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**WOMEN VETERANS MUST HAVE EQUAL ACCESS TO VETERAN-ONLY PERMANENT HOUSING FACILITIES UNDER THE FAIR HOUSING LAWS**

**Executive Summary**

Veteran-only supportive housing facilities are intended to couple access to medical and social services with permanent housing solutions, serving an essential function in helping veterans who have encountered difficulty adjusting to civilian life get back on their feet. Many veterans are confronted with mental and physical health issues resulting from their military service. For example, many women veterans who were the victims of military sexual trauma (MST) suffer from PTSD and other related disabilities. Supportive housing is intended to serve all veterans and to accommodate and serve veterans with disabilities, among others.

Women veterans, however, are deterred from seeking veteran-only housing or are effectively being denied equal opportunity to use and enjoy such facilities because of conditions such as MST-related PTSD. These disabilities are exacerbated when women veterans who suffered MST are required to live in an environment that triggers their experience of being in the male-dominated military where they were assaulted or harassed. Women veterans have legitimate concerns about their mental and physical well-being living in such facilities because veteran-only housing providers fail to make gender-specific accommodations for MST-related disabilities.

An important tenet of fair housing laws is that policies and practices – even those that are neutral and longstanding – must be modified in certain circumstances to accommodate the needs of residents with disabilities. To accommodate MST-related disabilities, veteran-only housing providers should offer women veterans the option of separate housing.

- At existing facilities, policies should be modified to permit women to be housed together on separate floors, or in separate wings or buildings.
- Housing developers seeking Prop 41 funds to develop new facilities should not be granted access to such funds unless they commit to providing appropriate health and safety accommodations for women veterans, including the option of separate housing.

The refusal of veteran-only permanent housing providers to make reasonable gender-specific safety and residential accommodations for MST-

related disabilities constitutes discrimination under the fair housing laws. Providing such reasonable accommodations, including separate housing for women veterans, responds to *bona fide* disability-based needs and, therefore, does not offend other nondiscrimination provisions of those laws. The option of separate housing at both existing and new veteran-only housing facilities would help provide women veterans with MST-related disabilities equal opportunity to use and enjoy those facilities. And when coupled with additional security measures that address safety concerns more generally, housing providers may meet their obligation to provide safe housing to all veterans.

### **Women Veterans Who Suffer From Military Sexual Trauma Related PTSD and Other Disabilities Face An Impossible Choice Concerning Veteran-Only Housing**

Women who were assaulted, raped or sexually harassed during their service (termed Military Sexual Trauma or MST), suffer the mental effects of those experiences years after leaving the military.<sup>1</sup> A significant portion of female veterans have suffered MST.<sup>2</sup> The particularly devastating impact of MST is well documented. MST has been found to be more traumatic and debilitating than sexual assaults in the civilian context.<sup>3</sup> Victims of MST are at high risk for a variety of psychological, physical and social problems. This includes a higher risk of developing PTSD and suffering its attendant effects. MST is more likely to lead to PTSD than even combat exposure, and MST victims are nine times more likely to exhibit PTSD symptoms than those who have not been sexually assaulted.<sup>4</sup>

MST can also lead to, among other consequences, severe depression, anger management issues, difficulties with attention, concentration and memory, difficulties in forming and maintaining relationships, and physical health problems.<sup>5</sup> Victims of MST may even face an increased risk for subsequent sexual assaults and violence.<sup>6</sup> Importantly, women who are MST

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<sup>1</sup> See *Mental Health: Military Sexual Trauma*, Department of Veterans Affairs, available at <http://www.mentalhealth.va.gov/msthome.asp> (last visited Aug. 21, 2014).

<sup>2</sup> The VA's national screening program reported that about 1 in 4 women respond that they experienced MST when screened by their VA provider. *Id.* at MST Fact Sheet, available at [http://www.mentalhealth.va.gov/docs/mst\\_general\\_factsheet.pdf](http://www.mentalhealth.va.gov/docs/mst_general_factsheet.pdf). As the VA notes, this data reflects only the rate of MST among veterans who have chosen to seek VA health care, and only among those who have chosen to report it. The true number of women veterans who have suffered MST, therefore, is likely even higher.

