



VAWA REMEDIES AND § 504B.206 LEASE BREAKS

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WHO IS STANDPOINT?

Formerly known as Battered Women's Legal Advocacy Project

Attorneys: immigration, criminal/civil, family law, housing, employment, Title IX, confidentiality, and more!

Advocates: safety planning, resource referral, crisis intervention, legal advocacy, Title IX, support for advocacy organizations, etc.

Statewide services to support survivors of domestic and sexual violence

Free (regardless of income), no intake required

TRAUMA-INFORMED LAWYERING



Transparency



Predictability



Client Control



Reliability



Proactive
Support



Patience



Reese Witherspoon as Elle Woods in the movie *Legally Blonde*,
Hello Sunshine

Establishing a Trauma-Informed Lawyer-Client Relationship

http://www.lsc-sf.org/wp-content/uploads/2015/10/Article_Establishing-a-Trauma-Informed-Lawyer-Client-Relationship.pdf

WORKING WITH VICTIM/SURVIVORS

Approach is informed by individual experience of v/s

- May not be directly related to current legal concern
- Ex. child abuse, sexual assault, domestic violence from former partner, employment discrimination, etc.

Default mentality when providing advocacy regardless of practice area

- Never know what a client's full history / lived experiences are
- Can impact client's decision-making and actions in case

Treat v/s with care & respect while working for favorable outcome

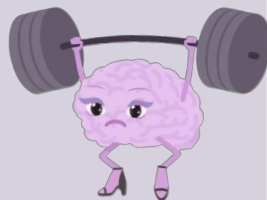
- Build relationship of trust between client and attorney/advocate
- Prepare attorney/advocate to represent client's best interests



PRACTICAL TIPS

Memory is impacted by trauma, so it may be helpful to...

- Allow extra prep time for hearings
- Understand that long tangled narratives are normal and can be useful
- Repeat explanations for understanding

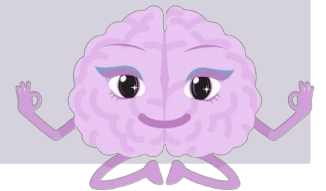


Power & Control Dynamics: it's empowering and important to...

- Explain options and promote autonomy
- Explain reasons behind strategy / actions
- Explain what is happening as it happens
- Physically help identify exits / safety precautions (where are doors, who will be present, etc.)

Flexibility is key!

- Take breaks
- Allow time to respond to triggers
- Allow room for emotion
- Change direction when helpful
- Ask for their preference / thoughts



PRACTICAL TIPS!

- Strive to build trust along the way
 - Body language and tone are important: victim/survivors are experts at reading nonverbal communication
 - Be clear about confidentiality
 - NEVER mislead or provide false hope about goals / outcomes
- Resist the urge to lead the conversation.
 - If possible, do not interrupt (even if the information seems irrelevant) - try to find relevancy and/or connection
 - Results in information that may not have been otherwise disclosed
 - Promotes autonomy
 - Builds trust and connection
 - If redirection is necessary, explain why
- Ask open ended questions

MORE PRACTICAL TIPS!

- Paraphrase to ensure accuracy
- Remember a victim/survivor is not just a witness to their own crime
 - Often re-living the event in varying degrees when discussing it with others
- Use reflective, easily understood language – less legalese!
 - Do not label an experience as domestic/sexual violence if client has not done so
 - **Exception:** for attorneys helping clients assess if the experience meets the legal definition of domestic abuse / sexual assault / etc., **but** determine if client is ready to have that conversation
- Clients are their own best experts
 - Clearly lay out legal / safety options and be prepared to support the client's decision

OVERVIEW

VAWA

- Protections
- Remedies
- VAWA Certification
- Intersections with FHA

Minn. Stat. § 504B.206

- § 504B.206 Basics
- Process to Terminate Lease
- Intersections with FHA

Rights under Minnesota Law

- No Eviction due to Domestic Violence
- Right to Call for Help
- Right to Privacy
- Covenants

