VAWAhome.com: Housing Rights of Domestic and Sexual Violence Survivors in the Low-Income Housing Tax Credit Program

Rachel Blake, Regional Housing Legal Services

Vanessa Raymond-Garcia, Regional Housing Legal Services

Karlo Ng, National Alliance for Safe Housing

March 17, 2021
NASH’s mission is to ensure that survivors of domestic and sexual violence have a full range of safe housing options, through improved access, increased resources, and innovative solutions, ultimately catalyzing a safe housing movement.

Our vision is to create a world where safe housing is a human right shared by everyone.
Regional Housing Legal Services (RHLS)

Pennsylvania legal services program focused on affordable housing & community development. Legal work involves primarily representing nonprofits doing development. Policy work runs the gamut.
Your speakers

Karlo Ng  
Director of Legal Initiatives, NASH  
kng@nashta.org

Rachel Blake  
Associate Director, RHLS  
rblake@rhls.org

Vanessa Raymond-Garcia  
Policy Analyst, RHLS  
vgarca@rhls.org
Why did we start this project?

Lots of questions from survivor advocates about Low Income Housing Tax Credit units

• What is the federal Low Income Housing Tax Credit (LIHTC) program?
• How do we find LIHTC units?
• Who owns and runs LIHTC units?
• Does the Violence Against Women Act apply to the LIHTC program?
• How does a survivor get an emergency transfer or lease bifurcation?
The LIHTC program produces the most affordable housing units in the country (100,000 new units per year; more than 3M units total).

Source: PolicyMap, https://plcy.mp/jvkrv1n
U.S. Treasury Department/Internal Revenue Service (IRS) administers the LIHTC program.

Treasury/IRS has not implemented the housing protections under the Violence Against Women Act (VAWA).

This failure has led to uneven implementation of VAWA among state agencies and LIHTC housing providers across the country.
Under VAWA, someone who has experienced domestic violence, sexual assault, dating violence, or stalking:

- **Cannot be denied admission** to a LIHTC unit because of the violence committed against them.
- **Cannot be evicted** from a LIHTC unit because of the violence committed against them.
- Cannot be denied admission or evicted from a LIHTC unit for reasons related to the violence, such as having an eviction record, criminal history, or bad credit history.
- **Must be able to stay** in their LIHTC housing, even if there has been criminal activity directly related to the violence.
- **Must be able to move** and have other options to ensure their safety and not lose their housing because of the violence.
- **Must be able to move with continued assistance**, if the survivor has a Section 8 Housing Choice Voucher.
- **Must be able to provide proof by self-certifying** using the HUD VAWA Self-certification Form ([Form HUD-5382](https://www.hud.gov)).
- **Must get the Notice of VAWA Housing Rights** ([Form HUD-5380](https://www.hud.gov)) and HUD VAWA Self-certification Form ([Form HUD-5382](https://www.hud.gov)), when they are denied admission to a LIHTC unit, when they are admitted to a LIHTC unit, and when they receive a notice of eviction from a LIHTC unit.
- **Has a right to strict confidentiality of information.**
- **Can request a lease bifurcation** to remove the perpetrator from the lease.
# Results of 2018 Survey of HFAs

<table>
<thead>
<tr>
<th>Requirement</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requiring some form of written notice to applicants and tenant of VAWA rights?</td>
<td>94.12%* 16**</td>
</tr>
<tr>
<td>Disqualifying owners/managers with a history of violating VAWA?</td>
<td>23.53% 4</td>
</tr>
<tr>
<td>Including a prohibition against discriminating against tenants based on their status as a survivor of domestic violence or sexual assault?</td>
<td>88.24% 15</td>
</tr>
<tr>
<td>Including language that makes it clear that being a survivor under VAWA is not Good Cause for eviction?</td>
<td>82.35% 14</td>
</tr>
<tr>
<td>Discussing transfer procedures under VAWA?</td>
<td>76.47% 13</td>
</tr>
<tr>
<td>Discussing lease bifurcation under VAWA?</td>
<td>70.59% 12</td>
</tr>
<tr>
<td>Creating a process for filing a complaint about a VAWA violation?</td>
<td>29.41% 5</td>
</tr>
</tbody>
</table>

*Top number: percentage of states replying “yes” to question  
**Bottom number: number of states replying “yes” to question
Low-Income Housing Tax Credits
Opening doors for agencies serving survivors.

