



CITY OF OCEANSIDE

Community Development Commission

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NEIGHBORHOOD SERVICES DEPARTMENT
Housing Division

Date: April 1, 2007

To: Section 8 Participating Landlords

From: City of Oceanside Neighborhood Services Department

Subject: IMPORTANT NOTICE: Violence Against Women Act (VAWA)

On January 5, 2006, President Bush signed into law the "Violence Against Women and Department of Justice Reauthorization Act of 2005" (VAWA). The act provides new rights for tenants that affect public housing authorities as well as owners and managers who provide housing to Section 8 tenants. **It also requires Public Housing Authorities (PHA) to notify landlords participating in the Section 8 Program of the new provisions.** The act provides that:

- An incident or incidents of actual or threatened domestic violence, dating violence, or stalking, will not be construed as serious or repeated violation of the lease by the victim or threatened victim of that violence, and will not be good cause for terminating the assistance, tenancy or occupancy rights of the victim of such violence.
- Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights, if the tenant or an immediate family member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence or stalking.
- A PHA may terminate assistance or an owner/manager may bifurcate (split) a lease in order to evict or remove any individual who is a tenant or lawful occupant, and who engages in criminal acts of physical violence against family members or others, without terminating assistance/evicting the victim of such violence who is also a tenant or lawful occupant.
- Nothing limits the ability of an owner, manager or PHA to evict or terminate assistance to a tenant for lease violations not related to incidents of domestic violence, although the victim cannot be subjected to a "more demanding standard" than non-victims.
- A PHA, owner or manager is still authorized to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim, and to address the distribution or possession of property among the household members in cases where a family breaks up.

- Nothing is to prohibit termination or eviction if an owner, manager or public housing authority “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property” if that tenant is not evicted.

VAWA adds a new section that provides for a certification by the individual of his or her status as a victim of domestic violence, dating violence or stalking, in order to qualify for the protections implemented in the statute, and to provide for the confidentiality of that certification.

- An owner, manager or PHA may request that an individual certify via a HUD-approved certification form that the individual is a victim of domestic violence, dating violence or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse, and meet the requirements set forth above. Such certification shall include the name of the perpetrator. The individual shall provide such certification in **writing**. If the certification is not received within this timeframe, nothing would limit the ability to evict/terminate assistance. The 14-day deadline may be extended at the discretion of the PHA or owner/manager.

The certification requirement can also be met by:

- Providing the PHA or owner with documentation signed by an employee, agent or volunteer of a victim service provider, an attorney or medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking. The professional must attest under penalty of perjury to their belief that the incident or incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the documentation; or
- Producing a Federal, State, tribal, territorial or local police or court record.
- An owner, manager or PHA is not required to demand certification in order to provide VAWA benefits to individuals. At their discretion, they may apply benefits under VAWA based solely upon the individual’s statement or other corroborating evidence.

Confidentiality: Information provided by the victim pursuant to the certification shall be retained in confidence, and not entered into any shared database or provided to any related entity, except when the disclosure is: consented to by the individual in writing, required for use in eviction proceedings or otherwise required by law.

This is a summary of the VAWA Act. For more information, Owners and Managers are encouraged to access VAWA 2005 via the Internet at the following Website addresses: <http://www.gpoaccess.gov/plaws/index.html> or <http://thomas.loc.gov/bss/d109/d109laws.html> and search for Public Law 109-162 to access the text of the final law. Additional Resources: [http://www.nlchp.org/FA DV/VAWAHousingFAQ3-06.pdf](http://www.nlchp.org/FA%20DV/VAWAHousingFAQ3-06.pdf).

This Notice shall not be construed as legal advice.