<sup>3</sup> Department of Veterans Affairs, Office of Inspector General, *Inpatient and Residential Programs For Female Veterans with Mental Health Conditions Related to Military Sexual Trauma*, 12-03399054, at 3 (Dec. 5, 2012) (hereinafter OIG Residential Programs Report), available at <http://www.va.gov/oig/pubs/VAOIG-12-03399-54.pdf> ("MST research has found that female veterans with a history of MST have different, and more severe, residual MH symptoms than other (civilian) females who have been sexually assaulted.").

<sup>4</sup> National Center Report, at 12 (citing Suris et al., *Sexual Assault in Women Veterans: An Examination of PTSD Risk, Health Care Utilization, and Cost of Care*, *Psychosomatic Medicine* 66, (2004): 749-756); see also, OIG Residential Programs Report, at 3-4 ("Research on the effects of trauma has found that the experience of rape can be equal to or greater than other stressors, including combat exposure, in the risk of developing PTSD." [sic]).

<sup>5</sup> *Id.*

<sup>6</sup> In fact, female veterans experience sexual assault after their military service at up to 12 times the rate of the general civilian female population. The National Center on Family Homelessness, *Understanding the Experience of*

victims often find it difficult to be in situations that remind them of their experiences of sexual trauma,<sup>7</sup> for example, living in an environment where they are surrounded by men, reminiscent of the extreme gender imbalance that surrounded them during their military service. Women victims of MST are also disproportionately at risk of becoming homeless.<sup>8</sup>

There are special housing facilities that are uniquely tailored to, in fact limited to, veterans who are homeless and have physical and/or mental health disabilities, including PTSD. These facilities can provide critical services and benefits to veterans, including convenient and stable access to essential social, mental health and physical care services that are pivotal to a veteran's successful transition out of homelessness. Women veterans are entitled to an equal opportunity for and access to the housing and social services offered at these veteran-only supportive housing facilities. The residents of these facilities, however, are overwhelmingly male. All of the residents are former members of the military, as are many of those employed to operate and provide services at these facilities. And, incidents of sexual harassment and assault are not uncommon at these and other similar facilities.<sup>9</sup>

Many women veterans who were raped, sexually assaulted or sexually harassed during their military service, therefore, are confronted with a difficult decision in deciding whether to live in permanent veteran housing. Their sexual trauma has left them with PTSD, depression or other psychological disabilities that are exacerbated when they are surrounded by men.<sup>10</sup>

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*Military Families and Their Returning War Fighters: Military Literature and Resource Review*, at 12 (Jan. 2010) (hereinafter National Center Report), available at <http://www.familyhomelessness.org/media/100.pdf> (citing Murdoch, M. et al., *Prevalence of In-Service and Post-Service Sexual Assault Among Combat and Noncombat Veterans Applying for Department of Veterans Affairs Posttraumatic Stress Disorder Disability Benefits*, *Military Medicine*, 169(5), (2004): 392-395.).

<sup>7</sup> *Supra*, note 1.

<sup>8</sup> Government Accountability Office, *Homeless Women Veterans: Actions Needed to Ensure Safe and Appropriate Housing*, GAO-12-182, at fn. 1 (Dec. 2011) (hereinafter 2011 GAO Homeless Report), available at <http://www.gao.gov/assets/590/587334.pdf> (citing Washington, D. et al., "Risk Factors for Homelessness Among Women Veterans," *Journal of Health Care for the Poor and Underserved*, 21(1), (2010): 82-91).

<sup>9</sup> Sexual harassment and assaults of women veterans in mixed-gender *transitional* housing facilities have been documented in a number of reports. See, e.g., 2011 GAO Homeless report, at 5 (nine of the 142 housing programs surveyed indicated that there had been reported incidents of sexual harassment or assault on women residents in the past five years); OIG Audit of Homeless Providers, at 3-4, 6 (unprofessional behavior, sexual harassment and assault of female veteran residents); VA Office of Inspector General, Office of Audits and Evaluations, *Safety, Security, and Privacy for Female Veterans at a Chicago, IL Homeless Grant Provider Facility*, 11-00334-267, at 2 (Sept. 6, 2011) (hereinafter OIG Audit of Chicago Provider), available at <http://www.va.gov/oig/52/reports/2011/VAOIG-11-00334-267.pdf> (substantiated claims of sexual harassment of female residents by facility staff).

