

LIMITED ENGLISH PROFICIENCY OUTLINE

I. WHO ARE LEP PERSONS?

A. A limited English proficient (“LEP”) person is anyone:

1. who does not speak English as his/her primary language and who has a limited ability to read, write, speak, or understand English;¹ or
2. who speaks English “less than very well.”

II. LIST OF LEGAL AUTHORITY REQUIRING LANGUAGE ACCESS IN HOUSING

A. Statutes

1. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*
2. Fair Housing Act, 42 U.S.C. § 3601, *et seq.*
3. Violence Against Women Reauthorization Act of 2013 (VAWA 2013), 42 U.S.C. § 14043e-11(d) (housing rights notice provision)
4. California Civ. Code § 1632
 - a. Requires translation of leases (longer than one month) if those leases were negotiated in non-English language
 - i. Applies to negotiations in Spanish, Chinese, Tagalog, Vietnamese, and Korean

B. *Lau v. Nichols*, 414 U.S. 563 (1974).

C. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 65 F.R. 50121 (Aug. 16, 2000).

D. Administrative Guidance

1. **HUD Final LEP Guidance:** U.S. Dep’t of Housing and Urban Dev., “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” 72 F.R. 2732 (Jan. 22, 2007).
2. **USDA (Rural Development) Final Guidance:** U.S. Dep’t of Agriculture, “Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency.” 79 F.R. 70,771 (Nov. 28, 2014).

III. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

¹ U.S. Dep’t of Housing and Urban Dev., “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” 72 F.R. 2732 (Jan. 22, 2007).

- A. Prohibits discrimination on the basis of race, color, or **national origin**
 - 1. Must provide equal services in terms of scope and quality
 - 2. Cannot unreasonably delay services
 - 3. Cannot require a LEP person to provide her own interpreter
 - 4. Cannot limit participation in a program
 - 5. State and local “English-only” laws do not excuse federally assisted programs from LEP compliance.
- B. Covers all entities receiving “federal financial assistance”
 - 1. Programs receiving federal financial assistance **include**
 - a. Public housing, project-based Section 8, CDBG funds, HOME funds
 - b. For a more complete listing of federally assisted housing programs subject to Title VI, *see* U.S. Dep’t of Housing and Urban Dev., “List of Federally Assisted Programs,” 69 F.R. 68,700 (Nov. 24, 2004).
 - 2. Entities **not covered** under Title VI
 - a. Private housing, including landlords who accept tenant-based Section 8 Housing Choice Vouchers (except if other covered federal funds are received)
 - 3. Programs **likely not covered** under Title VI
 - a. Low Income Housing Tax Credit (LIHTC) program
 - a. Exception: American Reinvestment and Recovery Act (ARRA) of 2009
 - 4. Entities that receive *any* “federal financial assistance” are subject to LEP administrative guidance.
 - a. Thus, housing that receives some funding covered by Title VI as well as additional funding not covered by the statute would still have LEP obligations under Title VI.

IV. *LAU v. NICHOLS*, 414 U.S. 563 (1974)

- A. In this decision, the U.S. Supreme Court found that a school district’s failure to provide English language instruction denied meaningful opportunity to participate in a public educational program. This failure to provide language access constituted a violation of the Title VI prohibition against **national origin discrimination**.
- B. This case established the link between language discrimination and national origin discrimination under Title VI.

V. EXECUTIVE ORDER 13166, “IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY”

- A. Reaffirms the relationship between national origin and limited English proficiency
- B. Orders federal agencies and federally assisted programs to create plans to ensure language access
- C. Directs agencies and programs to work with LEP persons and their representatives when creating language access plans

VI. ADMINISTRATIVE GUIDANCE

A. HUD Final LEP Guidance

- 1. Directs recipients of federal funds to:

