



Berkeley Housing Authority

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VIOLENCE AGAINST WOMEN ACT—VAWA 2013 NOTICE TO LANDLORDS

Guidance for responding to situations of domestic violence that involve families with Section 8 Rental Assistance.

What is the objective of VAWA?

The intent of the Violence Against Women Act (VAWA) is to protect/preserve affordable housing for victims of domestic violence, including those utilizing a Section 8 Voucher, in a Project-based unit, or in a Moderate Rehab./SRO property.

Behavior(s) Covered under VAWA

VAWA broadly defines “domestic violence” and includes actual or threatened:

1. **“Domestic violence”** defined as felony or misdemeanor crimes of violence committed by any of the following:
 - a. Current or former spouse of the victim
 - b. A person with whom the victim shares a child in common
 - c. A person who is cohabitating with or has cohabitated with the victim as a spouse
 - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
 - e. Any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

2. **“Dating Violence”** defined as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship
 - b. The type of relationship
 - c. The frequency of interaction between the persons involved in the relationship.

3. **“Stalking”** defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for his or her safety or others; or suffer substantial emotional distress.

4. **“Sexual Assault”** defined as any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**The term “domestic violence” as used throughout this document, includes all four definitions listed above.*

Protections for Victims

You cannot refuse to rent to an applicant, nor can you evict a family, solely because she is a victim of domestic violence. You are also prohibited from refusing to rent to an applicant, or evicting a family, due to criminal acts directly related to the domestic violence.

Confirming an Action Covered by VAWA

An owner may request the victim to certify that she qualifies for protection under VAWA. The owner can accept the oral statement, or can request something in writing. Typical forms of written verification include the HUD Certification form (HUD 5382) – available at BHA; police or court record (including restraining order); statement from medical provider, attorney or social service agency. These statements must be signed by the victim and the professional.

Confidentiality: You MUST keep confidential any information a tenant provides certifying that she is a victim of domestic violence. You cannot share the information or enter it into a shared database or reveal it to outside entities unless:

- a. The tenant provides written permission releasing the information
- b. The information is required for use in an eviction proceeding, such as to evict the abuser
- c. Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put her safety at risk.

Implications of VAWA Protections on Other Residents/Property

Property owners have a right and responsibility to other families residing at or in proximity to the unit occupied by the VAWA victim. A VAWA victim can be evicted if there is an imminent (immediate) threat to other tenants or employees at the property if the victim is not evicted.

Alternatives to Eviction

In an effort to protect the safety of the VAWA victim, preserve housing for other family members, and/or to address the concerns of other residents, the owner may:

- d. Split (“bifurcate”) the lease and evict the household member who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit (contact the Rent Stabilization Program at (510-981-7368) for information on rules governing the eviction); or
- e. Allow the family to terminate the lease and move prior to the end of the lease term and/or without 30-day notice.

Note-VAWA does not excuse the family from its responsibility to pay for damage to the rental unit.

Landlords should also know that California Civil Code § 1946.7 allows victims of domestic violence who show their landlord a restraining order or police report to end their leases early, on 14 days’ notice, without owing additional rent.

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If you suspect domestic violence is occurring within your property you are encouraged to act promptly and with compassion. Please contact the Berkeley Police Department Domestic Violence Unit at (510) 981-5736. The Domestic Violence Advocate within the BPD can be reached at (510) 981-5724. Also notify the Housing Specialist assigned to the case (510) 981-5470. To the extent possible we will intervene in an effort to protect the life and safety of the individual and family member victims, and to avoid undue hardship on the property owner and other residents.