



## Berkeley Housing Authority

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### **VIOLENCE AGAINST WOMEN ACT (VAWA) of 2013 NOTICE TO PROGRAM PARTICIPANTS**

#### **What is VAWA's Purpose?**

The Violence Against Women Act (VAWA) protects and preserves affordable housing for individuals who may, as a result of domestic violence, dating violence, stalking, or sexual assault, be at risk of losing their housing and/or housing assistance.

**If you are a victim of domestic violence and need immediate assistance call 911.** If you are not subject to immediate harm, but need assistance, 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.

#### **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**

A landlord cannot refuse to rent to you, nor can you be evicted because you are a victim of domestic violence. Nor can an owner refuse to rent to you, or evict you, due to criminal acts directly related to the domestic violence. Similarly, you cannot be denied admission to subsidized housing, or denied eligibility for subsidized housing, such as the Section 8 Voucher program, Section 8 Project-based, low income tax credit, McKinney-Vento Programs, etc, due to incidents of domestic violence committed against you. Your housing assistance can also not be terminated due to criminal activity related to the domestic violence. For example, you cannot be evicted or lose your Section 8 voucher because an act of domestic violence occurred against you or a family member in your unit.

### **Confirming VAWA Status**

If you use VAWA as a defense against an action to deny you housing assistance or to terminate you for cause, the owner or housing authority may request that you provide proof of domestic violence. The owner can accept your oral statement, or he/she can request something in writing. Typical forms of proof include the HUD Certification form (HUD 5382, available from the housing authority); police or court record (restraining order); OR a statement from a medical provider, attorney or social service agency that is signed by you and the professional. The owner or housing authority must give you at least 14 business days to provide proof.

**Confidentiality:** The owner and housing authority **MUST** keep confidential any information you provide as proof that you are a victim of domestic violence. The owner and housing authority may share the information if:

- a. You provide written permission allowing the release of the information
- b. The information is required for use in an eviction proceeding to evict the abuser
- c. Release of the information is otherwise required by law.

It is important that you inform the owner if releasing such information would put you at risk of harm.

### **Implications of VAWA Protections on other Residents/Property**

Property owners/managers not only have a right and responsibility to you, but also to their staff and other families residing at the property. Accordingly, owners may evict any occupant who can be demonstrated to pose an actual and imminent threat to other tenants or the property's employees.

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

### **Options for Victims**

In an effort to balance the needs of you as a victim of domestic violence with those of other residents, the owner or housing authority may:

- a. Split (“bifurcate”) the lease and evict, remove, or terminate assistance to the household member who has committed criminal acts of violence, while allowing the victim and other household members to stay in the unit and maintain assistance; or
- b. Allow you to terminate your lease and move prior to the end of the lease term (but you still may be required to give a 30 day notice before ending your lease).
- c. Victims 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.



If you have additional questions about your rights under the law, call: Bay Area Legal Aid at (510) 250-5270, or East Bay Community Law Center at (510) 548-4040.