



February 19, 2008

Rudy Cervantes
San Diego Housing Commission
1122 Broadway Ste 300
Resident Services Dept
San Diego, CA 92101

Re: Comments on San Diego Housing Commission's Annual Plan, Section 8 Administrative Plan, and Admissions and Continued Occupancy Policy

Dear Mr. Cervantes,

The YWCA of San Diego County and the National Housing Law Project submit the following comments in connection with the San Diego Housing Commission's (SDHC) proposed Annual Plan for Fiscal Year 2009, including revisions to the Section 8 Administrative Plan and the Admissions and Continued Occupancy Policy (ACOP).

The YWCA of San Diego County provides women and families with the shelter and services they need to escape homelessness and domestic violence. The National Housing Law Project (NHLP) is a national housing law and advocacy center that provides legal assistance, advocacy advice, and housing expertise to legal services and other attorneys, low-income housing advocacy groups, and others who serve the poor. We submit these comments in the hope that they will facilitate a continued dialogue with SDHC and assist the agency in administering its housing programs.

ANNUAL PLAN

Attachment 19: Violence Against Women Act Statement

The VAWA Statement outlines the actions SDHC has taken to serve the housing needs of victims of domestic violence, dating violence, and stalking, including referrals to service providers.

COMMENT:

We support SDHC's efforts to refer victims of domestic violence, dating violence, and stalking to service providers. We strongly recommend that the list of service providers be prepared and reviewed by the

YWCA of San Diego County or another comprehensive service provider to ensure that all resources offered are accurate and available.

We encourage SDHC to describe any other actions it has taken to implement VAWA. For example, SDHC must inform tenants, owners, and managers of their rights and obligations under VAWA. *See* 42 U.S.C. § 1437d(u)(2)(B); 42 U.S.C. § 1437f(ee)(2)(B). If SDHC provided notification of VAWA, SDHC should detail its efforts in its VAWA attachment. SDHC should also describe its plans to inform new tenants, owners, and managers of VAWA.

SECTION 8 ADMINISTRATIVE PLAN

Chapter 7: Moves with Continued Assistance/Portability

Restrictions on Moves (pages 7-1, 7-2)

Under the Administrative Plan, families are not permitted to move during the initial term of their assisted occupancy, and families are not permitted to move more than once in a 12-month period. The Administrative Plan states that the housing supervisor may make an exception to the portability restrictions if there is an emergency reason for the move.

COMMENT:

We support SDHC's efforts to assist families who must move because of an emergency. We encourage SDHC to recognize moves to escape domestic violence, dating violence, and stalking as an exception to the portability restrictions. This approach is set forth in VAWA. The statute provides that even if a portability move would otherwise constitute a violation of the lease, "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the Section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking." *See* 42 U.S.C. § 1437f(r)(5). We also note that the statute permits SDHC to request verification that the family is seeking to move because of domestic violence, dating violence, or stalking. A family may be forced to move within a short time period in order to prevent the abuser from discovering the family's whereabouts. We therefore encourage SDHC to be flexible when assessing a family's need to move because of violence, and to consider a variety of documentation, including statements from service providers and police or court records.

Chapter 11: Program Terminations

Termination of the Tenancy by the Owner: Evictions (page 11-2)

Pursuant to the Administrative Plan, an owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. The Administrative Plan does not include VAWA's provisions addressing evictions by Section 8 owners.

COMMENT:

We encourage SDHC to incorporate into the Administrative Plan VAWA's provisions regulating evictions by Section 8 owners. The Administrative Plan should state that an owner cannot construe an incident of actual or threatened domestic violence, dating violence, or stalking as a serious or repeated violation of

the lease by the victim, and that such an incident is not good cause for terminating the tenancy or occupancy rights of the victim. *See* 42 U.S.C. § 1437f(o)(7)(C). Similarly, the section of the Administrative Plan outlining an owner's right to terminate a tenancy for criminal activity should state that criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of the victim's household or any other person under the victim's control, shall not be cause for termination of the victim's tenancy. *See* 42 U.S.C. 1437f(o)(7)(D)(i).