- a. conduct a four-factor analysis;
 - b. develop a Language Assistance Plan (LAP); and
 - c. provide appropriate language assistance.
2. Four-factor analysis in determining LEP needs
- a. Number of LEP persons from a particular language group eligible to be served or encountered
 - i. Examples of types of data:
 - 1. U.S. Census data (available online at [American FactFinder](#));
 - 2. data from school systems;
 - 3. community organizations; and
 - 4. state and local governments
 - b. How often funding recipient interacts with LEP persons
 - c. Importance/ nature of the program, activity, or service to the LEP individuals
 - i. Housing is critical!
 - d. Resources available, including costs of providing LEP services
3. Written translation
- a. Safe harbor provision for written translation only
 - i. Provide translation of vital documents for language groups making up more than 5 percent of the population
 - 1. Doing so is viewed as “strong evidence of compliance”
 - ii. If the language group that meets the 5 percent threshold constitutes fewer than 50 people, provide translated written notice that free oral interpretation of the written documents is available
 - b. Directs recipients to translate vital documents
 - i. Vital documents are documents that “those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically”; additionally, the LEP Guidance states that whether a document is “vital” may “depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.” HUD LEP Guidance at 2752.
 - ii. The Office of Public and Indian Housing has identified the following non-exhaustive list of “vital” documents:
 - 1. Tenancy addendum for the Section 8 voucher program,
 - 2. Housing Assistance Payment contract,
 - 3. Request for Tenancy Approval,
 - 4. Authorization for Release of Information,
 - 5. Family Self Sufficiency (FSS) Escrow Account worksheet,
 - 6. Voucher Program, Statement of Homeownership Obligations,
 - 7. FSS contract of participation and the document entitled “A Good Place to Live,” and
 - 8. HUD has already translated the “How Your Rent is Determined” fact sheet into Spanish, Chinese, Korean, and Vietnamese.
 - iii. The HUD LEP Guidance identified other documents that may be “vital”:
 - 1. Consent/complaint forms

2. Notices of eviction
 3. Notices advising LEP persons of free language assistance
 4. Intake forms
 5. Hearing notices
 6. Written notices of rights, denial, or a decrease in services or benefits
 7. Leases/tenant rules
 8. Applications to receive benefits/services or to participate in a program
 9. Notices of public hearings, particularly those meeting Community Planning and Development's citizen participation requirements
4. Oral Interpretation
 - a. Can use bilingual staff
 - b. Strongly discourage use of friends and family (conflict of interest, candidness, etc.)
 - c. Cannot use minor child as interpreter
 5. Developing a Language Assistance Plan
 - a. Identifying LEP persons who need language assistance and the specific language assistance that is needed;
 - b. Identifying the points and types of contact the agency and staff may have with LEP persons;
 - c. Identifying ways in which language assistance will be provided;
 - d. Conducting effective outreach to the LEP community;
 - e. Training staff;
 - f. Determining which documents and informational materials are vital;
 - g. Translating informational materials in identified language(s) that detail services and activities provided to beneficiaries (e.g., model leases, tenants' rights and responsibilities brochures, fair housing materials, first-time homebuyer guide);
 - h. Providing appropriately translated notices to LEP persons (e.g., eviction notices, security information, emergency plans);
 - i. Providing interpreters for large, medium, small, and one-on-one meetings;
 - j. Developing community resources/ partnerships/other relationships to help with the provision of language services; and
 - k. Making provisions for monitoring and updating the LAP, including seeking input from beneficiaries and the community on how it is working and on what other actions should be taken.
 6. Examples of services/practices that assist LEP persons:
 - a. Oral interpretation services;
 - b. Bilingual staff;
 - c. Telephone service lines interpreter;
 - d. Written translation services;
 - e. Notices to staff and recipients of the availability of LEP services;
 - f. Referrals to community liaisons proficient in the language of LEP persons; and
 - g. Language identification cards invite LEP persons to identify their own language needs ("I Speak" cards).

VII. FAIR HOUSING ACT (FHA)

- A. The FHA prohibits discrimination on the basis of national origin in the sale, rental, or financing (and associated terms, conditions, and privileges) of dwellings. 42 U.S.C. § 3604.
- B. However, the courts have not uniformly accepted a link between national origin discrimination and language discrimination under the FHA.
 1. See e.g., *Cabrera v. Alvarez*, 977 F. Supp. 2d 969 (N.D. Cal. 2013) (court denying housing authority’s motion to dismiss intentional discrimination claim under FHA, but granting PHA’s motion to dismiss disparate impact claim under the FHA, in case involving landlord’s refusal to translate documents and provide interpretation, where landlord told plaintiff to “learn English”); *Pomales v. Hous. Auth. of City of Dania Beach*, 2013 WL 8115425 (S.D. Fla. Mar. 27, 2013) (finding plaintiffs sufficiently pleaded FHA claim against PHA employee who refused to provide language assistance to LEP applicants); *Veles v. Lindow*, 243 F.3d 552 (9th Cir. 2000) (Table) (affirming lower court decision concerning jury instructions in FHA case where landlord required one person in each household to speak English, noting that plaintiffs failed to prove that defendants “intended to discriminate on the basis of national origin”); *Vialez v. N.Y.C. Hous. Auth.*, 783 F. Supp. 109 (S.D.N.Y. 1991) (failure to translate documents does not create disparate impact under FHA, as all non-English speakers are equally affected).
 2. For more discussion, see *HUD Housing Programs: Tenants’ Rights* (2014 Supplement), § 13.14.3.3
- C. The FHA has a broader scope than Title VI because it applies to private dwellings, not just federally-funded housing.
 1. Applies to almost all housing, with few, narrow exceptions