The Low-Income Housing Tax Credit (LIHTC) is one of the largest sources of funding for affordable housing in the United States. Understanding its role in your community can help you better serve survivors and increase access to affordable housing units for survivors. There are many ways to get involved!

- **Access**: Learn how to find and help survivors access LIHTC-funded housing.
- **Protection**: Understand tenant protections for survivors applying for and living in LIHTC-funded housing to help them access and maintain safe housing.
- **Advocacy**: Advocate for more affordable and supportive housing units serving survivors to address their specific needs.
- **Development**: Develop housing or co-develop housing for survivors.
- **Partnership**: Partner with LIHTC housing developers or property managers to provide services to their residents.
- **Services**: Initiate creative partnerships to meet the needs of survivors.
NASH’s LIHTC Resource Page
nashta.org/lihtc

Opportunities for Advocates in the Low Income Housing Tax Credit Program

How Partnerships Can Enhance Survivors’ Access to Low Income Housing Tax Credit Units

Housing Protections for Survivors in Low Income Housing Tax Credit Units

Using the Qualified Allocation Plan Process to Influence LIHTC Priorities
Housing Protections for Survivors in Low Income Housing Tax Credit Units

Discover strategies to address common housing obstacles that survivors face, including evictions, emergency transfers, admission denials, and lease bifurcations in LIHTC units. The webinar will provide an overview of housing protections for survivors applying for and living in LIHTC units. Presenters will discuss survivors’ housing rights under the Violence Against Women Act (VAWA) and related laws. They will also briefly cover protections for tenants under federal and local eviction moratoriums.

Materials

- Webinar recording (Originally aired 11/18/20)
- PDF of webinar slides
- National Housing Law Project VAWA Brochure (English and Spanish)
- Housing Q&A for Survivors of Domestic and Sexual Violence during COVID-19
- Advocacy Flowchart for Requesting LIHTC VAWA Emergency Transfers
- Sample VAWA Emergency Transfer Request Form for LIHTC Properties

NASH NATIONAL ALLIANCE FOR SAFE HOUSING

Housing Protections for Survivors in Low Income Housing Tax Credit Units

Part of the Webinar Series:
What Survivor Advocates Should Know about the Low-Income Housing Tax Credit Program

November 18, 2020

Presented by:
- Jenna Collins, Community Legal Services (Philadelphia, PA)
- Amanda Lee-Gross, US Housing Consultants
- Karlo Ng, National Alliance for Safe Housing
Advocacy Flowchart for Requests for LIHTC VAWA Emergency Transfers
How LIHTC Works

1. IRS allocates tax credits to each state based on population.

2. The allocating agency adopts a Qualified Allocation Plan (QAP) which reflects the state’s priorities for housing development.

3. Developers submit proposals to the allocating agency.

4. Allocating agency awards tax credits to some developers, in accordance with priorities set in the QAP.

5. Investors purchase a share in the development, providing the equity needed to fund the project.

6. Developer builds and operates the housing.

7. The developer submits compliance reports to the allocating agency.
LIHTC Policy Advocacy

Low-Income Housing Tax Credits are the largest funding source for the creation of affordable housing.

The allocating agency adopts a Qualified Allocation Plan (QAP) which reflects federal regulations and state priorities for housing development.

Advocacy for Your Community Using the Qualified Allocation Plan

RHLS used QAP advocacy to increase available tax credits for projects supporting vulnerable populations.

Check out how we did it.

Check out the current QAP and mark your calendar for the next commenting period.

Talk to your allocating agency about the best way to get involved in the process.

Gather your allies. Your feedback will have a bigger impact with multiple voices.

Geographic Priorities
- Sustainability
- Community Impact
- Transportation
- Supportive Services
- And more! It can cover almost anything.

Comment on the QAP to make sure your community’s needs are considered.

