



Newsletter Spring-Summer 2017

### USDA Rural Development Issues VAWA 2013 Notice

In January 2017, the United States Department of Agriculture (USDA) issued a Notice regarding the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) and the law's implementation within the Rural Development (RD) Multi-Family Housing (MFH) programs. VAWA 2013's housing protections for survivors of domestic violence, sexual assault, dating violence, and stalking (VAWA crimes) apply to the following RD multi-family housing programs: Section 515 Rural Rental Housing; Section 514/516 Farm Labor Housing; Section 538 Guaranteed Rural Rental Housing; and Section 533 Housing Preservation Grants. The Notice's stated purpose is to inform state directors, program directors, multifamily program managers, and management agents of USDA policies on VAWA 2013 implementation and administration. This article summarizes the Notice and flags important issues for advocates. However, this summary is not exhaustive, and so advocates serving survivors who live in RD housing should review the Notice in its entirety.

### HUD Seeks Comments on Revised VAWA 2013 Forms

HUD is seeking [public comments](#) about proposed changes to the VAWA 2013 forms (Forms HUD-5380—5383). For example, HUD proposes to amend the HUD VAWA self-certification form to include information about reasonable accommodations and to add a warning for making false submissions to an entity when seeking federal housing subsidies. NHLP and other members of the National VAWA Housing Working Group are submitting joint comments. If you would like to review or sign onto the comments, please contact Karlo Ng ([kng@nhlp.org](mailto:kng@nhlp.org)) and Renee Williams ([rwilliams@nhlp.org](mailto:rwilliams@nhlp.org)). Comments are due October 2, 2017.

### VAWA 2013 Supersedes RD Program Regulations

The Notice explicitly states that VAWA 2013 requirements govern where there is a conflict with the RD program regulations. Additionally, in instances where there are several housing programs covered by VAWA 2013, the Notice explains that MFH will not stop tenants from

#### IN THIS ISSUE

- HUD Issues VAWA 2013 Regulations and Guidance
- Lawsuit Challenges Eviction Screening Policies Impacting Survivors and Women
- Survivor Challenges Ordinance in Missouri
- Advocates Challenge Chronic Nuisance Ordinance in Peoria, Illinois
- HUD Guidance on Immigrant Eligibility for Homeless Assistance Programs

(Continued from page 1)

using protections or remedies from any or all applicable covered programs—as long as the protection or remedy is permitted and feasible under MFH statutes and regulations.

### **RD Owners and Managers Can Use HUD Documents to Comply with VAWA 2013**

According to the Notice, RD owners and management agents can use the following HUD-provided documents: (1) Notice of Occupancy Rights; (2) Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation Form; (3) Model Emergency Transfer Plan; (4) Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking; and (5) VAWA Model Lease Addendum. The Notice notes that the model lease addendum, the emergency transfer request form, and the model emergency transfer plan “should be modified accordingly” when used by RD owners.

### **MFH Staff Responsibilities**

- *Providing guidance and monitoring compliance.* The Notice states that MFH staff “will provide general guidance” to multi-family housing program owners and management agents about VAWA 2013 implementation and will monitor VAWA 2013 compliance.
- *Encouraging owners to describe their emergency transfer process and to update management plans, tenant selection policies, and occupancy rules.* MFH staff will “strongly encourage” owners to include a description of their emergency transfer process (*i.e.*, survivor protections, how survivors will receive assistance for locating alternative housing, confidentiality, etc.).

### **NHLP Webinar and Brochure on VAWA 2013**

On March 1, 2017, NHLP hosted a [webinar about HUD’s VAWA 2013 regulations](#) during which panelists provided a summary and analysis of key parts of the final rule, and discussed VAWA enforcement. Additionally, in February 2017, NHLP updated its brochure, [Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing](#), which provides information for survivors about their rights under VAWA 2013 in a Q&A format.

MFH staff will also “strongly encourage” owners to update their tenant selection policies and occupancy rules to incorporate VAWA 2013 protections and rights.