VIII. ENFORCEMENT

- A. *Alexander v. Sandoval*, 532 U.S. 275 (2001)
 1. No private right of action under disparate impact cases brought under Title VI
 2. Can *still sue under discriminatory intent theory* under Title VI
 3. Some have suggested that this decision called the scope of Title VI LEP obligations for recipients of federal financial recipients into question, *however*:
 - a. Ralph Boyd, Assistant AG Civil Rights Division, Memorandum for Heads of Departments and Agencies, General Counsels and Civil Rights Directors re: Executive 13166 (Improving Access to Services for Persons with Limited English Proficiency) (Oct. 26, 2001), available at: <http://www.justice.gov/crt/about/cor/lep/Oct26memorandum.pdf>
 - b. Federal agencies have continued to construe language access as a form of national origin discrimination (e.g., HUD Final LEP Guidance, 2007); and
 - c. Recently, one federal district court including language reaffirming the link between national origin discrimination and language discrimination (*United States v. Maricopa County*, 915 F. Supp. 2d 1073, 1079-81 (D. Ariz. 2012)).
- B. Advocates can still file an administrative complaint with HUD.
 1. Title VI can still be enforced by HUD for acts of language discrimination or failure to provide language access.
 - a. Example: Conciliation Agreement with Hazelton, PA housing authority, available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=HAZLETONHSGAUTHE NG.PDF>

2. Additionally, advocates can allege national origin discrimination under the Fair Housing Act (FHA) in a HUD complaint.
 - a. Example: Virginia Realty of Tidewater Conciliation Agreement available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=OPADOC.PDF> (HUD filed and settled a complaint alleging national origin discrimination under the FHA when private landlord had a written policy prohibiting LEP persons from renting.)
 - b. Example: HUD filed a discrimination charge in April 2015 against Minnesota landlord who did not want to rent to LEP tenant.
 - i. http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2015/HUDNo_15-045

ADDITIONAL ONLINE RESOURCES

Federal Government LEP materials

- <http://www.lep.gov> federal government clearinghouse for LEP information)
- <http://www.lep.gov/selfassesstool.htm> (a self-assessment tool for federal grantees to use in preparing LEP implementation plans)
- <http://www.lep.gov/ISpeakCards2004.pdf> (“I Speak” card that allows organizations who serve LEP clients identify the specific language spoken by an LEP person)

LEP Statistics

- <http://www.census.gov/population/www/cen2000/briefs/phc-t37/index.html> (selected census data regarding English proficiency)
- <http://www.migrationinformation.org/Feature/display.cfm?ID=960> (page includes link to Excel spreadsheet with LEP data at the county level for all 50 states and D.C.)

HUD LEP Resources

- <http://www.hud.gov/offices/fheo/lep.xml> (HUD LEP webpage that includes important information such as centrally translated documents)
- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promoting_fair_housing_act/lep-faq#q10 (HUD FAQ section that discusses the agency’s Final LEP Guidance issued in 2007 and includes topics such as: vital documents, language access plans, and what the Guidance requires of recipients of federal funds)

FOR MORE INFORMATION

Contact Karlo Ng, kng@nhlp.org, or Renee Williams, rwilliams@nhlp.org.

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity – Region IX
600 Harrison Street, 3rd Floor
San Francisco, CA 94107-1300

Complaint of Discriminatory Treatment in Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d)

Introduction

Founded in 1958, Legal Aid of Marin provides critically needed legal services to over 2,000 residents of Marin County each year, including many who are the most vulnerable members of our community including older adults, people with disabilities, homeless individuals and families as well as limited-English speakers. Over the past decade Legal Aid of Marin has increasingly expanded their work beyond the representation of individual clients, striving to achieve systems and policy changes that address the underlying problems that Legal Aid's clients face.