The Administrative Plan should also include VAWA's provisions regarding lease bifurcation. Specifically, the Administrative Plan should make clear that an owner or manager may evict or remove any individual who engages in criminal acts of violence against family members or others, without evicting, removing, or otherwise penalizing a victim of such violence who is also a tenant. *See* 42 U.S.C. 1437f(o)(7)(D)(ii)

Housing Commission Policy for Consideration of Circumstances: Violence Against Women (page 11-9)

COMMENT:

We support SDHC's efforts to consider an individual's status as a victim of domestic violence, dating violence, or stalking when making termination decisions in the Section 8 program. SDHC's policy of referring victims to social services agencies and working with these agencies to ensure that families are able to maintain their housing is noteworthy and should include an updated, accurate list of available resources in San Diego County. The YWCA of San Diego County would be willing to help provide such a list for posting on the SDHC website and to work closely with SDHC for distribution in other manner as well.

To assist program staff and participants using VAWA's protections, we encourage SDHC to incorporate VAWA's certification and confidentiality provisions into the Administrative Plan. Program participants often have questions about what documents can be used to verify incidents of domestic violence, dating violence, or stalking. SDHC is free to provide VAWA's protections to a family based upon the family's statement alone. However, if SDHC currently requires verification of domestic violence, the Administrative Plan should specify which forms of documentation are permissible. Under VAWA, an individual may certify that he or she is a victim of domestic violence, dating violence, or stalking by providing one of the following three documents: (1) HUD-approved certification form; (2) documentation signed by a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or (3) a police or court record. *See* 42 U.S.C. § 1437f(ee)(A), (C).

The Administrative Plan should also specify how long an individual has to provide certification. Under VAWA, a housing authority or Section 8 owner may require that an individual provide documentation within 14 business days after requesting certification from the individual in writing. *See* 42 U.S.C. § 1437f(ee)(B). SDHC is free to extend this deadline at its discretion, and we encourage SDHC to provide extensions for good cause given the extreme trauma experienced by victims which might delay the preparation of such paperwork.

The Administrative Plan does not detail VAWA's confidentiality provisions. To encourage victims to use VAWA's provisions and to protect their safety, we recommend that SDHC include the confidentiality

provisions in the Administrative Plan. The Administrative Plan should state that SDHC and Section 8 owners shall keep confidential any information an individual provides regarding his or her status as a victim of domestic violence, dating violence, or stalking, except if the disclosure is: (1) requested in writing by the individual; (2) required for use in an eviction proceeding; or (3) otherwise required by law. See 42 U.S.C. § 1437(ee)(2)(A).

We also encourage SDHC to include VAWA's provisions regarding bifurcation of Section 8 assistance. Specifically, the Administrative Plan should make clear that SDHC may terminate rental assistance to the perpetrator of domestic violence, dating violence, or stalking without terminating assistance to the victim. See 42 U.S.C. 1437f(o)(7)(D)(ii)

Glossary of Terms in Subsidized Housing (page GI-4)

COMMENT:

The Administrative Plan does not define domestic violence, dating violence, or stalking. We encourage SDHC to include definitions of these terms in the Glossary and to cross-reference these definitions in the sections of the Administrative Plan addressing VAWA. We have included the definitions of these terms as they appear in VAWA and the California Family Code. See 42 U.S.C. § 13925(a)(6), (8); 42 U.S.C. § 1437f(f)(10); Cal. Family Code § 6211.

VAWA defines "domestic violence" as felony or misdemeanor crimes of violence committed by:

- (1) a current or former spouse of the victim;
- (2) a person with whom the victim shares a child in common;
- (3) a person who is cohabitating with or has cohabitated with the victim as a spouse;
- (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies;
- (5) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction [i.e., California].