- *Ensuring distribution of VAWA 2013 forms.* MFH staff will monitor VAWA 2013 compliance by ensuring distribution of the HUD Notice of Occupancy Rights and the HUD Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation Form; MFH will also “strongly encourage” owners to use a lease addendum that outlines VAWA 2013 protections and rights.

### **Responsibilities of Owners and Managers**

- *Complying with VAWA’s nondiscrimination requirement.* Owners and agents in MFH programs must comply with VAWA 2013. These owners and agents cannot discriminate against applicants or tenants based on their status as a survivor of domestic violence, sexual assault, or stalking if they otherwise qualify for admission, occupan-

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(Continued from page 2)

- cy, or participation.
- *Updating management agreements and plans.* Owners and agents should also amend their Management Plan within 6 months of the Notice to include a VAWA emergency transfer process that: (1) allows “eligible tenants who reasonably believe” they face an “imminent threat of domestic violence, dating violence, sexual assault, or stalking,” or who have been victims of sexual assault on the property in the last 90 days, to transfer to an available, safe unit; and (2) incorporate “reasonable strategies for maintaining confidentiality.”
  - *Updating tenant selection policies, occupancy rules, and leases.* Owners should update their tenant selection policies and occupancy rules to incorporate tenants’ VAWA 2013 rights and protections to promote uniformity and “avoid improper evictions.” The Notice also says that owners should update tenant leases with a lease addendum that includes VAWA 2013 rights and protections.
  - *Providing tenants with the Notice of Occupancy Rights and the Certification of Domestic Violence Form.* VAWA 2013 requires distribution of the Notice of Occupancy Rights and the Certification of Domestic Violence and Alternate Documenta-



## HUD Translates VAWA 2013 Forms

HUD has translated the agency’s [Violence Against Women Reauthorization Act of 2013 \(VAWA 2013\) forms](#). Specifically, HUD has translated the Notice of Occupancy Rights (Form HUD-5380); the Model Emergency Transfer Plan (Form HUD-5381); the VAWA 2013 self-certification form (Form HUD-5382); and the Emergency Transfer Request form (Form HUD-5383). Each of these forms is available in Armenian, Cambodian, Creole, Japanese, Korean, Lao, Chinese, Russian, Spanish, Thai, and Vietnamese.

- tion Form to “all applicants and existing tenants” at the following three junctures: (1) when an individual is denied admission; (2) when an individual is assigned an RD unit; and (3) with “any notification of eviction or termination of assistance.” The Notice states that these forms should be posted where it can be seen by applicants and tenants. HUD is providing these forms “in multiple languages.”
- *Keeping a list of other housing providers and advocacy organizations.* The Notice advises owners to maintain “a list of other RD and non-RD housing providers” and local advocacy organizations that assist survivors.
  - *Providing emergency transfers.* Owners must allow qualified tenants who request an emergency transfer to transfer to a unit where the survivor feels safe, preferably to another RD-program unit under the owner’s control. The next option should be a transfer to a unit with another RD-

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program owner. The third option should be a transfer to a non-RD-program.

### Emergency Transfers and Lease Bifurcations

- A tenant who is a survivor of domestic violence, dating violence, sexual assault, or stalking who believes that there is a threat of imminent violence if they remain in the unit, or has been a victim of sexual assault on the property in the last 90 days, can request an emergency transfer under VAWA 2013. The law allows, but does not require, owners to ask that a survivor submit an emergency transfer request in writing. Survivors living in RD programs can use HUD's Model Emergency Transfer Request Form.
- Tenant survivors seeking a transfer can receive a Letter of Priority Entitlement (LOPE) from RD.
- Owners who choose to seek documentation of the VAWA crime must make the request in writing. Unless there are conflicting certifications, the owner must generally accept the chosen documentation the tenant provides, including the HUD self-certification form.
- The Notice strongly encourages owners "to process emergency transfer requests as quickly as possible" and to keep the requesting tenants informed.
- RD urges owners to allow survivors of a sexual assault on the property to request an emergency transfer beyond the 90-day window outlined in VAWA 2013.
- The survivor is responsible for bearing the cost of an emergency transfer, although the Notice encourages owners and managers to bear some (or all) of the cost and to locate possible funding sources.
- A VAWA lease bifurcation can be initiated

