

Preventing & Addressing Sexual and Other Discriminatory Harassment in Housing
for Private Housing Owners & Managers Participating in Voucher Programs

- Alexandria: Hi. My name is Alexandria Lippincott and I'm a trial attorney in the office of General Counsel's Fair Housing Enforcement Division at HUD. Welcome to today's training on preventing and addressing sexual and other discriminatory harassment in housing, a fair housing training for private owners and management companies participating in the voucher programs. HUD's Offices of Public and Indian Housing, Fair Housing and Equal Opportunity, and the Office of General Counsel Fair Housing Enforcement have created this training for landlords and management companies who accept vouchers, housing choice vouchers and project based vouchers.
- Alexandria: To begin today, we will share with you some welcoming remarks from Anna Maria Farias, the Assistant Secretary of Fair Housing and Equal Opportunity and Dominique Blom, the General Deputy Assistant Secretary of Public and Indian Housing.
- Anna Maria: Hello, my name is Anna Maria Farias and I'm HUD's Assistant Secretary for Fair Housing and Equal Opportunity. Welcome to today's training on preventing and addressing sexual harassment in housing. Every day we hear and read news stories about individuals who have been subjected to unwanted sexual advances and other forms of harassment. These incidents can happen to anyone, anytime and anywhere. Here at HUD, we're seeing more and more cases involving women and men who have been subjected to harassment where they live. No one should have to endure this type of treatment to keep a roof over their head. It's illegal and we're doing something about it. Today's training is one in a series of sessions HUD is conducting to help you gain a clearer understanding of what sexual harassment is and HUD's enforcement's authority when it comes to sexual harassment.
- Anna Maria: You'll also learn about our ongoing initiatives in this area, including a joint HUD and Justice Department task force that has been created to combat sexual harassment. Thank you again for making the commitment to learning all you can about what behavior and actions constitute illegal harassment and HUD's increased efforts to address this type of discrimination. We look forward to working with you to insure that no one is denied the ability to feel safe and secure in the place they call home. Thank you very much.
- Dominique: Hello. My name is Dominique Blom and I'm HUD's General Deputy Assistant Secretary for Public and Indian Housing. Thank you for viewing this training about the approaches you can use to prevent and address sexual harassment. This training has been developed to provide you with information about the Fair Housing Act's protections regarding sexual harassment and other types of harassment. This video, other videos and additional reference materials, which are available on HUD Exchange, will define harassment, including sexual harassment, and will explain HUD's enforcement authority to address harassment. You are encouraged to share these training materials and videos with your peers and neighbors. Thank you for ensuring that secure and safe housing is available for families in your community.

Alexandria: Thank you to the General Deputy Assistant Secretary and the Assistant Secretary for welcoming us to today's training. This training series is a key component in the task force that the assistant secretary of fair housing and equal opportunity mentioned. The task force is a joint initiative by HUD and the Department of Justice to combat sexual harassment in housing. The two agencies will engage in public outreach such as today's training, information sharing and joint enforcement of the Fair Housing Act.

Alexandria: I'd like to welcome my colleagues who are with me in the training room today, Casey Weissman-Vermeulen, a trial attorney in HUD's Office of General Counsel, Fair Housing Enforcement Division. Also with us is Megan Whyte de Vasquez, a trial attorney in the Department of Justice's Housing and Civil Enforcement Section, Civil Rights Division. She will be discussing several harassment cases that HUD has charged and the Department of Justice has prosecuted against landlords and management companies, but before we get into today's agenda, I'd like to go over a few housekeeping details.

Alexandria: This is a prerecorded training, so we are unable to take your questions during the training itself, but we would still like to hear from you. So please email us your questions at HUDQuestions@HUD.gov and we will address them in a written document later in the season and we will post it on HUD Exchange. You will occasionally see the email address posted at the bottom of your screen as you watch this training. The email address is open 24/7 so please do send us your questions.

Alexandria: In addition to the question document that we will post on HUD Exchange, we will also be posting the videos for this training and the other trainings in the series and the materials that will accompany the training, such as PowerPoints, transcripts and fact sheets. Please note that if you do want to file a Fair Housing Act complaint, the HUD questions email address is not the location to do so, but we will share with you the information on where to do that at the end of our training today.

Alexandria: So just to be more specific about the training series, the series began with a training for Public Housing Agency executive directors and board of directors. The second training was for general staff at PHAs. We have today's training and we will conclude the series with a training for tenants and residents of public housing and tenants who use housing choice and project based vouchers.

Alexandria: So, in our training today, we will explain how sexual and other types of discriminatory harassment violate the Fair Housing Act. We will inform you, housing owners and managers that accept housing choice and project based vouchers, about your responsibilities for preventing harassment in your housing programs and for helping to correct and end it when it does occur. We will use hypothetical scenarios to learn how to recognize and properly respond to sexual harassment in housing. We will also identify steps that you and your employees or agents should take to help prevent sexual harassment in housing and to help victims of harassment. Please note that although this training is for landlords and their management companies that accept vouchers, the law applies equally to landlords who do not participate in the voucher program.

