



NAACP

HOUSING TOOLKIT:

EVICITION
MORATORIUM
EXPIRATION

2021



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INTRODUCTION

NAACP FAMILY AND VOLUNTEERS,

As many of you know the CDC moratorium on evicting persons from rental properties during the pandemic is expiring this Saturday. Some states, communities or courts have various plans in place to also protect renters and even some to help those who are in arrearage on mortgage payments, so we encourage everyone to be aware of what alternatives are available in your area. The NAACP is concerned about all persons who are subject to eviction or home foreclosure and wanted to provide each of you with some helpful information because more than likely many of you will receive requests for assistance.

Included in this packet is a substantive one-pager prepared by attorneys Joe Schottenfeld and Martina Tiku working under Interim General Counsel Janet McCarthy-Wallace in consultation with members of our National Housing Committee and Dawn Chase from our national office staff. There is a great deal of information you will find in this letter, including links to resources that might help. The resources include but are not limited to a letter from the Department of Justice and Vanita Gupta seeking to provide helpful assistance, links to the Treasury Department index to locate monies available to assist those in need of housing or housing-related assistance, a list of legal services corporations who may be able to provide guidance to attorneys or tenants who are in need of assistance in these matters and a copy of a complaint form and a handbook for any who believe that such matters might involve illegal housing discrimination.

In the coming days we hope to provide you more information
And hope these resources will be helpful to you.

Sincerely,

Gary

Gary Bledsoe
Chair, NAACP Housing
Committee



KNOW YOUR RIGHTS.

The federal eviction moratorium is slated to end on July 31, 2021. When that happens, millions of tenants—a disproportionate number of whom are Black—will be at risk of eviction. There are significant forms of assistance that NAACP state conferences, units, and members can provide to those in need:

01

Help your neighbor – connect tenants to rental and utility assistance and legal representation

Although the federal eviction moratorium is lifting, there is an unprecedented amount of rental and utility assistance available to tenants who have fallen behind on their rent. This funding, which the federal government has provided through the Department of Treasury's Emergency Rental Assistance Program, can cover up to 12-months of rent and utilities. Please tell individuals who are behind on their rent or utilities, or who are concerned that they will be behind on their rent or utilities, to go to the [Treasury Department index](#) or to call 2-1-1 to find their rental and utility assistance program. Tenants may also consult [LegalFaq.org](#) for additional local resources.

Tenants who are at risk of eviction should seek legal representation as soon as possible. A lawyer can help a tenant raise proper defenses in court and potentially request more time for while their application for financial assistance is processing. Tenants who have an eviction action can reach out to their local legal services provider or a local eviction defense program. To find local legal services, visit the national [Legal Services Corporation's database](#).



02 Change the game – develop eviction diversion programs and conduct statewide advocacy

In addition to direct federal funding for tenants, the recent stimulus packages also contained funding for local and state-wide “eviction diversion programs.” These programs provide an off-ramp for potentially unnecessary evictions. Cities including [Memphis, TN](#), [Louisville, KY](#), and [Portland, OR](#) have recently adopted their own forms of diversion programs. Engage with and encourage local courts and towns to adopt a variant of these programs to limit evictions.

The federal government has also issued guidance to state courts about evictions following the end of the eviction moratorium. Engage with your local courts to ensure that they are making best efforts to follow this guidance—and are ensuring tenants have an opportunity to present a defense to their eviction and are granting continuances as widely as possible for those with pending funding applications.

03 Stop discrimination – prevent discriminatory evictions and unlawful landlord actions

As landlords are once again able to evict tenants for non-payment of rent, we expect that some landlords will discriminatorily target renters of color for eviction. Ensure tenants and landlords fully understand the Fair Housing Act bars evictions or eviction-related practices discriminating on the basis of race or any other protected characteristic. If a landlord discriminates in any way, please fill in [this complaint form](#) or contact local legal services or the NAACP’s Office of General Counsel as soon as possible.



