

HOUSING JUSTICE

National Housing Law Project

Newsletter July/August 2014

HUD's Office of Public and Indian Housing Updates VAWA Certification Form

In July 2014, the U.S. Department of Housing and Urban Development's (HUD) Office of Public and Indian Housing (PIH) issued an updated version of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, which has been modified in accordance with the Violence Against Women Reauthorization Act of 2013's (VAWA 2013) expanded housing safeguards. Important revisions to the form include adding victims of sexual assault as a protected category; clarifying that family members and household members of the victim are protected by VAWA; obligating housing providers to keep confidential the fact that an individual is a victim; and requiring the victim to provide the name of the perpetrator only if the name is known and safe to provide.

The form applies to the public housing and the Section 8 Housing Choice Voucher programs. It also applies to the smaller voucher programs covered by VAWA, such as the Veterans Affairs Supportive Housing (VASH) vouchers. (Since VAWA 2013 does not cover the Indian housing programs, this form also does not apply to those programs.) Survivors, who are claiming VAWA housing protections in these programs, can use the form to document their status as victims for housing providers. We anticipate that similar forms will be issued by HUD's Office of Multifamily Housing (Housing), which handles the Section 8 project-based housing, Section 202, Section 811, Section 236, and Section 221(d)(3) programs (all covered by VAWA 2013), and HUD's Office of Community Planning and Development

(CPD), which administers the block grant programs, including HOME, Housing Opportunities for Persons with AIDS (HOPWA), and McKinney-Vento/HEARTH Act programs (all covered by VAWA 2013).

Advocates can access form HUD-50066 at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5. Please note that translated versions of the updated form are not yet available through HUD. ■

Domestic Violence Survivor Settles Discrimination Claims Against New Hampshire Landlords

On May 19, 2014, the Office of Fair Housing and Equal Opportunity Region I approved on behalf of the U.S. Department of Housing and Urban Development (HUD) two conciliation agreements addressing complaints made by a domestic violence survivor against housing providers in New Hampshire. The survivor alleged that the housing providers had violated the federal Fair Housing Act (FHA) by refusing to renew her lease and denying her housing because of 911 calls that she made related to domestic violence. Specifically, the survivor claimed that such housing denials constituted gender discrimination under the FHA.

The survivor had resided in multifamily housing owned by TKB Properties, LLC (TKB) and managed by New England Family Housing Management Organization, LLC (NEFHMO). In one complaint, she alleged that TKB and NEFHMO refused to renew her lease because the police responded to domestic

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violence-related calls to her unit. Therefore, she sought other housing in the area. In a second complaint, the survivor further claimed that while searching for another home, Michael Warren, a landlord, refused to rent an apartment to her because of the previous domestic violence-related police visits to her apartment. The survivor filed two complaints with HUD in December of 2013.

In May of 2014, the parties entered into conciliation agreements that were facilitated by HUD. Under the terms of the agreements, the survivor will receive a total of \$13,550 in damages. In addition, the management staff of TKB and NEFHMO must attend a training on fair housing and the Violence Against Women Act (VAWA). TKB and NEFHMO are further required to compile information regarding tenancy vacancies and applications on a regular basis for properties that they own or manage and accept Section 8 vouchers or other financial assistance from HUD. At HUD's request, TKB and NEFHMO must provide information concerning evictions or application denials that may involve police visits or domestic violence. They must also submit to HUD lease terms and lease renewal procedures that have been modified according to VAWA for all properties that they own or manage. Furthermore, Michael Warren agreed to attend a fair housing training as well as submit to HUD a report documenting applications for tenancy at the property and reasons for any denials. At HUD's request, Michael Warren also must provide information concerning housing denials that may involve police calls or domestic violence.

HUD is monitoring compliance with the conciliation agreements. ■

Resources

Conciliation Agreement between (Complainant) and New England Family Housing Management Organization, LLC, et al., FHEO Case No. 01-14-0073-8 (May 19, 2014), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=14VAWANewEnglandconcil.pdf>

Conciliation Agreement between (Complainant) and Michael Warren, FHEO Case No. 01-14-0074-8 (May 19, 2014), available at <http://portal.hud.gov/hudportal/documents/huddoc?id=14VAWAWarrenconcil.pdf>

DOJ Settles Claims That Housing Provider Discriminated Against Families with Children

Domestic violence survivors face many obstacles to obtaining safe and affordable housing, including housing discrimination based on familial status. This form of discrimination occurs when a housing provider has policies that treat families poorly or differently because those families have children. Examples of familial status discrimination include holding families with children to stricter standards than those without children; forbidding children from playing on the premises; or simply refusing to rent to families with children, under the assumption that the children will disturb other residents or cause damage. The federal Fair Housing Act (FHA), which prohibits housing discrimination, explicitly prohibits familial status discrimination. Therefore, the FHA protects families with children under 18 years of age, families in the process of obtaining custody of a minor, and pregnant women.

In July 2014, the U.S. Department of Justice (DOJ) and the owners and managers of an apartment complex in Northern California reached an agreement concerning allegations that the management violated the FHA by having discriminatory rules regarding where children could play on the property. Specifically, children were banned from

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playing in the outside grassy areas of the property. The federal district court where the case was filed recently approved the settlement.