## New Report on VAWA 2013 Implementation in the Low-Income Housing Tax Credit Program



The Violence Against Women Act (VAWA) provides survivors of domestic and sexual violence with strong housing protections. The 2013 VAWA reauthorization explicitly

required that Low-Income Housing Tax Credit (LIHTC) providers comply with VAWA. However, to date, no regulations or guidance regarding VAWA implementation has been issued for the LIHTC program. This has led to significant state-by-state variation in the implementation of VAWA protections in the LIHTC program. In turn, this variation has a substantial impact on the level of protection afforded to survivors. Seven organizations, including NHLPP, recently issued a new report, [Protections Delayed: State Housing Finance Agency Compliance with the Violence Against Women Act](#), that outlines what state housing finance agencies have done (and have not done) to comply with VAWA.

either by the owner or manager or at the survivor's request to remove the abuser. The survivor "must be a tenant or household member on the lease to request" a lease bifurcation.

- Owners and managers can evict a tenant survivor only if the owner or manager can demonstrate that the tenant's continued

(Continued on page 5)

(Continued from page 4)

occupancy poses an “actual and imminent threat” to staff or other tenants at the property.

### Confidentiality

- Owners, managers, their employees, and RD staff must not disclose information related to a VAWA-related incident to anyone else, except if: (1) the survivor gave written consent in a time-limited release; (2) the disclosure is required for an eviction proceeding or subsidy termination hearing; or (3) the disclosure is required by law.
- Reasonable confidentiality measures must be put in place to ensure that the survivor’s new location is not disclosed to the abuser.
- Owners should keep records of all emergency transfer requests and their outcomes.
- Owners cannot use shared databases to record details of a VAWA crime. ▪

### Conclusion

This RD Notice outlines the responsibilities for MFH staff, owners, and management regarding compliance with VAWA 2013. The No-

tice also contains multiple instances where RD is encouraging owners and management agents to adopt additional policies and practices that would benefit survivors. Accordingly, advocates should familiarize themselves with this Notice. ▪

## HUD Issues VAWA 2013 Regulations and Guidance

In December 2016, HUD issued its regulation implementing the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). The VAWA rule’s critical provisions include: (1) extending VAWA protections to survivors of sexual assault; (2) extending VAWA protections to cover all HUD programs listed in VAWA 2013, including the Housing Trust Fund, which was not included in the statute; (3) establishing a 180-day period for housing providers to complete an emergency transfer plan; (4) requiring covered housing providers to provide a notification of VAWA rights to existing tenants and applicants; (5) outlining what is a “reasonable time” for survivors to establish eligibility for a covered HUD program in cases where, due to VAWA crimes, the tenant that established eligibility is no longer a member of the survivor’s household; and (6) revising and creating conforming regulations for the covered housing programs.

In May and June 2017, HUD's Office of Public and Indian Housing and Office of Housing respectively issued notices ([PIH-2017-08 \(HA\)](#); [H 2017-05](#)) for public housing authorities and owners/managers on implementing the requirements of VAWA 2013. The notices provide important guidance and clarification regarding key VAWA 2013 protections and remedies, including emergency transfers, lease bifurcations, and confidentiality. ▪

### Resources

[Complaint, \*Smith v. Wasatch Property Management, Inc.\*, 2:17-cv-00501 \(W.D. Wash. Mar. 30, 2017\).](#)

[ACLU Blog, \*Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women\* \(May 30, 2017\).](#)

(Continued on page 6)

*(Continued from page 5)*

## **Lawsuit Challenges Eviction Screening Policies Impacting African-American Women**

Survivors of domestic violence, dating violence, sexual assault, and stalking are often evicted because of the abuse committed against them. Prior evictions can create additional challenges for survivors who are trying to find safe, decent, and affordable housing. For instance, landlords often screen for an applicant's tenant history – including evictions – as part of the rental application process. Therefore, even after survivors leave a dangerous situation, past instances of violence that resulted in an eviction can prevent survivors from obtaining housing in the future. A rental applicant recently filed a lawsuit in federal court challenging a rental housing provider's policy of automatically denying admission to anyone that had been sued in an eviction action previously, regardless of the context. The applicant, Nikita Smith, argues that such a policy disproportionately prevents African-American women from accessing housing. While Ms. Smith does not identify herself as a survivor of domestic violence, the outcome in this case could impact the extent to which many survivors who have eviction records can subsequently access housing.

