June 2, 2016, NEW YORK—A federal lawsuit filed yesterday by Legal Services NYC and Sanctuary for Families demonstrates the devastating consequences of the City’s practice of excluding domestic violence survivors from Section 8 hearings that could determine whether or not they are able to stay in their homes.

The lawsuit was filed on behalf of A.S., a 57-year-old survivor of domestic violence who lives in an apartment which had been subsidized by a Section 8 voucher, administered by the City’s Department of Housing Preservation and Development (HPD). In situations involving criminal domestic violence, federal law allows for a “bifurcation” of Section 8 vouchers. Bifurcation allows a transfer of a Section 8 voucher from the batterer’s name to the survivor’s, ensuring that survivors of domestic violence can afford to remain in their apartments and preventing them from facing homelessness as a consequence of ending an abusive relationship.

A.S. suffered numerous incidents of domestic violence perpetrated by her husband, including physical assaults and threats to her life. In February 2014, A.S.’s husband attempted to rape her, and again threatened to kill her. A.S. was able to flee the apartment and sought help at a women’s shelter. She received treatment at Beth Israel hospital, reported the attack to the police, and obtained an order of protection against her husband. She also notified HPD, and initiated steps to remove her husband from the Section 8 household composition.

As part of this process, HPD holds a hearing that determines who should get the voucher. The potential abuser is given due process rights to contest the bifurcation. HPD provides the abuser with notice and an opportunity to be heard. HPD does not formally notify the survivor of domestic violence of the hearing or allow the survivor an opportunity to be heard at the hearing. Rather, HPD relies entirely upon the written documentation that the domestic violence survivor submitted as part of the bifurcation request. The abuser is afforded an opportunity to speak; the survivor is not.

In this case, HPD awarded the Section 8 subsidy to A.S.’s abuser without ever speaking to A.S. in person or giving her a chance to present facts regarding the underlying pattern of serious abuse, including the fact that her husband attempted to rape her and threatened to kill her. Legal Services NYC and Sanctuary for Families are challenging HPD’s decision regarding A.S.’s subsidy under the 14th Amendment to the U.S. Constitution, the Fair Housing Act, and New York City Human Rights Law.

“Not surprisingly, the survivor’s abuser won the hearing, given that he was the only one allowed to appear and present evidence,” said Shantonu Basu, Staff Attorney at Legal Services NYC’s Manhattan program. “Our client is now in danger of losing her long term affordable housing because HPD violated her due process rights. Not only does HPD’s policy deny domestic violence survivors those rights, it also discriminates against them based on their sex, as the overwhelming majority of DV survivors are women.”

“The current procedures violate the rights of domestic violence victims and leave them in an untenable position,” said Amanda Norejko, Matrimonial/Economic Justice Project Director and Victoria J. Mastrobuono Economic Justice Fellow at Sanctuary for Families. “Our clients should not have to choose between suffering continued violence at the hands of their abusers and risking the dangers inherent in homelessness if they take legal measures to protect themselves.”

“This entire ordeal is very stressful,” said A.S. “I just want to continue living in the apartment with my daughter. I don’t want to lose my only home.”

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