Alexandria: The Fair Housing Act provides that sexual harassment is prohibited. It prohibits more than that, however. It prohibits discrimination in housing and housing related services and transactions because of race, color, religion, sex, national origin, familial status or disability. It prohibits retaliation against someone who has made a complaint about discrimination or who has otherwise exercised his or her fair housing rights or who has aided someone else in doing so. While this training focuses on sexual harassment or discrimination because of sex, harassment because of any of the other six protected classes in addition to sex also violates the Fair Housing Act.

Alexandria: Sexual harassment in housing can take many different forms. Sexually harassing conduct may appear as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, but it can also take the form of offensive remarks or other hostile behavior because of a person's sex. Such conduct, whether it's in the form of sexual come-ons or in the form of insults or hostility because of a person's sex, can be conveyed in a variety of ways. For example, through statements, notes, texts, voicemails, photographs and gifts, among others. It's important to note that harassing conduct between the harasser and the victim does not have to be physical. Housing owners and their management companies must ensure that their housing is free from discrimination. All owners and managers, as well as their agents and employees are responsible for helping to meet this obligation. Owners and managers are responsible for establishing and enforcing anti-harassment policies. Both you and your employees must know what to do if you become aware of housing harassment by another employee or by one tenant against another tenant. An owner should foster a sense of investment and openness among staff. Staff must be encouraged to speak up and to be assured that they will be protected from retaliation for doing so.

Alexandria: Clear policies and strong oversight don't just help safeguard the well-being of your tenants. They also help protect you and your housing. That's because owners and property management employees may be liable under the Fair Housing Act when a tenant is sexually harassed. Liability for sexual harassment can arise in multiple ways, which we will discuss later in the training.

Alexandria: Now we're going to use a hypothetical scenario to illustrate how liability for sexual harassment can arise for owners and their property management companies. As we go through each part of this scenario, we will discuss what happens, why the conduct is harassment, what went wrong that allowed the harassment to happen and we'll also discuss what owners and managers must do to correct and end the harassment, the consequences for inaction and the best practices for addressing and preventing harassment.

Alexandria: Here are the facts of our hypothetical scenario. Jane has a housing choice voucher and rents a unit at Terrace View Apartments. Terrace View is owned by a married couple, Julie and David Smith, and managed by ABC Management Company. Jane submits a maintenance request to fix a leak under her kitchen sink. John, ABC's maintenance man, responds to the request. When fixing the sink, John asks Jane if she has a boyfriend. Jane says that's none of his business. He responds by saying she's "really hot and that we should hang out sometime." Jane calls Laura, ABC's property manager at Terrace

View and leaves a voicemail explaining that John came on to her and made her feel uncomfortable. Jane doesn't hear back from anyone at the management company.

Casey: Okay, so we're going to pause our scenario for a moment to evaluate what has happened so far. John's conduct may violate ABC's employee conduct rules, but as we'll discuss later, might not constitute a Fair Housing Act violation yet. However, if Laura, the property manager, does nothing, John's conduct will likely get worse to the point that it does violate the Fair Housing Act. So, what should the property manager do? Well, she needs to take effective steps to ensure that the harassment stops immediately and doesn't progress any further.

Casey: Steps she could take to do that are to inform Jane of her right to file a Fair Housing Act complaint at any time, initiating an investigation into Jane's allegations and encouraging Jane to report any other harassment that she experiences. Now, if the property manager doesn't have that type of authority to investigate or take corrective action then she must refer Jane's complaint to another ABC management employee who does, or report the issue to the property owner.

Casey: Now, if the facts were a little different in our scenario and co-owner David Smith was the one doing the harassing, the property manager would need to involve others in stopping the harassment, such as informing Julie Smith, the co-owner of the property, about the problem and referring Jane to the local public housing agency. Even if ABC is unsure who's telling the truth, it should warn John that harassing conduct is prohibited. ABC and/or the owner must ensure that any corrective action is effective in stopping John's unwelcome conduct.

Casey: Now, taking a step back, what are some best practices that owners and property managers should use to help ensure that complaints like Jane's don't fall through the cracks? For starters, you should establish policies and procedures that make it easy and safe for tenants to make a complaint. Next, you should ensure that you and any employees understand who has the primary responsibility for responding to complaints. That means that regardless of the management structure at your property, someone needs to be assigned the clear responsibility for addressing complaints. Once that responsibility is assigned, owners and property managers must ensure that the designated complaint coordinator, if not themselves, processes complaints quickly and appropriately.

Casey: Property owners and managers should also ensure that any complaints, investigations and corrective actions taken are documented and that those records are retained. Finally, owners and managers should follow up with victims to ensure that corrective action was effective. If it wasn't effective, then further corrective action needs to be taken. I also want to mention that owners who hire a property manager can delegate some or all of these tasks, but both the owner and the manager remain responsible for preventing, ending and correcting any harassment that occurs, and, of course, they can't engage in harassment themselves.

