

**New York City Department of Housing Preservation & Development (HPD),  
Division of Tenant Resources,  
Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, and/or stalking. VAWA protections are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees HPD compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form (*HUD Form 5382*) is attached to this notice. Fill out this form if you are or have been a victim of domestic violence, dating violence, sexual assault, and/or stalking, and you wish to use your rights under VAWA.

**Protections for Applicants**

If you qualify for HPD rental assistance, you cannot be denied admission or assistance solely because you are or have been a victim of domestic violence, dating violence, sexual assault, and/or stalking.

**Protections for Tenants**

If you are receiving HPD rental assistance, you cannot be denied assistance or terminated from participation solely because you are or have been a victim of domestic violence, dating violence, sexual assault, and/or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, and/or stalking by a member of your household or any guest, you cannot be denied rental assistance or occupancy rights under any HPD rental assistance program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, and/or stalking.<sup>3</sup>

**Removing the Abuser from the Household**

HPD may terminate the rental assistance of the head of household (the abuser) who has engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault, and/or stalking and transfer it to the victim. If the abuser is not the head of household, but another member of the household, HPD may remove that person from the household composition if they have left the unit. In any case, the abuser will not receive additional rental assistance after termination or removal.

If HPD terminates the rental assistance of the abuser, or removes them from the household composition, HPD will not take away the rights of eligible tenants in the unit or otherwise punish the remaining tenants. If the terminated abuser was the sole tenant to have established eligibility for assistance under the program, HPD will allow the tenant who is or has been a victim and other household members to remain subsidized for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or find alternative housing.

In removing the abuser from the household composition or terminating their assistance, HPD will follow policies in the HPD Administrative Plan. During this process, HPD may ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, and/or stalking.<sup>4</sup> In cases of competing claims, HPD may ask you for additional third-party documentation.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

<sup>3</sup> Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

<sup>4</sup> See section in this document with the subtitle: *Documenting That You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking and/or Stalking.*

### **Moving to Another Unit**

Upon your request, HPD may permit you to move to another unit and still keep your assistance. In order to approve a request, HPD may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, and/or stalking. If the request is for an emergency move, HPD may ask you to submit a written request or fill out a form where you certify that you meet the following criteria for an emergency move under VAWA:

**(1) You are a victim of domestic violence, dating violence, sexual assault, and/or stalking.**

If HPD does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, and/or stalking, HPD may ask you for such documentation, as described in the documentation section below.

**(2) You expressly request the emergency move.** HPD may require that you submit a form, or may accept another written or oral request.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a move voucher you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a move.** If you are a victim of sexual assault, then in addition to qualifying for an emergency move because you reasonably believe you are in imminent harm from further violence if you remain in your unit, you may also qualify for an emergency move if the sexual assault occurred on the premises of the property from which you are seeking to move, and that assault happened within the 90-calendar-day period before you expressly request the move.

Requests for emergency moves by victims of domestic violence, dating violence, sexual assault, and/or stalking, and the location of any move by such victims and their families will be kept confidential by HPD.

### **How the Type of Rental Assistance You Have Affects Moving to Another Unit**

HPD may allow you to move to another unit and keep your assistance. However, there are differences depending on what type of rental assistance you receive. If you are not sure what type you have, please contact HPD to confirm. Below are the differences as it relates to moving:

- Tenants who have **“regular vouchers”** will be issued a move voucher after a request is approved.
- Tenants who have **“enhanced vouchers”** may relocate to an available unit within their development; otherwise they may change their voucher type to regular and be issued a move voucher.
- Tenants who have **“project based vouchers”** may relocate to an available unit within their development; otherwise they may be placed on a waitlist to receive a regular move voucher.
- Tenants who participate in a **“project based program”** do not have vouchers because the rental assistance is tied to the unit. Tenants should contact property management or HPD to see if there is an available unit within the same development. In addition, Shelter Plus Care tenants may be offered a vacant unit within the Continuum of Care portfolio.

## Documentation

HPD can ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, and/or stalking. HPD will give you 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you were notified to provide the documentation. HPD may, but does not have to, extend the deadline for the submission of documentation upon your request. Any of the following items are acceptable to submit if HPD asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, and/or stalking:

- A complete HUD-approved certification form given to you by HPD with this notice, that documents an incident of domestic violence, dating violence, sexual assault, and/or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, and/or stalking, and a description of the incident. The certification form provides for including the name of the abuser if the name of the abuser is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, and/or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, and/or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, and/or stalking are grounds for protection.
- Any other statement or evidence that HPD has agreed to accept.

If you fail or refuse to provide any of these documents within the 14 business days, HPD does not have to provide you with the protections contained in this notice.

If HPD receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, and/or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser), HPD has the right to request that you provide third-party documentation within 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HPD does not have to provide you with the protections contained in this notice.

## Confidentiality

HPD will keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA. HPD will not allow any individual administering assistance or other services on behalf of HPD (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HPD will not enter your information into any shared database or disclose your information to any other entity or individual. HPD, however, may disclose the information provided if:

- You give written permission to HPD to release the information on a time limited basis.
- HPD needs to use the information in a termination proceeding, such as to terminate your abuser from assistance under this program.
- A law requires HPD or the property owner to release the information, such as if they are subpoenaed by a court of law.

VAWA does not limit HPD’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### Reasons a Tenant May Be Evicted or Assistance May Be Terminated

The property owner can evict you and HPD can terminate your assistance for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, and/or stalking committed against you. However, HPD cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, and/or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, and/or stalking. The protections described in this notice might not apply, and your assistance terminated, if HPD can demonstrate that not terminating your assistance would present a real physical danger that:

- Would occur within an immediate time frame, and
- Could result in death or serious bodily harm to other tenants or those who work on the property.

If HPD can demonstrate the above, HPD will only terminate your assistance if there are no other actions that could be taken to reduce or eliminate the threat.

### Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, and/or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, and/or stalking under other Federal laws, as well as under State and local laws.

### Non-Compliance with the Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the NYC Commission on Human Rights or the local HUD office, located at 26 Federal Plaza.

### For Additional Information

You may view a copy of HUD's VAWA Final Rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

For questions regarding VAWA issues and your rental assistance, please call **HPD Client Services at 917-286-4300**. For help regarding an abusive relationship, you can call **NYC Domestic Violence Hotline at 1-800-621-4673**. Additional New York City resources for survivors of intimate partner violence include the **Family Justice Centers**, which provide a variety of information and services:

<b>Bronx Family Justice Center</b>	<b>718-508-1220</b>
<b>Brooklyn Family Justice Center</b>	<b>718-250-5111</b>
<b>Queens Family Justice Center</b>	<b>718-575-4545</b>
<b>Manhattan Family Justice Center</b>	<b>212-602-2800</b>
<b>Staten Island Family Justice Center</b>	<b>718-697-4300</b>

For tenants who are or have been victims of stalking seeking help may visit the **National Center for Victims of Crime's Stalking Resource Center** at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact the **NYC Alliance Against Sexual Assault: 212-229-0345** or **Rape Abuse and Incest National Network (RAINN) at 1-800-656-4673**.

Victims of any crime, including stalking, may contact their local police stations.

**Attachment:** Certification form HUD-5382