Legal Aid of Marin, in providing civil legal services to the low-income residents of Marin County, provides assistance to a significant number of tenants with questions or complaints about the Marin Housing Authority (MHA). By partnering with the Marin Asian Advocacy Project, Legal Aid of Marin provides legal advice and services to people with Limited English Proficiency (LEP) including monolingual Vietnamese speakers. Monolingual Vietnamese speakers and LEP citizens whose primary language is Vietnamese have encountered unique obstacles in obtaining and sustaining their housing in Marin County because of the lack of language assistance programs provided by the MHA.

The Marin Asian Advocacy Project has been in operation since 1992 under Catholic Charities in Marin County. In 2003, the Project merged with Community Action Marin. The Marin Asian Advocacy Project's goal is the integration of the immigrant community into American life. The Project strives to eliminate the barriers to responsible membership in the community, including economic development and health and family welfare.

The Marin Asian Advocacy Project works primarily with a clientele of Asian Ethnicity including- Vietnamese, Laotian, Cambodian, Chinese and Korean individuals and families. These immigrant communities face challenges with language, culture, education,

employment access, family support/development and financial empowerment. Marin Asian Advocacy Project currently provides the following services: English as a Second Language classes, Earned Income Tax Credit assistance, Individual Development Account guidance, and free tax preparation programs to provide financial literacy training among other economic development activities. The Project also coordinates with Community Action Marin to access employment opportunities and child care and development programs.

This Complaint alleges that the MHA is not in compliance with Title VI of the Civil Rights Act of 1964 by not providing adequate interpretation and translation assistance to LEP residents of Marin County who rely on the MHA for housing or would like to apply for housing assistance from the MHA. Legal Aid of Marin and the Marin Asian Advocacy Project have had to divert significant resources, primarily in the form of their staff providing translation and interpretation services, advice, assistance and legal services to remedy problems or confusion caused by the MHA's lack of interpretation and translation services.

Statement of Facts

According to the 2000 U.S. Census, more than 1,000 Vietnamese speakers live in Marin County. Since 2000, the county's Vietnamese community has grown. According to the American Community Survey, the Vietnamese population has numbered over 2,000 people since 2006. The American Community Survey also found that a significant portion of people who speak Asian and Pacific Islander languages in the county, speak English less than "very well." The Marin Asian Advocacy Project serves all Asian American people in the County; the majority of the people who seek their services are Vietnamese (approximately 60%), ethnic Chinese (approximately 30%) and a small portion of Lau, Cambodian, Thai and others. The County's government agencies and community-based non-profits have been working together and hiring Vietnamese speaking personnel to better provide services to this growing immigrant population.

One example of the County responding to the growth of this Community is the founding of the Marin Asian American Network in 2004. The purpose of this group is to meet monthly and identify and close service gaps as well as provide support between community agencies in order to better serve the Vietnamese/South East Asian community in Marin County. However, the MHA has no representative in this group despite the fact that a significant number of families are recipients of MHA assistance with very limited English language proficiency.

Legal Aid of Marin has assisted LEP clients whose tenancies or Section 8 vouchers have been at risk because of confusion or frustration created by the resident's lack of understanding of the Public Housing or Federal subsidy programs. These recurring problems can be linked back to the fact that interpretation and translation services are not being provided by the MHA. Legal Aid of Marin has educated clients on the basic rules of the MHA and advocated on behalf of LEP clients in meetings and hearings with the MHA.

Through the years, the Marin Asian Advocacy Project has been providing language interpretation and translation for Vietnamese clients who seek assistance from the MHA including:

- Phone calls from MHA tenants/Section 8 recipients who receive notices from MHA in English and need help with translation;
- Translation for annual review process documents, notices and interpretation for in-person meetings
- Attending and interpreting in person at hearings at the MHA office: and
- Attending and interpreting in person for application review interview

Here are four examples of LEP clients who have required extra assistance from Legal Aid of Marin and the Marin Asian Advocacy Project because of the lack of services provided to the LEP population whose primary language is Vietnamese.

1. [REDACTED] came to the Legal Aid of Marin office with his daughter who speaks limited conversational English and acts as his in-home care provider. [REDACTED] had been a Section 8 voucher holder under the Marin Housing Authority for several years. In July of 2009, [REDACTED] and his daughter decided to move to Los Angeles to live near his granddaughter. They notified the MHA of their intent to move and their desire to "port" their voucher to the Los Angeles Housing Authority.