Casey: Another best practice we recommend is that owners and property managers know how to gather basic information if they get a complaint or otherwise learn about potential harassment. The key pieces of information that should be collected include the victim's name and contact information for followup, a summary of what has happened, the name of any harasser, any witnesses and other possible victims, if known, the property name and address and unit number, as well as dates, times and locations of any harassment that took place. Employees should also instruct any individual who makes a complaint to save any evidence of the harassment that they have. That might include texts, photos, voicemails, letters, notes, emails or any other evidence.

Alexandria: Turning back to our hypothetical, it's a week later and the property manager has taken no corrective action related to John's unwelcome conduct towards Jane. The situation escalates. John uses his master key to enter Jane's apartment without knocking and without legitimate reason to be there. Jane is startled by his entry. He tells Jane that he's there to check on the sink leak even though the sink was fixed over a week ago and Jane has not made any additional maintenance calls. In the kitchen, John touches Jane on her rear end and points to a photo of Jane on the fridge and says, "Wow, you look hot in that bikini. You should put that bikini on for me right now." Jane refuses and tells John he has to leave. John leaves, saying he was just kidding.

Alexandria: Jane calls the property manager again and explains that John entered her apartment without knocking, touched her and made inappropriate comments about her body. The property manager apologizes to Jane and tells her she will make sure it does not happen again. Jane doesn't hear further from the property manager.

Casey: Again, we're gonna stop and evaluate what's happened now. John's conduct has clearly escalated. His latest actions and comments now violate the Fair Housing Act and that's because they are severe or pervasive, two legal terms that we're gonna discuss in more detail later. As before, the property manager must take any action necessary to ensure that John's unwelcome conduct stops immediately and that Jane is protected from any retaliation. Alternatively, if the property manager doesn't have authority to correct and end the harassment, she has to report John's conduct to somebody who does. That might be the owner or someone else at the ABC Management Company.

Casey: Now, given the nature of John's conduct, immediate interim action might be required even before any investigation is finished. That can mean, for example, taking away John's master key, temporarily reassigning him to other duties, issuing a no-contact order or implementing special oversight or monitoring pending conclusion of any investigation. A verbal reprimand to John is grossly inadequate given the nature of his actions. In addition, the property manager or another employee designated by the owner or management company must investigate, tell Jane of her right to file a Fair Housing Act complaint and ensure that corrective action is effective in stopping John's unwelcome conduct.

Casey: So, what best practices can owners and property managers adopt to help ensure that, unlike the property manager in our scenario here, that you and your employees know how to appropriately respond to complaints like Jane's? Well, you should have an

employee code of conduct that explicitly prohibits harassment of applicants, tenants and other employees or agents, provides for disciplinary actions for harassment up to and including termination where necessary. The code of conduct should also encourage employees to report any inappropriate conduct they witness or hear about and it should provide for discipline of employees who do not respond appropriately to harassment complaints. So this means that if you learn that another employee is harassing a tenant or that one tenant is harassing another, you must take corrective action or report it to an appropriate supervisor.

Alexandria: Let's talk about what could happen next if John's behavior is still not addressed. Two weeks later, Jane's hot water heater stops working. She calls in an emergency maintenance request. Jane gets a call from John who says he's too busy to fix the water heater that day but he would find time to fix it that evening if she would shower with him. Jane tells John, "No." The water heater remains broken when Jane gets home from work that evening. The next day Jane calls the property manager to complain about the lack of hot water and that John was saying inappropriate things again. The property manager tells Jane she will make sure that her water heater gets fixed by the end of the day. The property manager doesn't inquire about or otherwise respond to Jane's complaints about John's inappropriate comments. John is sent to Jane's apartment and the water heater is repaired by the time Jane gets home.

Casey: So we're gonna move on to analyzing part three of our scenario here. John conditioned his repair of the water heater on Jane's agreeing to shower with him. This amounts to a violation of the Fair Housing Act. We'll discuss the details of the legal standard that makes this a violation a bit later in the presentation, but right now, let's talk about what the property manager should've done. First of all, the property manager should not have assigned John to make the repair given his prior harassing conduct. As noted previously, the owner, property manager or other designated employee should've investigated Jane's complaint, stopped John's harassment and ensured that Jane was protected from any potential retaliation.

Casey: Fixing the water heater isn't enough. The harassment needs to be stopped. The owner or property manager must enforce employee standards of conduct against John and in our scenario, his invasion of Jane's home, inappropriate touching and conditioning of repairs on Jane agreeing to shower with him all warrant termination. The owner or the designated employee should tell Jane of her right to file a Fair Housing Act complaint and inform her of the steps taken to protect her from further harassment.

Alexandria: The next week, Jane encounters John in the hallway of her apartment building. As Jane tries to walk past him, John says, "Hey, cutie," and he touches Jane's rear end. Tired of the property manager's inadequate response to her complaints about John, Jane contacts HUD to file a Fair Housing Act complaint against John, the ABC Management Company, the property manager, and the owners. After Laura, the property manager, is notified of the complaint, Laura confronts Jane and tells her she is going to evict her and make sure she loses her voucher unless Jane withdraws her complaint from HUD.