U.S. Department of Justice

Office of the Associate Attorney General

The Associate Attorney General

Washington, D.C. 20530

Thursday, June 24, 2021

Dear Chief Justice/State Court Administrator:

The COVID-19 pandemic has exacerbated a housing crisis across the United States. The crisis may be most urgent for renters, millions of whom are behind on rent. According to [recent estimates](#) by the Department of Housing and Urban Development (HUD), over 6 million renter households are behind on rent. More than 40% of adult renters who say they are behind on rent believe they will be evicted from their homes in the next two months. As the public health crisis recedes in the months ahead, and federal and state eviction moratoria begin to lapse, eviction filings are expected to overwhelm courts across the country.¹

Studies show that women and people of color will be disproportionately affected. Women, particularly Black and Latina women, are evicted at higher rates than men.² This disparity has persisted through the pandemic as Black, Latino, and Asian families report that they are behind on rent at roughly double the rate of white families.³

As evictions filings increase, there are a number of steps that state and local courts could take to keep families in their homes while protecting landlords' rights. Simply providing additional time to forestall evictions will make a critical difference. Congress has appropriated approximately \$46.5 billion in emergency rental assistance, which is being distributed to states, counties, cities, and tribes to keep families in their homes.

I am writing to encourage you to consider eviction diversion strategies that can help families avoid the disruption and damage that evictions cause and point to federal resources that can help courts navigate this crisis. Courts should consider taking the following steps right now to raise awareness of rental assistance and allow litigants additional time to obtain these funds:

- **Require landlords to apply for rental assistance before filing:** Many landlords may not be aware that they are eligible for the \$46.5 billion in emergency rental assistance Congress has appropriated. Courts could issue a temporary administrative order that requires landlords to apply for rental assistance prior to filing for eviction for nonpayment of rent, and which allows sufficient time for processing those applications. In Philadelphia, the Municipal Court issued an [order](#) requiring landlords to apply for rental assistance 45 days before filing a complaint.
- **Extend time in pending cases:** For pending cases, courts might postpone any pending eviction cases for a period of time, perhaps 30 to 60 days, to allow litigants time to apply

¹ See Hepburn et al. *U.S. Eviction Filing Patterns in 2020*, 7 *SOCIUS* 1 (Jan. 2021) (noting that eviction filing rates exceeded historical averages when moratoria lapsed).

² See Hepburn, et al., *Racial and Gender Disparities Among Evicted Americans*, 7 *SOCIOLOGICAL SCI.* 649-662 (2020).

³ See Center on Budget and Policy Priorities (CBPP), *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*, at Fig. 3, available at <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and> (last visited June 22, 2021).

for rental assistance. Where rental assistance applications have been filed, courts might consider placing those cases on a slower track to allow the application to be processed and the funds to be received. For example, the Michigan Supreme Court issued an [order](#) requiring courts to stay proceedings for a period of up to 45 days after the pretrial hearing if a tenant applies for emergency rental assistance and notifies the court of their application.

- **Modify summonses and other form filings:** Courts could modify summons documents, court notices, and form filings to alert litigants to the availability of eviction diversion programs and rental assistance and encourage them to apply. The Texas Supreme Court, for example, issued an emergency [order](#) that modified the notices that are sent to tenants who are sued for eviction to make sure they are aware of the benefits available under the State’s rental assistance program.
- **Partner with Community-Based Organizations (CBOs) and Legal Services Providers:** Courts could work with CBOs and legal service providers in their jurisdiction to raise awareness about the availability of rental assistance funds. Courts might make space available, whether virtual or physical, to CBOs and legal service providers to allow them to offer assistance to parties and maximize the chance for successful diversion.

