



FAIR HOUSING AND DOMESTIC VIOLENCE AND ASSAULT

FACT SHEET # 6

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The Violence Against Women Act (VAWA) was signed into law in 1994 and was groundbreaking legislation which addressed the issue of violence against women. In 2000 and 2005, the law was reauthorized and given additional power to protect a woman's rights when a victim of domestic violence, dating violence, sexual assault and stalking. The reauthorization was the result of increasing numbers of such reported violence. Survivors frequently suffered the "double victimization" of housing discrimination when landlords evicted or refused to rent to them because of "zero tolerance" policies on disturbing the peace, calls to police or violence committed by a member of the household or guest (whether authorized or not).

As the Department of Housing and Urban Development stated in a 2011 memorandum, "85% of victims of domestic violence are women. In 2009, women were about five times as likely as men to experience domestic violence." Women who belong to other protected classes, especially Black and Native American women, face domestic violence at rates significantly higher than those of White women. These statistics show how "zero tolerance" policies have a disparate impact on women, particularly women of color. A disparate impact means that even if a landlord does not intend to discriminate against women, the landlord's actions are still harmful to women as a group while they do not have the same harmful effect on men as a group. A person who is denied housing or evicted because she is a survivor of a domestic violence can be a victim of discrimination under the Fair Housing Act.

Indiana Code 32-31-9 protects the housing rights of any person who is a victim or an alleged victim of domestic or family violence, sexual assault, or stalking. Section 8 of the Code states, "A landlord may

not terminate a lease, refuse to renew a lease, refuse to enter into a lease, or retaliate against a tenant solely because [the] tenant, applicant, or an individual who is a member of the tenant's or applicant's household is a..." victim of a crime such as domestic violence, sexual assault or stalking. Landlords are also required to change the locks of a unit within 48 hours of a written request of a tenant who has an order of protection or a no contact order against an abuser.

A victim of domestic abuse or assault in Indiana may terminate a lease by submitting written notice to the landlord or management thirty days before leaving along with a copy of the order of protection or no contact order from the court, or "a safety plan from an accredited domestic violence or sexual assault program that recommends relocation for the victim" (IC 32-31-9-12(c)(2)(C)). The victim cannot be charged fees or penalties that would otherwise apply to early termination and "is entitled to deposits, returns, and other funds as if the tenancy terminated by expiring under the terms of the rental agreement" (IC-32-31-9-12(e)). Even after an order of protection or a no contact order is issued, an abuser whose name is on the lease remains liable for rent and fees of the unit.

Housing providers who assume that renting to a victim of domestic violence will be a threat to the health and safety of other tenants risk a fair housing violation. For example, a landlord refuses to rent to a female domestic violence victim yet rents to other victims of crime could be accused of discrimination.

Housing providers should also not evict tenants for police calls for health and safety reasons or when police activity or arrests occur because of being a victim of domestic violence or assault. For instance,

a victim of domestic violence may have been arrested when s/he contacted the police for help because s/he was forced to fight back against her abuser in self-defense. Evicting due to police calls could be gender discrimination in housing because women in domestic violence situations would be a primary source of police contact in those situations. If a victim fears s/he will be evicted for reporting domestic violence, s/he is more likely to keep the abuse a secret and not seek assistance. In regard to charging victims for damage caused by the abuser, housing providers should proceed with caution because it could be a fair housing violation if shown to have a disparate impact due to gender or if only charged in a domestic violence situation versus damage caused by other acts of crime which are not charged to those victims.

According to HUD, in Section 8, Section 811, Rural Development and other federal housing, “being a victim of domestic violence, dating violence, or stalking is not a basis for denial of assistance. [...] Further, incidents or threats of abuse will not be construed as serious or repeated violation of the lease or as other ‘good cause’ for termination of the assistance, tenancy, or occupancy rights of a victim of abuse.” Landlords and management may request documentation that incidents were domestic abuse, “but tenants may present third-party documentation of the abuse, including court records, police reports, or documentation signed by an employee, agent, or volunteer of a victim service partner, an attorney, or a medical professional from whom the victim has sought assistance” to ensure protection of housing rights under the VAWA provisions.

WAYS HOUSING PROVIDERS CAN ASSIST VICTIMS OF DOMESTIC VIOLENCE

- Make sure property is well-lit, safe and secure. Complete repairs that may pose a safety issue, such as broken windows and locks, in a timely manner.
- Acknowledge domestic violence protection orders and help to enforce them. Exclude the violent person from the premises. Assist in the pressing of criminal charges.
- Do not publish victim’s addresses in newsletters or give out information to anyone without a release from the tenant. Recognize that domestic violence is not a lease violation.

SIGNIFICANT FAIR HOUSING CASES INVOLVING DOMESTIC ABUSE OR ASSAULT

- Alvera et al v. C.B.M. et al (Oregon)
- Bouley v. Young-Sanbourin (Vermont)
- Warren v. Ypsilanti Housing Commission (Michigan)
- ACLU v. St. Louis Housing Authority (Missouri)
- Blackwell v. Urban Property Management (Colorado)
- ACLU v. Northend Village (Michigan)

If you want more information on fair housing or pursuing your fair housing rights when a victim of violence, contact the FHCCI. If you have questions about domestic violence or suspect someone may be a victim, please contact the Indiana Coalition Against Domestic Violence at 1-800-332-7385 or the National Domestic Violence Hotline at 1-800-799-SAFE for assistance.

This document uses language from a memorandum by HUD titled “Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act,” published February 9, 2011. The mission of the Fair Housing Center of Central Indiana (FHCCI) is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. The FHCCI is located at 615 N. Alabama St., Suite 426, Indianapolis, IN 46204. Phone: 317-644-0673 or 855-270-7280. Relay: 711. Email: info@fhcci.org Web: www.fhcci.org

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