Even minor changes to the QAP can have a huge impact.
VAWAHOME.COM

Tour

Example Scenarios

TA, trainings, & research support
Homepage highlights:
- Basic definitions and facts
- Equity-related data
- Site menu and search bar
VAWA 101 covers:
• What is VAWA?
• Who is covered by VAWA’s housing protections?
• What is covered by VAWA’s housing protections?
• Where is housing covered by VAWA?
LIHTC 101 includes:

- U.S. map of LIHTC properties
- How LIHTC works
- Explanation of Qualified Allocation Plans (QAP) and Compliance Manuals (CM)
Research encompasses state Qualified Allocation Plan (QAP) & Compliance Manual (CM) results across all 50 U.S. states. These results show as U.S. maps for answers to one of the three questions listed. The 3 hover-over sub-pages include:

- VAWA Rights
- Best Practices
- LIHTC Housing for Survivors
Best practices:
• Lists 13 best practices that can and should be included in LIHTC to protect and empower applicants and tenants protected by VAWA.
QAP Model language:

• Hover-over sub-page for “Best Practices”
• Includes key language from 3 states and embedded QAPs that you can use to encourage your states to take action!
Each section has its own separate questions listed where the answers can be accessed by pressing the plus (+) sign on the right.

FAQs include 4 sections:
- Getting Help
- Finding Housing
- Keeping Housing
- For Landlords & State Housing Finance Agencies (HFAs)
Resources include:

- VAWA and LIHTC
- VAWA housing implementation
  - U.S. Department of Housing and Urban Development (HUD)
  - U.S.D.A. Rural Development (RD)
- Other Resources
Take Action includes:
- Understanding “best practices”
- Accessing several useful resources
- Learning how to comment on your state’s QAP to advocate for VAWA implementation, monitoring, and compliance
Example Scenario
#1: Survivor Perspective

My partner is abusive and I do not feel safe living in the apartment that we share. I would like to move, but I am not sure what my housing options are.

Who can I turn to for help?
FAQ

Getting Help

Finding Housing

Keeping Housing

For Landlords & HPAs

How do I know if I qualify for VAWA’s housing protections?

How do I find help if I have experienced domestic violence or sexual assault?

Where can I get race and culture-focused support?

Where can I get immigration-focused support?

Where can I get ability-focused support?

Where can I get LGBT-focused support?

Where can I get religion-focused support?

How can I find an attorney?

Finding Housing

How do I find LIHTC housing?

How do I find affordable housing that is not LIHTC housing?

Do you have to be a U.S. citizen to apply for LIHTC housing?

Do you need a Social Security Number to apply for LIHTC housing?

What kinds of housing assistance do immigrant survivors qualify for?
The Rights of Domestic and Sexual Violence Victims: Applying for and Living in Federally Assisted Housing

1. What is VAWA?
The Violence Against Women Act (VAWA) is a law that protects victims and threatened victims of domestic violence, dating violence, sexual assault, and stalking from being discriminated against by certain housing providers because of the abuse committed against them.

2. Am I covered by VAWA’s housing protections?
VAWA protects victims of domestic violence, dating violence, sexual assault, and stalking. You don’t have to be married to or living with the abuser to be protected by VAWA.

3. Does VAWA apply to private, market-rate housing?
No, VAWA does not cover private housing that does not receive federal assistance. The rights described in this flyer apply only to the above-listed federal housing programs. However, there may be laws in your state or city/town that protect victims in market-rate housing. You can contact your local legal aid office or domestic and sexual violence agency to see if there are state and local laws that protect you.

4. What rights does VAWA offer?
If you are a victim of domestic violence, dating violence, sexual assault, and stalking,

- You can’t be denied admission or federal rental assistance just because you are or have been a victim or threatened victim.
- You can’t be evicted or lose your federal rental assistance just because you are or have been a victim or threatened victim.
- You can’t be denied admission or rental assistance, evicted, or lose your subsidy for reasons related to the abuse, such as bad credit history and criminal history.

5. What if I need to get the abuser out of the home?
If someone living in your home uses violence against you, the housing authority or your landlord may evict the abuser alone, and let you, your family, and other household members stay in the home. If you are not listed as head of household or your name is not on the rental assistance, then you generally have 90 days or until the end of the lease to establish eligibility for that subsidy or another housing subsidy, or to find new housing.