Casey: So let's discuss what just happened. Retaliation against a person because he or she complained about being sexually harassed is prohibited by the Fair Housing Act. So the property manager's threat that she would evict Jane and make her lose her voucher assistance is illegal retaliation.

Alexandria: Let's keep this hypothetical scenario in mind as we discuss what is sexual harassment under the Fair Housing Act, who is liable for sexual harassment and additional best practices that owners and property managers can adopt to prevent and/or address sexual and other forms of discriminator harassment. Sexual harassment is typically described in two ways. One is known as hostile environment harassment which is unwelcome conduct because of sex that is sufficiently severe or pervasive as to interfere with a person's ability to obtain, maintain, use or enjoy housing or housing related services.

Alexandria: A single incident of harassment, if severe, can create a hostile environment in violation of the Fair Housing Act. Hostile environment sexual harassment violates the Fair Housing Act even if the landlord does not terminate assistance or evict a tenant, increase the victim's rent, withhold repairs or take other similar actions. So, thinking back to our hypothetical scenario, did John commit a hostile environment harassment against Jane? The answer is yes. His conduct did create a hostile environment.

Alexandria: John's conduct created a hostile environment because it was unwelcome, it was severe or pervasive, or in this case it was actually both. It interfered with Jane's enjoyment of her home because he repeatedly asked to spend time with Jane even though she made it clear she was not interested. He entered Jane's apartment with a key but without knocking or other legitimate reason to be there. He made comments about her body, asked her to put on a bikini and he touched Jane without permission. Some of John's conduct by itself was severe enough to create a hostile housing environment, specifically John's unwelcome entry into Jane's apartment without a legitimate reason.

Alexandria: Another type of sexual harassment that violates the Fair Housing Act is known as quid pro quo. Quid pro quo or "this for that" harassment occurs when a person is made to submit to an unwelcome request to engage in sexual conduct as a condition of obtaining or maintaining housing or housing related services. A quid pro quo can also occur when a person suffers an adverse housing action such as an increase in rent or an eviction because that person refused to submit to such a request. A quid pro quo can be explicit or implied. An example of an implied quid pro quo involves a leasing agent implying that an apartment will become available faster if the applicant engages in a conversation about her sex life.

Alexandria: Quid pro quo harassment does not need to be severe or pervasive. A single quid pro quo can violate the Fair Housing Act. It's important to note that even if a victim does acquiesce or submit to an unwelcome request or demand, it is still quid pro quo and it's still illegal under the Fair Housing Act. For example, a tenant may agree to have sex with a housing owner in return for waving unpaid rent or fees. Applicants, as well as residents, can be victims of sexual harassment. For example, an owner can tell an applicant that an apartment will be available only if she has sex with him. Other

examples of quid pro quo sexual harassment drawn from real cases include landlords or managers who have failed to make maintenance repairs, failed to return security deposits, failed to approve applications or threatened eviction or to terminate a tenant's assistance unless the tenant or applicant answers questions about her sex life, provides nude pictures or agrees to have sex. So thinking back to our hypothetical scenario once again, did John commit quid pro quo harassment? The answer is yes, John committed quid pro quo when he refused to fix Jane's water heater unless she agreed to test the shower out with him and even if Jane had agreed to participate in the unwelcome conduct, i.e. if she had agreed to shower with him, it's still sexual harassment and it is illegal.

Alexandria: By the way, it really doesn't matter which type of harassment it is, whether it's hostile environment or quid pro quo that John committed in his interactions with Jane. Both types violate the Fair Housing Act and either type can lead to liability for owners and property managers. While our scenario involved a woman as the victim of harassment, men can also be victims of harassment.

Casey: So, now that we've established that John committed both hostile environment and quid pro quo harassment, we can turn to the question of liability resulting from his conduct. We'll look at liability not only for John but also the property manager, ABC Management Company, and the property owners. Let's start with the most straightforward question, would John be liable? Yes, of course. Any owner or property management employee is liable for their own discriminatory conduct. In our scenario, John's sexual harassment violated the Fair Housing Act and he is therefore liable for his own harassing conduct. Of course, if our scenario was a little different and it were the co-owner, David Smith, doing the harassing instead, he'd be liable for his own discriminatory conduct.

Casey: Now, what about the property manager? Would she be liable under the Fair Housing Act? Yes. Property managers are liable when they engage in harassment themselves or they fail to take actions within their power to stop harassment by other individuals that they knew or should've known about. Those other individuals could be maintenance employees or other property management staff or other tenants. Property managers are also liable if they retaliate against someone who complains about harassment. In our scenario, the property manager threatened to evict Jane and terminate her assistance for filing a complaint with HUD.

