

NOTIFICATION OF PROPERTY OWNER RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

You have entered into a rental agreement with a tenant receiving rental assistance from the Vermont Housing Opportunity Grant Program (HOP), and in some instances, with funding from the federal Emergency Solutions Grant (ESG). The Vermont Office of Economic Opportunity manages the HOP and ESG grants. At the local level, _____ is the subgrantee managing the tenant's rental assistance.

The Violence Against Women Act ("VAWA") is a federal law that provides protections for Emergency Solutions Grant ("ESG") applicants and participants who have been victims of actual or threatened incidents of domestic violence, dating violence, sexual assault, and stalking. The law protects victims from adverse housing decisions made on the basis of or as a direct result of being a victim of domestic violence, dating violence, sexual assault, and stalking. Because HOP rental assistance may include some ESG funds, HOP rental assistance applicants and participants are protected by VAWA, and property owners receiving HOP funds must comply with VAWA.

Purpose: The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through HOP. Please refer to the HOP Lease Addendum for additional information. Each component of this Notice also provides citations to HUD's applicable regulations for the ESG program.

Protections for applicants: Owners cannot deny tenancy because the applicant has been or currently is an actual or threatened victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. See 24 Code of Federal Regulations (CFR) 982.452(b)(1).

Eviction protections for HOP participants:

- a. Incidents or threats of domestic violence, dating violence, sexual assault, or stalking are not considered to be a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). VAWA protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).
- b. During the term of rental assistance, the tenancy cannot be terminated for no cause.
- c. Notice of termination of the tenancy must be sent to the tenant via first class mail. Copies of the notice of termination and all attachments must be sent to _____ .

Limitations of VAWA protections:

- a. Nothing in VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to 24 CFR 5.2005(d)(1): 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or 2) The distribution or possession of property among members of a household in a case.

b. Nothing in VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate that an actual and imminent threat to other tenants, or those employed at or providing services at the property, will be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

- i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm will occur. (See 24 CFR 5.2003.)
- ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of domestic violence, dating violence, sexual assault, or stalking: Applicants and recipients of HOP rental assistance may request VAWA protections based on their status as a victim of actual or threatened domestic violence, dating violence, sexual assault, or stalking. Requests are submitted to _____ and eligibility for VAWA protections are made by _____. (See 24 CFR 5.2007(b)(3).) The owner is prohibited from requiring the tenant to provide additional documentation of the domestic violence, dating violence, sexual assault, or stalking. If a tenant has questions or concerns related to VAWA, please refer the tenant to _____ or Vermont Legal Aid, Inc.

Moves: A victim of domestic violence, dating violence, sexual assault, or stalking may move if the move is required to protect their health or safety. _____ determines tenant eligibility for an emergency transfer. A move authorized under VAWA’s emergency transfer protections will, in accordance with the HOP Lease Addendum, terminate the lease automatically. Owners may choose to sign a new lease with the remaining household member(s). _____ will determine whether or not rental assistance will continue for remaining household members.

Removal of household members who engage in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking: A victim of domestic violence, dating violence, sexual assault, or stalking may request “bifurcation” of the lease pursuant to VAWA.

_____ determines tenant eligibility for a lease bifurcation. If the landlord consents to the bifurcation, the original lease terminates in accordance with the terms of the HOP Lease Addendum and the landlord enters into a new rental agreement and HOP Lease Addendum with the remaining household member(s). Other than removing the perpetrator, the new lease and Addendum’s terms are the same as those of the original, including the termination date. Eviction, removal, termination of occupancy rights, or termination of assistance must be effectuated in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

Evictions due to “Actual and Imminent Threat” or violations not premised on abuse: The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.) However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate that an actual and imminent threat to other tenants, or those employed at or providing services to property of the owner, will be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).) In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition: Actual and imminent threat refers to a physical danger that is real, will occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual will pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm will occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality: Any information obtained by a housing provider regarding a tenant’s request for VAWA protections, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence. (See 24 CFR 5.2007(c).) Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim). The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

- c. Otherwise required by applicable law. When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers: _____ has extensive relationships with local service providers. _____ staff are available to provide referrals to shelters, counselors, and advocates. Please see the attached listing of member organization of the Vermont Network for local agencies providing services to survivors of domestic violence, dating violence, and sexual assault.