The [REDACTED] gave notice to their landlord in Marin and began searching for suitable housing in Los Angeles. However, while visiting the Los Angeles area to look for housing, [REDACTED] health was negatively affected by the Southern California climate and it became apparent that he would not be able to live there. The [REDACTED] cancelled their plans to move and notified the MHA that they would be staying in Marin County. Unfortunately, their previous landlord had already arranged to rent their old apartment to new tenants, so the [REDACTED] began searching for a new place to live in Marin.

The [REDACTED] experienced difficulty finding an apartment in Marin, so they began looking in the surrounding counties. Finally, in March 2010, they found available housing in the City of Richmond. When the Richmond Housing Authority (RHA) contacted the MHA to have [REDACTED] voucher forwarded in April 2010, RHA was told that the voucher had been terminated. MHA had not notified the [REDACTED] of the termination or given them any other indication that their Section 8 voucher status had changed.

When Legal Aid of Marin contacted MHA to inquire about the voucher termination, we learned that the voucher had actually been terminated in August 2009. MHA gave the reason for the termination as "lack of communication," despite the fact that from August 2009 through March of 2010, [REDACTED] daughter visited MHA's office several times per month to check in with her case manager and receive updated lists of available apartments in the area. All of the documentation that the [REDACTED] received from MHA during the entire time period was in English, which [REDACTED] daughter struggled to understand.

[REDACTED] and his daughter were never spoken to in Vietnamese, offered translation services or made aware that they could request an interpreter. When questioned as to why the [REDACTED] were not informed of their right to request an interpreter, their case manager responded, "She ([REDACTED] daughter) understood me. She said yes. She didn't need one."

The [REDACTED] had been homeless for 9 months when they came to Legal Aid of Marin for assistance. [REDACTED] was living with relatives who were never home during the day to care for him. His daughter lived out of her car and slept in the nail salon where she worked part time.

With assistance provided by Legal Aid of Marin, [REDACTED] voucher was finally reinstated. However, even after MHA was made aware of the [REDACTED] need for translation services, MHA was reluctant to provide the needed services. The interpreter that was finally made available was patronizing, confrontational, and uncooperative. Representatives from Legal Aid of Marin had to ask repeatedly for the interpreter to speak to the [REDACTED] in Vietnamese.

2. [REDACTED] is a widowed, fifty-five year old, monolingual Vietnamese speaker. She has been a member of Marin's public housing community since September of 2003. She suffers from both severe depression and post traumatic stress disorder. As a result of these disorders, [REDACTED] experiences low cognitive functioning and memory loss. She benefits from food stamps and the Cash Assistance Program for Immigrants ("CAPI"). This assistance permits

██████████ to successfully act as the primary caregiver to her grandson, ██████████. Over the years, she has received sporadic child support payments to care for her grandson.

In February of 2010, Ms. Pham received a Three Day Notice to Terminate Tenancy from MHA for failure to properly report income. MHA alleged that ██████████ failed to report money received in child support and through CAPI. ██████████ was told at a grievance hearing that she owed \$2,200 in back rent for unreported income. However, attorneys at Legal Aid of Marin recalculated the amount of back rent owed based on the actual amounts of child support received and CAPI monthly payments, and determined that the amount owed was significantly less. Working together with Fair Housing of Marin, ██████████ made a reasonable accommodation request that she be able to repay recalculated back rent in monthly installments. The Legal Aid of Marin attorney made the argument that because of ██████████ cognitive disabilities, and the lack of translated documents sent to ██████████ about the income reporting procedures, ██████████ should be given this reasonable accommodation. After looking in ██████████ MHA file, it was clear that she was at an extreme disadvantage because none of the communication from MHA to ██████████ was translated into her primary language. MHA also never provided verbal interpretation services for ██████████

Eventually ██████████ attended a formal hearing to further discuss the reasonable accommodation, request for language assistance and the payment plan for back rent owed. At the formal hearing, the Vietnamese translator was 45 minutes late, so those in attendance were subjected to communication through a remote translator via speaker phone. Today ██████████ is still in the process of negotiating a payment plan for back rent owed so that she is not evicted. Had MHA followed LEP guidelines and provided ██████████ with translated documents or explanations interpreted into her primary language, she might not have had this six month period of uncertainty, confusion, and stress.

