approaches

- Wyneneicka filed a lawsuit asserting that the complex denied her request to move because she had been a victim of DV, and this denial constituted intentional discrimination on the basis of her sex in violation of the Fair Housing Act.
- The case settled, with the complex agreeing to move DV victims within five days of receiving the tenant's transfer request.
- It also agreed to post notices about the policy and train its staff about DV and fair housing laws.

Press coverage of Wyneneicka's case

Legal victory for domestic-violence victims

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A woman who was raped in 2003 by an ex had sued her landlord.

By Howard Pankratz
Denver Post Staff Writer

POSTED: 03/02/2007 01:00:00 AM MST
UPDATED: 03/02/2007 01:06:49 AM MST

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Wyneneicka Blackwell was raped, beaten and stabbed by her ex-boyfriend one night in her Denver apartment. He evaded police for months and, fearing his return, Blackwell asked her landlord to move her out of her federally subsidized low-income unit into a different complex.

Her landlord refused and also wouldn't clean up her blood-smeared apartment after her nine-hour ordeal.

"I had to clean my own blood," Blackwell said in an interview.

Now, a settlement of Blackwell's federal lawsuit against her landlord offers hope to others in her situation, her lawyers say.

Under the settlement, Urban Property Management, which runs several federally subsidized housing complexes in Colorado, including the Hilltop Apartments, where Blackwell lived, will relocate domestic-violence victims who are in danger.



Wyneneicka Blackwell, speaking about a former boyfriend who assaulted her.
(The Denver Post / Lyn Alweis)

The emergency transfer policy adopted by the complex

Emergency Situations

- A. Where a tenant claims that he/she or his/her children are in imminent physical danger due to the threat of or actual domestic violence, the tenant may request a transfer to a different residential property owned or managed by Landlord. Landlord may require that the tenant provide evidence of such actual or threatened domestic violence. The evidence to be provided will take the form of one of the following, to be chosen by the tenant: a police or court record, or a statement from a member of the clergy, a victim services provider or a medical professional.
- B. A tenant shall submit such an emergency transfer request to the Resident Manager, who, once the request is received, shall complete and submit the appropriate form within one business day to the District Manager for consideration.
- C. A tenant who qualifies for a transfer under this Policy will be afforded a preference and moved to the top of the wait list for a suitable unit not already committed to another applicant.
- D. Landlord shall make a diligent and good faith effort to transfer the tenant to a vacant unit in a different Section 8 family property owned and/or managed by Landlord, appropriate for the needs of the tenant, within five business days of receipt of the tenant's transfer request. It is understood, however, that the existence of this policy does not ensure or otherwise guarantee that such a unit may be available. If such a unit is not available within five business days of receipt of the tenant's request, Landlord shall continue to make a diligent and good faith effort to transfer the tenant to an appropriate vacant unit in a different Section 8 family property as one becomes available, and shall determine availability at least once every five business days while the transfer request remains in effect.

- Additional case documents are available at www.legalmomentum.org/legal-knowledge/
- Advocates can work with local project-based Section 8 owners to urge them to adopt a similar policy.

Working with PHAs to Improve Relocation Policies: Public Housing

- Advocates should ask PHAs to amend the Admissions and Continued Occupancy Policy (ACOP) to include:
 - An explicit emergency transfer policy for DV and sexual assault survivors.
 - The policy should address the type of documentation that will be required, and the timeframe for granting transfers.
 - Consider asking the PHA to adopt a policy that it will issue a Sec 8 voucher to the survivor if no safe alternative public housing unit is available.

Working with PHAs to Improve Relocation Policies: Section 8 Vouchers

- Advocates should ask PHAs to amend the Section 8 Administrative Plan to include:
 - A policy that makes clear that if a survivor of DV or sexual assault is moving for safety reasons, the survivor shall NOT be denied a portability move even if:
 - She is seeking to move before the lease ends, and the landlord has not agreed to end the lease.
 - She is seeking to move in the first 12 months of her lease.
 - She will be moving more than once during a 12 month period.
 - The policy should state what type of documentation a survivor of DV or sexual assault will need to provide if she is moving before her lease term has ended.

Maintaining Survivors' Safety & Privacy When Relocating Within Subsidized Housing

Valenda Applegarth
Greater Boston Legal Services

Safety Planning Pending Survivor's Public Housing Transfer or Porting of Sec 8 Voucher

- Is it safer for the survivor to take a temporary absence from the rental unit and seek shelter?
 - The survivor should give written notice to the PHA, keep copies of all correspondence.
 - The survivor should provide a reliable address for communication with PHA if staying in more than one shelter, such as an attorney or friend.
 - Form HUD-92006
 - Shelter may not have personally identifiable verification of the survivor's stay if needed for future advocacy to disprove abandonment of unit.
- Not all survivors are able to qualify for shelter. The ages and gender of children, for example, could preclude admission.