Ms. Smith is an African-American woman who sought housing in King County, Washington. Her then-landlord had previously filed an eviction suit against her for failing to pay her rent. However, Ms. Smith caught up on her rent shortly after and was never evicted. Ms. Smith viewed apartments owned by the defendant in the lawsuit, Wasatch Property Management, and intended to apply for one of their units. While touring the property, she told the landlord's representative about her

prior involvement in the eviction suit. Ms. Smith alleges that the representative refused to accept her housing application. Additionally, Ms. Smith asserts that she was not offered an opportunity to put the eviction lawsuit in context and, therefore, was barred from applying for the apartments she viewed. In fact, as someone who had recently been issued a Section 8 Housing Choice Voucher, the lawsuit argues, Ms. Smith would have been in a better position to meet her rent payment obligations because of the financial assistance she would receive.

The lawsuit argues that the housing provider's policy automatically denying admission because of a prior eviction violates the Fair Housing Act, which prohibits discrimination in a variety of housing-related transactions on the basis of race, color, and sex, among other characteristics. Although such a policy affects all prospective tenants, it has a disproportionate effect on African-Americans generally, and more specifically, African-American women – a group that the lawsuit asserts is sued for eviction five times more often than white men in King County. Practices that disproportionately exclude individuals on the basis of characteristics such as race or sex violate the federal Fair Housing Act unless such practices are necessary to accomplish a valid interest. The lawsuit asserts that the housing provider's policy regarding prior evictions is unnecessary to achieve the interest of renting to tenants who would be able to fulfill their rental obligations.



*(Continued on page 7)*

(Continued from page 6)

For instance, Ms. Smith argues that the housing provider could consider a person's individual circumstances rather than simply refusing to allow that person to apply.

The organizations representing Ms. Smith in this lawsuit, *Smith v. Wasatch Property Management, Inc.*, include the Northwest Justice Project, the ACLU of Washington, the ACLU Women's Rights Project, and the Virginia Poverty Law Center. Ms. Smith seeks a declaration by the court that the housing provider's policy of denying anyone with a prior eviction, regardless of circumstances, is unlawful; an order prohibiting the housing provider from using this policy; and damages and lawsuit costs.

### Survivor Challenges Maplewood, Missouri's Ordinance

On April 7, 2017, the American Civil Liberties Union (ACLU) filed a lawsuit in federal court against the City of Maplewood, Missouri on behalf of Rosetta Watson, a domestic violence survivor. The lawsuit asserts that Maplewood's nuisance law penalizes domestic violence survivors for calling the police for help. The case, *Watson v. City of Maplewood, et al.*, follows two previous ACLU lawsuits challenging nuisance laws in Norristown, Pennsylvania and Surprise, Arizona. The following article summarizes the complaint filed by the ACLU.

#### Background

Maplewood law requires its residents to apply for an occupancy permit annually. In 2006, Maplewood passed a law authorizing the City to revoke an occupancy permit for up to 6 months when a property or its occupant was designated as a "nuisance." Revoking

### Webinar on Immigrant Access to Federally Assisted Housing

Immigrant survivors often face obstacles in accessing federally subsidized housing and services that protect life or safety because of providers' misunderstandings about immigration requirements for program participants. In February 22, 2017, NHLP and the National Immigrant Women's Advocacy Project (NIWAP) hosted a [webinar](#) that provides an overview of the rights of immigrants to access federally funded housing programs, such as programs funded by HUD and USDA Rural Development. Panelists discussed recent HUD authority that confirms the rights of VAWA self-petitioners to access public and assisted housing, while also restating and reconfirming the rights of survivors, regardless of their immigration status, to access emergency shelters and transitional housing that receive federal funds.

one's occupancy permit effectively excludes a resident from the City during that time. Maplewood law would also designate a property as a "nuisance" if police are called to the premises in response to more than two domestic violence or peace disturbance incidents at the property within a period of 180 days. The City's law does not include exemptions for domestic violence survivors or other crime victims who seek police assistance. Consequently, domestic violence survivors can be prevented from renting within the entire City of Maplewood just because they called the police for help too many times. Ms. Watson,

(Continued on page 8)

(Continued from page 7)

the survivor who is the plaintiff in the latest ACLU lawsuit, asserts that this is what happened to her.