<sup>10</sup> See, e.g., VA Office of Inspector General, Office of Audits and Evaluations, *Audit of the Homeless Providers Grant and Per Diem Program*, 11-00334-115, at 3 (March 12, 2012) (hereinafter OIG Audit of Homeless Providers), available at <http://www.va.gov/oig/pubs/VAOIG-11-00334-115.pdf> (according to a study, "multi-gender living arrangements can present risks of sexual harassment and assault to women and can invite perpetrator-victim relationships."); U.S. Department of Labor, Women's Bureau, *Homeless Women Veterans Listening Sessions*, available at [www.dol.gov/wb/programs/listeningsessions.htm](http://www.dol.gov/wb/programs/listeningsessions.htm) (during multi-state listening sessions, the U.S. Department of Labor heard from women veterans who emphasized the importance and need for "sex-segregated residential centers staffed by qualified individuals who are sensitive to the female veteran culture. Women, especially those with a history of MST and domestic violence, report feeling more secure and comfortable in a female-only environment."); Osborne, V.A. et al., "Psychosocial Effects of Trauma on Military Women Serving in the National Guard and Reserves," *Advances in Social Work*, Vol. 13, No. 1, (Spring 2012): 166-184, at 175

Existing veteran-only permanent housing facilities typically do not provide separate housing for women veterans and often fail sufficiently to address basic safety and security needs of women veterans. Without gender-specific safety accommodations, including the option to select separate housing some women veterans are deterred – therefore, effectively excluded – from living in these facilities due to legitimate health, safety and psychological concerns directly related to their disabilities.<sup>11</sup> For women veterans who, rather than remain homeless, choose to live in such facilities, they may suffer anxiety, stress, and have their MST-related psychological issues regularly triggered and resurface because these facilities require them constantly to be in the male-dominated environment reminiscent of the environment in which they suffered sexual traumas. Women veteran residents may also regularly endure unwanted sexual attention or harassment, and in some cases, sexual assault. In either case, these veterans suffer and will continue to suffer whether they remain homeless or opt to live in veteran-only housing unless gender-specific accommodations are implemented to address their MST-related disabilities and specific needs.

### **Appropriate Policies and Measures, Including the Options of Separate Housing, Should Be Required at Veteran-Only Housing Facilities to Accommodate Women Veterans’ MST-Related Disabilities**

To accommodate the needs of women veterans with disabilities as a result of MST, it is incumbent on veteran-only housing providers to provide the option of separate housing for women veterans. The option of separate housing will avoid forcing women veterans to live in housing units literally surrounded by male veterans. Providing separate housing will give homeless women veterans with disabilities as a result of MST something other than the Hobson’s choice of avoiding veteran-only housing facilities altogether, or choosing to live at such a facility at great risk of further physical and psychological harm.

Effecting separate housing solutions at existing facilities can be flexible depending on the configuration of those facilities. For an existing facility to offer separate housing may require as little as designating a hallway, floor or wing as women-only and implementing appropriate security measures, such as key card readers and separate entrances, to ensure that access to the hallway or wing is granted only to female residents and approved staff.

At existing facilities, “first-come, first-serve” assignment policies also need to be modified. Currently, veteran-only housing facilities assign residents to empty housing units on a “first-come, first-served” basis with no pre-determined strategy or placement plan that accommodates the health and safety needs of women veterans, particularly those with disabilities

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(citation omitted) (female veterans with PTSD reported that “women-centered treatment was the most important factor contributing to their comfort with VA services.”).

<sup>11</sup> A number of reports have discussed how safety and security concerns preclude women veterans from accessing needed housing supports. *See, e.g.*, 2011 GAO Homeless Report, at 5. (safety concerns was one of the four “significant barriers” cited by homeless women veterans as a barrier to accessing housing); California Research Bureau, *California’s Women Veterans: The Challenges and Needs of Those Who Serve* (March 2010), available at [www.library.ca.gov/crb/09/09-009.pdf](http://www.library.ca.gov/crb/09/09-009.pdf) (homeless women veterans reported being fearful when placed with men in shelter or other housing environments); Department of Veterans Affairs, Office of Inspector General, *Audit of the Veterans Health Administration’s Domiciliary Safety, Security, and Privacy*, 08-01030-05, at 2 (Oct. 9, 2008) (hereinafter *Audit of Veteran’s Health Administration*), available at <http://www.va.gov/oig/52/reports/2009/VAOIG-08-01030-05.pdf> (where female veterans, who made up about four percent of the population, “often felt intimidated in the predominately male facilities and were concerned for their safety”).

as a result of MST-related PTSD. Assignment policies should be modified to allow women veterans to select separate housing.