Review: VAWA vs. Minnesota Housing Protections

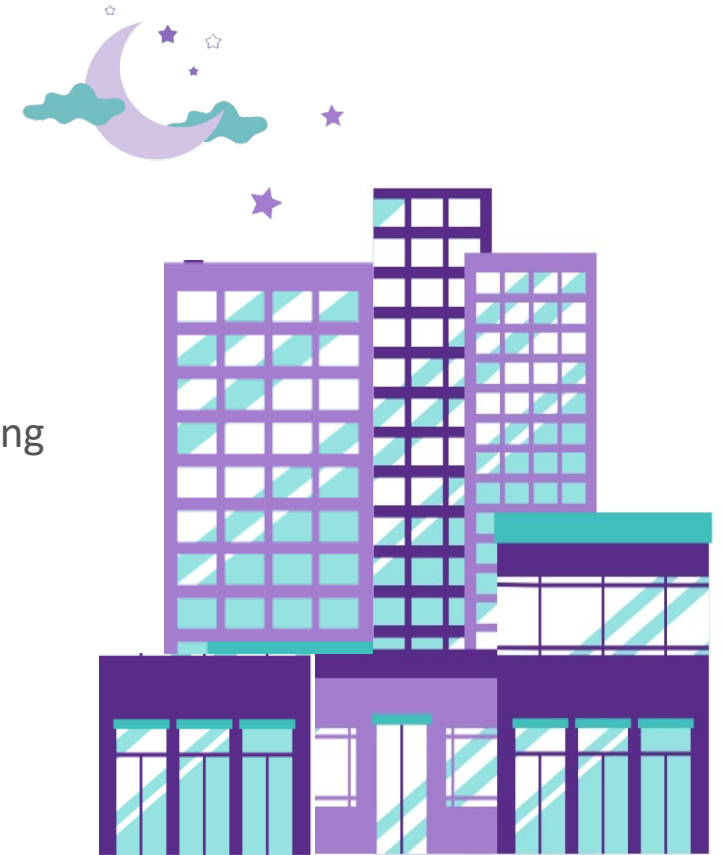
- Test your knowledge!

Violence Against Women Act



VAWA HOUSING PROTECTIONS

- Federal law passed in 1994
- Housing protections for victim/survivors of:
 - **Domestic violence**
 - **Dating violence**
 - **Sexual assault**
 - **Stalking**
- Creates protections and remedies for victim/survivors in federally subsidized housing
- A housing provider CANNOT:
 - **Deny admission to housing**
 - **Evict**
 - **Terminate housing subsidy/assistance**based upon victim/survivor status
- Also other protections under VAWA, but we are focused on housing!



VAWA HOUSING PROTECTIONS



- Applies to:
 - Prior **domestic violence, sexual assault, dating violence, or stalking**
 - No time limitation on prior acts
 - Current **domestic violence, sexual assault, dating violence, or stalking**
- Protects victim/survivors in federally subsidized housing when applying for/living in:
 - Shelter
 - Transitional housing
 - Permanent housingthat is subsidized by a federal homeless assistance program/federal affordable housing program
- Does not have to be married to / related to / live with perpetrator

HUD PROGRAMS UNDER VAWA

- Public Housing
- Housing Choice Voucher
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO)
- Section 202 Direct Loan
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons With AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Emergency Solutions Grants
- Continuum of Care
- Section 221(d)(3)/(d)(5) Below-market Interest Rate (BMIR), Multifamily Rental Assistance;
- Section 236 Multifamily Assistance
- Housing Trust Fund

SPECIFIC HOUSING PROTECTIONS UNDER VAWA

On the sole basis of violence/abuse covered by VAWA, a victim/survivor:

