ASSISTING TRAFFICKING SURVIVORS WITH HOUSING LAW ISSUES: TIPS FOR ATTORNEYS AND ADVOCATES

The Intersection of Human Trafficking and Housing Law Issues:

Survivors of human trafficking often struggle to secure safe, long-term housing. While many anti-trafficking programs provide emergency shelter and/or transitional housing, after leaving such programs, survivors may face challenges accessing and retaining public and private housing due to their trafficking-related criminal records, their lack of work history, the inability to pay first month's rent and security deposit, and/or negative credit reports. Public housing authorities and private landlords have broad discretion when screening applicants, and – even if survivors are able to obtain public or private housing – they may need legal support to prevent eviction and/or resolve disputes with housing authorities and landlords.

Challenges Accessing Public Housing and Section 8/Housing Choice Voucher Programs. These two federal programs were established to create access to safe and affordable rental housing for low-income individuals and families. Overseen and run by local housing authorities, Public Housing programs provide applicants with access to various types of rental units, with tenants paying rent based on their monthly income and expenses. Section 8/ Housing Choice Voucher Programs assist low-income individuals and families with accessing the private rental market through payment of rental subsidies directly to landlords for eligible units. Because of extremely high demand and insufficient units/resources, both programs often have years-long and, in some cases, decades-long backlogs. Eligibility requirements may also pose a hurdle for trafficking survivors due to mandatory criminal background screenings for all potential household members, and mandatory and discretionary grounds for denials related to criminal activity.

Challenges 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 subsidized through a federal program, 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, private landlords have discretion to deny housing for criminal records, poor credit/lack of credit, etc.

Common Housing-Releated Issues Trafficking Survivors May Encounter :

Reviewing/Requesting Provisions in a Lease: Many landlords use long and dense form leases that can be challenging to understand. Survivors may need assistance reviewing their lease documents and negotiating specific additional terms in the agreement, including the right to have their locks changed, call the police, and break a lease if needed for safety reasons. For further recommendations, please see Polaris Project's 2018 report, *On-Ramps Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking - Housing and Homelessness Systems* (available at www.polarisproject.org).

Unsafe Housing Conditions: Maryland law requires landlords to repair and eliminate living conditions such as lack of electricity, heat, or water, pest infestations, lead paint, structural issues, and/or fire hazards that are a substantial and serious threat to the life, health, or safety of the occupants. A tenant must give their landlord notice and time to repair the condition. If the landlord does not repair the premises, the tenant has the right to pay rent into an escrow account established at the District Court in their local jurisdiction.

Once established, the court holds the money the tenant would have paid toward rent until a judge hears the case and makes a decision about the amount of rent the tenant is entitled to get back. A complaint for rent escrow may be filed affirmatively or raised as a defense in a failure to pay rent case.

Threat of Eviction: Maryland law requires a landlord to obtain a judgment for possession from the court and schedule an eviction with the Sheriff's Office prior to ejecting a tenant living in a rental property. It is unlawful for a landlord to take action in an effort to force the tenant to move, such as changing the locks or shutting off gas or electric service. There are civil and criminal penalties for such illegal actions by landlords, and tenants are advised to call the police and seek legal assistance with such matters. If a tenant receives an eviction notice due to failure to pay rent, breach of lease, or tenant holding over, they must go to court in order to prevent an automatic judgement in favor of the landlord.

Survivor-Centered Advocacy for Consumer Law Matters:

If a survivor/tenant is experiencing a conflict with their landlord that may or has resulted in legal action, consider taking these steps to reduce potential trauma and triggering:

- If possible, work with the survivor/tenant 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 the hearing.
- If there is not time to retain counsel, consider asking if a housing attorney can talk with the survivor/tenant about what to bring to court, what to do upon arrival, and what to expect from the proceedings.
- Advocates can also offer to accompany the survivor/tenant to court to help connect them with housing attorneys or support staff on the day of court, or to act as a buffer between the survivor/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, especially if they believe their landlord will attempt to use any power dynamics between them as a bargaining chip.
- Attorneys should discuss the survivor's rights in landlord/tenant court with them prior to the hearing, and explain all options and potential outcomes in their case.
- All service providers, regardless of discipline, should employ trauma-informed lawyering and advocacy techniques to ensure they are providing the survivor/tenant with proactive support and control over their case.

Housing Law Resources in Maryland:

Homeless Persons Representation Project (www.hprplaw.org; 410-685-6589) – Provides free legal help on a wide range of housing issues, including evictions, Section 8 vouchers, Public Housing eligibility, and private landlord/tenant disputes.

Maryland Volunteer Lawyers Service (www.mvlslaw.org; 410-547-6537) – Provides free legal help with private landlord/tenant disputes and deed/title issues.

Public Justice Center (www.publicjustice.org; 410-625-9409) – Provides free legal help with evictions and other private landlord/tenant disputes.

Eviction Prevention Program – Baltimore City (District Court, Room 207, 501 E. Fayette Street; 410-878-8650) – Provides assistance to tenants with eviction orders/judgements for possession entered against them.

Housing Law Resources in Maryland (continued):

Maryland Legal Aid Bureau (search for a local office number at www.mdlab.org) – Provides free legal assistance with a wide range of housing issues, including evictions, Section 8 vouchers, Public Housing eligibility, and private landlord/tenant disputes, as well as other civil legal services. The Legal Aid website also has videos available that are designed to help tenants learn what to expect when attending rent court, as well as how to establish a rent escrow account.

Housing Discrimination Resources:

- 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) at 888-799-2085 or ComplaintsOffice03@hud.gov for more information.
- Maryland state law also prohibits housing discrimination on the basis of marital status, sexual orientation, and gender identity - contact the Maryland Commission on Civil Rights at 410-767-8600 or mccr@maryland.gov for more information.
- Baltimore City also prohibits housing discrimination on the basis of age, ancestry, and source of income – contact the Baltimore Community Relations Commission at 410-396-3143 or crcintake@baltimorecity.gov for more information.
- 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!

This tip sheet was created as part of the Human Trafficking Prevention Project (HTPP), a collaboration between the University of Baltimore School of Law and Maryland Volunteer Lawyers Service (MVLS).

Recommendations on this tip sheet are adapted from the HTPP webinar:

"The Intersection of Human Trafficking and Housing Law: Advocating for Safe and Sustainable Housing Options for Survivors," featuring guest presenter Karen Wabeke, Esq., Senior Housing Attorney at Homeless Persons Representation Project.

The webinar is available at: https://mvlslaw.org/recorded-trainings/.

For more information on housing issues and human trafficking, please see Polaris Project, "On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking" (2018), available at www.polarisproject.org.

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