3. ██████████ came to Legal Aid of Marin through a referral made by the Marin Asian Advocacy Project. ██████████ does not speak or read English proficiently. He is a Section 8 voucher holder. He timely turned in all his paperwork for annual recertification just the past month. All of the recertification documents were in English and he was unaware that he could receive documents or explanations in Vietnamese. No one at MHA had ever spoken Vietnamese

to him. [REDACTED] regularly went to the Marin Asian Advocacy Project for guidance and at the MHA's suggestion, relied on family members for assistance with interpretation and translation.

After turning in the recertification paperwork, [REDACTED] was contacted to come into the MHA office for a meeting. [REDACTED] took his son as an interpreter as he had become accustomed to doing so out of necessity. The MHA explained that [REDACTED] needed to sign a stipulated repayment agreement because he misstated his income the previous year and had to make up payments for the previous year's understatement. His son did not provide a very good interpretation of the problem and only encouraged [REDACTED] to sign the agreement so that he could keep his voucher. [REDACTED], confused about why his son was telling him to sign an agreement to pay money to the MHA in addition to his rent, refused to sign the document at that time and sought assistance from the Marin Asian Advocacy Project and Legal Aid of Marin.

Legal Aid of Marin explained the law and the proposed agreement to [REDACTED]. Understanding the explanation provided by Legal Aid of Marin and Marin Asian Advocacy, [REDACTED] reviewed his paperwork and realized he had made an error in the previous year's paperwork. Despite Legal Aid of Marin's request, the MHA did not provide a copy of the repayment plan in Vietnamese. A translator from the Marin Asian Advocacy Project verbally explained the agreement to [REDACTED] in Vietnamese. [REDACTED] signed it without the benefit of being able to read it or have a copy that he could understand to keep for his reference. He was afraid that asking for an LEP accommodation could put his Section 8 housing subsidy at risk. The MHA still refuses to send [REDACTED] documents in Vietnamese and he still relies on his family members and the Marin Asian Advocacy Project to translate documents and interpret during MHA meetings.

4. [REDACTED] has held a Section 8 voucher for 4 years. Her husband was injured earlier this year and they received workers' compensation for a few months. It has been a number of years since she has received explanation of the rules including the requirement that she report changes of income immediately upon their happening. She failed to report her husband's receipt of workers' compensation and the resulting decrease in income. Last month she completed her annual recertification and her rent was decreased as a result of her husband's decreased income. When she asked about being reimbursed for the previous months when her husband was receiving only workers' compensation, when they had been paying the higher rent amount, she was told that it was her responsibility to report that decrease immediately in order to get a timely decrease in the rent amount. She protested that she never knew the rule because it

had not been explained to her in Vietnamese. Legal Aid of Marin and the Marin Asian Advocacy Project are currently helping her to request a hearing on this matter.

Standing:

As a direct result of the MHA's violation of Title VI of the Civil Rights Act of 1964 and HUD guidance requiring interpretation and translation services for Limited English Proficiency residents of Marin, LEP residents seek services from Legal Aid of Marin and/or the Marin Asian Advocacy Project at a greater rate than would be necessary if MHA was providing services as legally required. Staff attorney and legal assistant hours are spent educating, advising, negotiating, drafting letters and formulating agreements with the MHA. However, confusion, mistakes and disputes still arise as a result of misunderstandings between the MHA and LEP residents. There is a continual demand for the legal services Legal Aid of Marin provides in Marin County. As a result of directing our staff's hours to these matters, we often prioritize MHA matters over other individuals in Marin who need legal advice and assistance. Finally, despite our requesting that translated documents be provided for LEP residents who interact with the MHA, we have been told that at the end of our advocacy, documents continue to be sent in English only and the clients are still encouraged to bring family members to interpret and to find someone outside the organization to translate their documents. This constitutes an ongoing violation.

Havens Realty Corporation et al. v. Sylvia Coleman (455 U.S. 363, 102 S.Ct. 1114)) affirms that an organization has standing to bring a claim under the Fair Housing Act if they have suffered a diversion of resources or a frustration of purpose. Legal Aid of Marin, by providing assistance to people who encounter legal problems or homelessness as a result of their language needs not being met by the MHA, is unable to provide the same level of services for others in the community. The time spent on encouraging and cajoling the MHA to follow HUD guidance on LEP issues keeps our attorneys and staff from taking on other projects. The Marin Asian Advocacy Project has translated countless documents and spent a significant number of hours interpreting during interviews, hearings and meetings at the MHA without compensation. Staff members of the Marin Asian Advocacy Project who spend their time translating and interpreting for the MHA cannot work on other pressing matters.