- CANNOT be:
 - Denied **admission** or **assistance**
 - Denied **admission, evicted**, or have **assistance terminated** (ex. eviction records, criminal history, bad credit, etc.)
 - Required to provide more proof (unless there is 'conflicting information')
 - CANNOT be **coerced, intimidated, threatened**, or **retaliated against** for seeking/exercising VAWA protections
- MUST:
 - Be able to **provide proof** to housing provider using HUD VAWA Self-Certification form
 - **Receive** HUD's Notice of VAWA Housing Rights and VAWA Self-Certification Form from housing provider when:
 - Denied admission
 - Admitted
 - Receive a notice of eviction/terminationto/from a covered HUD program
- Has right to **strict confidentiality** of information regarding status as a victim/survivor



VAWA HOUSING REMEDIES

- Consider if victim/survivor would qualify for VAWA protections *before terminating lease*
- Potential VAWA Remedies
 - Emergency Transfer
 - Needs to be for safety reasons related to the VAWA violence/abuse committed against victim/survivor
 - If victim/survivor has Section 8 Housing Choice Voucher, must be allowed to move with continued assistance
 - Lease Bifurcation
 - Remove perpetrator from unit / lease
 - Must meet applicable federal, state, or local laws and the requirements of the HUD housing program in bifurcation
 - Stay in Residence
 - Must be allowed even if there has been criminal activity directly related to VAWA violence/abuse
 - **NOT FOR LEASE BREAKS**
- Right to seek law enforcement/emergency assistance without penalty from local laws or policies
- ALWAYS communicate with housing provider

VAWA CERTIFICATION

- Landlord can accept verbal certification, but often require written certification
 - Must be the same procedure for all tenants!
- Written certification must be **dated**
 - Victim/survivor has 14 days to provide requested documentation
- Victim/survivor chooses which type of certification to provide:
 - Record of court/law enforcement agency
 - Qualified third party statement
 - [HUD-5382 Self-Certification form](#)
 - Other statement/evidence as allowed by the landlord/housing provider

HUD SELF CERTIFICATION FORM

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Name(s) of victim(s): _____

2. Your name (if different from victim's): _____

3. Name(s) of other member(s) of the household: _____

4. Name of the perpetrator (if known and can be safely disclosed): _____

5. What is the safest and most secure way to contact you? (You may choose more than one.)

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

Phone Phone Number: _____

Safe to receive a voicemail: Yes No

E-mail E-mail Address: _____

Safe to receive an email: Yes No

Mail Mailing Address: _____

Safe to receive mail from your housing provider: Yes No

Other Please List: _____

6. Anything else your housing provider should know to safely communicate with you?

VAWA CERTIFICATION

- Additional documentation can only be required when there is conflicting information
 - **Must be requested in writing**
 - Victim/survivor has 14 days to provide additional documentation
- Privacy: **ALL** documentation re: victim/survivor status **must be kept confidential**
 - Strict confidentiality requirement for landlords/housing providers
 - Documentation saved separate from victim/survivor's main file
 - Documentation cannot be entered into database where others have access



**Minnesota
Statute
§ 504B.206**



STEP 1: PREPARATION



Where will the victim/survivor go once the lease is broken?



What does it mean to lose the security deposit ?



Discuss what it means to break lease for all tenants/authorized occupants



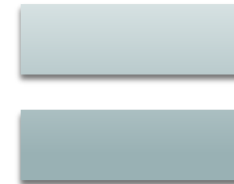
Where will belongings be stored?



OFP/HRO? Safe at Home? Safety planning



Community resources (rental assistance, food shelves, domestic violence shelters, etc.)



STEP 2: PREPARE DOCUMENTATION

STEP 3: LANDLORD NOTIFICATION



- Provide **Notice to End Lease Due to Fear of Violence** and **Qualifying Document** to the landlord in writing
 - Email is best! Documentation trail!
 - Statute allows: mail, in person, or by a form of written communication the plaintiff regularly uses to communicate with the landlord (even texting)
 - Can provide directly to their landlord or have advocate assist with this (be sure to get an ROI!)
- Supersedes any termination notice requirements in lease
- Keep a copy! Save your text/emails!
 - If you give this to your landlord in person, take a video/ALSO send via email to verify!