A requirement for the option of separate housing also needs to be imposed on developers seeking state funds for new supportive housing facilities for veterans. California's Proposition 41, approved by voters in June of 2014, enacted the Veterans Housing and Homeless Prevention Bond Act of 2014.<sup>12</sup> The Act recognizes that veterans have higher rates of PTSD, substance abuse, and unemployment and often cycle in and out of jails, hospitals, and treatment programs. The Act also acknowledges the "higher incidence[s] of sexual trauma experienced by our female veterans."<sup>13</sup> In an effort to ameliorate these problems, the Act authorizes \$600 million in bonds for affordable, multifamily supportive housing for low-income and homeless veterans.<sup>14</sup>

Supportive housing developers planning or building new facilities funded pursuant to Proposition 41 should receive these bond funds only if they commit to providing gender-specific safety accommodations for women veterans, including the option to select separate housing. Given the MST-related disabilities many women veterans endure, permitting women veterans the option to be housed separately from their male counterparts is a necessary step to ensuring that these women have equal access to safe and supportive housing, thereby furthering the Act's stated goal of providing supportive housing for homeless veterans while directly addressing the "higher incidence[s] of sexual trauma experienced by our female veterans."

Obviously making available the option of separate housing does not fully satisfy a veteran housing facility's obligations to its women residents. Housing providers should mandate a minimum level of training for staff, not only regarding sexual harassment, but also for disability sensitivity training concerning PTSD and other disabilities resulting from MST. Supportive housing providers should make available female-only support groups, and should address other basic safety concerns for a facility's women residents. Housing facilities should have female security guards and staff on-site and available to assist female veteran residents as needed, and should provide adequate security and lighting on the property. The adequacy of these basic measures may be assessed on a facility by facility basis, but they cannot be disregarded.

### **The Failure of Housing Providers To Grant Equal Access To Veteran-Only Permanent Housing To Women Veterans With Disabilities As a Result of Military Sexual Trauma Constitutes Disability Discrimination**

#### Failure To Reasonably Accommodate MST-related Disabilities Is Unlawful Housing Discrimination

Both federal and state law prohibits discrimination in housing, including discrimination based on disability. For example, the federal Fair Housing Act and its amendments (the "FHA") were enacted to provide for fair housing throughout the United States.<sup>15</sup> The FHA has a broad

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<sup>12</sup> Cal. Mil. & Vet. Code § 998.540 *et seq.*

<sup>13</sup> Cal. Mil. & Vet. Code § 998.541(d).

<sup>14</sup> Cal. Mil. & Vet. Code § 998.541(j).

<sup>15</sup> 42 U.S.C. § 3601.

reach and encompasses the owner, operator and manager of any covered property,<sup>16</sup> as well as those involved in the design or construction of covered housing.<sup>17</sup> The FHA has two important tenets: (1) a mandate not to discriminate and (2) an affirmative duty to accommodate the needs of protected classes to ensure that they have equal access to housing facilities.<sup>18</sup> Specifically, the FHA makes it unlawful “[t]o . . . make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin” or “make unavailable or deny, a dwelling to any buyer or renter because of a handicap.”<sup>19</sup> A “handicap,” more commonly referred to as a “disability,”<sup>20</sup> is defined as “a physical or mental impairment which substantially limits one or more of such person’s major life activities.”<sup>21</sup> Mental and emotional illnesses, such as depression and PTSD, qualify as disabilities for purposes of the FHA.<sup>22</sup> Thus, MST victims who suffer from PTSD, depression and other mental health illnesses qualify as “disabled” under the fair housing laws and are entitled to their protections.<sup>23</sup>

The FHA defines discrimination to include the “refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be

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<sup>16</sup> See, e.g., *Clifton Terrace Assoc., Ltd v. United Tech. Corp.*, 929 F.2d 714, 720 (D.C. Cir. 1991); *Reyes v. Fairfield Prop.*, 661 F. Supp. 2d 249, 279 (E.D.N.Y. 2009).

