

The Intersection of Human Trafficking and Housing Law – Advocating for Safe and Sustainable Housing for Survivors

Guest Presenter – Karen Wabeke, Esq.
*Senior Housing Attorney with the Homeless
Persons Representation Project*

Co-Hosts - Jessica Emerson, LMSW, Esq.
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Agenda

- Housing Needs of Trafficking Survivors
- Housing Options and Eligibility Requirements
- Advocating for Survivors: Landlord/Tenant Conflicts and Other Legal Challenges
- The Impact of Covid-19 on Housing Options and Homelessness

Housing Needs of Trafficking Survivors

Options for Safe Housing

- Survivors commonly face challenges accessing both emergency and long-term housing
 - From Polaris Project 2018 Housing Report:
Emergency shelter [made] up an overwhelming 47 percent of all crisis requests to the National Human Trafficking Hotline.
- Many anti-trafficking programs do not have emergency or short term shelter options, and those who do are often at capacity
- Overlap in HT/IPV services and access to IPV shelters has helped, although housing options for crime victims remain sparse overall

Options for Safe Housing

- Even when immediate housing needs are met, survivors commonly struggle with post-shelter options
 - *Transitional housing programs and non-profit/private sector partnerships are limited!*
- Many housing programs also have problematic policies, like requiring attendance at religious services or that compound the lack of control survivors had while they were being trafficked
- Even when survivors are able to access public and private housing options, they may need support being able to bring or resolve disputes with housing authorities and private landlords

Common Barriers for Survivors Seeking Housing

- Lack of work history/stable employment
- Lack of savings for first month's rent/security deposit
- Lack of credit history
- Negative credit history/consumer debt
- Criminal records
- Shelter services are often dangerous and/or lack affirming policies
- Traffickers know where to go in order to target unstably housed persons or persons experiencing homelessness

The Impact of Criminal Records on Survivors Seeking Housing

- **Obtaining Housing** - Public Housing Authorities, owners of federally-assisted public housing, and private landlords have broad discretion to set their own screening
- This can look like:
 - Flat bans on individuals and their family members
 - A ninety-nine year “lookback” policy
 - No appeal process for refusal of tenancy

The Impact of Criminal Records on Survivors Seeking Housing

Retaining Housing - “One Strike” Eviction Policy

- Created by the “Anti-Drug Abuse Act” of 1988; Strengthened by 1996 Executive Order
- Tenants may be evicted from public housing for the criminal activity of a household member, guest, OR a person “under the tenant’s control,” that occurs on or off the premises, regardless of whether or not the tenant was aware of the activity OR if the activity resulted in a conviction
- Upheld by SCOTUS in 2002 *Rucker* case

Housing Options and Eligibility Requirements

Public Housing

- Public housing was established to provide decent and safe rental housing for eligible low-income families and individuals.
- Public housing comes in all shapes and sizes, from scattered-site single family homes to high rise apartment buildings.
- Residents pay rent based on their monthly income and certain expenses, like childcare.
- Generally speaking, rent is about 30% of a resident's monthly adjusted income.
- U.S. Department of Housing and Urban Development (HUD) administers federal aid to local public housing authorities that manage public housing.

Public Housing

- General Eligibility:
 - Limited to low-income families and individuals
 - Local housing authority determines applicant's eligibility based on:
 - (1) Annual gross income and local income limits;
 - (2) Whether the applicant qualifies as elderly, a person with a disability, or a family; and
 - (3) U.S. citizenship or eligible immigration status
 - Local housing authority also conducts criminal record screening for eligible applicants

Public Housing

- **Local Availability:**

- Housing Authority of Baltimore City: HABC owns and operates approximately 7,000 public housing units throughout Baltimore City.
- HABC also provides affordable housing through its Rental Assistance Demonstration (RAD), which includes nearly 3,000 additional units.