STEP 4: PAY FULL RENT

- Pay full month's rent
- Keep copies of receipts
- Previously owed rent will still be owed
- Check the ledger for property damage
 - Can dispute property damage due to domestic abuse



STEP 5: MOVE OUT



- Treat this as a regular move out as much as possible:
 - Clean the unit
 - Take belongings with you/plan for belongings (will be charged if left in the unit)
 - Take photos/video, especially if there is damage
 - **Turn in keys**
- **Safety plan! Safety plan! Safety plan!**

COMMUNICATING WITH LANDLORDS

- **Release of Information first!!**
- Clear communication with landlord about tenant's moveout plan
- Assist in submitting documentation
- Providing copies of statutes
- Advocating for victim/survivor if landlord pushes back, asks for money, starts eviction, etc.
 - Contact us if you need additional assistance!



Additional Minnesota Housing Rights



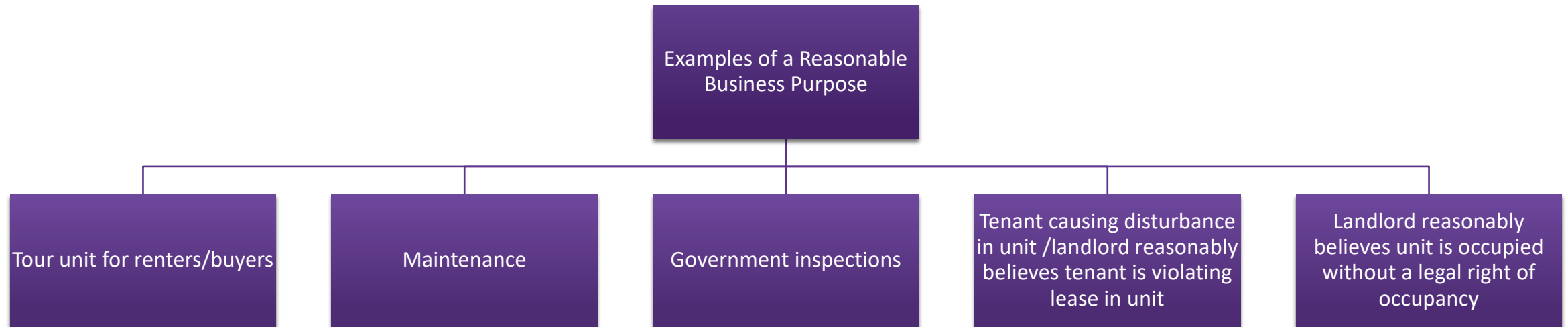
RIGHT TO CALL FOR HELP

- [Minn. Stat. § 504B.205](#)
 - Residential tenant has the right to seek police and emergency assistance
 - Can call the police/other emergency personnel (firefighters, behavioral crisis response, etc.)
- Landlord CANNOT retaliate
 - Unlawful to evict/terminate lease due to tenant's calls to police and other emergency personnel for safety/emergency
- Crime-Free Ordinances
 - Landlord cannot use crime-free ordinance as reason to evict or charge tenant for any penalties assessed



RIGHT TO PRIVACY / LANDLORD ENTRY

- Landlord may enter for a **reasonable business purpose** ([Minn. Stat. § 504b.211](#))



- Must make a good faith effort to **give reasonable notice** of intent to enter (min. 24 hours)
 - Must **specify time/anticipated window of time of entry** between 8:00AM-8:00PM (unless otherwise agreed upon by landlord and tenant)

RIGHT TO PRIVACY / LANDLORD ENTRY

- Exceptions warranting immediate entry:
 - Prevent injury to persons/property because of conditions related to maintenance, building security, or law enforcement
 - Determine a tenant's safety
 - Comply with local ordinances regarding unlawful activity within the unit
- If landlord enters unit when the tenant is not present and notice has not been given, landlord must disclose the entry by placing written disclosure of entry in a conspicuous place in the premises

Violation of Right to Privacy?