Casey: Now, of course in our scenario, the property manager didn't engage in harassment herself but she knew of John's harassment and did little or nothing to stop or correct it. As John's supervisor, she could have, for example, given John a warning when Jane first complained, suspended him or taken other action to address and stop his harassing conduct. Her failure to take any of these steps makes her liable under the Fair Housing Act but her failure to take corrective action isn't the only reason why she's liable. As I just mentioned, she's also liable because she threatened to evict Jane or terminate her assistance because she complained to HUD.

Casey: Finally, let's consider whether ABC Management company and the property owners would be liable. Yes, they would be. Owners and property management companies are

liable for harassment or retaliation committed by employees or agents even if they don't know about it. This applies to any employee regardless of position and any agent including contractors. Now, in our scenario, ABC and the property owners, the Smiths, are liable because both John, who harassed Jane, and the property manager who retaliated against her, are their employees or agents. Additionally, owners and property management companies are liable for failing to take actions within their power to stop harassment by their employees or agents that they knew or should've known about. Here, again, the owners and ABC are both liable because they knew through the property manager of John's harassment and they allowed it to continue without attempting to correct or end it.

Casey: Now, having covered the reasons why John, the property manager and the management company and property owner would all be liable under the Fair Housing Act, I want to briefly discuss how that liability might be imposed. One way that liability can be imposed is through HUD's administrative enforcement process. After Jane filed her Fair Housing Act complaint with HUD, HUD would investigate the case and could file a lawsuit on her behalf before an administrative law judge. That ALJ can issue an order imposing liability, requiring payment of monetary relief to Jane in penalties and mandating other relief.

Casey: Another way that owners and their employees or agents may be held liable is through lawsuits brought by the Department of Justice in federal court. Those lawsuits often originate from HUD investigations but they're also brought by DOJ based on its own authority to investigate possible pattern or practice violations of the Fair Housing Act. You'll hear a bit more about DOJ's enforcement role a little bit later in the presentation.

Alexandria: As we mentioned in the introduction of this presentation sexual harassment is only one form of harassment prohibited by the Fair Housing Act. The Fair Housing Act is violated when harassment is because of any of the seven protected classes under the act. We have a new scenario for you. Bill, who is black, lives in a project based voucher building. For weeks, Bill's white neighbor curses at him. The neighbor uses racial slurs, tells Bill that blacks shouldn't be allowed to live there, spits at him and repeatedly tells Bill to go back to Africa. Bill complains to the property manager, who does nothing.

Alexandria: Bill is experiencing tenant on tenant harassment, which also violates the Fair Housing Act. In this scenario, one tenant is racially harassing another. Owners and employees or agents are liable for failing to take action within their power to stop one tenant from harassing another because of race, sex, disability or any of the other protected classes if they knew or should've known about the harassment. "Should have known" means that the owner had information that would lead a reasonable person to conclude that harassment was occurring. Such information can come from the harassed tenant, a witness to the harassment, police visits to the property, news reports, among other ways. But, unlike harassment by agents and employees, owners cannot be liable for tenant on tenant harassment if they did not know about it or have reason to know about it.

Alexandria: An owner's corrective action must not adversely affect the harassed tenant. For instance, the owner can offer to move the harassed tenant to a new unit, but if the harassed tenant does not want to move, the owner may not make the harassed tenant move. Of course, the neighbor that harassed Bill is going to be liable for his own harassing conduct. A little later in this presentation, Megan will touch on a couple of cases that HUD charged and DOJ prosecuted against landlords and managers for failing to correct and end tenant on tenant harassment.

Alexandria: So now that you understand that tenant on tenant harassment can create liability for you, what best practices can owners and their managers implement to help prevent and correct harassment? Well, owners and property managers already have a pretty powerful tool to address tenant on tenant harassment. The lease. Owners and property managers can enforce lease provisions and other rules that prohibit tenant conduct that threaten the health, safety or peaceful enjoyment of others.

Alexandria: Tenant on tenant harassment is an example of the kind of conduct that interferes with the health, safety and peaceful enjoyment of other tenants. Owners and property managers can take action to stop and correct harassment by issuing verbal and written warnings and notices of lease violations or other rule violations to the harassing tenant and evicting the harassing tenant if necessary. However, as we just mentioned previously, owners and property managers must be careful to avoid taking adverse actions that would harm the harassed tenant in their efforts to correct and end the harassment. Of course, owners and managers can't retaliate against the harassed tenant because the harassed tenant complained about the harassment.

Casey: You've heard about sexual harassment now and also racial harassment, but we just want to point out that there are various other forms of harassment that violate the Fair Housing Act. For example, persons with disabilities are often targets of harassment that violates the Fair Housing Act. Such harassment might include mocking a person for the person's disability, obstructing access for a person with physical limitations or telling a person he or she doesn't belong in housing because of his or her disability. As with any other type of discriminatory tenant on tenant harassment, an owner or management company can be liable under the Fair Housing Act for failing to take appropriate corrective action in response to a complaint from a tenant with a disability that another tenant was harassing him because of his disability. Of course, a property owner or management company will also be liable if the owner or any staff did that harassing.