Safety Planning, continued

- The survivor may want to get a protective order that includes a vacate order against abuser, custody of children, no contact orders, stay away from school, work, daycare etc.
 - The perpetrator's violation of a no contact order may result in harsher sanctions than a no trespass order.
- Some states permit monetary awards for damages to apartment or back rent in the protective order.
- If the perpetrator was on the lease, the survivor should request exclusive possession of the unit from the PHA per VAWA.
 - In addition, requesting the PHA to recertify household income may reduce existing rent arrearages and lower future rent after relocating.

Safety Planning, continued

- The survivor should seek assistance in maintaining security of the unit: change locks, obtain a no trespass order from the PHA.
 - Many PHAs ask the survivor to enter into a no trespass agreement. This may place unfair burden on a DV/SA victim, or it may be appropriate in some cases.
- The survivor should provide copies of the protective order to housing security as well as a photo of perpetrator, vehicle information, etc.
- The survivor should also request that all details regarding the request for transfer or porting be kept confidential.

VAWA Confidentiality Provisions

- VAWA's housing protections prohibit PHAs and owners from disclosing information regarding domestic violence to outside entities or entering it into shared databases.
- The PHA, owner, or management agent shall not:
- (i) Enter the information contained in the documentation into any shared database;
- (ii) Allow employees of the PHA, owner, or management agent, or those within their employ (e.g., contractors) to have access to such information unless explicitly authorized by the PHA, owner, or management agent for reasons that specifically call for these employees or those within their employ to have access to this information; and
- (iii) Disclose this information to any other entity or individual, except to the extent that disclosure is:
 - (A) Requested or consented to by the individual making the documentation, in writing;
 - (B) Required for use in an eviction proceeding, or
 - (C) Otherwise required by applicable law.

Safety Planning, continued

- The survivor should devise a sign and/or code word for trusted neighbors, family & friends to signal that 911 assistance is needed.
- Consider changing routes to school, daycare, work.
- Gather and safely store important documents, money, account information with friend, family or attorney if necessary.
- Survivors should be referred to a local DV/SA advocacy program for complete and individualized safety planning and appropriate service access and referrals.
- Crime Victim's Compensation or other specialized advocacy may be available for funding relocation, obtaining health services, assistance with emergency benefits and more.

Relocating to a New Home

- If the survivor is transferring within developments, note in transfer application areas that the perpetrator may have connections with that could compromise her future privacy.
 - It might be wise to corroborate this in case the PHA resists the request to avoid certain developments.
- Will the survivor's service providers remain the same? Consider schools, medical care, daycare that could compromise safety at the new location if the survivor is followed.
- If a security deposit will be returned, have it sent to a location other than the new address or directly deposited into a bank account.
- The survivor's name should not be placed in public view on a mailbox or building directory.
- The survivor may not want to file a change of address with the USPS and may not want to use regular mail in the new location.

Maintaining Location Privacy When Relocating to a New Home

- Address Confidentiality Programs (ACP): a survivor should enroll in the state's program (if available) or consider porting to a state that has one. These programs provide a substitute address to avoid public disclosure of a survivor's residential address.
- Survivor's mail is confidentially forwarded to the residence by the ACP staff.
- This address appears on survivor's state ID or driver's license and may be used for other purposes like insurance, banking, the receipt of benefits and more.
- www.ncvc.org/src for list of state programs.

Maintaining Location Privacy When Relocating to a New Home, cont'd

- In cases where the perpetrator and the old landlord are friends, the new landlord doing tenant screening risks divulging location information. The survivor may need advocacy around avoiding such disclosure and should request the new landlord assist in this regard.
- The survivor may want to consider forwarding mail twice, once to a safe location like a relative or attorney and second to the new location she moves to.
 - National Change of Address Database releases residential information
- USPS COPI Program (“Court Ordered Protected Individual”) may be an option for survivor.
- Requires a protective order
 - Avoids the forwarding of all mail, must be accessed through the postmaster, not the local post office.
 - The survivor must plan ahead to avoid delinquent bills and missed important mail.

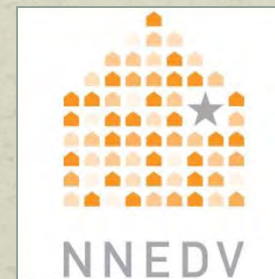
Additional Considerations the Survivor Should Make

- What contacts will the survivor maintain after relocating? Friends, family, co-workers, etc.
 - How will communication occur?
- What are other members of the household doing that may compromise location privacy?
 - Social networking, location-based technologies.
 - Participation in many different activities may reveal location information.

Technical Assistance: Relocation

Relocation Counseling & Identity Protection Initiative
is a joint venture of the
National Network to End Domestic Violence
and **Greater Boston Legal Services**

- Toll Free: 800-323-3205
- relocation@nnedv.org
- GBLS: 617-603-1557
- NNEDV: 202-543-5566



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Technical Assistance: Housing

- Meliah Schultzman, mschultzman@nhlp.org
415-546-7000 x. 3116
- Navneet Grewal, ngrewal@nhlp.org
415-546-7000 x. 3102
- <http://nhlp.org/resourcecenter?tid=96>
- We're happy to provide training, technical assistance, and advocacy materials

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