Form Letter from HomeLine:

- Notification of Tenant's Right to Privacy and Violation of State Law

NO EVICTION DUE TO DOMESTIC AND SEXUAL VIOLENCE

- Landlord CANNOT commence eviction action solely on the basis that tenant/authorized occupant has been the victim of an act listed in [Minn. Stat. § 504B.206, subd. 1](#)
- Landlord CANNOT commence eviction action against residential tenant who has terminated a lease under § 504B.206
 - Does not prohibit eviction based on a breach of the lease or where a tenant has provided appropriate notice under § 504B.206 but failed to vacate on/before the date provided in notice
- What if a landlord violates this law?
 - Liable to tenant for reasonable attorney fees & costs incurred by tenant to obtain an expungement under [Minn. Stat § 484.014](#)

REVIEW: VAWA VS. MINNESOTA HOUSING PROTECTIONS

VAWA Protections

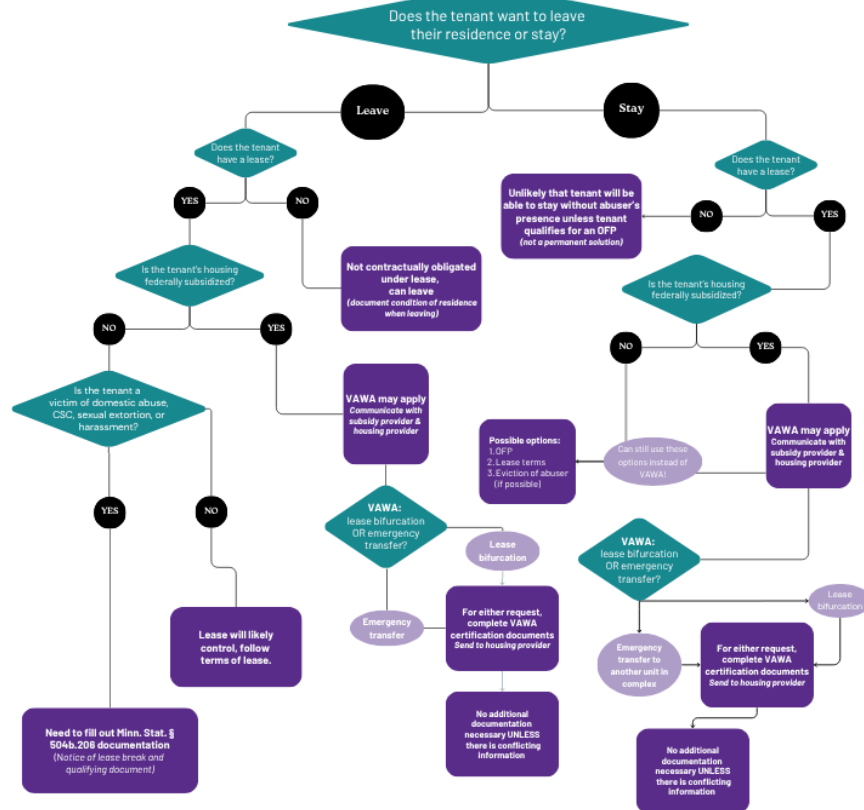
- **MUST** reside in federally subsidized housing
- Must have experienced:
 - Domestic violence
 - Dating violence,
 - Sexual assault
 - Stalking

Minnesota Housing Protections

- Applies to all residential tenants in Minnesota
- IN ADDITION TO federal protections
- For relief under Minn. Stat. Sec. 504B.206, a victim/survivor needs to have experienced:
 - Domestic abuse
 - Criminal sexual conduct
 - Sexual extortion
 - Harassment

tenant safety planning

VAWA REMEDIES AND MINN. STAT. § 504B.206



VAWA VS. LEASE BREAK FLOWCHART

The information on this handouts not intended as legal advice, but only a general guide to remedies that a victim/survivor may have as a tenant. [Talk to a lawyer](#), before taking legal action to learn about your legal rights and options. Standpoint's Action Line provides free legal advice and is open Monday - Friday from 99:00 a.m. to 4:00 p.m.



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