



703 Market St., Suite 2000  
San Francisco, CA 94103  
Telephone: 415-546-7000  
Fax: 415-546-7007  
nhlp@nhlp.org  
www.nhlp.org

June 23, 2014

Mr. Tony Hernandez, Administrator  
Rural Housing Service  
Rural Development  
United States Department of Agriculture  
1400 Independence Ave, S.W., South Building  
Washington D.C. 20250-0700

Dear Mr. Hernandez,

Thank you for issuing Administrative Notice (AN) 4747 (1944-N) (February 10, 2014) and RHS's attention to implementing the Violence Against Women Act's housing provisions. The undersigned groups are writing to request that RHS republish the AN due to inconsistencies between the AN and the Violence Against Women Act (VAWA). We are also writing to urge that the agency consider other changes to the AN.

Specifically, we would like to draw your attention to the Rural Development Model Emergency Transfer Plan (Transfer Plan), which is Attachment B to the AN. In the first paragraph, which sets out the conditions for a resident to qualify for a transfer, it states that "tenants who are actual or imminent victims of **domestic violence**" (emphasis added) can request a transfer when "(1) the tenant reasonably believes that he or she is threatened with imminent harm from further violence if he or she remains within the same dwelling; **and** (2) in the case of a tenant who is a victim of sexual assault, the assault occurred on the premises during the 90-day period preceding the request for transfer" (emphasis added).

First, under VAWA, so long as they meet the requirements, all categories of victims protected by the statute are entitled to make a transfer request, including victims of dating violence, sexual assault, and stalking. 42 U.S.C. § 14043e-11(e)(1). Therefore, these categories of victims, in addition to victims of domestic violence, must be added to the Transfer Plan.

Second, under VAWA, the two listed conditions are treated in the disjunctive not, as the AN indicates, in the conjunctive. *See* 42 U.S.C. § 14043e-11(e)(1)(B) (“the tenant reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit assisted under a covered program; **or** (ii) in the case . . .”) (emphasis added). This distinction is critical because, in accordance with the AN, owners and managers may deny survivors the right to relocate because they do not meet both conditions enumerated under subsections (1) and (2). Under VAWA, survivors only need to meet either the condition specified in subsection (1) or (2).

We would also like to draw your attention to the first sentence of the Transfer Plan. It states that residents who are actual or imminent survivors of domestic violence are permitted to transfer “to another available safe dwelling unit **assisted under the MFH Program...**” (emphasis added). Under VAWA’s emergency transfer provisions, survivors can move to another available and safe dwelling unit **assisted under a covered housing program. . .**” 42 U.S.C. § 14043e-11(e)(1) (emphasis added). In other words, survivors are entitled to move to *any* assisted development covered by VAWA and are not restricted to units in other RHS multi-family housing. This should be made clear by revising the sentence to state that eligible tenants “shall be permitted by the owner or manager to transfer to another available and safe dwelling covered by VAWA, including units assisted by the Department of Housing and Urban Development, the Department of Treasury, which administers the Low Income Housing Tax Credit Program, and the MFH Programs covered by this AN....”

We urge that RHS take steps to engage immediately with the HUD and Treasury Secretaries to ensure that future HUD and IRS VAWA regulations specify that RD residents are also eligible to move to HUD and LIHTC properties covered by VAWA.

Along the same lines, RHS should also coordinate with the Secretary of HUD to ensure that residents of RHS housing who are survivors are eligible for tenant protection vouchers that are authorized by Section 14043e-11(f) of VAWA.

When revising the AN, we urge RHS to also clarify two other provisions in the Emergency Transfer Plan. First, the Transfer Plan should make it clear that residents eligible for Letters of Priority Entitlement (LOPES) who are currently receiving Rental Assistance (RA) may transfer RA to another RHS property. This is consistent with current RHS regulations and handbooks. To ensure that the current development does not permanently lose the RA, thereby creating a disincentive for owners to allow transfers, RA should revert to the current development upon the occurrence of a vacancy in a Rental Assistance-assisted unit at the new development or the moving tenant’s departure for the new unit, whichever occurs first.

Second, the Transfer Plan should clearly state which RD official is authorized to issue LOPES to survivors and provide that official's name, address, e-mail, and phone number. Unlike residents of RHS developments that are being prepaid, who are contacted by RD and advised of the availability of LOPES, survivors are not initially contacted by RD and advised of their LOPE eligibility. They must initiate a LOPE request and the Transfer Plan should specify who they are to contact.

We appreciate RHS' publication of AN 4747. However, we urge that the agency promptly adopt regulations implementing VAWA and thereby requiring owners of RHS rental housing to comply with the Act by modifying leases, occupancy rules, and management plans. The VAWA protections are critical to survivors accessing and maintaining affordable housing, and their full implementation must not be delayed.

Thank you for your consideration. We look forward to seeing a revised AN and to hearing from you about the agency's plans to fully implement VAWA.

Sincerely yours,

/s/

Gideon Anders  
Senior Attorney  
National Housing Law Project

American Civil Liberties Union

Housing Assistance Council

Local Initiatives Support Corporation

National Alliance to End Sexual Violence

National Law Center on Homelessness and Poverty

National Low Income Housing Coalition

National Network to End Domestic Violence

National Sexual Violence Resource Center

NeighborWorks America

Rural Community Assistance Corporation

Sargent Shriver National Center on Poverty Law

California Coalition for Rural Housing

CASA of Oregon

Community Frameworks

Community Housing Improvement Program

Federation of Appalachian Housing Enterprises

NCALL Research, Inc.

Network for Oregon Affordable Housing

Office of Rural and Farmworker Housing

Oregon Law Center

Pennsylvania Coalition Against Rape

Self-Help Enterprises

Southeast Rural Community Assistance Project

Tierra del Sol Housing Corporation

Utah Housing Coalition

- c. Barbara Chism, Multi-Family Housing Portfolio Management Division  
Lynn Rosenthal, White House Advisor on Violence Against Women