



## **EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

### **Emergency Transfers**

East Bay Asian Local Development Corporation (“EBALDC”) is concerned about the safety of their residents, and such concern extends to residents and their household members who are survivors of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act of 1994, as amended (“VAWA”), EBALDC allows any resident who is a victim of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the resident’s current unit to another unit.

The U.S. Department of Housing and Urban Development (“HUD”) is the federal agency that oversees compliance with VAWA. VAWA protections are not limited to women. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.

The ability to honor transfer requests from residents currently receiving assistance may depend upon a preliminary determination that the resident is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether there is another dwelling unit for which the resident is eligible that is available and is safe to offer the resident for temporary or more permanent occupancy.

This Emergency Transfer Plan (“ETP”) identifies residents who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to residents on safety and security. This plan is based on form HUD-5381, a model emergency transfer plan published by HUD (OMB Approval No. 2577-0286), HUD regulations regarding Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (24 CFR § 5.2001 et seq.), and applicable HUD guidance including publicly available Notices, Memos, Letters, and HUD’s VAWA website.

### **Reasonable Accommodations**

EBALDC will provide reasonable accommodations to the policies set forth in this ETP where needed because of a disability. If you or a household member requires materials in an alternative accessible format or an accommodation with respect to any of the policies set forth herein, please let us know and we will begin the interactive process consistent with our obligations under applicable fair housing laws.

### **Definitions Relating to Transfers**

“External Emergency Transfer” refers to an emergency relocation of a resident to another unit where the resident would be categorized as a new applicant; that is, the resident must undergo an application process in order to reside in the new unit.

“Internal Emergency Transfer” refers to an emergency relocation of a resident to another unit where the resident would not be categorized as a new applicant; that is, the resident may reside in the new unit without having to undergo an application process.



“Safe Unit” refers to a unit that the victim of VAWA violence/abuse believes is safe.

“VAWA Violence/Abuse” means an incident or incidents of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR 5.2003 and “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking” (Form HUD-5382).

### **Eligibility for Emergency Transfers**

A resident may seek an emergency transfer to another unit if they or their household member is a victim of VAWA violence/abuse, as outlined in the “Notice of Occupancy Rights Under the Violence Against Women Act.” EBALDC requires the submission of a written request for an emergency transfer, such as form HUD-5383, to certify eligibility for the emergency transfer.

A resident who is (or whose household member is) a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD’s regulations at 24 CFR part 5, subpart L, and expressly request an emergency transfer, is eligible for an emergency transfer, if either:

1. The resident or household member reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the resident or household member remains within the same unit they are currently occupying at the Property; or
2. If the resident or household member is a victim of sexual assault, the sexual assault occurred on the premises within the 90-calendar-day period preceding the request for an emergency transfer.

A resident requesting an emergency transfer must expressly request the transfer. Residents who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this ETP. Whether or not a resident is in good standing does not impact their ability to request an emergency transfer under VAWA.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the resident shall submit a written request for a transfer to EBALDC’s Section 504 Coordinator (Carolina Perez) at: [compliance@ebaldc.org](mailto:compliance@ebaldc.org) or (510) 287-6627, TTY 711, East Bay Asian Local Development Corporation, 1825 San Pablo Avenue, Suite 200 Oakland, CA 94612. The resident need not mention “VAWA” or “emergency transfer” and in general need only communicate that they are a victim of VAWA violence/abuse and as a result, would like to move from their unit. It is EBALDC’s policy to require documentation of domestic violence, dating violence, sexual assault or stalking if the resident has not previously provided such documentation of the occurrence. Unless EBALDC receives documentation that contains conflicting information, as described in 24 CFR § 5.2007(b)(2) EBALDC will not require third-party documentation to determine status as a VAWA victim for emergency transfer eligibility. If EBALDC receives documentation that contains conflicting information (*including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator*), EBALDC will require an applicant or resident to submit third-party documentation within thirty (30) calendar days of the date of the written request for the third-party documentation.

The resident’s written request for an emergency transfer should include either:



1. A statement expressing that the resident reasonably believes that there is a threat of imminent harm from further violence if the resident or their household member were to remain in the same dwelling unit assisted under the program(s) applicable to the Property; or
2. A statement that the resident was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the resident's request for an emergency transfer.

Even though no particular form is required, for the convenience of residents, EBALDC has developed a form residents may use to request a transfer. Form HUD-5383 may also be used for making a written request for an emergency transfer.

Emergency transfers under VAWA are available to victims of domestic violence, dating violence, sexual assault, or stalking. Acceptable documentation of the occurrence of domestic violence, dating violence, sexual assault or stalking must be provided to the Carolina Perez if resident has not previously provided such documentation. In accordance with 24 CFR 5.2007, acceptable documentation includes any one of the following forms of verification:

1. A completed form HUD-5382 (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking);
2. A document signed by the resident and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 34 U.S.C. § 12291;
3. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
4. At the discretion of EBALDC, a statement or other evidence provided by the resident.