Background

According to the complaint filed by DOJ, in 2009, management at Woodland Garden Apartments in Fremont, California began requiring tenants to sign an addendum to their leases entitled “Rules for Children.” These rules allegedly targeted the activities of children on the property and further stated that if these rules were not followed, children would no longer be permitted to play outside without adult supervision. In 2012, citing property damage, the manager sent a letter to residents that disallowed children from being outside. The letter also indicated that there was no playground on the property, and, therefore, residents should take their children to the park. The manager’s letter threatened residents with eviction if they did not comply. In addition, the complaint alleged that the property manager told a parent that children needed to go to the playground to play because the apartment complex was “a place for peace and quiet,” and that children needed to be indoors at all times. Fearing eviction, residents did not allow their children to play outside. As a result, several residents, as well as the fair housing organization Project Sentinel, filed a complaint with the U.S Department of Housing and Urban Development (HUD). The owners eventually rescinded the policies, after the HUD complaint was filed.

After completing an investigation, HUD determined that reasonable cause existed to believe that the property management had violated the FHA. Project Sentinel sued in federal district court, leading to the DOJ filing a lawsuit on behalf of the tenants and Project Sentinel in October 2013. DOJ alleged discrimination on the basis of familial status, in violation of the FHA. The lawsuit sought a declaration by the court that the property owner and manager violated the FHA, action by the court to stop enforcement of these policies, damages, and civil penalties.

Resources

Complaint, *United States v. Martin Family Trust et al.*, available at

<http://www.justice.gov/crt/about/hce/documents/martintrustcomp.pdf>

Natalie Neysa Alund, *Lawsuit alleges Fremont apartment complex owners ordered kids not to play outside*, San Jose Mercury News online (Oct. 28, 2013), available at

http://www.mercurynews.com/breaking-news/ci_24404595/lawsuit-alleges-fremont-apartment-complex-owners-ordered-kids

Justice Department Obtains \$80,000 Settlement in Housing Discrimination Lawsuit Against California Landlord, Press Release, U.S. Department of Justice (July 25, 2014), available at

<http://www.justice.gov/opa/pr/2014/July/14-crt-785.html>

Settlement Terms

As part of the settlement, the owner, property manager, and employees working at the property must take a series of actions to ensure that these discriminatory policies are no longer in place. The following paragraphs highlight some of the agreement’s important terms.

Discriminatory Policies and Actions Prohibited

The settlement agreement generally prohibits the ownership and management of Woodland Garden Apartments from engaging in conduct that discriminates on the basis of familial status. Specifically, Woodland Garden Apartments cannot discriminate in the “terms, conditions, or privileges” of rental or in the “provision of services or facilities” in connection with the rental. The settlement also prohibits creating any discriminatory notices related to the rental. These prohibitions further apply to other properties that the ownership or manage-

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ment owns or in which they have a financial interest.

Nondiscrimination Policy

The settlement requires the owner to adopt a nondiscrimination policy and distribute a copy of the policy to all tenants, employees, and others working on behalf of the ownership or management in various capacities within 30 days of court approval of the agreement. Employees must also receive a copy of the settlement and sign a form stating that they understand and will follow the terms of both the settlement and the nondiscrimination policy. New employees must receive the nondiscrimination policy and settlement agreement, and must also sign a form indicating that they have read and understand these documents, within 30 days of being hired.

Procedures Regarding Property Rule Violations

The apartment complex must establish, post, and distribute to tenants procedures regarding violation of community rules. The procedures must involve written tenant notification of violations, and a process of “escalating written warnings and penalties.” Furthermore, the landlord must use a log to document both tenant violations and related adverse actions taken against the tenant, when they occur. The property cannot take any adverse actions against tenants without this required documentation. However, the agreement does not prevent the landlord from taking immediate action to address rule violations that “pose a significant risk” to the health and safety of other tenants and their guests. Additionally, the agreement does not prevent the landlord from raising tenant rents as part of the normal operation of the property.

Monetary Damages and Payments

The landlord must pay \$77,500 in damages to Project Sentinel and tenants impacted by the property’s discriminatory policies. The agreement requires that the landlord pay an additional \$2,500 to the U.S. government.

Additional Requirements

Any advertisements or marketing for the complex must include either the words “Equal Housing Opportunity” or the fair housing logo. Additionally, all rental offices used by the ownership or management must prominently display a fair housing sign. The property’s rental applications and rental agreements must also indicate that the property does not discriminate on the basis of familial status, or against other groups protected by the FHA. The owner, the property manager, and employees at the property must also complete fair housing training with a focus on familial status discrimination.

Furthermore, the agreement requires the ownership and management to report to DOJ: housing discrimination complaints received by the property; a log of rule violations by tenants and associated adverse actions; a listing of tenants at the property that includes the number of minor children in each household; a listing of all of the properties in which the owner or management has a financial interest; changes in ownership of the property; and changes to tenant rules.

The agreement will remain in effect for two years, and the court will enforce its terms. ▪

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