Casey: Now, having covered when sexual and other types of harassment violate the Fair Housing Act and who is liable for it, let's now discuss what the consequences of Fair Housing Act liability can be. With liability comes damages. Through settlement or court owner, property owners, property management companies and their employees who violate the Fair Housing Act can be required to pay damages to harassment victims which are wide ranging and can include psychological harm such as humiliation, anger, anxiety, depression and other types of emotional distress. It can also include physical harm, including injuries from physically harassing conduct as well as the physical effects of psychological harm, and of course economic harm including loss of housing assistance, moving costs and higher rent at a new home.

Casey: Property owners and managers may also have to pay for damages caused to others who witness the harassment or lost housing as a result of it. For example, this could include monetary awards to family members such as spouses, minor children or grandchildren. Finally, owners, management companies and their employees may also be required to pay civil penalties in cases brought by HUD and the Department of Justice. In certain cases, DOJ can seek nearly \$103,000 in civil penalties for a first time violation. Apart from damages and civil penalties, owners and management companies and their employees may also face additional sanctions from their local public housing agency. If an owner or property manager engages in or fails to stop harassment of a tenant who receives housing assistance, a PHA can take action for violation of the housing assistance payments contract.

Casey: Such action can include abatement, suspension or termination of the HAP contract, prohibiting the owner's future participation in the PHA's housing programs or asking HUD to enforce a limited denial participation, suspension or debarment. So now that I've gone over in general terms the potential consequences of being sued for harassment, I'm going to turn things over to Megan. She's going to discuss some recent enforcement actions by the Department of Justice that will provide some specific examples of both the significant harm that harassment victims suffer and the serious consequences that can result for owners and property managers who either commit harassment themselves or who fail to take appropriate steps to prevent or correct it.

Megan: For nearly 30 years, the Department of Justice has filed Fair Housing Act lawsuits based on sexual harassment. Sometimes these cases began because an individual filed a complaint with HUD and then HUD investigated and determined that there was reasonable cause to think that discrimination had occurred, but DOJ can also bring cases where there is a pattern or practice of harassment, even when no HUD complaint has been filed. Generally this means there are multiple people who have experienced sexual harassment and a pattern of harassment over time.

Megan: In our experience, we have found that sexual harassment cases often involve patterns or practice. It is rare that there is only one incident or only one victim. Over the years, we've brought sexual harassment cases in the context of public housing, private housing and landlords who rent to voucher holders. While this issue can affect anyone from home purchasers to tenants, we see in many of our cases that the victims are often those who are particularly vulnerable and have few housing options including voucher holders and people of similar economic status.

Megan: In many situations, DOJ can file pattern or practice lawsuits even when the harassment happened many years ago. In our cases, we can recover monetary damages for victims and civil penalties which are paid to the US Treasury, but generally we don't just seek money. We also seek corrective and preventive relief, specific orders for defendants to do or stop doing certain things. Generally we prohibit wrongdoers from managing the properties in the future, even if they own them.

Megan: We often require owners to hire someone independent to manage the properties. We often require the owner, manager and any other agents to adopt new policies, to

undergo fair housing training and we sometimes require defendants to post and pay for newspaper advertisements to help find additional victims. Further, there is a compliance aspect. There are a number of reporting requirements over a period of years to ensure that the harassment has stopped. We seek these things in settlements too, not just a trial.

Megan: I'm going to tell you about a Department of Justice lawsuit we filed in Missouri in 2016 against a husband and wife who owned some rental properties. It was called United States versus Webb. The husband managed the properties for the couple and he sexually harassed tenants while he was exercising his authority as the property manager, collecting rent, making repairs to units and enforcing lease provisions. Some of these tenants were voucher holders. As an example, for one tenant who lived in the property for only four months, he was alleged to have asked her personal, sexual questions, made sexual comments to her, offered to reduce her rent if she would engage in sexual acts with him, asked to touch her breasts, and when she rejected his advances, he evicted her.

Megan: Ultimately we found another 14 tenants that Mr. Webb had harassed over a period of nearly 20 years. In addition to the types of things I already described, we alleged that he subjected those tenants to unwelcome touching, asked questions about their sexual partners and made gestures indicating his sexual arousal. His wife was a defendant in the lawsuit because she was a co-owner of the properties and her husband was acting as an agent as he was managing the properties.

Megan: The couple ultimately decided to settle the lawsuit. They paid \$600,000 in monetary damages, which were distributed to 15 people. They paid \$25,000 to the US treasury in a civil penalty. The settlement also included a number of other requirements and prohibitions. For example, it prohibits the husband from entering any of the rental properties. It prohibits him from managing the properties either directly or indirectly, and that means he cannot show or rent units, process rental applications, perform or supervise repairs, determine tenant eligibility for subsidies or waivers of fees or rent, inspect units or collect rent payments or fees. The settlement prohibits him from communicating with any current or former tenants and as part of the settlement, the couple agreed to sell or transfer ownership of all of their rental properties.

Megan: We have brought a number of cases like this one where a private landlord owns some rental units, often in conjunction with family members, and sexually harassed tenants while exercising his authority as the property manager. Generally the lawsuits named the other family members, not just the harasser, as defendants.