Discussion

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, ("Title VI") mandates that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." In not providing language assistance to Limited English Proficiency residents, specifically, the monolingual Vietnamese speakers of Marin County, the MHA is discriminating against them by limiting and disrupting their participation in the Public Housing and Subsidized Housing programs on the basis of race and national origin.

Under HUD LEP Final Guidance (72 FR 2732) , written translation of vital documents should be provided for any LEP language group that constitutes 1,000 persons or 5% of the population that the recipient is intended to serve. The LEP Vietnamese population in Marin County was 2,102 people when recorded by the American Community Survey in 2008. The Final Guidance states that oral interpretation must be provided regardless of the size of the population. At a minimum, the recipient should provide written notice in the group's primary language of the right to receive competent oral interpretation of vital documents, free of charge.

Requested Relief

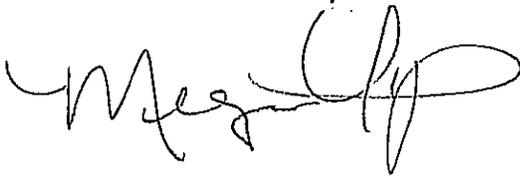
Legal Aid of Marin and the Marin Asian Advocacy Project request that HUD investigate these complaints as they are violations of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) which prohibit discrimination on the basis of national origin. Executive order 13166 makes it clear that federal agencies must be language accessible.

In each of these clients' cases, vital documents were not translated into Vietnamese and Vietnamese interpretation services were not provided by the MHA despite the LEP status of the residents being evident and requests for assistance made. The Marin Asian Advocacy Project and Legal Aid of Marin therefore were required to provide interpretation and translation services as well as legal advice and assistance.

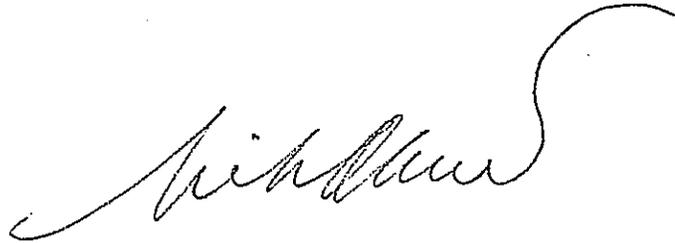
Vital documents are still not being translated into Vietnamese. Neither Vietnamese interpreters nor a reliable Vietnamese interpretation language line is made available for Vietnamese residents who need to seek assistance or make inquiries of the MHA staff.

Vietnamese-speaking tenants are often told that they need to bring their own interpreter for annual review meetings, hearings or if they want to make an inquiry at the office. The MHA has failed to provide either a language access plan or protocols for assisting LEP residents upon request. This has prevented the Marin Asian Advocacy Project or Legal Aid of Marin from properly educating the public or our own LEP clients on how to effectively request assistance in Vietnamese from the MHA.

Dated: 10/27/10



Megan Yip, Staff Attorney
Legal Aid of Marin
30 N San Pedro Rd. Suite 220
San Rafael, CA 94903
415-492-0230



Vinh Luu, Director
Marin Asian Advocacy Project
30 N San Pedro Rd. Suite 290
San Rafael, CA 94903
415-491-9677



Pacoima Office
(818) 492-5242

May 19, 2015

VIA FACSIMILE TO AND U.S. FIRST CLASS MAIL

Matthew J. Hogan
Dennis P. Block & Associates
5437 Laurel Canyon Blvd.,
2nd Floor
Valley Village, CA 91607
Fax (323) 938-6069

Re: [REDACTED]; Property
Address: [REDACTED], Apt 2, North Hollywood, CA 91605.

Dear Mr. Hogan:

This office is assisting Mr. J [REDACTED] who lives in the property address listed above. I am writing this letter to request a reasonable accommodation on behalf of Mr. T [REDACTED]. Mr. T [REDACTED] is an individual with a disability under state and federal fair housing laws. As such, Mr. T [REDACTED] is entitled to a reasonable accommodation to gain equal use and enjoyment of his dwelling. *Giebler v. M & B Associates* (9th Cir. 2003) 343 F.3d 1143, 1155; *Auburn Woods I Homeowners Assoc. v. Fair Employ'm't and Housing Comm'n* (2004) 121 Cal.App.4th 1578, 1592.