Unless EBALDC receives documentation that contains conflicting information, as described in 24 CFR 5.2007(b)(2), EBALDC cannot require third-party documentation to determine status as a victim of VAWA Violence/Abuse.

Resident will have fourteen (14) business days from EBALDC's written request to provide requested documentation of status as a victim of VAWA Violence/Abuse. If the documentation is not received within fourteen (14) business days, the request will be closed without prejudice to the resident to renew the request at a future date.

### **Confidentiality**

EBALDC will keep confidential any information that the resident submits in requesting an emergency transfer, and information about the emergency transfer, unless the resident gives EBALDC written permission to release the information on a time limited basis, or disclosure of the information is required



by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the resident, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the resident. See the Notice of Occupancy Rights for more information about EBALDC's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Policies**

As discussed below, a resident may request an internal transfer, an external transfer, or both at the same time. EBALDC cannot guarantee that a transfer request will be approved or specify how long it will take from the time a transfer request is approved until the resident can be placed in a new, safe unit. EBALDC will, however, act as quickly as possible to assist a resident who qualifies for an emergency transfer. Absent extenuating circumstances, EBALDC generally will respond to a VAWA transfer request within ten (10) business days of receiving a full request, including the required documentation (if any), absent any conflicting or missing information. Responses include:

- Approval of the Request for a specific VAWA accommodation
- Denial of the Request for a specific VAWA accommodation
- Request for additional information or Request to Meet

If the request is denied, the person seeking VAWA protections will have the right to appeal. Requests to appeal must be received within fourteen (14) business days of the date of the denial. When requested, the appeal will be held with someone who was not involved in the original decision to deny.

If a resident reasonably believes a proposed transfer would not be safe, the resident may request a transfer to a different unit. If a unit is available, the transferred resident must agree to abide by the terms and conditions that govern occupancy in the unit to which the resident has been transferred. EBALDC may be unable to transfer a resident to a particular unit if the resident has not or cannot establish eligibility for that unit including, but not limited to, applicable income, age, or set-aside requirements.

Resident will be responsible for the rent for the new unit in accordance with the applicable program requirements of the new unit—the same as any other resident qualifying for that unit. As such, a VAWA-related transfer may result in a change in rent for the transferring household.

### **Internal Emergency Transfers**

Internal emergency transfers refer to an emergency relocation of a resident to another unit within the property where the resident would not be categorized as a new applicant. The resident may reside in the new unit without having to undergo an application process so long as the agency governing the project does not require a new application.<sup>1</sup> Internal emergency transfers are only available to open units within the community in which the resident is residing. Because such transfers are the result of an emergency, internal emergency transfers will take priority over all other transfers except transfers required to accommodate a disability or provide a unit with accessible features to a current resident or waitlist

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<sup>1</sup> Some communities consist of buildings that are regulated as separate projects. At such properties, a new application and eligibility determination may be required by the governing agency for a transfer to a different building. EBALDC will only require a new application for an internal transfer if required by the governing agency.



applicant who has a disability-related need for those features. A unit for which there is an active application in process is not considered open under this policy.

### **Additional Assistance**

If the Property has no safe and available units for which a resident who needs an emergency transfer is eligible, EBALDC will assist the resident in identifying other housing providers who or which may have safe and available units to which the resident could possibly move. To accomplish this, EBALDC will:

1. Provide the resident with a list of EBALDC properties at which there is either an open waitlist or at which the Resident Selection Plan permits preferences for individuals seeking an emergency transfer under VAWA.
2. Provide the resident with contact information for the local housing authority and, where available and known to EBALDC, community resource specialists in the county in which the Property is located.
3. Provide the resident with a list of other affordable housing developments about which EBALDC is aware that are within a ten-mile radius of the Property.

In addition to the above, EBALDC has provided resource information in its Notice of Rights which may be of assistance to residents and a copy will be provided along with the transfer request form.

While EBALDC will provide the additional assistance described above, it is up to the resident to research available units, obtain and evaluate eligibility requirements, determine whether the units are suitable for the household's needs, and make arrangements for any move the household wish to undertake.

### **External Emergency Transfers**

External emergency transfers refer to an emergency relocation of a resident to another property where the resident would be categorized as a new applicant. The resident must undergo an application process in order to reside in the new unit and must be otherwise eligible for the unit.

VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. EBALDC may be unable to transfer a resident to a particular unit if the resident cannot establish eligibility for that unit including, but not limited to, applicable income limits, set-asides, or age requirements.

