

**Violence Against Women Reauthorization Act and  
California Early Lease Termination and Lock Change Laws:  
Information and Checklist for RAD Owners and Management Agents**

## **Background**

The Violence Against Women Act (“VAWA”) protects victims of domestic violence, sexual assault, dating violence, and stalking (“VAWA Crimes”) from discrimination in accessing and maintaining federally assisted housing because of the violence committed against them. California laws require housing providers to provide early lease terminations and lock changes for victims in certain situations. This checklist outlines the basic obligations of RAD owners and their management agents under VAWA and California laws. Please note that this is not an exhaustive list. For more information, housing providers can contact the Safe Housing Project at the San Francisco Housing Authority at 415-715-3129 and 415-715-3225.

## **Basic Obligations**

- **Tenant’s Status as a Victim of a VAWA Crime**
  - Owners and managers may not deny admission or evict a tenant on the basis or as a direct result of the fact that the tenant is or has been the victim or threatened victim of a VAWA Crime.
- **Incidents of a VAWA Crime are Not Lease Violations or “Good Cause” to Terminate**
  - An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking is not to be construed as a serious or repeated violation of the lease or other “good cause” for termination of assistance, tenancy, or occupancy rights of the victim.
- **Criminal Activity Related to VAWA Crimes**
  - Owners and managers may not consider criminal activity directly relating to VAWA Crimes, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of the violence.
  - Owners and managers may evict or terminate the assistance of a victim if they can demonstrate an actual and imminent threat to other tenants or employees at the property in the event that the tenant is not evicted or terminated from assistance.
  - Owners and managers cannot subject victims of VAWA Crimes to a more demanding standard than other tenants when determining whether to evict.
- **Notification**
  - Owners and managers are required to notify all tenants of their VAWA rights by providing each tenant a **Notice of Occupancy Rights Form HUD-5380** and **VAWA Self-Certification Form HUD-5382** when they are admitted, with any notification of eviction, or with a notification of termination of assistance.
    - Please note that housing providers must customize the **VAWA Notice of Occupancy Rights Form HUD-5380** by providing information about the housing provider, housing program, and related contact information. Owners and managers can include the phone numbers of the Safe Housing Project at the San Francisco Housing Authority: 415-715-3129 and 415-715-3225.
  - These forms have been translated into fourteen languages (Arabic, Armenian, Cambodian, Chinese, Creole, Hmong, Japanese, Korean, Lao, Russian, Somali, Spanish, Thai, and Vietnamese) and can be found on HUD’s website - <http://bit.ly/2zBKMrF>
  - Owners and managers are required to have distributed these forms to existing tenants by **December 16, 2017.**<sup>1</sup>

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<sup>1</sup> 24 C.F.R. § 5.2005(a)(2)(iv) (“During the 12-month period following December 16, 2016, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.”).

□ **Documentation**

- Although not required, owners and managers may request that the tenant seeking VAWA protections certify that the individual is a victim of a VAWA Crime. This request must be made in writing. To receive protections under VAWA, the tenant has the choice to submit either a **VAWA Self-Certification Form HUD-5382**, or other documentation as noted on the certification form, completed and submitted within 14 business days, or an agreed upon extension date. Failure to provide the certification or other supporting documentation within the specified timeframe may result in eviction or admission denial.
- If the owner or manager receives conflicting certifications, the owner or manager can require an applicant or tenant to submit third-party documentation permitted under VAWA.

□ **Confidentiality**

- Owners and managers are required to keep strictly confidential all information submitted by the tenant related to their VAWA request or protected status, including the fact that an individual is a victim of a VAWA Crime. Owners and managers may not enter any of this confidential information into any shared database or disclose this information to any other entity or individual, except to the extent that the time-limited disclosure is: requested or consented to by the individual seeking VAWA protections in writing, required for use in an eviction proceeding, or otherwise required by applicable law.

□ **Court Orders**

- Owners and managers must honor all court orders addressing rights of access or control of property, including protective orders issued to victims, and any orders addressing the distribution or possession of property.

□ **Remedies for VAWA Victims**

- Owners and managers have an obligation to qualified tenants and their affiliated individuals who are victims of VAWA crimes to assist them with an emergency transfer in accordance with the San Francisco RAD Emergency Referral Policy (see Attachment A).
- Owners and managers have the discretion to allow tenants a lease bifurcation. More information on these remedies can be found in the **Notice of Occupancy Rights Form HUD-5380**.
- Under California law, a victim of domestic violence, sexual assault, human trafficking, stalking, and elder/dependent adult abuse can terminate their leases by providing a 14-day notice along with a police report, restraining order, or third-party verification to their housing provider. For more information, see the National Housing Law Project's *California Early Lease Termination Packet* - <http://bit.ly/2Dk4f5n>
- California law requires that landlords change locks within 24 hours for victims of domestic violence, sexual assault, or stalking who have made such a written request and have provided a police report or restraining order. For more information, see the National Housing Law Project's *California Lock Changes Packet* - <http://bit.ly/2B8Bzai>

### **Failure to Meet Obligations**

Failure to meet these obligations may lead to courts or HUD finding that an owner or manager has violated the Fair Housing Act due to discrimination, unequal treatment, or disparate impact.

### **Contact Information**

For more information or if you have questions about VAWA or California's early lease termination and lock change laws, please contact the Safe Housing Project at the San Francisco Housing Authority: 415-715-3129 and 415-715-3225.