Megan: Now I'll tell you about another case that we brought, this time in West Virginia. It was filed in 2014. It was United States versus Encore Management Company. In this case, there were five defendants, three individuals, the limited partnership that owned the property and that most of the allegations related to and the management company. One of the individuals, Anthony James, started out as a maintenance worker for Encore and he worked his way up to district manager. He and his wife lived at one of Encore's properties and his wife was the on-site property manager.

Megan: Anthony James hired his cousin, Terrell James, to be the maintenance worker at that property. Both men sexually harassed female tenants at the property. While the specific incidents varied, both made unwelcome sexual comments to female tenants, sent them sexual text messages and asked them to engage in sexual acts. Both men exposed their bodies in a sexual manner to female tenants, and Anthony James also entered the homes of at least two female tenants late at night without permission and forced them to have sex with him.

Megan: Both of these women, and many of the other victims, were voucher holders. During a deposition, one of these women described her experiences with Anthony James. The first time she met him, to fill out her application in the rental office, he looked at her and said, "Remember, I can do what I want to do."

Megan: I'm going to read you a few excerpts from that woman's deposition testimony. During deposition, she said, "He had got my phone number from somewhere. He was sending me text messages and, like, trying to get me to let him come to my apartment. He would make comments like, 'Are you going to let me come up there and hit it?' And 'When are you going to let me come up there?' I would make excuses like, you know, my kids were there. I didn't know what to say. I didn't know what to do. I would just make excuses like my kids were there or I had company."

Megan: About the night Anthony James sexually assaulted her, she said, "I felt somebody staring at me and when I woke up, he was standing over my bed. I said, 'What are you doing?' He said, 'What do you think I'm doing?' I told him I didn't know. I said, 'How did you get in here?' He said, 'I got the key out of the office.'" I'm not going to read the next part of her deposition testimony, but at this point she goes on to describe how Anthony James forced her to have sex with him in her bed. Then he got up and left.

Megan: This woman never called the police because she was afraid that Anthony James would come back and hurt her or her kids. As she explained, "He had continued to threaten to take my housing and stuff away and make me lose my apartment to where me and my kids would be homeless if I said anything to anybody or if I didn't do anything he wanted. He kept asking me, like, 'When are you going to let me come up there and hit that again?' Every time I would see him out on the street, he would make comments to me and he would say, like, if I didn't, that he was going to ... He was threatening to, like, make sure that I got write ups, false write ups and stuff, to make me lose my apartment."

Megan: When tenants complained to the property manager, who was Mr. James's wife, she retaliated against them and when tenants complained to the management company, their complaints weren't believed and they were not fully investigated. As another district manager testified about a complaint she received from a female tenant about Anthony James, quote, "I didn't believe it at the time. I had doubts because we get complaints from tenants all the time." The three individuals were not fired until after multiple fair housing complaints had been filed with HUD and the management company had hired an attorney to conduct an internal investigation.

Megan: HUD learned about the issue because a number of voucher holders had told their housing authority caseworkers about the harassment and the caseworkers alerted HUD's regional fair housing office. After HUD received a number of other complaints from tenants as well and found reasonable cause for many of them, the case came to the Department of Justice and we filed a lawsuit alleging a pattern or practice of discrimination. The property owner and management company both ultimately decided to settle the lawsuit. This property was a tax credit property and the owner could've lost its tax credits if it had gone to trial and lost.

Megan: The owner and management company paid \$110,000 in monetary damages which were distributed to seven women and four minor children, and they paid \$10,000 to the US Treasury as a civil penalty. The other terms were a bit unusual because the management company was going out of business at the time that we signed the agreement, but going forward, the property would be managed by a company independent of the owner. As to the three individuals, the court awarded us a default judgment and everything that we request against them. The court ordered each of them to pay a civil penalty individually. \$55,000 for Anthony James, \$30,000 for Terrell James and \$5,000 for Anthony James's wife. Anthony James and Terrell James were prohibited from ever managing rental properties again.

Megan: As was mentioned earlier, housing providers may also be held liable when they fail to adequately protect tenants from harassment by neighbors. The Department of Justice has brought cases against housing providers when tenants have been subjected to racial harassment by other tenants. For example, in 1999, the Department of Justice filed a lawsuit against the Boston Housing Authority. It alleged pervasive and violent harassment of public housing tenants by other public housing tenants and visitors. The harassment occurred primarily at two predominantly white public housing developments that had been subject to a desegregation agreement with HUD a decade earlier. The harassment included racist graffiti which the housing authority left up for months, racial slurs, intimidation, crimes against property and racially motivated violence including children being beaten, BB pellets being fired through windows, and rocks, urine and eggs thrown through windows or at tenants.