- **However...**

- The waiting list for public housing in Baltimore City is currently closed, which means that HABC is no longer accepting new applications for public housing
- The waiting list was closed by HABC effective December 20, 2019, citing over 14,000 applications on the waiting list and **an average waiting time of over 5 years**
- Baltimore County Office of Housing: No public housing units

Public Housing

- What Issues Might Survivors Face in Applying for Public Housing?
 - Criminal Record Screening – HABC checks criminal history for all members of the applicant’s household who are 14 years of age and older
 - Mandatory Denials:
 - Any household member has been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
 - Any household member was evicted from public housing or any Section 8 program because of drug-related or other criminal activity, for a 3-year period beginning on the date of eviction
 - A member of the household is subject to any registration requirement under a state sex offender registration program, for the term of the registration requirement
 - Discretionary Denials:
 - Any household member has engaged in drug-related, violent, or other criminal activity
 - 18-month denial for a misdemeanor convictions and 3 years for a felony conviction, beginning on the date of conviction or the release from incarceration, whichever is later

Section 8 (Housing Choice Voucher Program)

The Housing Choice Voucher Program/Section 8:

- The HCVP is the Fed's major program for assisting low-income families and individuals on the private rental market.
- Because housing assistance is provided on behalf of the assisted household, participants are able to find their own housing, including single-family homes, townhomes, and apartments.
- The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.
- Housing choice vouchers are administered by local housing authorities. The housing authorities receive federal funds from HUD to administer the voucher program.
- A housing subsidy is paid to the landlord directly by the housing authority on behalf of the participant. The participant then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program.

Housing Authority of Baltimore City – HABC administers approximately 13,000 Section 8 vouchers

Baltimore County Office of Housing – BCOH administers just under 5,000 Section 8 vouchers

Section 8 (Housing Choice Voucher Program)

- Eligibility for HCVP:
 - Eligibility for a Section 8 voucher is determined by the local housing authority based on the total annual gross income and family size, and is limited to U.S. citizens and specified categories of non-citizens who have eligible immigration status.
 - Local housing authority also conducts criminal record screening for eligible applicants
- **The Section 8 waiting list in Baltimore City is currently closed.** The waiting list was closed in 2014, following an application lottery. HABC received nearly 75,000 applications for Section 8 in a nine-day period, and selected 25,000 applicants by lottery who were placed on the waiting list.
- **The Section 8 waiting list in Baltimore County is also closed until further notice.**

Section 8 (Housing Choice Voucher Program)

- What Issues Might Survivors Face in Applying for a Section 8 Voucher?
 - Criminal Record Screening – HABC checks criminal history for all members of the applicant’s household who are 14 years of age and older
 - Mandatory Denials:
 - Any household member has been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
 - A member of the household is subject to any registration requirement under a state sex offender registration program, for the term of the registration requirement
 - Discretionary Denials:
 - Any household member has engaged in drug-related, violent, **or other serious criminal activity**
 - 18-month denial for a misdemeanor convictions and 3 years for a felony conviction, beginning on the date of conviction or the release from incarceration, whichever is later

Renting from a Private Landlord

- In private housing, there are no anti-discrimination protections based on trafficking survivor status alone
- If a survivor is applying for housing through a program subsidized by HUD, anti-discrimination policies under the Violence Against Women Act (VAWA) *may* apply if the survivor can demonstrate that they are *also* a survivor of domestic violence, sexual assault, or stalking
- Otherwise, the landlord has discretion to deny housing for criminal record, poor credit/lack of credit, etc.

Housing Discrimination

- **The Fair Housing Act prohibits discrimination in the sale, rental, and financing of housing based on race, color, national origin, religion, sex, familial status, or disability**
 - Contact HUD (Region III) – (888) 799-2085 or ComplaintsOffice03@hud.gov
- **State law also prohibits housing discrimination on the basis of marital status, sexual orientation, and gender identity.**
 - Contact the Maryland Commission on Civil Rights – 410-767-8600 or mccr@maryland.gov
- **Baltimore City also prohibits housing discrimination on the basis of age, ancestry, and source of income.**
 - Contact the Baltimore Community Relations Commission – 410-396-3143 or crcintake@baltimorecity.gov
- **In addition to filing an administrative complaint with one of the above agencies, those who believe they have been discriminated against with respect to housing can also pursue enforcement by way of a civil lawsuit!**