<sup>17</sup> *Baltimore Neighborhoods, Inc. v. Rommel Builders, Inc.*, 3 F. Supp. 2d 661, 665 (D. Md. 1998) (holding that “all participants in the [design and construction] process as a whole” were subject to the FHAA).

<sup>18</sup> *Giebelor*, at 1146-47.

<sup>19</sup> 42 U.S.C. §3604(a), (f)(1).

<sup>20</sup> Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Modifications Under the Fair Housing Act*, at fn. 2 (March 5, 2008) (noting that the term “disability” is “more generally accepted” than the word “handicap”), available at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf).

<sup>21</sup> 42 U.S.C. § 3602(h).

<sup>22</sup> See *Laflamme v. New Horizons, Inc.*, 605 F. Supp. 2d 378, 390 (D. Conn. 2009) (recognizing depression and “suicidal ideation” as disabilities); post-traumatic stress disorder is recognized as a disability under the Americans with Disabilities Act (ADA) and thus also can be recognized as a disability under the FHA. U.S. Department of Justice, Civil Rights Division, Disability Rights Section, ADA: *Know Your Rights: Returning Service Members with Disabilities*, available at [http://www.ada.gov/servicemembers\\_adainfo.html](http://www.ada.gov/servicemembers_adainfo.html) (recognizing PTSD as a disability under the ADA); *Giebelor v. M & B Associates*, 343 F.3d 1143, 1147 (9th Cir. 2003) (recognizing HIV infection as a disability under the FHA because it is categorized as a disability under the ADA).

<sup>23</sup> The analysis under California’s Fair Employment and Housing Act (“FEHA”) is effectively the same. See, e.g., *Auburn Woods I Homeowners Ass’n v. Fair Emp. Housing Comm’n*, 121 Cal. App. 4th 1578, 1590 (2004) (“FEHA in the housing area is thus intended to conform to the general requirements of federal law in the area.”) “Unlawful housing discrimination under FEHA includes the refusal to make reasonable accommodations to afford a disabled person equal opportunity to use and enjoy a dwelling. Cal. Govt. Code § 12927(c)(1). Disability includes any mental or psychological disorder or condition that makes the achievement of a major life activity difficult. *Id.* at § 12926(i)(1)(C). See also *Rodriguez v. Morgan*, No. CV 09-8939-GW, 2012 WL 253867 (C.D. Cal. Jan. 26, 2012) (applying the same reasonable accommodation analysis to both FHA and FEHA claims). Like the FHA, FEHA is to be liberally construed. *Auburn Woods*, 121 Cal. App. 4th at 1590.

necessary to afford [a disabled] person equal opportunity to use and enjoy a dwelling.”<sup>24</sup> A reasonable accommodation is one that is necessary to give a resident an equal opportunity to use and enjoy a dwelling.<sup>25</sup> It is “reasonable” when the requested accommodation imposes neither an undue financial or administrative burden on the housing provider, nor causes a fundamental alteration in the housing provider’s business operation.<sup>26</sup> Such accommodation is “necessary” if, without the accommodation, a person will be denied an equal opportunity to use and enjoy the dwelling.<sup>27</sup> And where the accommodations are both reasonable and necessary to ensure equal access, the FHA requires housing providers to cover the costs of these accommodations.<sup>28</sup>

Female veterans with MST-related disabilities do not currently have equal opportunity to use and enjoy veteran-only housing facilities absent the option of separate housing. Some of these veterans are deterred from utilizing such facilities because of concerns for their mental health and physical safety, and are therefore denied the opportunity to use the facilities altogether. Other women veterans living at such facilities are denied an equal opportunity to use and enjoy them because the veterans end up living in an environment that directly aggravates their disabilities and puts them at heightened risk for further sexual, physical and psychological harm. Providers of such facilities unlawfully discriminate against women veterans suffering from MST-related disabilities when they refuse to make reasonable accommodation for these disabilities.