Over the longer term, jurisdictions could consider building more robust eviction diversion programs. [As HUD has stated](#), recent studies have shown that “eviction diversion programs succeed when they provide comprehensive, supportive services to tenants and are designed to avoid evictions.” Such comprehensive programs could include a combination of rental assistance, mediation, social services, and legal assistance. Where alternative dispute resolution is offered, whether pre- or post-filing, jurisdictions should consider providing access to counsel for unrepresented parties from the outset to ensure that these programs promote just outcomes and do not perpetuate structural advantages typically held by landlords.⁴

Eviction diversion strategies like these encourage landlords and tenants to resolve disputes without formal adjudication and increase the chance that tenants can stay in their homes. A 2017 study of a diversion program in Michigan found that the program resulted in a 12% decrease in the rate of evictions.⁵ Diversion also removes added stress on court dockets already facing challenges caused by the pandemic. Early indications from Philadelphia showed that its program had helped reduce caseloads as significant numbers of litigants have chosen to resolve their disputes through mediation.⁶

⁴ Cynthia Whitman Daley, Regional Housing Legal Services, *Achieving Housing Stability with Eviction Diversion Programs*, at 8 (Nov. 2020), [available at https://rhls.org/wp-content/uploads/Achieving-Housing-Stability-with-Eviction-Diversion-Programs-during-COVID-and-Beyond.pdf](https://rhls.org/wp-content/uploads/Achieving-Housing-Stability-with-Eviction-Diversion-Programs-during-COVID-and-Beyond.pdf) (noting that, absent legal and financial services, mediation may “simply perpetuat[e] the power imbalance between landlord and tenant”).

⁵ National Center for State Courts, *An Analysis of the Eviction Diversion Program at the 54-A District Court*, [available at https://nationalcenterforstatecourts.app.box.com/s/n7w8zu89tbayfjr0qz6h7mn6nrg0x6qh/file/679673021905](https://nationalcenterforstatecourts.app.box.com/s/n7w8zu89tbayfjr0qz6h7mn6nrg0x6qh/file/679673021905).

⁶ Taylor Allen, *‘It’s a conversation’: Philly’s alternative to landlord-tenant court is preventing eviction*, National Public Radio, [available at https://why.org/articles/its-a-conversation-phillys-alternative-to-landlord-tenant-court-is-preventing-eviction/](https://why.org/articles/its-a-conversation-phillys-alternative-to-landlord-tenant-court-is-preventing-eviction/).

Each jurisdiction is different, and no single diversion program will work for every court. The National Center for State Courts has created an online [assessment tool](#) for courts to determine what makes sense for them. The tool provides a model eviction diversion program that courts could implement, along with guidance, best practices, and sample forms from other jurisdictions with a similar profile. The tool also provides a sample bench card that can help guide housing courts as they assess whether diversion might be appropriate.

The federal government stands ready to provide resources to jurisdictions that invest in eviction diversion. Possible sources of funding include:

- **COVID-19 State and Local Relief:** The American Rescue Plan allocated \$350 billion to state and local governments. The Treasury Department has clarified that these funds can be used for diversion programs that “prevent eviction or homelessness.”
- **Emergency Rental Assistance Program:** In addition to providing rental assistance for landlords and tenants, the \$46.5 billion Emergency Rental Assistance (ERA) Program can be used to support court-led housing stability programs. Courts can access ERA funding for housing stability services through their state or local ERA Program.
- **State Justice Institute:** In response to the COVID-19 pandemic, the State Justice Institute (SJI) provided support to the Pandemic Rapid Response Team established by the Conference of Chief Justices and Conference of State Court Administrators. SJI is continuing to support projects that will help courts respond to the pandemic, including, for example, by helping to sponsor online dispute resolution initiatives or court navigator programs.
- **HUD Legal Assistance Grant:** Within the next couple of months, HUD’s Office of Policy Development and Research expects to publish a notice of funding opportunity on [grants.gov](#) to support nonprofit and governmental entities who seek to provide legal assistance (including assistance related to pretrial activities, trial activities, post-trial activities and alternative dispute resolution) at no cost to eligible low-income tenants at risk of, or subject to, eviction.

Employing diversion strategies can help ensure access to justice and due process for renters faced with the prospect of eviction. And, as the number of eviction filings rise, the Justice Department will ensure that the civil rights protections that federal law affords tenants are not diluted. The Fair Housing Act (FHA) prohibits housing providers from denying rental housing or discriminating in the terms, conditions, or privileges of rental housing based on race, color, sex (including sexual orientation and gender identity), national origin (including limited English proficiency), religion, familial status (having children under 18), or disability. As [guidance issued by HUD makes clear](#), evictions motivated by bias or discriminating against persons based on their membership in a protected class can violate the FHA even when the eviction might otherwise have been justified. HUD has also reminded recipients of federal funds of their affirmative obligations to ensure meaningful language assistance for limited English proficient tenants and to communicate effectively with tenants with disabilities.