Potential Inclusions for Lease Agreements

From Polaris Project 2018 Housing Report:

- Protecting survivors from housing discrimination, eviction, or other punishment based on their status or history as a victim of crime
- Protect survivors' right to call the police for emergency assistance
- Allowing a victim to break a lease without penalty with adequate documentation of their victim status
- Affording victims the right to have their locks changed, or other reasonable security enhancements
- Commitment to upholding any and all protection orders in place
- Ensuring complete confidentiality of all housing records and documented victim status

Advocating for Survivors: Landlord/Tenant Conflicts and Other Challenges

Addressing Landlord/Tenant Conflicts – Unsafe Conditions

- **Maryland law requires landlords to repair and eliminate conditions that are a substantial and serious threat to the life, health, or safety of occupants**
 - Examples: Lack of electricity, heat, light, or water; lack of adequate sewage disposal; rodent infestation; water intrusion; lead paint hazards; structural defects; and fire hazards
 - Tenant must give the landlord notice of the conditions that need to be repaired and a reasonable time in which to make the repairs
 - If a landlord fails to make repairs after receiving notice, the tenant has the right to pay their rent into an escrow account established at District Court. The court holds the money until a judge hears the escrow case and makes a decision. The tenant may get back all, some, or none of the rent paid into escrow.
 - A tenant can file a complaint for rent escrow affirmatively, or it can be raised as a defense in a failure to pay rent case.
- **Tenants should seek legal representation for rent escrow!**
 - Homeless Persons Representation Project, Inc. @ 410-685-6589
 - Public Justice Center @ 410-625-9409
 - Maryland Legal Aid Bureau – check number for local office @ www.mdlab.org

Addressing Landlord/Tenant Conflicts – Evictions

- **There is no such thing as a “self-help” eviction in Maryland.**
 - The landlord cannot just change the locks on their own. They must obtain a judgment for possession from the court and schedule the eviction with the Sheriff’s Office
 - It is also unlawful for a landlord to shut off gas or electric service in an effort to force the tenant to move out of the property
 - There are civil and criminal penalties for illegal eviction and willful diminution in Maryland
 - If a tenant believes they have been illegally evicted, they should call the police and then contact a civil legal aid organization or a private attorney for further legal advice!
- **If a tenant receives a court notice for an eviction case (Failure to Pay Rent, Breach of Lease, Tenant Holding Over), they should go to court!**
 - Tenants can represent themselves or seek legal representation.
 - If the tenant does not go to court, the court will automatically rule in favor of the landlord, so it is very important that the tenant go to court to contest the eviction!

Supporting Survivors in Housing-Related Disputes

- **If a tenant is facing conflict with their landlord that has resulted in legal action, consider these steps to reduce trauma and triggering:**
 - Prior to any court proceedings, students/program staff should discuss the survivor's rights in landlord/tenant court with them;
 - If possible, work with the survivor to obtain counsel so that a housing attorney can work with them to either a) mediate the dispute and come to a solution before going to court; b) attend court with the survivor to advise and negotiate; and/or c) represent the survivor at trial;
 - If there is not time to retain counsel, ask if the housing attorney can talk with the tenant about what to bring to court, what to do upon arrival, and what to expect from the proceeding;
 - Students/program staff offer accompaniment to court to help connect with housing attorneys or support staff on the day of court, or to act as a buffer between the tenant and landlord.
 - The survivor/tenant is not required to speak with the landlord to negotiate and it is their right to have a trial on the issues if they believe their landlord will attempt to use any power dynamics between them as a bargaining chip.

