

## **FALL RIVER HOUSING AUTHORITY**

### **VIOLENCE AGAINST WOMEN ACT: POLICY**

The Fall River Housing Authority will enforce the passage of the Violence Against Women Act and the Department of Justice Reauthorization Act of 2005 (VAWA) which was originally enacted in 1994. Of significance to the FRHA, the VAWA prohibits the eviction of, and removal of assistance from, certain persons living in public housing if the asserted grounds for such actions include an instance wherein they were a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by VAWA (42 U.S.C. 13925) and incorporated in this policy below..

Called the “Violence Against Women Act”, this law says that victims of domestic violence, dating violence, sexual assault, and stalking are established together in a broad group of protected individuals. This definition includes, among others, children. The purpose is to create new housing opportunities for victims of domestic violence; encourage – and in some cases, require the FRHA not to deny access or evict victims of domestic violence related to their being abused; increase victim confidentiality; and require the FRHA to consider the needs of victims of domestic violence in FRHA housing policies. The FRHA will recognize and accommodate the special nature of victims of domestic violence.

The provisions of this law affect those residents housed in Federally-subsidized public housing units and those individuals who receive Section 8 Housing Choice Vouchers (HCV) from the Fall River Housing Authority.

#### **DEFINITIONS:**

**Dating violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the length, type and frequency of interaction between the persons involved in the relationship.

**Domestic violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws or by 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.

**Immediate family:** Spouse, parent, brother, sister or child of that person, or an individual to whom that person stands in loco parentis or any other person living in the household related to that person by blood or marriage.

**Sexual assault:** Any conduct prescribed by chapter 109A of title 18, US code whether or not the conduct occurs in the special maritime and jurisdiction of the US or in a federal prison and includes assaults committed by offenders who are strangers to the victim or who are known or related by blood or marriage.

**Stalking:** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person. To place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person, member of immediate family, spouse or partner.

**Confidentiality:** Information provided by the victim pursuant to the certification shall be retained in confidence and not entered into any shared database nor provided to any related entity except when the disclosure is: consented to by the individual in writing, required for use in eviction proceedings, or otherwise required by law.

**Certification:** The FRHA responding to subsections (1) (5) or (6) (i.e., a claim of protected status under VAWA) may request that an individual certify via a HUD-approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incident in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the statute. Such certification shall include the name of the perpetrator.

### **NOTIFICATION OF RESIDENTS:**

The Fall River Housing Authority will notify all residents of their rights under VAWA by written notice and inform all new applicants during the application process and while being tenanted by management staff. The notification will include an explanation of VAWA. The notification will describe the verification (see attached "Violence Against Women Act Certification Form") that will be required by a resident or applicant claiming protection under the Act.

### **DOCUMENTATION:**

Housing Assistance (HCV administration), Tenant Selection and Management offices will retain Certification Forms (Exhibit A), documentation of applicants/residents that have issues dealing with the VAWA. This documentation will be maintained in the tenant file of said person in the development they at which they reside, or, in the case of HCV recipients, the central file in the Housing Assistance Department

The Certification Form (Exhibit A), will be temporarily utilized until a HUD approved form is made available: The Management, Tenant Selection or Housing Assistance staff

will request that an individual certify via this Certification Form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator.

The resident has **fourteen (14)** business days to reply *in writing* from day of receipt from the FRHA. If the certification is not received within 14 business days of the FRHA's written request, nothing would limit the FRHA ability to evict/terminate assistance. The Director of Field Operations may extend the **14 day** deadline at his/her discretion. This form is not required to be executed under penalty of perjury, although HUD may elect to require that in its approved form when promulgated.

An individual may also satisfy the certification requirement by providing Housing Assistance, Tenant Selection or Management staff with documentation signed by an employee, agent or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or 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 "producing a Federal, State, tribal, territorial, or local police or court record.

### **TRAINING:**

Managers and clerks employed by the FRHA will be encouraged to participate in training sessions dealing with issues of Violence Against Women, in order to recognize residents who are victims.

### **IMPLEMENTATION:**

The provisions of the law which apply to the administration of a Housing Authority's HCV Program and Federal Public Housing program deal with the ability of the public housing authority to house residents covered by the protections of the Act. The FRHA implementation of these provisions will occur as follows:

- An applicant or participant that is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission of an otherwise qualified applicant. The FRHA can bifurcate the lease to remove a lawful occupant or tenant who engages in criminal acts of violence to family members or others without evicting victimized lawful occupants.
- An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of

the lease by the victim or threatened victim of that violence and shall not be good cause for terminating assistance, tenancy, or occupancy rights of the victim of such violence.

- The FRHA will honor court orders regarding rights of access or control of property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among household members in cases where a family breaks up.
- The FRHA can evict for other good cause unrelated to the incident or incidents of domestic violence, as long as the same standards apply to victims and non-victims.
- Eviction is not prohibited by the FRHA, if it can “demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s tenancy is not terminated.”
- FRHA may not deny portable voucher assistance to a tenant who violated previous assisted lease terms solely in order to move out quickly because of the fear of domestic violence. FRHA may not terminate or deny portable voucher assistance to a tenant who is otherwise on compliance with program rules moved out of a previous assisted unit in order to “protect the health and safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who is reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

#### **GRIEVANCE PROCEDURE:**

All residents have the right to have a Grievance Hearing after a Private Conference is made. Upon filing a written request, as provided by the Fall River Housing Authority grievance procedure, any resident who disagrees with any FRHA action will be afforded this opportunity.