

Addressing LGBT Homelessness and Housing Discrimination Through Federal Policy

Increasing Access to Fair Housing for LGBT Communities
through New HUD Initiatives and Community and State
Agency Collaboration

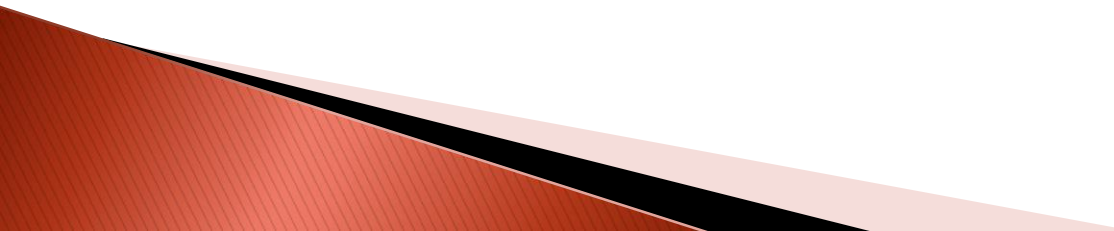
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NATIONAL CENTER FOR LESBIAN RIGHTS

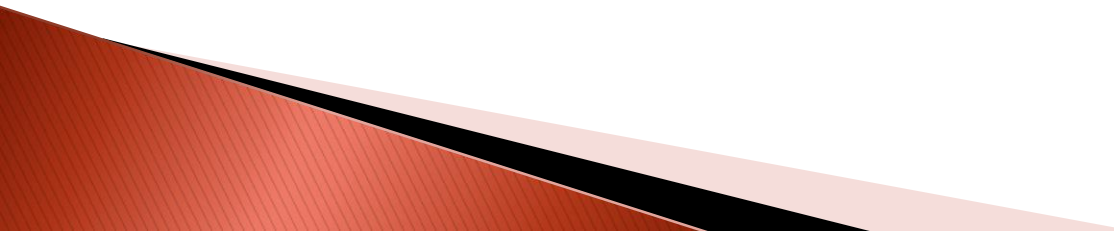
Addressing LGBT Homelessness and Housing Discrimination Through Federal Policy



Homelessness and Housing Discrimination in the LGBT Community Present a Devastating Problem

- ▶ Because of the lack of nationwide data collection efforts, it is impossible to assess the full extent, but recent studies illustrate a serious problem
 - According to a 2001 study by the Kaiser Family Foundation, 34% of LGB people reported experiencing housing discrimination based on sexual orientation
 - According to a 2006 Michigan study, 27% of same-sex test couples encountered discrimination based on sexual orientation

Homelessness and Housing Discrimination Present a Devastating Problem in the LGBT Community

- According to a ground-breaking study prepared by the National Center for Transgender Equality and the National Gay and Lesbian Task Force in February of last year, 19% reported being refused a home or apartment and 11% reported being evicted because of their gender identity or expression. One in five respondents experienced homelessness because of their gender identity or expression.
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Factors Contributing to Homelessness and Housing Insecurity in the LGBT Community

- ▶ The Fair Housing Act does not prohibit discrimination in the rental or sale of property
 - While there is a patchwork of state and local laws that protect LGBT people and families from housing discrimination in some jurisdictions, federal protections are needed to fully protect the community.
- ▶ Many LGBT youth are kicked out of their homes or leave because of lack of family acceptance of their LGBT identities.
 - According to a study by the National Gay and Lesbian Task Force, of the estimated 1.6 million homeless youth, between 20–40% identify as LGBT.

Factors Contributing to Homelessness and Housing Insecurity in the LGBT Community

- ▶ Because of lack of federal protection from employment discrimination, LGBT people face higher unemployment and are thus more likely to be homeless and housing insecure
 - According to the study by NCTE and the Task Force, 90% of transgender respondents faced employment discrimination and are 4x more likely to be homeless than the general population

Federal Legislative Fixes Needed to Address the Problems

- ▶ Revise the Fair Housing Act to prohibit discrimination based on sexual orientation and gender identity
- ▶ Pass the Every Child Deserves A Family Act, prohibiting discrimination in adoption and foster care services based on sexual orientation, gender identity, and marital status to make sure more LGBT youth can find safe and loving permanent homes
- ▶ Pass the Employment Nondiscrimination Act prohibiting discrimination based on sexual orientation and gender identity in employment
- ▶ Pass legislation prohibiting discrimination in credit and lending based on sexual orientation and gender identity