The Impact of Covid-19 on Housing Options and Homelessness

Eviction – Updates

- Tenant protections on the federal level:
CARES Act
 - Signed into law on 3/27/2020
 - Instituted a 120-day eviction moratorium for nonpayment of rent in “covered properties” that ran from 3/27/2020 to 7/25/2020
 - Requires landlord to give tenant 30 days notice prior to filing for eviction, even after the 120-day eviction moratorium ended
 - Prohibits multifamily borrowers who are in forbearance from evicting or initiating the eviction of a tenant for nonpayment of rent or other fees or charges during the period of forbearance, and requires a 30-day notice to the tenant once the forbearance ends

Eviction – Updates

CDC Order announced 9/1/2020 - “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”

- In effect 9/4/2020 – 12/31/2020 and covers virtually all rental properties
- Prohibits landlords from evicting tenants for nonpayment of rent through the end of the year IF the tenants have submitted a declaration of income loss or significant medical expense
- Once a tenant has sent the declaration to their landlord, the landlord cannot take any action to remove or cause the removal of that tenant for nonpayment of rent before January 1, 2021
- It does not cancel or stop the rent from being owed, or stop the build up of owed rent, which would be due after the order expires

Eviction – Updates

CDC Order announced 9/1/2020 - “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”

- Does allow an otherwise-eligible tenant to be evicted before January for certain reasons *other than* nonpayment of rent:
 - Engaging in criminal activity while on the premises
 - Threatening the health or safety of other residents
 - Damaging or posing an immediate and significant risk of damage to property
 - Violating any applicable building code, health ordinance, or similar regulation relating to health and safety
 - Violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including fees, penalties, or interest)

Eviction – Updates

CDC Order announced 9/1/2020 - “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”

- Tenants are eligible for protection if they:
 - Are unable to pay the rent due to income loss or medical expenses
 - Expect to make less in 2020 than \$99,000 individually (or \$198,000 as a family), received a stimulus check, or did not have to file a 2019 tax return
 - Tried to access any government rental assistance funds that may be available
 - Agree to make partial rent payments based on what they can afford
 - If evicted, would become homeless or would have to move into a crowded or substandard living situation

Eviction – Updates

CDC Order announced 9/1/2020 - “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”

- To get these protections, the tenant – and all adults living in the household – have to submit a signed declaration to their landlord stating they are eligible and that they are telling the truth, under penalty of perjury.
- Tenants should keep a copy of the declaration and all correspondence with the landlord

*** NOTE: The Maryland Judiciary has taken a *very narrow* interpretation of the CDC Order***

Eviction – Updates

- **Tenant Protections on the State Level:**

- Governor Hogan’s Executive Order issued 3/16/2020 and extended by Executive Order dated 4/3/2020
- Prohibits Maryland courts from ordering the eviction of any tenant who can show that their failure to pay rent or breach of lease was the result of COVID-19 because of lost or reduced employment, needing to care for a school-aged child, or because they are diagnosed with or under investigation for COVID-19
 - Prohibitions are in effect until the State of Emergency is lifted
 - An affirmative defense – not a moratorium!

Eviction – Updates

Tenant Protections on the Local Level - Baltimore City COVID-19 Renter Relief Act

- Signed by Mayor Young on 5/18/2020, took effect retroactively (3/5/2020)
- Prohibits rent increase for existing tenants during the health emergency declared by Governor Hogan. Landlords may not notify existing tenants of rent increases during this emergency and for the 90-day period after the state of emergency is lifted.
- Fees for late payment or nonpayment of rent are also prohibited during the emergency or within 90 days after the expiration of the emergency.
- The Act only applies to existing tenants and does not apply to leases for new tenants.
- The Housing Authority of Baltimore City is specifically exempted from the Act's requirements, because federal law requires public housing authorities to determine rent based on residents' household income and adjust accordingly.

Eviction – Updates

Under the Maryland Judiciary’s phased reopening plan, the court has been gradually reopening and hearing certain types of eviction cases

- We have been in Phase 4 since August 31, 2020. During Phase 4, the court is hearing all landlord-tenant/eviction cases - except jury trials.
- Jury trials are scheduled to resume on October 5, 2020, when the courts enter the fifth and final phase. At that time, the court will be at so-called full operation.

Baltimore City Rent Court resumed on September 1, 2020.

- They are hearing far fewer cases each day (capped at 150 cases/day vs. 1,000 cases/day pre-COVID).
- The court started with those cases that were pending when the courts shut down in mid-March and working their way forward.
- Evictions are happening in Baltimore City.

