

HOUSING JUSTICE

National Housing Law Project

Newsletter October 2014

Borough Repeals Ordinance Penalizing Survivors Who Called Police

The Borough of Norristown, Pennsylvania has repealed a local law that imposed penalties on landlords with tenants who called the police too many times within a certain period. The ordinance did not contain an exception for domestic violence survivors seeking police assistance, and encouraged landlords to evict tenants seeking help from the authorities.

A domestic violence survivor challenged the ordinance in court. After the initial court case was filed, the Department of Housing and Urban Development (HUD) filed its own Secretary-initiated administrative complaint, due to the law's impact on survivors. In order to settle both of these actions, Norristown has entered into two agreements: the first with the survivor, and the second with HUD. The following article briefly summarizes these two agreements.

Background

Norristown had an ordinance that would penalize landlords of properties where the police was called three times over a span of four months for "disorderly behavior" (known as the "three-strikes" rule). Such conduct included calls related to domestic violence.

Lakisha Briggs, a domestic violence survivor, called the police seeking protection from an abuser on several occasions. The police began assessing "strikes" against Ms. Briggs, such that her landlord would be penalized if she kept calling the police. According to the complaint filed in court, the police began counting strikes because they were "tired of

Resources

ACLU Women's Rights Project, Press Release, "Pennsylvania City Agrees to Repeal Law that Jeopardizes Safety of Domestic Violence Survivors" (Sept. 8, 2014), <https://www.aclu.org/womens-rights/pennsylvania-city-agrees-repeal-law-jeopardizes-safety-domestic-violence-survivors>.

ACLU Women's Rights Project, "Victory! Town Will No Longer Treat Domestic Violence Victims as Nuisances" (Sept. 8, 2014), <https://www.aclu.org/blog/womens-rights/victory-town-will-no-longer-treat-domestic-violence-victims-nuisances>.

HUD, Press Release, "HUD and Philadelphia-Area Borough Settle Allegations of Housing Discrimination Against Victims of Domestic Violence" (Oct. 2, 2014), http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-121 (includes link to the Conciliation Agreement).

Briggs v. Norristown, 2:13-cv-02191-ER, Amended Complaint (Apr. 29, 2013), available at: https://www.aclu.org/files/assets/2013.04.29_-_verified_first_amended_complaint.pdf

The Times Herald, "\$495k court settlement with ACLU, Norristown resident approved by council," <http://www.timesherald.com/general-news/20140902/495k-court-settlement-with-aclu-norristown-resident-approved-by-council>

responding to Ms. Briggs' previous calls to the police." Out of fear of losing her housing, Ms. Briggs did not call the police for assistance. As a result, she suffered extensive injuries by her abuser, and had to

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be hospitalized. In spite of these injuries, the borough repeatedly tried to compel Ms. Briggs' landlord to evict her, against the landlord's wishes. The ACLU brought suit on behalf of Ms. Briggs, asserting that the ordinance was unlawful. Ms. Briggs alleged violations of, among other things, the federal Fair Housing Act (FHA). Specifically, Ms. Briggs asserted that the law's impact on survivors of domestic violence disproportionately impacted women, in violation of the FHA. The suit also alleged that the ordinance violated the Violence Against Women Act (VAWA), as VAWA provides housing protections for survivors who participate in federally-subsidized housing programs, such as Ms. Briggs' Section 8 voucher. After Ms. Briggs filed her suit, HUD initiated its own complaint on the grounds that the ordinance violated the FHA because of its impact on female survivors. The borough settled both actions.

ACLU Settlement Terms

In order to settle its claims with the ACLU, Norristown agreed to repeal its ordinance. Additionally, the borough will pay \$495,000 to Ms. Briggs and her attorneys. Furthermore, Norristown has agreed to refrain from passing similar ordinances in the future.

HUD Conciliation Agreement Terms

On October 2, 2014, HUD announced that it had entered into a Conciliation Agreement (Agreement) with Norristown that had requirements supplementing those in the ACLU settlement with Ms. Briggs. HUD will monitor the Agreement, which is in effect for two years and requires periodic reporting by Norristown. The Agreement included additional terms, briefly summarized below.

Outreach. Under the Agreement, Norristown must develop an "education and outreach program, including a brochure concerning rights regarding the Fair Housing Act." The brochure must include a statement that the borough "encourages all tenants to call the police when they are in need of assistance and that the Municipality does not discourage victims of crime or disorderly behavior...from calling the police." The brochure must also summarize FHA rights. The Agreement requires Norristown police to provide a copy of the brochure

when responding to certain types of calls; additionally, the borough must provide a copy of the brochure to landlords who are applying for or renewing a rental license.

Furthermore, the Agreement mandates that the town organize an annual community service activity to raise domestic violence awareness, in conjunction with a local domestic violence organization.

Additionally, the Agreement requires that Norristown provide HUD with copies of a published notice alerting the public that the three-strikes ordinance has been repealed.

Training. The Agreement also requires certain town officials and employees (such as police officers) to undergo fair housing training, which will emphasize the topics of sex and disability discrimination. The training provider and curriculum must be approved by HUD in advance. New city councilmembers or certain new borough employees must undergo fair housing training within 90 days of assuming their position. The training must be conducted annually while the Agreement is in effect.

Breach. If Norristown fails to comply with the terms of the Agreement, HUD may refer the case to the Department of Justice, which could then sue the borough in federal court. ■

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Upcoming NHLP Webinar

Please mark your calendar for NHLP's webinar, "Credit History and Housing Access for Domestic Violence Survivors," on October 23, 2014, 2:00 p.m.—3:30 p.m. EST.