California law defines "domestic violence" as abuse perpetrated against the victim by:

- (1) The victim's spouse or former spouse.
- (2) Someone the victim lives with or lived with in the past.
- (3) Someone the victim is dating or has dated.
- (4) Someone the victim has a child with.
- (5) Someone to whom the victim is related by blood, marriage, or adoption (including the victim's parent, grandparent, child, grandchild, brother, or sister)

VAWA defines "dating violence" as violence committed by a person--

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

VAWA defines “stalking” as

(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or

(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person;

and

(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to--

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

Chapter 2: Eligibility for Admission

Screening Applicants Who Claim Mitigating Circumstances (page 14)

The ACOP currently cites disability, medical condition, or course of treatment as one example of a mitigating circumstance for applicants who have unsuitable rental history.

COMMENT

During the admissions and screening process, we encourage SDHC to allow for mitigation of negative history for victims of domestic violence, dating violence, or stalking. As noted in VAWA, “Because abusers frequently manipulate finances in an effort to control their partners, victims often lack steady income, credit history, landlord references, and a current address, all of which are necessary to obtain long-term permanent housing.” See 42 U.S.C. § 14043e. We encourage SDHC to consider whether an applicant would be suitable for public housing but for a negative history caused by domestic violence, dating violence, or stalking. Negative history that may have been caused by domestic violence, dating violence, or stalking often includes poor credit history, poor rental history (including damage to an apartment), or lack of steady employment. If inquiries reveal that the negative history was the consequence of domestic violence, dating violence, or stalking against a member of the applicant household, SDHC should not deny the household assistance on the basis of this information. Any

inquiries regarding domestic violence, dating violence, or stalking should make clear that members of applicant households have a right to confidentiality.

Chapter 8: Transfer Policy

Emergency Transfers (page 63)

SDHC currently authorizes emergency transfers for families whose units are uninhabitable.

COMMENT:

We encourage SDHC to adopt an emergency transfer policy to assist victims of domestic violence, dating violence, or stalking who need to flee their abusers. Such a policy could be patterned after VAWA's portability provisions, which permit a family to move out of an assisted unit if the move is needed "to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking." See 42 U.S.C. 1437f(r)(5). This approach has been encouraged by HUD in the Public Housing Occupancy Guidebook, which states that "PHAs may adopt a transfer policy that includes a preference for victims of domestic violence who wish to move to other neighborhoods or even other jurisdictions. One tool PHAs may choose to use is the issuance of a voucher to the victimized family." See Public Housing Occupancy Guidebook, Chapter 19: Domestic Violence at 218-19.

Chapter 12: Lease Terminations

Terminations Due to Domestic Violence (page 87-88)

COMMENT:

We commend SDHC for incorporating VAWA's provisions into the ACOP. We encourage SDHC to incorporate into the ACOP VAWA's certification and confidentiality provisions, which are described in detail above in our discussion of the Section 8 Administrative Plan.

Chapter 15: One Strike Policy

Administration (page 95)

The ACOP currently lists several protected classes who will not be discriminated against during screening and eviction procedures.

COMMENT:

We encourage SDHC to include victims of domestic violence, dating violence, and stalking among the groups it will not discriminate against during screening and eviction procedures.

CONCLUSION

Thank you for the opportunity to submit these comments. We look forward to discussing these issues with you in greater depth. We are honored to work with the Housing Commission in support of so many who have experienced domestic violence, sexual assault, child abuse, and stalking. Too often, all of us forget the profound trauma and the ongoing impacts of abuse in the lives of those touched by family violence. Please do not hesitate to contact me if we can assist the San Diego Housing Commission on these issues in the weeks, months, and years to come. The YWCA of San Diego County is willing to assist

the Commission in providing training on domestic violence and the related issues that impact the day to day life of victims of domestic violence and their children.

Sincerely,

A handwritten signature in black ink that reads "Casey Gwinn". The signature is written in a cursive style with a long horizontal line extending to the right.

Casey Gwinn
Chief Executive Officer
YWCA of San Diego County &
Meliah Schultzman
National Housing Law Project