6. What if I need to move to escape the abuse?
If you have a Section 8 voucher, you can move for reasons related to the abuse and keep your voucher — even if your lease has not ended.

Housing authorities and landlords must have adopted emergency transfer plans by June 14, 2017 that allow transfers to other federally assisted housing that is available and safe. You are allowed to transfer if you ask your landlord and reasonably believe you are about to be hurt by more abuse, or if you have been a victim of sexual assault that occurred on the property up to 90 days before the request. If your landlord does not have an emergency transfer plan, contact your local legal aid office or domestic and sexual violence agency.

7. How do I prove that I can use VAWA’s protections?
The housing authority or your landlord may ask for documentation showing that you are a victim of domestic violence, dating violence, sexual assault, or stalking. The housing provider must make this request in writing. There are three ways to show that you are a victim:

- Complete a self-certification form. The form will ask for: your name; the name of your abuser (if known and safe to provide); the abuser’s relationship to you; the date, time, and place of the violence; and a description of the violence. To get the form, Form HUD-5032, go to https://todwipr4nhp2h.c/2/Housing%20Authority%20or%20Legal%20Aid%20Office%20In%20The%20Future%2C%20The%20Form%20May%20Be%20Changed%20To%20Include%20Other%20Documentation.%20You%20Must%20Also%20Sign%20This%20Letter.%20%20Provide%20a%20Police%20Report%2C%20Court%20Record%20(Such%20As%20A%20Restraining%20Order)%20Or%20Administrative%20Record.
Example Scenario
#2: Survivor Advocate Perspective

I am an advocate that works for a local DV/SA program and I am interested in learning about what my state has done to implement VAWA in LIHTC units. Also, how can I work with housing providers to help survivors access and stay in LIHTC housing?
Low-Income Housing Tax Credits are the largest funding source for the creation of affordable housing.

The allocating agency adopts a Qualified Allocation Plan (QAP) which reflects federal regulations and state priorities for housing development.

Advocacy for Your Community Using the Qualified Allocation Plan

RHLS used QAP advocacy to increase available tax credits for projects supporting vulnerable populations.

Check out how we did it.

Geographic Priorities

Sustainability

Community Impact

Transportation

Supportive Services

And more! It can cover almost anything.

Even minor changes to the QAP can have a huge impact.

Check out the current QAP and mark your calendar for the next commenting period.

Talk to your allocating agency about the best way to get involved in the process.

Gather your allies. Your feedback will have a bigger impact with multiple voices.
QAP Model Language

Three states have particularly strong language in their Qualified Allocation Plans (QAPs) regarding VAWA. While there is more that can be added -- especially around enforcement -- we are sharing this model language, so that you can see what has been adopted and suggest similar language in your own state.

We include the specific pages from the QAPs that show the key language for Delaware, Georgia, and Ohio.

Best Practices for Implementing VAWA in LIHTC

You can make sure that your state implements best practices for VAWA in LIHTC. To help you, below are best practices for language to be included in your state’s LIHTC Qualified Allocation Plan (QAP) or Compliance Manual (CM):

- Identify VAWA as applicable law.
- Clearly state VAWA’s housing rights.
- Include a procedure for tenants to file complaints about a VAWA violation.
- Include penalties for VAWA noncompliance.
- State that VAWA noncompliance can lead to LIHTC debarment.
- Annual owner certification includes VAWA compliance.
- Review processes include a check of VAWA compliance.
- Owners/managers with a history of VAWA violations can be disqualified from the LIHTC program.
- VAWA rights must be included in LIHTC property leases (or addenda).
- LIHTC owners must submit written VAWA emergency transfer plans to the state agency administering LIHTC.
- LIHTC owners must provide regular VAWA training to their staff.
- The QAP encourages housing development targeting survivors.
- The QAP makes it clear that a Social Security Number is not required from applicants for LIHTC admissions.
Example Scenario #3: Survivor Advocate Perspective

I am a survivor advocate and my organization serves immigrant survivors. We receive a lot of questions regarding the kinds of housing assistance that immigrant survivors are eligible for. Can immigrants apply for LIHTC housing? How can VAWAhome.com help us?
FAQ

How do I find LIHTC housing?

How do I find affordable housing that is not LIHTC housing?

