



October 19, 2016

The Honorable Julian Castro
Secretary of U.S. Department of Housing and Urban Development

Re: Access to Public and Assisted Housing for Battered Immigrant Spouses and Children of Citizens and Lawful Permanent Residents

Dear Secretary Castro:

NIWAP is writing to thank your leadership in improving access to much needed housing for victims of domestic violence, sexual assault and human trafficking. In August 2016, HUD collaborated with DOJ and HHS to issue a joint tri-agency letter confirming immigrant access to shelter and transitional housing to provide lifesaving help to victims and children without regard to immigration status. This October, HUD will issue the long awaited and much needed regulations implementing the Violence Against Women Act's housing protections.

Currently, we are seeking a meeting on and your help resolving one outstanding issue that continues to endanger immigrant battered spouses and children. HUD needs to issue written confirmation that VAWA battered immigrant spouses and children, who have pending applications with DHS and are abused by their U.S. Citizen and lawful permanent resident spouses and parents, can access public and assisted housing and no longer be subject to proration. This is an issue that has been a priority for the field, the White House, and the Office on Violence Against Women at the U.S. Department of Justice throughout this Administration.

We have been working with HUD officials throughout this administration and for the past 20 years on this issue. We are seeking HUD implementation of access to public and assisted housing for battered immigrant spouses and children in the process of obtaining legal immigration status leading to lawful permanent residency as VAWA self-petitioners and as abused spouses with approved family based visa petitions pending before DHS. It is our understanding that HUD General Counsel's office has developed a legal opinion that would provide this much needed access. We are seeking your help to issue and make public this legal opinion this October before the end of the last domestic violence awareness month of the Obama Administration.

This policy will most immediately assist battered immigrant spouses and children suffering through ongoing daily, weekly, or monthly abuse by U.S. citizens and lawful permanent resident spouses and parents with whom they live in public and assisted housing.¹ Laws passed 20 years ago were designed to ensure them access to public and assisted housing without proration so that battered immigrant self-petitioners could seek a protection order removing their abuser from the unit and continue living in the public or assisted housing unit receiving the housing benefits for themselves and their children. These protections were not implemented by HUD in previous administrations. HUD General Counsel staff have devoted significant time and resources developing a legal opinion on this issue that is consistent with current and prior HUD memoranda and regulations. This legal opinion promotes outcomes that

¹ See Krisztina E. Szabo, David Stauffer & Leslye E. Orloff, "NIWAP Survey Findings on Access to Public and Assisted Housing for VAWA Self-petitioners, their Children, and Trafficking Victims" (June 2, 2014)

further the Congressional imperative of protecting and providing access to public and assisted housing benefits for immigrant victims of spouse and child abuse perpetrated by citizens and lawful permanent residents. Please help us ensure that this problem is resolved expeditiously during this Administration.

The National Immigrant Women's Advocacy Project (NIWAP), American University Washington College of Law, conducted a nationwide survey of advocates, attorneys, government agencies, victim services, and members of the justice system who work with immigrant and LEP individuals that have been victims of domestic violence, sexual assault, child abuse, or human trafficking. The survey reports on Violence Against Women Act (VAWA) immigrants (self-petitioners, VAWA cancellation of removal and VAWA suspension of deportation) who need access to public and assisted housing. The survey revealed VAWA battered immigrant spouses and children face significant impediments to accessing both public and assisted housing programs based on LEP and immigration status.

Having access to public and assisted housing plays a critical role in improving abused immigrant victims' safety and economic survival. Recovery is hindered and safety is jeopardized when immigrant victims of spousal and child abuse, who have taken courageous steps by seeking immigration relief toward breaking the cycle of violence, are removed from and are turned away from access to housing programs essential for rebuilding their lives.

NIWAP's survey found that VAWA qualified battered immigrants are having significant difficulties accessing public and assisted housing benefits provided to them under the 1996 immigration² and public benefits³ reform laws (PRWORA). VAWA self-petitioners who are qualified immigrants eligible to obtain public and assisted housing and/or remain in their public housing unit after removing their perpetrator and who are eligible to receive public and assisted housing on their own behalf without proration, are not being granted public and assisted housing benefits. This problem stems from an internal memorandum that has historically been interpreted by the HUD Office of General Counsel to implement PRWORA 1996 in a manner that excludes access to public and assisted housing for qualified battered immigrants. HUD is the only federal government benefits granting agency denying access to federal public benefits it administers to battered immigrant spouses and children who have pending and approved VAWA immigration cases. All VAWA victims are the spouses, former spouses and children of abusive U.S. citizens and lawful permanent residents.

It is our understanding that staff at the HUD general counsel's office have completed work resolving this longstanding issue. We are seeking your help in securing and publicly releasing the legal opinion from HUD on this issue. That opinion made public is all that is needed for Public Housing Authorities to have the information they need to immediately begin providing public and assisted housing benefits to VAWA self-petitioners.

We are respectfully requesting issuance of this opinion by the end of October 2016 and a meeting to discuss this important outstanding issue with you. This issue significantly affects the health and well-being of abused spouses and children who are VAWA self-petitioners. We encourage you to invite to this meeting representatives who have led work on this issue from the White House, the Office

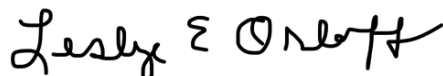
² Illegal Immigration Reform and Immigration Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-547 (codified as amended at 8 U.S.C. § 1101 et seq.) [hereinafter IIRAIRA].

³ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended in scattered sections of 42 U.S.C.) [hereinafter PRWORA].

on Violence Against Women at the U.S. Department of Justice, the Department of Homeland Security, and the Office on Policy and Strategy of U.S. Citizen and Immigration Services. Our goal is answer any questions you may have so that HUD can act swiftly to resolve this long standing problem that has been endangering the lives of battered immigrant spouses and children seeking VAWA immigration relief.

We look forward to hearing from you. To set up a meeting I am best reached by cell phone at 202-210-8886.

Sincerely,



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List of Attachments:

Public and Assisted Housing:

- Krisztina E. Szabo, David Stauffer & Leslye E. Orloff, "NIWAP Survey Findings on Access to Public and Assisted Housing for VAWA Self-petitioners, their Children, and Trafficking Victims" (June 2, 2014);
- Leslye E. Orloff, "Battered Immigrant Qualified Aliens Still Waiting for Promised Housing Assistance After Almost 20 Years" (June 2, 2014);
- Memorandum from Nelson Diaz, General Counsel, Housing and Urban Development, to then Secretary, Henry Cisneros, Housing and Urban Development (October 3, 1996);
- Letter from Pearl Chang, U.S. Citizenship and Immigration Services, to Patricia S. Arnaudo, Director, Office of Public Housing-Management & Occupancy Division, U.S. Department of Housing and Urban Development (May 5, 2005); and
- HUD 2003 Budget Report (highlighted for emphasis).

Cc: Carrie Bettinger-Lopez and Kristina Rose, Office of the Vice President
Bea Hanson, Office on Violence Against Women, U.S. Department of Justice
Amanda Baran, U.S. Department of Homeland Security