Ms. Watson called the police four times in late 2011 through early 2012 seeking assistance due to acts of abuse committed by a former boyfriend. In September 2011, Ms. Watson's former boyfriend verbally and physically abused her. Fearing more abuse, she fled and called the police. The abuser, who did not live at the property, was arrested. In November 2011, her former boyfriend physically abused Ms. Watson in her home. He was arrested again. In January 2012, Ms. Watson called the police because her former boyfriend was refusing to leave her home, and she feared further abuse. In February 2012, Ms. Watson came back from a trip to find the abuser in her home. Again, he assaulted her. Once again, Ms. Watson fled and called the police for help. The police arrested the abuser. However, police also issued a summons for domestic assault to Ms. Watson due to injuries her former boyfriend sustained while Ms. Watson defended herself from physical attack.

In March 2012, Anthony Traxler, a City official, notified Ms. Watson that the City was holding a hearing under the nuisance law because of her police calls. Mr. Traxler also drafted a memo outlining the reasons why Ms. Watson's circumstances fell within the scope of the Maplewood nuisance law. At the hearing, Mr. Traxler acted as the presiding hearing officer, and determined that Ms. Watson's po-



## NHLP's 2017 Domestic Violence State Law Compendium

In December 2016, NHLP issued an updated edition of its [State Law Compendium: Housing Rights of Domestic Violence Survivors](#). The *Compendium* compiles state and local laws that affect domestic violence survivors' housing rights. It is designed to serve as a starting point for advocates seeking to conduct research on the housing protections that their state and local laws offer for domestic violence survivors. Examples of such protections include early lease termination provisions for domestic violence survivors, lock change laws, and affirmative defenses for evictions related to acts of domestic violence committed against a tenant.

lice calls were a "nuisance." Ms. Watson did not have a lawyer with her at the hearing. Despite being aware of her status as a survivor of repeated domestic violence, the City revoked Ms. Watson's occupancy permit for six months, temporarily banning her from Maplewood until November 2012.

Ms. Watson left Maplewood, and moved to St. Louis. Her former boyfriend tracked her, broke into her new home, and stabbed her in the legs. Because she was afraid to call the police, Ms. Watson took herself to the hospital. Her abuser was subsequently incarcerated.

Furthermore, Ms. Watson lost her Section 8 Housing Choice Voucher because she could not renew her lease at her home in Maplewood because of the nuisance law. Her Voucher was subsequently reinstated in 2016 after the local housing authority was informed that

(Continued on page 9)

*(Continued from page 8)*

terminating her Voucher violated the Violence Against Women Act (VAWA) and additional legal protections.

### **The Lawsuit**

The lawsuit argues that the nuisance law violated Ms. Watson’s rights, including those under the U.S. Constitution and VAWA. First, the lawsuit asserts that the nuisance law, on its face, violates the First Amendment of the U.S. Constitution because reporting criminal activity and filing complaints with law enforcement are activities that are constitutionally protected. Second, the lawsuit argues that the Maplewood law violates the Equal Protection Clause because the law discriminates against women by singling out domestic violence calls and relies on gender stereotypes about female survivors. Third, the lawsuit asserts that the nuisance law has violated Ms. Watson’s constitutional right to travel, which includes the right to establish a residence. Fourth, the lawsuit argues that the law violates the U.S. Constitution’s Due Process clause, in part, because Ms. Watson’s lost her property without sufficient procedural protections, such as an impartial hearing officer. The lawsuit alleges similar claims under Missouri’s state constitution. Finally, the lawsuit asserts that the Maplewood law violates VAWA, because VAWA states that domestic violence is not “good cause” to terminate a victim’s occupancy or subsidy rights within covered federally subsidized housing programs. The lawsuit argues that VAWA, as a federal law, supersedes the local nuisance law. In this case, Ms. Watson, a Section 8 Voucher holder, asserts that she lost both her home and her subsidy because of incidents of domestic violence.

