

HOUSING JUSTICE

National Housing Law Project

Newsletter July 2010

National Plan to End Homelessness Unveiled

On June 22, the United States Inter-agency Council on Homelessness (USICH) submitted to Congress the nation's first comprehensive plan to prevent and end homelessness. The USICH is composed of 19 member agencies that span housing, health, employment, education, and human services. The plan's emphasis on ending family homelessness and its acknowledgment that domestic violence is a key cause of homelessness are of particular interest to domestic violence advocates. The plan seeks to end veterans' homelessness and chronic homelessness by 2015, and to end family homelessness by 2020. Its stated vision is that "no one should experience homelessness—no one should be without a safe, stable place to call home." According to USICH, the plan will serve as a roadmap for joint action by the USICH and state and local partners in the public and private sectors.

Objectives

The plan is organized around several objectives. This article focuses on those that are particularly relevant to domestic violence and legal services advocates. One of the plan's objectives is to provide affordable housing to people experiencing or who are most at risk of experiencing homelessness. The plan supports rental housing subsidies structured so

that households pay no more than 30% of their income for housing. The plan further states that rental subsidies should more effectively target households that are earning significantly less than 30% of area median income. Another of the plan's objectives regarding access to housing is to provide permanent supportive housing to prevent and end chronic homelessness.

The plan's objectives also emphasize improving access to mainstream programs and services to reduce people's financial vulnerability to homelessness. It recommends reviewing federal program policies and procedures to identify ways to remove barriers and improve access to income supports. It also recommends collaboration to review program eligibility and termination criteria across the range of programs which people experiencing homelessness may access.

Another objective is to transform homeless services to crisis response systems that prevent homelessness and rapidly return people who experience homelessness to stable housing. The plan recommends using mainstream resources to provide housing stabilization assistance to clients who are homeless or at high risk of homelessness. It also recommends coordinating homelessness prevention and rapid re-housing strategies with education for homeless children and youth.

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Domestic Violence and Homelessness

The plan recognizes that “[d]omestic violence creates vulnerability to homelessness for women and children with limited economic resources.” It notes that “[d]omestic violence and sexual assault programs are vital allies in a coordinated strategy to prevent and end homelessness among families with children.” The plan recommends increasing service-enriched housing by providing onsite legal clinics for victims of domestic violence. It also suggests developing and disseminating best practices on helping people with barriers to employment enter the workforce, including strategies that take into consideration domestic violence. Finally, the plan recognizes that consistent and effective implementation of the housing provisions of the Violence Against Women Act (VAWA) may help save lives and prevent homelessness.

Next Steps

USICH states that it is working with its member agencies to prioritize which strategies demand action first, and that it will translate its strategic plan into implementation plans. It will publish an annual report card on progress toward the plan’s goals, and on progress in implementing its strategies. The full plan, titled “Opening Doors: Federal Strategic

Plan to Prevent and End Homelessness,” is available at www.usich.gov. ■

Court: Actions of Landlord Who Sexually Harassed Tenant “Reprehensible”

The United States Court of Appeals for the Eighth Circuit recently issued a ruling recommending an award of \$148,067 in damages and attorney’s fees for a tenant whose landlord subjected her to repeated sexual advances. In *Quigley v. Winter*, 598 F.3d 93 (8th Cir. 2010), plaintiff Jaymie Quigley rented a home from defendant Dale Winter, who often rented to low-income individuals receiving Section 8 vouchers. Winter subjected Quigley to a variety of unwanted sexual conduct, including making sexual comments, rubbing his genitals in front of her, calling her in the middle of the night, making repeated unannounced visits, and refusing to leave her home.

Quigley met with the housing authority to report Winter’s actions, but was told that if she broke her lease, she would lose her voucher. When Quigley asked Winter to let her out of her lease, he refused, and she was forced to wait until the lease expired before she could move. She filed a complaint with the Sioux City Human Rights Commission, as well as an action in federal district court. The court action alleged sexual harassment, sex discrimination, and interference with Quigley’s rights, in violation of the Fair Housing Act (FHA) and the Iowa Civil Rights Act.

A jury found in favor of Quigley and awarded her \$13,685 in compensatory damages and \$250,000 in punitive damages. However, the district court reduced the punitive damages award to \$20,527. Quigley appealed the reduction of the damages award, and

Statistic of the Month

Seventy-six percent of cities surveyed in a 2009 study reported an increase in family homelessness. Cities attributed the increase in family homelessness to the recession and a lack of affordable housing. Further, 44% of these cities identified domestic violence as a leading cause of family homelessness.

U.S. Conference of Mayors, Hunger and Homelessness Survey (Dec. 2009), <http://www.usmayors.org/pressreleases/uploads/>

Winter cross-appealed, asserting various errors at trial.