Losing one's home can have catastrophic economic and psychological effects.⁷ The entire legal community, including the Department of Justice, the bar, and the judiciary, has an obligation to do what it can to ensure that each and every individual has meaningful and equal access to justice before facing such consequences. I strongly encourage you to engage with other state and local actors to employ eviction diversion strategies in your jurisdiction.

Respectfully,

A handwritten signature in blue ink, appearing to read "Vanita Gupta".

Vanita Gupta
Associate Attorney General

⁷ See Emily A. Benfer et al., *Eviction, Housing Equity, and the Spread of COVID-19*, 98 J. URBAN HEALTH 1-12 (2021), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7790520/>.

FAQs

MILLIONS OF AMERICANS ARE CURRENTLY FACING EVICTION.

The eviction process is extremely isolating, daunting, and fast-moving. The purpose of this FAQ is to provide general information about the eviction process and serve as a starting point for further research into the rights and remedies you have as an individual facing an eviction. Eviction processes vary by state and locality, and each individual case is different. If your landlord files to evict you, seek legal assistance as soon as possible and contact an attorney, local legal aid office, or a specialist in your local court to get case-specific information. You can find more information about whom to contact here, <https://www.lsc.gov/about-lsc/what-legal-aid/get-legal-help>.

The Federal Eviction Moratorium ban ends on July 31st. At that time, previously protected tenants may be evicted for failure to pay rent.

What is an eviction?

An eviction is a legal procedure through which a landlord seeks to remove a tenant from the tenant's home. Eviction laws vary by state. If you are facing an eviction or having trouble paying rent, contact an attorney or local legal service provider to learn more about the laws regulating evictions where you live.

What is an eviction notice?

In order to evict a tenant, most states require the landlord to provide the tenant with proper notice to vacate the property. Different states use different terminology to describe this official notice, such as: Notice to Quit, Notice to Pay, Notice of Termination, Demand for Possession, or Notice of Lease Violation. If you have received a notice that you believe to be an eviction notice, either from your landlord or from the court, contact an attorney or a legal service provider as soon as possible.

I need help paying my rent. Where can I get financial assistance?

Currently, there is an unprecedented amount of rental and utility assistance available to tenants who have fallen behind on their rent or utilities. This funding, which the federal government has provided through the Department of Treasury's Emergency Rental Assistance Program, can cover up to 12-months of rent and utilities. Please visit the [Treasury Department index](#) or call 2-1-1 to find a rental and utility assistance program that's available to you. You should also consult LegalFaq.org for additional local resources.

Will an eviction record hurt my credit?