#### Separate Housing Is a Reasonable And Necessary Accommodation for MST-related Disabilities

The option of separate housing is a reasonable accommodation because it can be implemented on an individual facility basis and does not necessarily require costly or substantial changes to the housing facility’s operations. For example, policy modifications that allow segregated housing options often require only modest adjustments depending on the specific design and structure of the housing facility. In the case of a housing facility comprised of apartment units, the solution could be as simple as designating one hallway or wing of an already-existing building as women-only and implementing other necessary and appropriate security measures, such as key card readers and separate entrances, to ensure that access to the hallway or wing is granted only to female residents. For facilities with multiple buildings, one building could be designated as women-only. In each instance, the accommodation required is largely a change in policy, procedure and planning, with some relatively minor physical modifications. The option of separate housing is necessary because without it, women veterans with disabilities do not have equal access to use and enjoy the housing.

To the extent the accommodation of separate housing appears extraordinary, accommodations that are not reasonable in most cases will be deemed necessary and reasonable

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<sup>24</sup> 42 U.S.C. § 3604(f)(3)(B).

<sup>25</sup> *Giebeler*, at 1147.

<sup>26</sup> *Id.* at 1157.

<sup>27</sup> *Id.* at 1155 (link between offending policy and inability to use or enjoy of dwelling).

<sup>28</sup> *Giebeler*, at 1152-53.

in specific cases if special circumstances so warrant.<sup>29</sup> Special circumstances exist in the context of veteran-only housing and accommodating the disabilities of women veterans with disabilities as a result of MST. Here, the disability to be accommodated is one inflicted on them as a result of their military service. Women veterans with MST-related disabilities are confronted with the unconscionable choice of remaining homeless, or risking their mental health and physical safety by putting themselves in an environment where their disabilities may be routinely aggravated. Moreover, the accommodation sought is not one of convenience, but instead is to protect the mental and physical health and safety of these veterans.

Providing women veterans with the option of separate housing is not discriminatory on the basis of sex under the FHA.<sup>30</sup> Even if this accommodation was construed as facially discriminatory against men, it is permissible because it responds to a legitimate safety concern that is not based on stereotypes.<sup>31</sup> Here, there are legitimate and documented safety concerns for women veterans living in mixed-gender veteran-only housing facilities. For example, as discussed above, women veterans with disabilities as a result of MST face risk of further psychological and physical harm when living in an environment surrounded by men. And safety audits of transitional housing programs for homeless veterans document cases of sexual harassment and assault of female veterans by both staff and fellow residents at various facilities.<sup>32</sup>

Gender-specific safety accommodations, including segregated facilities for women veterans, are also nothing new. In fact, in the transitional housing context (where residents share common living spaces like bathrooms and kitchens), segregation and other security protections are required accommodations to protect women veterans.<sup>33</sup> Notably, transitional housing facilities that want access to “special needs” grants specifically to house women veterans must identify in their application how their program will “[a]ddress safety and security issues including segregation from other program participants if deemed appropriate.”<sup>34</sup> As discussed above, safety and health risks that threaten women veterans in transitional housing facilities are

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<sup>29</sup> See *Barnett*, at 405-06 (if the plaintiff cannot make the initial showing that the requested accommodation is reasonable in the run of cases, he “nonetheless remains free to show that special circumstances warrant a finding that . . . the requested ‘accommodation’ is ‘reasonable’ on the particular facts.”).

<sup>30</sup> The FHA also covers sex discrimination. See 42 U.S.C. §3604(a) (making it illegal “[t]o . . . make unavailable or deny, a dwelling to any person because of . . . sex.”).

<sup>31</sup> *Community House, Inc. v. City of Boise*, 490 F.3d 1041, 1050 (9th Cir. 2007) (facial discrimination is permissible if the restriction benefits the protected class or responds to legitimate safety concerns not based on stereotypes).

<sup>32</sup> See fn. 15 and 16.

<sup>33</sup> See, e.g., OIG Audit of Homeless Providers, at 3, (OIG recently noted that “multi-gender living arrangements can present risks of sexual harassment and assault to women and can invite perpetrator-victim relationships.”); OIG Audit of Chicago Provider, at 3 (VA Office of the Inspector General found that housing male and female residents (in transitional housing facilities), without some form of sex-segregation, such as placement on separate floors, was a risk that created an “inappropriate housing condition.”); Audit of Veteran’s Health Administration, at 8-10 (VA Office of the Inspector General concluded that because the majority of veterans in domiciliaries are male, the lack of specific policy requirements for safety, security, and privacy that are unique to female veterans “increases the risk of harm to this population.”).