The session will address options for survivors with negative credit history who are seeking to apply for housing. Register online at:

<https://attendee.gotowebinar.com/register/9101743321558457858>

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DOJ Settles Allegations that Property Manager Sexually Harassed Female Tenants

Note to OVW Grantees: The Office of Violence Against Women, U.S. Department of Justice, does not handle issues regarding sexual harassment.

Survivors of domestic violence, dating violence, sexual assault, and stalking may also experience sexual harassment by their own housing providers. Oftentimes, survivors who have recently left their abusers lack necessary financial resources to leave another unsafe situation—particularly in situations where the abusers had asserted financial control over the survivor. Additionally, domestic violence may result in the survivor being evicted from previous rental housing, often limiting subsequent housing options. Housing providers may target survivors in these circumstances, believing the survivors would be less likely to report unlawful conduct for the sake of maintaining stable, affordable housing. Furthermore, sexual harassment has the potential to escalate into more severe forms of violence, such as stalking or sexual assault.

In August 2014, a federal district court approved a settlement agreement between the U.S. Department of Justice (DOJ) and the owners and property manager of a Michigan apartment complex. The agreement settles allegations that the property manager, Dale VanderVennen, engaged in sex-based housing discrimination by sexually harassing female tenants and applicants. The following article summarizes key aspects of the settlement.

Background

DOJ filed its complaint in September 2013, outlining allegations that VanderVennen engaged in a pattern of discrimination against the complex's female tenants and that the complex's owners failed to stop his conduct. In his role as property manager, VanderVennen allegedly used his posi-

tion to sexually harass multiple female tenants and applicants. According to the complaint, he: made unwelcome sexual comments and advances to female tenants and prospective tenants; subjected female tenants to unwanted sexual touching and “touch[ed] himself in a sexual manner” in their presence; entered female tenants’ apartments “without permission or notice”; offered “housing benefits in exchange for sexual acts”; threatened female tenants who refused to provide sexual favors; and “regularly expressed a preference for female tenants.” The complaint also alleged that the owners had the ability to stop VanderVennen but failed to take reasonable actions to prevent or correct his conduct.

DOJ alleged that VanderVennen and the owners (defendants) violated several provisions of the Fair Housing Act. First, they allegedly denied housing based on sex. Second, they allegedly engaged in sex-based discrimination in the “terms, conditions, or privileges” of renting apartments. Third, they allegedly stated a sex-based preference or limitation in renting apartments. Finally, they allegedly “coerced, intimidated, threatened or interfered” with tenants’ enjoyment of their rights under the Fair Housing Act.

Settlement Terms

Even though the defendants did not admit wrongdoing, they agreed to pay fines and damages, stop any discriminatory conduct, and institute a series of corrective steps to settle the lawsuit. The settlement will remain in effect for at least five years. The federal district court will enforce the settlement and may extend the settlement period or impose additional remedies if the defendants violate the settlement terms.

Fines and damages

The settlement requires the defendants to deposit \$510,000 into a settlement fund to compensate the individuals harmed by their discriminatory conduct. The defendants must also pay a \$40,000 civil penalty to the U.S. government.

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Ending discriminatory practices

Defendants agreed not to discriminate based on sex in renting any properties, and not to interfere with any tenant's fair housing rights. VanderVennen agreed to additional restrictions, as the settlement bars him from acting as a property manager of any residential rental property and from entering any of the properties involved in the lawsuit. If VanderVennen retains any ownership or control over any residential rental properties, he must hire an approved independent manager to manage the properties and cannot enter any of these properties unless accompanied by the independent manager for the purposes of property inspection.

Corrective action

The settlement also lays out a series of actions the defendants must perform in order to prevent future violations of the Fair Housing Act. The settlement imposes these requirements on all properties owned or managed by the defendants, as well as on any properties that will be obtained by the defendants during the time period covered by the settlement. First, the owners must implement a written nondiscrimination policy, approved by DOJ, which prohibits sexual harassment of tenants and institutes a formal grievance procedure. Defendants must notify all current and new tenants, as well as current and new employees, of the new policy and grievance process. All employees must agree to comply with the policy. The owners must also create "objective, uniform, non-discriminatory standards and procedures" for approving or rejecting rental applications, selecting prospective tenants from waiting lists, assigning tenants to units, collecting or waiving rents or fees, and initiating evictions. A fair housing guarantee must be posted in the rental office and included in all advertisements.

Next, the owners and their employees must not enter any rented apartments except for necessary inspections and repairs. They are generally required to give five days' written notice before

entering an apartment and to respect a tenant's reasonable request to reschedule any visit.

Third, the settlement requires the owners and their employees to receive Fair Housing Act training, with an emphasis on sex-based discrimination and sexual harassment. If VanderVennen owns or operates any residential rental properties, both he and the independent manager must undergo this fair housing training.

Finally, all defendants must retain records relevant to the settlement and must report to DOJ any changes to their nondiscrimination policy, any violation of the settlement, and any complaints against the defendants or their employees relating to housing discrimination or sexual harassment. ■

Resources

DOJ, Press Release, "Grand Rapids Landlords to Pay \$550,000 and Terminate Manager's Responsibilities to Settle Sexual Harassment Lawsuit Filed by Justice Department" (Aug. 19, 2014), <http://www.justice.gov/opa/pr/grand-rapids-landlords-pay-550000-and-terminate-manager-s-responsibilities-settle-sexual>.

United States v. VanderVennen, No. 1:13-cv-01069 (RJJ), Consent Decree (W.D. Mich. Aug. 19, 2014), available at: <http://www.justice.gov/crt/about/hce/documents/vandervennensettle.pdf>

United States v. VanderVennen, No. 1:13-cv-01069, Complaint (W.D. Mich. Sept. 30, 2013), available at: <http://www.justice.gov/crt/about/hce/documents/vandervennencomp.pdf>

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