### **Resources**

[Watson v. City of Maplewood, et al., No. 4:17-cv-01268 \(E.D. Mo. Apr. 7, 2017\).](#)

[Sandra Park, This Missouri City Banishes Domestic Violence Survivors for Calling the Police, ACLU BLOG \(Apr. 7, 2017\).](#)

### **Conclusion**

Maplewood’s nuisance law is far from unique, as a number of cities have adopted them throughout the United States. Such laws penalize individuals for crimes that occur in their homes when they seek the police’s help, and discourage domestic violence survivors and other crime victims from turning to the authorities for assistance. ▪

### **HUD Guidance on Immigrant Eligibility for Homeless Assistance Programs**

On August 5, 2016, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issued a joint letter (Joint Letter) to

### **Resource**

[HUD Office of Special Needs Assistance Programs, “The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs” \(Aug. 16, 2016\).](#)

*(Continued on page 10)*

(Continued from page 9)

federal financial assistance recipients stating that they should not withhold “certain services necessary to protect life or safety” based on immigration status. Shortly after, HUD’s Office of Special Needs Assistance Programs (SNAPS) issued a guidance fact sheet to provide additional information to grantees that receive funds through HUD’s Homeless Assistance Programs (i.e., Emergency Solutions Grants and Continuum of Care). This article provides background for and then briefly summarizes the SNAPS guidance.

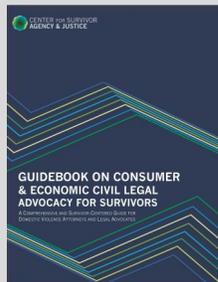
### Background

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which placed restrictions on immigrants’ access to certain public benefits. PRWORA also carved out exceptions to those restrictions. Federal programs and services that (1) “deliver in-kind services at the community level,” (2) are “necessary for the protection of life or safety,” and (3) do not use a person’s income or resources to determine whether assistance is provided, must be available to eligible individuals regardless of their immigration status.

The exempted programs include, but are not limited to:

- Crisis counseling and intervention programs; services and assistance that relate to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity; or treatment of substance abuse or mental illness;
- Short-term shelter or housing assistance for the homeless, domestic violence survivors, or for abused, runaway, or abandoned children;

## Guidebook Focused on Consumer and Economic Advocacy for Survivors Released



In May 2017, the Center for Survivor Agency & Justice released its [Guidebook on Consumer & Economic Civil Legal Advocacy for Survivors](#). This guidebook offers concrete consum-

er and economic civil legal remedies, as well as nonlegal advocacy strategies, through the lens of survivor-centered advocacy – rooted in the experiences of survivors living in poverty. The publication includes a chapter on housing protections for domestic and sexual violence survivors written by NHLP.

- done children;
- Programs, services, or assistance to help individuals during periods of heat, cold, and adverse weather conditions;
- Soup kitchens, community food banks, and other community nutritional services;
- Medical and public health services, and disability, mental health, or substance abuse assistance that is necessary to protect life or safety; and
- Transitional housing for up to two years.

### HUD’s Homeless Assistance Programs

After the Joint Letter was issued, HUD’s SNAPS office published its own fact sheet with guidance about exceptions to PRWORA immigra-

(Continued on page 11)

(Continued from page 10)

tion restrictions for assistance funded through the Continuum of Care and Emergency Solutions Grants programs. The fact sheet states that HUD has determined the following types of assistance are not subject to PRWORA's immigration restrictions:

- Street Outreach Services;
- Emergency Shelter;
- Safe Haven; and
- Rapid Re-Housing.

The fact sheet also notes that transitional housing where the HUD funding recipient or sub-recipient *owns or leases* the building used to provide housing is exempt from immigration restrictions. However, transitional housing programs that provide *rental assistance payments* are subject to immigration restrictions because rental assistance is provided on the basis of income, and therefore does not meet the three-part test outlined above.