On or about June 9, 2010, your client served Mr. T [REDACTED] with a 3 Day Notice to Perform Conditions and Covenants or Quit ("Notice") for alleged damages in the unit. The Notice stated that Mr. T [REDACTED] must, within three days after service of the Notice, repair six items listed on the Notice or deliver possession of the premises. Due to his disability, specifically **Attention-Deficit Hyperactivity Disorder (ADHD)**, Mr. T [REDACTED] was unable to complete all the repairs listed on the Notice within the three days allotted. Specifically, Mr. T [REDACTED]' ADHD causes him to have trouble focusing and organizing which resulted in a delay in making the necessary repairs.

ADMINISTRATIVE OFFICE
1102 East Chevy Chase Drive
Glendale, CA 91205
Fax: (818) 291-1790

EL MONTE OFFICE
9354 Telstar Ave El Monte
El Monte, CA 91731
Fax: (626) 307-3650

GLENDALE OFFICE
1104 East Chevy Chase Dr.
Glendale, CA 91205
Fax (818) 291-1795

PACOIMA OFFICE
13327 Van Nuys Blvd
Pacoima, CA 91331
Fax (818) 896-6647

TEL: (800) 433-6251

This letter hereby serves as both, **notice** to the landlord of Defendant's mental disability and a request that Plaintiff engage in interactive discussions with Mr. T [REDACTED] to reasonably accommodate his disability, as required by state and federal law. Cited below are some of the relevant sections of the federal and state laws that inform you of your obligations towards Mr. T [REDACTED].

The Federal Fair Housing Act ("FHA") provides in relevant part:

[It] shall be unlawful—

- (1) To discriminate in the...rental, or to otherwise make unavailable or deny, a dwelling to any...renter because of a handicap of that ...renter,...or any person associated with that ...renter.
- (2) To discriminate against any person in the terms, conditions, or privileges of... rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; or...any person associated with that person.
- (3) For purposes of this subsection, discrimination includes...a *refusal to make reasonable accommodations* in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3) (emphasis added).

The California Fair Employment and Housing Act ("FEHA") states:

It shall be unlawful:

- (a) For the owner of any housing accommodation to discriminate against or harass any person because of the ... disability of that person.
- (c) For any person to make...or cause to be made... any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on ... disability or an intention to make that preference, limitation, or discrimination.

Cal. Gov. Code § 12955(a) and (c).

ADMINISTRATIVE OFFICE
1102 East Chevy Chase Drive
Glendale, CA 91205
Fax: (818) 291-1790

EL MONTE OFFICE
9354 Telstar Ave El Monte
El Monte, CA 91731
Fax (626) 307-3650

GLENDAL OFFICE
1104 East Chevy Chase Dr.
Glendale, CA 91205
Fax (818) 291-1795

PACOIMA OFFICE
13327 Van Nuys Blvd
Pacoima, CA 91331
Fax (818) 896-6647

TEL: (800) 433-6251

Unruh Civil Rights Act provides:

(b)(1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons...

(b)(3)(B) Any person renting, leasing, or otherwise providing real property for compensation shall not *refuse to make reasonable accommodations* in rules, policies, practices, or services, when those accommodations may be necessary to afford individuals with a disability equal opportunity to use and enjoy the premises.

Cal. Civ. Code § 54.1(b)(1) and (b)(3)(B) (emphasis added).

Therefore, I respectfully request that you reasonably accommodate Mr. T [REDACTED]' disability by extending the compliance period on the Three Day Notice to Quit until **July 12, 2010**, the period allotted to him by the Housing Authority of the City of Los Angeles to make the repairs listed on the Notice. *See Attached-Notice of Extension of Inspection*, dated June 8, 2010. I also request that you **dismiss** the unlawful detainer action against Mr. T [REDACTED] as he will have complied with the Notice. Please contact me should you wish to discuss this matter further. Thank you for your anticipated cooperation.

Sincerely,

Maria Palomares
Neighborhood Legal Services
Housing Unit
Staff Attorney

ADMINISTRATIVE OFFICE
1102 East Chevy Chase Drive
Glendale, CA 91205
Fax: (818) 291-1790

EL MONTE OFFICE
9354 Telstar Ave El Monte
El Monte, CA 91731
Fax (626) 307-3650

GLENDALE OFFICE
1104 East Chevy Chase Dr.
Glendale, CA 91205
Fax (818) 291-1795

PACOIMA OFFICE
13327 Van Nuys Blvd
Pacoima, CA 91331
Fax (818) 896-6647

TEL: (800) 433-6251