

Advice for Households (Victims of Domestic Violence/Reprisal) Who Are Seeking Affordable Housing But Who Are Not Citizens or Permanent Resident Aliens

Victims of domestic violence, or persons who are victims/witnesses to violent crime who need to relocate in order to remain safe are often entitled to a priority for public housing, assisted housing, or rent subsidies. (Each housing authority or housing provider may have its own set of priorities and preferences, and you need to check what they are). However, if the victim of domestic violence/reprisal is not a U.S. citizen or a permanent resident alien (“green card holder”), things may get complicated. Here is some advice:

1) **State-assisted housing programs** do not have a requirement for U.S. citizenship or permanent resident alien status. In addition, most state-assisted housing programs have an “emergency case plan” priority for victims of domestic violence or others who are homeless or imminently homeless through no fault of their own. State assisted housing programs include:

- **State public housing** (for families, as well as single individuals);
- **Mass. Rental Voucher Program (MRVP)** subsidies, both **tenant-based** and in
- **Mass. Housing Finance Agency (MHFA)** developments;
- **Alternative Housing Voucher Program (AHVP)** subsidies (for non-elderly persons with disabilities).

When you apply, you should ask if the place where you apply has any state-assisted subsidies, such as these, and ask to be placed on the waiting list. (Please be aware that housing developments financed or regulated by the Massachusetts Housing Finance Agency (MHFA) sometimes have state subsidies and sometimes have federal subsidies.) You may need to make a separate “emergency” application to claim priority based on domestic violence or “no fault” homelessness.

If you’re already in a state-assisted housing program, and you need to flee and relocate because of domestic violence or reprisal, you should request that you get transferred to state-assisted housing. Sometimes this may not be possible—safety planning may require that you relocate out of state, and you can’t use state housing resources in other states. If you must relocate with a federal housing resource, though, please be aware of the special HUD rules that apply to households that include non-citizens (see below).

2) **Federal housing programs**, such as **federal public housing, multi-family subsidized housing developments assisted under the Section 8 Housing Choice Voucher program, or Section 8 tenant-based rental subsidies**, will require all members of the household to certify that they are citizens, or to verify that they are “eligible non-citizens”, in order to get full

housing subsidy. “Eligible non-citizens” for the purpose of federal housing rules include:

- Aliens lawfully admitted for permanent residence (“green card” holders),
- Persons who’ve been granted refugee or asylum status by INS or an immigration judge;
- Special agricultural workers;
- Aliens deemed lawfully admitted for permanent residence as a result of a grant of discretion by the Attorney General (often called “registry” cases);
- Aliens lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed in the public interest (often called “parole” status);
- Aliens lawfully present in the United States as a result of the Attorney General’s withholding of deportation or removal (some clients who have VAWA status may fit within this category);
- Aliens lawfully admitted for temporary or permanent residence under 8 U.S.C. 1255a (often referred to as “legalization”).

Some clients have VAWA status as victims of domestic violence or reprisal, and are therefore entitled to certain immigration relief or other types of benefits. However, having VAWA status does NOT mean that a person is automatically an “eligible non-citizen” under federal housing rules. You have to show that you fit into one of the categories above.

If a household member claims to be an “eligible” non-citizen, he or she will be required to provide appropriate INS documentation to verify this, and then the information will be cross-checked with INS’ computer and paper records. (There is an exception to this for persons 62 years of age and older—they can self-certify as to their eligible immigration status, and will only be required to provide proof of age.) **Household members can fill out a form, not claiming to have eligible citizen status, and their information will not be checked with INS.** However, such households will not be eligible for full housing assistance, but will only get “pro-rated” assistance. (See below.) **Housing agencies are prohibited by state privacy laws from sharing this information without a client’s authorization.**

You should make sure not to claim that you or other household members are citizens or eligible non-citizens if this isn’t the case. Not only would this be fraud, resulting in likely termination of housing benefits, but it will likely as not mean that you are permanently barred from getting immigration relief, i.e., from ever being able to legalize your immigration status, or to become a citizen.

If no member of your household is a citizen or eligible non-citizen, you are not eligible for federal housing assistance. If some but not all members of your household are citizens or

eligible non-citizens, then you are only eligible for partial housing assistance (“**Pro-Rated Assistance**”). The amount of housing assistance you get will depend on the percentage of your household that are citizens or eligible non-citizens. If there are more eligible household members, the pro-rated rent will be less; if there are fewer eligible household members, the pro-rated rent will be higher. An example of how this works is attached.

- 3) **Other than as mentioned above when you claim “eligible non-citizen status” for federal housing, housing authorities and owners of subsidized housing are not required to verify information with INS about your status, or to report your status to the INS.**

Undocumented persons have been concerned that state housing programs would be required, under welfare reform laws, to report on them to INS. However, current interpretation of federal law is that public housing and assisted housing program are not “public benefits” within the meaning of the welfare reform laws, and therefore owners of state-assisted housing are not mandatory reporters to INS. In addition, state privacy laws prohibit these housing programs from sharing any information except as required by law.

- 4) **Both federal and state housing programs will ask you to provide Social Security Numbers for all members of your household, and documents verifying the numbers .**

- If you’ve applied for a federal housing program, and no Social Security Number has been assigned to you or a member of your household, federal regulations are clear that you should only be asked to certify that there is no Social Security Number assigned. If you still run into problems with this, contact your local Legal Services program.
- For state housing programs, the rules are not so clear. Our advice is that if no Social Security Number has been provided, you should tell the program this, and be willing to sign a form which certifies this. If there are still problems, or you are being told that you are not eligible for the program, please call your local Legal Services program.

- 5) **Assistance through a housing program is not considered to make a client a “public charge” within the meaning of immigration laws, as currently interpreted under federal law by the Department of Justice. However, a client who is concerned about the implications of receipt of housing assistance on obtaining immigration relief should consult with an immigration attorney or trained immigration advocate.**

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