Finally, the SNAPs fact sheet reminds non-profit Continuum of Care or Emergency Solutions Grants funding recipients that non-profit, charitable organizations are not required to verify applicant immigration status for public benefits. ▀



## Advocates Challenge Chronic Nuisance Ordinance in Peoria, Illinois

Survivors of domestic violence, dating violence, sexual assault, and stalking often must rely upon 911 emergency assistance because of the actions of their abusers. However, a number of localities across the country have adopted ordinances that require landlords to abate nuisance conduct, which is often defined as when police officers are called to a particular property too many times in a specific timeframe. Nuisance ordinances assign a range of penalties to landlords with so-called “nuisance” properties; to avoid these penalties, landlords are forced to evict tenants at these properties – even if the tenants are crime victims simply seeking police assistance. Such ordinances have been enforced against survivors of domestic violence who have sought emergency assistance because of the abuse committed against them. Such ordinances, in turn, deter survivors and other crime victims from seeking police assistance out of fear of losing their housing. Advocates have challenged several nuisance ordinances on the grounds that these laws disproportionately impact domestic violence survivors. Recently, HOPE Fair Housing Center, a local fair housing organization, [filed a lawsuit against the City of Peoria, Illinois](#) asserting that its “chronic nuisance” ordinance is unlawful under the Fair Housing Act (FHA) and state law.

Peoria has an ordinance that prohibits owners from allowing their properties to become “chronic nuisance” properties. Generally, a property is eligible to be designated a nuisance property after three police reports chronicling nuisance activity are filed with the city within a one-year period. The advocates’ lawsuit notes that this number is easily met by

(Continued on page 12)

(Continued from page 11)

large apartment buildings within the span of the year. Advocates assert that, in practice, the police unit that enforces the ordinance exercises a great deal of discretion in designating nuisance properties, with little oversight. Furthermore, Peoria officials have allegedly expressed the view that landlords of designated nuisance properties should, if possible, quickly evict tenants involved with any nuisance conduct, including crime victims – even if that means forgoing the formal eviction process. The lawsuit also asserts that the city pressures the local housing authority to terminate Section 8 voucher assistance to tenants involved in nuisance activity.

According to the lawsuit, Peoria’s nuisance ordinance makes no distinction between perpetrators and crime victims. In one case, the city had designated a tenant’s property as a nuisance because she had called the police to report several incidences of violence committed against her -- including physical assault, property damage, and gunshots. The lawsuit states that the city required that the tenant be evicted. An analysis by HOPE found that domestic violence incidents were the second most common activity for which the city issued nuisance citations, even though the city claimed it did not intend to target domestic or sexual violence survivors. Peoria did amend the ordinance to exclude domestic violence incidents or calls from being categorized as nuisance incidents, in order to comply with state law. However, the lawsuit asserts that the ordinance fails to broadly exclude crime victims, and does not provide a way for domestic violence incidents to be distinguished from other nuisance activities.

Furthermore, the lawsuit alleges that the ordinance is not evenly enforced, as it targets neighborhoods with a substantial number of African-American residents; for instance, the

lawsuit asserts that a property in a majority African-American neighborhood “was more than twice as likely to be cited” as a nuisance when compared to a similar property in a majority-white neighborhood. Even when properties in non-minority neighborhoods are targeted for enforcement of the ordinance, the lawsuit alleges that enforcement action was largely taken against buildings with primarily low-income and African-American residents.

The lawsuit challenges the nuisance ordinance on the grounds that it intentionally enforces the ordinance against survivors of domestic violence and African-American residents of Peoria, in violation of the FHA and state law. Additionally, the lawsuit also alleges that the ordinance has a disproportionate impact on female survivors of domestic violence and African Americans, also in violation of the FHA and state law. The lawsuit asks, among other things, for a federal court to declare portions of Peoria’s ordinance unlawful; to stop the city from enforcing the ordinance; to order the city to take corrective actions regarding the alleged discrimination; and to award monetary damages. ▀

**For technical assistance or requests for trainings or materials, please contact:**

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