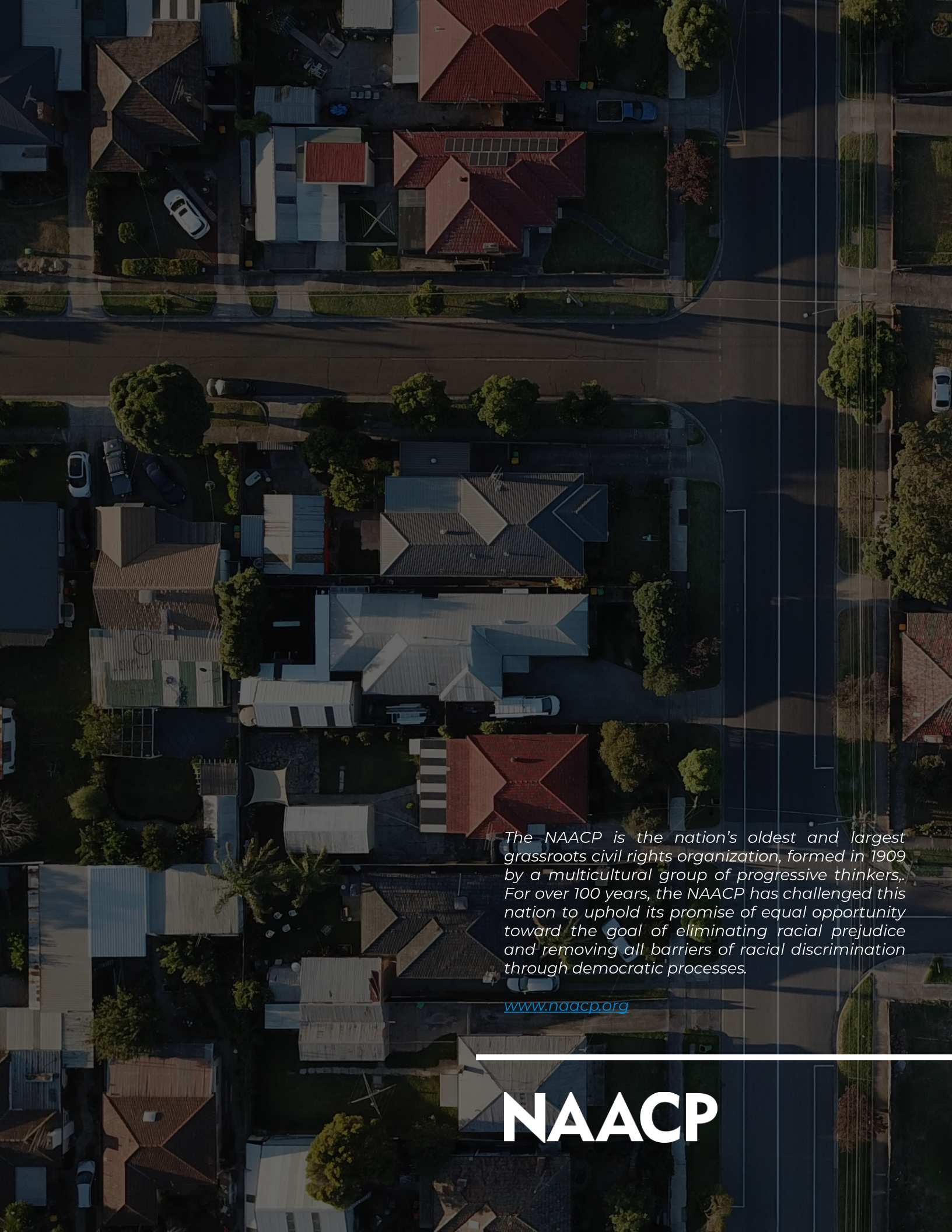
An eviction record will not directly go on your credit report. Evictions are, however, typically public records and can be searched by potential landlords. Additionally, if a court issues a judgment requiring you to pay your landlord a sum of money, either for back-owed rent or damages to the property, these debts can appear on your credit report.

Can a landlord refuse to rent to me because I have been evicted?

Unfortunately, landlords can typically ask if you have previously been evicted and many choose not to rent to individuals with an eviction record. If you are currently behind on rent or believe that you may be evicted soon, it is important to take preventative measures to avoid an eviction. Contact an attorney or local legal service provider to learn more about what steps you can take to avoid an eviction.

I believe my landlord is discriminating against me. What can I do?

The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The Fair Housing Act prohibits discrimination in housing because of race, color, national origin, religion, sex, familial status, or disability. If you believe you are being discriminated against, please fill in [this complaint form](#) or contact local legal services or the NAACP's Office of General Counsel as soon as possible.

An aerial photograph of a suburban neighborhood, showing a grid of streets, houses with various roof colors (red, grey, brown), and green trees. The lighting is soft, suggesting late afternoon or early morning. The overall scene is a typical residential area.

The NAACP is the nation's oldest and largest grassroots civil rights organization, formed in 1909 by a multicultural group of progressive thinkers. For over 100 years, the NAACP has challenged this nation to uphold its promise of equal opportunity toward the goal of eliminating racial prejudice and removing all barriers of racial discrimination through democratic processes.

www.naacp.org

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