Do you have to be a U.S. citizen to apply for LIHTC housing?

Do you need a Social Security Number to apply for LIHTC housing?

What kinds of housing assistance do immigrant survivors qualify for?
SSN and/or Proof of Citizenship Requested
WHAT SHELTER AND RENTAL HOUSING ASSISTANCE ARE AVAILABLE TO IMMIGRANT SURVIVORS DURING COVID-19?

By Karlo Ng, Director of Legal Initiatives, National Alliance for Safe Housing; Rafaela Rodrigues, Fellow, National Immigrant Women’s Advocacy Project; and Leslye E. Orloff, Director, National Immigrant Women’s Advocacy Project

Updated: March 17, 2021

Immigrant survivors of domestic violence, sexual assault, dating violence, stalking, and human trafficking face unique challenges when accessing and maintaining safe housing. Housing is a primary concern for survivors living with violence because it directly affects their ability to leave an abusive relationship. COVID-19 has exacerbated problems as survivors are forced to stay at home — making violence in their homes more frequent and dangerous. For survivors looking for alternative, safe housing, there is misinformation among housing providers and survivor advocates about immigrant survivors’ eligibility for housing and homeless assistance programs. Here, we clarify some misconceptions as well as provide resources and tools supporting advocacy on behalf of immigrant survivors.
Example Scenario #4: State Housing Finance Agency

I work at a state agency that administers the LIHTC program. We would like to do more to ensure that survivors do not lose their housing when they experience domestic or sexual violence. How can www.VAWAHome.com help us?
FAQ

Getting Help   Finding Housing   Keeping Housing

For Landlords & HFAs

How can landlords help survivors?

How can HFAs help VAWA survivors?

Implement best practices for survivors, including the creation of LIHTC units targeting this population and ensuring the full implementation of VAWA in your program. For more information, see:

- Our Best Practices
- NCSHA’s Recommended Practices in Credit Administration (VAWA practices on p. 41)

Best Practices for Implementing VAWA in LIHTC

You can make sure that your state implements best practices for VAWA in LIHTC. To help you, below are best practices for language to be included in your state’s LIHTC Qualified Allocation Plan (QAP) or Compliance Manual (CM):

- Identify VAWA as applicable law.
- Clearly state VAWA’s housing rights.
- Include a procedure for tenants to file complaints about a VAWA violation.
- Include penalties for VAWA noncompliance.
- State that VAWA noncompliance can lead to LIHTC debarment.
- Annual owner certification includes VAWA compliance.
- Review processes include a check of VAWA compliance.
- Owners/managers with a history of VAWA violations can be disqualified from the LIHTC program.
- VAWA rights must be included in LIHTC property leases (or addenda).
- LIHTC owners must submit written VAWA emergency transfer plans to the state agency administering LIHTC.
- LIHTC owners must provide regular VAWA training to their staff.
- The QAP encourages housing development targeting survivors.
- The QAP makes it clear that a Social Security Number is not required from applicants for LIHTC admissions.
Technical assistance and research support

LIHTC research support
Qualified Allocation Plans (QAPs) and Compliance Manuals (CMs) are critical documents in LIHTC.

There is no centralized, searchable repository of these documents that govern the largest housing program in the United States.

Rachel Blake of RHLS has spent several years working to develop systems to more easily and efficiently analyze the content of Qualified Allocation Plans (QAPs) and Compliance Manuals (CMs) -- and to be able to more easily extract and share model language.

RHLS is open to working with organizations that are interested in doing large scale QAP/CM research projects.

VAWA/LIHTC TA & trainings
NASH & RHLS did a series of webinars on VAWA/LIHTC, which can be accessed at: nashta.org/lihtc/

We may be able to provide custom trainings. Contact us if you have questions.

NASH and RHLS will also be available to provide some TA on these issues and hope to build our capacity to provide TA to match growing needs.

NASH can provide technical assistance, trainings, and support to survivor advocates on housing protections for survivors, including VAWA.

Please use the contact form at VAWAhome.com/contact
Questions?

Thank you!

Karlo Ng
kng@nashta.org

Rachel Blake
rblake@rhls.org

Vanessa Raymond- Garcia
vgarcia@rhls.org