On appeal, the Eighth Circuit affirmed the district court's holding that a hostile housing environment created by sexual harassment is actionable under the FHA. The court found that Quigley presented sufficient evidence of numerous unwanted interactions of a sexual nature and noted that these interactions took place in Quigley's home, where she was "entitled to feel safe and secure."

The Eighth Circuit also found that Quigley had demonstrated adequate evidence to prevail on a "quid pro quo" sexual harassment claim. To prevail on this claim, Quigley was required to show that she was subjected to unwelcome harassment in the form of sexual advances or requests for sexual favors. She was also required to show that her submission to the unwelcome advances was an express or implied condition for receiving housing benefits, or that her refusal to submit would result in an adverse action. The court found that Winter's actions met the standard of quid pro quo harassment. Specifically, when Quigley asked about the return of her security deposit, Winter touched her stomach and said, "My eagle eyes have not seen everything yet." The court found it reasonable to infer that Winter was conditioning return of Quigley's deposit on receiving a sexual favor, which would constitute quid pro quo harassment.

The Eighth Circuit then turned to Quigley's claim that the district court improperly reduced the punitive damages award. The Eighth Circuit considered the degree of the reprehensibility of the defendant's conduct and the ratio between punitive damages and actual harm. The court found that Winter's conduct was reprehensible because Quigley was financially vulnerable, lived alone with small children, and had few, if any, alternative

housing options. However, in evaluating the ratio between punitive damages and actual harm, the court found that the jury's original punitive damages award was unjustified, noting that it was 18 times greater than the compensatory damages. The court recommended an amount of \$54,750 in punitive damages, which was four times the compensatory damages award, and concluded that an attorney's fee award of \$78,044 was reasonable. Quigley is significant because of its recognition that vulnerable, low-income tenants subjected to sexual harassment are entitled to punitive damages. It is also useful to advocates because it delineates some of the types of conduct that are pervasive or severe enough to create a hostile housing environment. ■

Court: Abuser's Statements not Valid Evidence of Unauthorized Occupancy in Section 8 Voucher Holder Household

Survivors of domestic violence frequently face evictions or subsidy terminations on the grounds that they added an additional household member without the housing provider's permission. A tenant's failure to seek permission from the housing provider before allowing additional persons to move into the assisted unit can constitute a lease violation. In cases where the abuser repeatedly returns to the survivor's subsidized unit, housing providers often wrongfully assume that the abuser is living in the unit without their permission, and can thus lead to a termination of the housing subsidy. The unauthorized occupant issue arose in a recent Florida case, *Sanders v. Sellers-Earnest*, No. 10-1174, slip op. (M.D. Fla. June 22, 2010).

The Section 8 voucher holder, Dionne Sanders, received a notice of proposed termi-

nation of her assistance based on an unauthorized occupant in her unit. According to the letter sent by the housing authority, Kenneth Davis had been residing in the tenant's unit without authorization and he had used her address on an arrest record. Thus, the housing authority stated that it would terminate Ms. Sanders' housing assistance. In response, the tenant requested and was granted an informal hearing.

At the hearing, both parties presented their evidence. The housing authority presented the alleged occupant's criminal report affidavit, a domestic violence incident report from the city police department, and a county sheriff's office arrest inquiry. In the alleged occupant's criminal report affidavit, he told the arresting officer that he and the tenant were dating and lived together. The tenant testified that while Davis sometimes stayed with her, he lived at his mother's residence. She also submitted a "verified Petition for Injunction for Protection Against Dating Violence", a Temporary Injunction Against Dating Violence, an amended injunction, and an affidavit regarding the dating violence as evidence that Davis was not residing with her. The hearing officer upheld the decision to terminate the tenant's housing assistance.

The tenant sued the housing authority in federal district court for violating her procedural rights guaranteed by 24 C.F.R. § 982.555(e)(5)-(6) and her due process rights under the Fourteenth Amendment because the hearing officer relied solely on unreliable hearsay – the police reports. The court acknowledged that the hearing officer's description of the contents of the police reports was accurate, and the police officers would have no reason to inaccurately report what the alleged occupant told them. However, the court had no way to assess the reliability of the alleged occupant's assertions since, hav-

ing been arrested for domestic violence based on the tenant's accusation, he was not free from potential bias. Additionally, the tenant did not have authority to subpoena the alleged occupant or the reporting officers for the informal hearing. As a result, the tenant was not afforded an opportunity to confront and cross examine the alleged occupant or the police officers, as procedural protections would require. Therefore, the court concluded that the police reports did not constitute sufficient evidence that the tenant allowed the alleged occupant to reside in her unit. The court granted the tenant's motion for a preliminary injunction and ordered the housing authority to reinstate her Section 8 benefits and eligibility, retroactive to the date of termination. Thus, advocates can challenge the termination of a subsidy where the housing provider relies on unsubstantiated statements of the abuser. ■

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