For internal and external emergency transfers, EBALDC will offer comparable units to the household, if any are currently available. A resident does not waive their right to an emergency transfer if they decline an offered unit because they do not believe that it is safe, the unit does not meet the disability-related needs of a household member, or for other good cause<sup>2</sup>. EBALDC will continue to offer the resident available units. If the resident declines a unit for a reason other than safety, disability, or good cause, EBALDC is not required to continue offering that resident additional units. EBALDC may offer the

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<sup>2</sup> "Good cause" can include but is not limited to financial hardship, hardship related to obtaining transportation to work, school, medical appointments, and/or childcare; disruptions to a child's education; and any reason that may be a result of the resident's status as a survivor of domestic violence, dating violence, sexual assault, or stalking.



opportunity to be released from the unit with no penalty and in such cases, EBALDC will inform the resident services team to assist the resident in locating alternative housing outside of the EBALDC portfolio (as described in the plan below) and will continue to assist the resident with locating a safe unit until the resident either vacates the property or EBALDC has transferred the resident to a safe unit. Specifically, EBALDC's resident services team will:

1. Provide the resident with contact information for the local housing authority and, where available and known to EBALDC, community resource specialists in the county in which the Property is located.
2. Provide the resident with a list of other affordable housing developments about which EBALDC is aware that are within a ten-mile radius of the Property.

A resident may renew their request for an emergency transfer at any time, and there is no limitation on how many times a resident may request an emergency transfer, or how many units a resident may decline due to safety, disability, or good cause.

A resident may qualify for an emergency Housing Choice Voucher transfer if a member of the household is a victim of domestic violence, dating violence, sexual assault, or stalking and is seeking an emergency transfer to protect their safety. At the resident's request, EBALDC will notify the local housing authority whenever a VAWA transfer is approved, in order to assist in securing an Emergency Housing Transfer Voucher as a courtesy to the household. EBALDC will refer any resident participating in a Project-Based Voucher program to the relevant Housing Authority and for individual participants in the HOME program to the relevant funding jurisdiction.

Where a resident is covered by both EBALDC's Emergency Transfer Plan and another Emergency Transfer Plan (i.e., a resident who is in a LIHTC and Project-Based Voucher or HOME unit), the resident may pursue an emergency transfer simultaneously under both plans. A resident may pursue both an internal and external emergency transfer request simultaneously.

### **Making the Emergency Transfer Plan Available**

When feasible and upon request, a copy of the Emergency Transfer Plan that does not contain sensitive or confidential information will be made publicly available.

- *Individuals with disabilities, may request materials in alternative accessible formats*

*EBALDC provides VAWA forms available in other languages outlined in its Language Access Plan to meet limited English proficiency (LEP) obligations.*

### **Safety and Security of Residents**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the resident is urged to take all reasonable precautions to be safe.

Residents who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-



800-787-3224 (TTY). Residents who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>. Residents who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Public reporting burden** for this collection of information is estimated to range from four to eight hours per each covered housing provider's response, depending on the covered housing program. This includes the time to develop program and project-specific emergency transfer policies and develop contacts with local service providers. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. This is a model plan and covered housing providers in programs covered by VAWA may, at their discretion, use it to develop their own emergency transfer plans, as required under 24 CFR 5.2005(e). While HUD does not intend to collect emergency transfer plans, HUD may access these plans to ensure compliance with the regulations. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.



**REQUEST FOR VAWA-RELATED EMERGENCY TRANSFER**

*To be completed by or on behalf of the person requesting a transfer.*

1. Name(s) of victim(s): \_\_\_\_\_

2. Your Name (if different from victim): \_\_\_\_\_

3. Name(s) of other household member(s) listed on the lease: \_\_\_\_\_

4. Name(s) of other household member(s) who would transfer with the victim(s): \_\_\_\_\_

5. Address of location from which the person seeks to transfer: \_\_\_\_\_

6. Way(s) to contact you (e.g., phone number, email, mailing address). You can list more than one but please only list methods where it is safe for you to receive communications/messages. You can also list here anything we should know to safely communicate with you. If any contact information changes or is no longer a safe contact method, please let us know immediately.

7. Name of the accused abuser/perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim (if known and can be safely disclosed):

9. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? \_\_\_\_\_

*If yes, skip question 10. If no, fill out question 10.*

10. Describe why the person requesting the transfer believes they are threatened with imminent harm from further violence if they remain in their current unit:

11. Describe any features the requesting resident requires for a safe unit. You may list any information that would facilitate a suitable transfer, such as accessibility needs and a description of where it is safe or unsafe for you to live.

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirements laid out in the Emergency Transfer Plan for an emergency transfer. I understand that the ability to provide an emergency transfer is based on unit availability and eligibility of the household for an available unit.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_