Housing – Rent Assistance

- **Baltimore City COVID-19 Temporary Rent Support Program – “Phase 1”**
 - Administered by Baltimore City Department of Housing and Community Development
 - \$15 million available to help residents struggling to pay rent as a result of COVID-19, designed to help renters get current on their April, May and June rent and bring near-term stability to the city’s rental market
 - Application period is closed (July 1st – July 13th) and they are no longer accepting applications
- **Baltimore City Eviction Prevention Program – “Phase 2”**
 - Administered by the Baltimore City Community Action Partnership (BCCAP) in the Mayor’s Office of Children & Family Success
 - \$30 million available to help residents stay in their homes and avoid eviction and homelessness
 - The program offers four forms of assistance: (1) Rental and utilities assistance to cover past-due bills, (2) Relocation assistance, (3) Legal assistance, and (4) Case management
 - Program is accepting applications yet (hopefully late September?!?), but tenants can apply through their local Community Action Center

Housing – Rent Assistance

- **Maryland Assisted Housing Relief Program**

- \$10 million allocated by Gov. Hogan, administered by the Maryland DHCD
- Program is limited to rental units in multi-family projects financed by DHCD's Community Development Administration using state funds or federal resources, such as the Low Income Housing Tax Credit program, where the rent is controlled
- Interested tenants who think they might be eligible should talk to property management

- **Eviction Prevention – Baltimore City**

- Office located inside the District Court at 501 E. Fayette St., Room 207
- Tenant must have a judgment for possession entered against them by the court
- Call first (410-878-8650) to confirm their hours and find out what paperwork the tenant should bring with them

Housing – Rent Assistance

- **Supportive Services for Veterans and Families (SSVF)**

- Veteran households in need of assistance should contact the following organizations:
 - SSVF New Vision House of Hope – 410-466-8558 x 113
 - SSVF Project PLASE – 410-837-1400 x 148

- **Emergency Assistance to Families with Children (EAFIC)**

- Locally administered by Baltimore City Department of Social Services
- May cover the emergency need to handle eviction notices, gas and electric turn off notices, and delinquent water bills
- Family must have one or more children under 21 and living with them
- Apply by calling DSS at 1-800-332-6347

Housing – Legal Resources

- **Homeless Persons Representation Project (HPRP)** is Maryland's only legal services and advocacy organization dedicated to eliminating homelessness. Our staff and volunteers provide free legal services, including advice, counsel, education, representation and advocacy, for low-income persons who are experiencing homelessness or who are at risk of homelessness.
 - Housing
 - Public benefits
 - Veteran's benefits and discharge upgrades
 - Expungement
- **Maryland Volunteer Lawyers Service**
 - Landlord/Tenant Disputes
 - Deed and Title issues
 - Estate Planning
 - Consumer Law issues

Questions?

Tell us what you think in our post-webinar survey!



Thank you!

To follow up with our guest speaker, please contact:

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For more information about the Human Trafficking
Prevention Project, please contact us at:

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MVLS continues to accept new cases through our [online intake](#) or through our phone intake lines at **(410) 547-6537** or **(800) 510-0050**

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Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for \$4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location: Baltimore County Ref. #: 18-0138741 Case Type: Debt Collection

[Share Case](#) [Learn More](#)

I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for \$933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately \$300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/5/18 at 9:00AM.

Location: Washington Ref. #: 18-0138685 Case Type: Debt Collection

[Share Case](#) [Learn More](#)

You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location: Baltimore County Ref. #: 18-0138671 Case Type: Landlord-Tenant

[Share Case](#) [Learn More](#)

Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

Here's To New Beginnings!

Client seeks to go over her criminal record with a volunteer and to have the eligible cases expunged from her record.

FREE Upcoming Training & Volunteer Opportunities:

Go to mvlslaw.org/events for more info!

- October 13 – Best Practices for Representing a Non-Filer (Tax Twosday)
- October 15 – Legislative Roundup: Changes in Maryland Law this Year

Check the MVLS calendar for other upcoming events!

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- **Housing**
- **Human Trafficking Prevention**
- **Tax**
- **Miscellaneous (business and soft skills)**

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