<sup>34</sup> 38 C.F.R. § 61.41.



also present in veteran-only permanent housing facilities, particularly for women with MST-related disabilities, and require gender-specific safety accommodations as well.

Other measures can further help to protect disabled women veterans and increase utilization of these facilities. Disability sensitivity training that includes training on MST-related disabilities should be mandated for facility staff to further help protect disabled women veterans. While not a housing accommodation, women-only support groups also should be made available so that women are comfortable attending and participating in such groups.

### Veteran-Only Housing Providers Should Implement Basic Safety Measures

Veteran-only housing providers should create and maintain a safe environment that is free from sexual harassment and assault. Even if accommodations are implemented so that facilities are more fully utilized by female veterans, women veterans will remain in the extreme minority, simply owing to the numbers of men and women in the military generally. This gender imbalance, coupled with reports of harassment and assault at mixed-gender housing facilities, should compel providers to institute basic safety measures. These could include, but should not be limited to adequate lighting; training of their staff concerning sexual harassment (in addition to disability sensitivity training noted above); female security guards should be on premises and available as escorts, or in attendance when addressing any security issue involving a female resident; and staff (including guards) should be readily identifiable by name tag so that they can be readily identified in the event of any untoward behavior. Such measures would generally benefit both male and female residents equally, and will ensure that the facilities are fulfilling their purpose as supportive housing for all veterans.

## **Conclusion**

Lack of safe and supportive housing is a problem for all veterans, but particularly so for women veterans. In a 2012 report, the VA and HUD found that while overall homelessness among veterans is declining, the number of homeless women veterans is *increasing*.<sup>35</sup> The report found that “women veterans are the fastest growing segment of the homeless population and are at a higher risk of homelessness than their male counterparts.”<sup>36</sup> Other studies also have documented the higher risk of homelessness among women veterans.<sup>37</sup> In California, over 80 percent of women veterans recently surveyed reported that they were either currently homeless,

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<sup>35</sup> Department of Veterans Affairs, Women Veterans Task Force, *2012 Report Strategies for Serving Our Women Veterans*, at 6 (May 1, 2012), available at [http://www.va.gov/opa/publications/Draft\\_2012\\_Women-Veterans\\_StrategicPlan.pdf](http://www.va.gov/opa/publications/Draft_2012_Women-Veterans_StrategicPlan.pdf).

<sup>36</sup> *Id.*

<sup>37</sup> 2011 GAO Homeless Report, at 3 (found that female veterans who were identified as homeless by the VA more than doubled, increasing by more than 140 percent from 2006 to 2010. This compares to a 45 percent increase for male veterans during the same time frame). Note: the data represents only those homeless veterans identified by the VA, and are not generalizable to the population of homeless women veterans; The U.S. Department of Housing and Urban Development, *The 2011 Annual Homeless Assessment Report to Congress*, at 56 (November 2012), available at [https://www.hudexchange.info/resources/documents/2011AHAR\\_FinalReport.pdf](https://www.hudexchange.info/resources/documents/2011AHAR_FinalReport.pdf) (“The higher risk of homelessness among female veterans was highlighted in past AHAR Veteran reports and appears to be confirmed by the 2011 estimates.”).

experienced homelessness at some point since their most recent separation, or experienced some form of housing instability.<sup>38</sup>

The higher risk and incidence of homelessness among women veterans is exacerbated by the fact that current supportive housing facilities specifically targeted for homeless veterans fail to accommodate the needs of women veterans, particularly those with MST-related disabilities. Further, there are currently no gender-specific safety or security measures required to address one of the main barriers preventing homeless women veterans from accessing veteran-only facilities – safety. Under the Fair Housing Act, women veterans disabled by MST-related PTSD must be provided with gender-specific health and safety accommodations that are reasonable and necessary to ensure that they have equal access to veteran-only supportive housing facilities. This includes the option to access segregated housing facilities and services. Similarly, Proposition 41 money must be used to build new safe and supportive housing facilities that accommodate the health and safety needs of women veterans, particularly those suffering from MST-related disabilities.

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<sup>38</sup> California Research Bureau, California State Library, *California's Women Veterans Responses to the 2013 Survey*, at 19-20 (September 2014), available at <http://www.library.ca.gov/crb/14/14-002.pdf>.