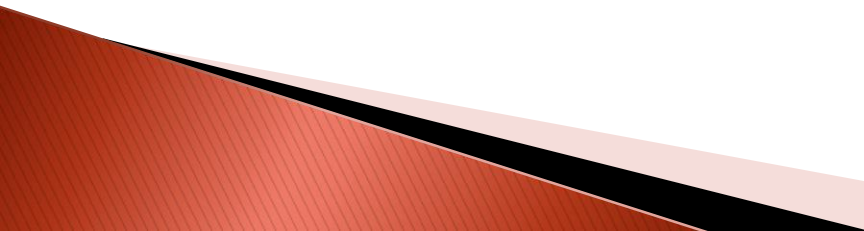
Recent Developments with HUD

- ▶ In June 2010, HUD amended its rules to require all applicants seeking HUD funding to comply with relevant state and local laws that protect LGBT individuals
- ▶ In July 2010, HUD issued guidance explaining that discrimination “because of sex” included discrimination because of nonconformity with sex stereotypes, which extended important protections for gender nonconforming individuals, particularly transgender people.
- ▶ Most recently, HUD published its Equal Access Rule, which establishes crucial federal protections against anti-LGBT housing discrimination.

Protecting the LGBT Community from Housing Discrimination

- The Fair Housing Act
 - Discrimination based on nonconformity with sex stereotypes is prohibited by the Fair Housing Act in the sale or rental of *any* housing.
- The Equal Access Rule
 - Discrimination based on sexual orientation or gender identity is prohibited in HUD programs and public housing.

HUD Equal Access Rule

- ▶ Proposed rule published Monday, January 24, 2011 in Federal Register (Vol. 76, No. 15).
 - ▶ In response, HUD received an overwhelmingly positive response from the hundreds of comments submitted during the comment period.
 - ▶ The final rule went into effect on March 5, 2012.
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HUD Equal Access Rule

- ▶ The rule will open access to housing for LGBT individuals and families in four ways:
- ▶ First, the rule prohibits discrimination based on sexual orientation and gender identity in all housing that is financed or insured by HUD.

HUD Equal Access Rule

- ▶ Second, it prohibits owners and operators of HUD-funded or HUD-insured housing from inquiring about an applicant's sexual orientation or gender identity for the purpose of denying housing on that basis.
 - However, this information may be volunteered by an applicant or collected by advocates for the purposes of data collection on the LGBT community.
 - The rule allows these inquiries for the limited purposes of making otherwise lawful sex-segregations or for the purpose of determining how many bedrooms to allot for a household.

HUD Equal Access Rule

- ▶ Third, the rule clarifies that the term “family” includes LGBT individuals, couples, and their families (regardless of biological or legal relationship) as eligible beneficiaries of HUD’s public housing and voucher programs – programs that collectively serve 5.5 million people.
- ▶ Finally, the rule prohibits the consideration of sexual orientation and gender identity in granting any FHA–insured mortgage.
 - FHA–insured mortgages represent a very large share—between 40% and 50% of the mortgage market.

Enforcement of New HUD Guidance and Rule

- ▶ In the past couple of years, HUD has shown its commitment to advancing fair housing for the LGBT community by enforcing both the LGBT Equal Access Rule and bringing a Fair Housing Act complaint based on discrimination against a transgender tenant.

Enforcement of New HUD Guidance and Rule

- ▶ On January 2, 2013, HUD announced that it would settle a claim with Bank of America (BOA) under the LGBT Equal Access Rule.
- ▶ BOA – acting as a mortgage lender – refused to provide financing to a Florida lesbian couple seeking an FHA-insured mortgage. Because one partner was not employed, the applicant enlisted her partner’s mother as a co-applicant on the loan.
- ▶ BOA denied the mortgage because it did not consider the loan applicant and the co-applicant directly related because the applicant and her partner were not married.
- ▶ HUD settled with BOA, the couple received their mortgage, and this was the first enforcement of the LGBT Equal Access Rule.

Enforcement of New HUD Guidance and Rule

- ▶ HUD has brought at least one complaint based on discrimination on the basis for gender identity as a form of sex discrimination under the Fair Housing Act.
- ▶ On October 15, 2013, the government filed a case against a Texas trailer park for evicting a transgender woman and her partner when the park owner discovered she was transgender.
- ▶ The case is still being processed, but if a settlement is not reached, it will likely go to trial in December.

Additional Notes About Enforcement

- ▶ This is a program rule, so enforcement will be handled through the HUD and therefore does not grant a private right of action to those who have faced discrimination.
 - Complaints can be submitted via phone at toll-free: 1 (800) 669-9777 or online at http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination
- ▶ This rule is applicable to all HUD housing providers regardless of religious affiliation.

Contact us

- ▶ Please contact us with any questions or comments or if you would like a copy of this presentation:
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With Thanks For Your Attention



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