

Kimball, Tirey & St. John LLP

Legal Alert

CTCAC Implements Guidance for Compliance with VAWA for Tax Credit Properties

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On December 22, 2017, the California Tax Credit Allocation Committee (CTCAC) issued a memorandum to all property owners and management agents of LIHTC (Low Income Housing Tax Credit) properties to implement the Violence Against Women Reauthorization Act of 2013 (VAWA). While the IRS has yet to release official guidance, CTCAC will require tax credit properties in California to comply with CTCAC's "Violence Against Women Reauthorization Act of 2013 LIHTC Information and Checklist" beginning January 1, 2018.

A copy of CTCAC's memorandum and LIHTC Information and Checklist can be found at: <http://www.treasurer.ca.gov/ctcac/compliance/memos/vawa.pdf>.

CTCAC's Information and Checklist outlines the VAWA obligations for tax credit properties in California. It prohibits denial of admission or eviction of a tenant on the basis of, or as a direct result of, the fact that the tenant is or has been the victim of a VAWA crime and sets forth specific guidelines with regard to criminal activity related to VAWA crimes.

CTCAC has also adopted HUD's Notice of Occupancy Rights Form [HUD-5380](#), and Self-Certification Form [HUD 5382](#), and requires that these forms be provided to all tenants when admitted to the property and with any notification of eviction or notification of termination of assistance. Additionally, CTCAC will now require the use of HUD VAWA Lease Rider [HUD-91067](#), which must be included in each tenant file.

Ambiguity remains as to what exactly constitutes a "notification of eviction" under HUD's Final Rule. However, it is highly recommended that VAWA documents be included with *every* Notice that could result in a termination of tenancy, including but not limited to, Notices to Pay Rent or Quit. Since the publication of HUD's Final Rule 5720-F-03, some judges have found in favor of Defendants in unlawful detainer proceedings when the Notice of Occupancy Rights and the Self Certification Forms were not attached to a Pay or Quit Notice (or other notices) which resulted in the commencement of eviction proceedings.

Under CTCAC's Information and Checklist, owners and management agents of tax credit properties must also have an emergency transfer plan in place which outlines the process for tenants who are victims of domestic violence to transfer to another unit in accordance with this emergency transfer plan. Plans may include the option of lease bifurcation or transfer to another unit and/or property. Transfers must comply with IRS and CTCAC transfer requirements.

California LIHTC housing providers should review and revise their internal policies and procedures to ensure compliance with CTCAC's memorandum and the LIHTC Information and Checklist by January 1, 2018.

For assistance with VAWA compliance and/or affordable housing legal issues, contact KTS's Affordable Housing Practice Group at: AffordableHousing@kts-law.com.

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