Megan: The lawsuit alleged a systematic failure by the housing authority to protect tenants from harassment and it alleged the housing authority knew of the pervasive harassment but failed to adequately document, investigate or otherwise respond to or address the problem. In that case, there was a one million dollar monetary damages payment to the victims of the harassment. More recently, we filed a lawsuit against the Wheeling Housing Authority because of its failure to protect public housing tenants from racial harassment by other public housing tenants. That case alleged that a white tenant family was harassing a black tenant family. The harassment included verbal abuse, racial slurs, threats, assaults and attempted assaults.

Megan: The lawsuit alleged that the housing authority knew or should've known about the harassment. The black tenant had made several complaints to the housing authority and the housing authority had cameras that they were supposedly reviewing, so they would've seen the interactions. The settlement in that case required the payment of

monetary damages to the victims along with a number of other things such as adopting new policies, taking fair housing training and submitting compliance reports. Although both of those cases occurred in the context of public housing authorities, they would be equally applicable in the private housing context if the owners had also known or should've known about the harassment.

Megan: As a final thought, harassment is not just illegal when it's incredibly severe, like the cases that I've described. The Fair Housing Act also prohibits harassment that is far less shocking. So long as the harassment constitutes quid pro quo or is severe or pervasive enough to create a hostile environment, it is illegal.

Casey: As I hope the examples that Megan just shared helped to illustrate, the costs of violating the Fair Housing Act are not limited to financial settlements, and the harm caused to victims is never fully remedied by settlements or judgments. Monetary damages are at best an imperfect attempt to make victims feel whole again, but many harms can't be fixed by money. The impact of harassment can have ripple effects that extend in every facet of a victim's life including his or her work, relationships and self image. The bottom line is really that harassment can totally upend victims' lives.

Casey: For owners and property managers, too, the consequences of harassment can extend beyond what's reflected in a settlement agreement or a court judgment. For example, it can have a very lasting and damaging effect on a housing provider's reputation because prospective tenants won't want to rent from an owner or property management company that failed to protect its tenants from harassment. As previously mentioned, harassment lawsuits can also lead to sanctions by the local public housing agency or by HUD against the property owner or management company.

Casey: Additionally, a housing environment that's permeated with fear of harassment or retaliation for reporting it is one where tenants are less likely to report maintenance issues or other problems, and if those issues go unaddressed, it can lead to deterioration of your property or other asset management problems.

Alexandria: Before we turn to our final best practice recommendations, let's consider one final scenario involving Tom who is gay and using a housing choice voucher to rent an apartment. After Tom moves in, Tom's landlord learns that Tom is gay and issues him a notice of eviction. Tom's landlord can't do that. HUD's equal access rule prohibits landlords who accept housing choice vouchers and have a HAP contract from refusing to provide housing or from evicting an existing tenant because of a person's actual or perceived sexual orientation, gender identity or marital status. The equal access rule applies to all HUD programs including tenant based and project based voucher programs.

Casey: So, now that we've covered what sexual and other discriminatory harassment is, who's liable for it and what the consequences of liability are, we want to recommend a few more best practices for owners and property managers to act proactively to stop harassment before it starts. First, owners and property managers should talk with their staff to identify shortcomings in existing policies and protocols for handling harassment

complaints and make improvements where needed. Second, owners and property managers should also talk to tenants to find out if they are experiencing or if they've heard about others who are experiencing harassment and address it if they hear about it. Additionally, owners and property managers should tell tenants about their fair housing rights and where to report harassment.

Casey: At a minimum, application and tenant packages should inform tenants about how they can report harassment to either the owner or property management company as well as how they can file a Fair Housing Act or equal access complaint. What else can you do to help stop harassment before it starts? You should make sure that you post and distribute policy statements in any appropriate language that makes clear that sexual and other discriminatory harassment will not be tolerated, that complaints are encouraged and will be taken seriously and that victims, employees and witnesses who report harassment will be protected from retaliation.

Casey: Additionally, you should attend and require that your staff attend fair housing trainings that emphasize preventing harassment on a recurring basis and ensure that you provide your staff with the time and resources to attend such trainings. Lastly, as previously mentioned, owners and property managers should inform tenants about how to file complaints. We want to end by providing you with information on the different ways to file a Fair Housing Act or equal access complaint with HUD or to let DOJ know about housing harassment that is or has occurred. With regard to Fair Housing Act complaints, they can be filed with HUD through HUD's website at www.HUD.gov or by phone at 1-800-669-9777. Complaints can also be filed with a state or local fair housing agency, and a list of those agencies can also be found on HUD's website. In addition to filing a complaint, victims of harassment can also contact the Department of Justice by emailing FairHousing@USDOJ.gov or by calling 1-844-380-6178. Finally with regard to equal access rule complaints, tenants should be instructed to contact their local HUD office and the public housing agency that issued their voucher.

Casey: So that concludes our presentation today. As Alexandria mentioned at the beginning of the training, we invite you to submit questions at HUDQuestions@HUD.gov. HUD will be collecting questions through the end of this training initiative later this summer and will be providing written answers that will be posted to the HUD Exchange. Now, while we can't promise to answer every question, we will certainly respond to the most frequently asked questions and will do our best to answer as many questions as possible. We hope you've enjoyed today's training and we thank you for watching.