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TO: Department of Housing and Urban Development
FROM: Legal Action of Wisconsin, Attorneys Heidi M. Wegleitner & Carmen L. Ayers
DATE: August 15, 2024
RE: Comments in Response to Public Comment Period for Implementation of the
Violence Against Women Reauthorization Act of 2013; OMB Control No.: 2577–
0286

Legal Action of Wisconsin (LAW) is grateful for the opportunity to provide comments on the Department of Housing and Urban Development’s proposed collection of information on the implementation of the Violence Against Women Act (VAWA), specifically regarding changes to the VAWA forms. LAW is Wisconsin’s largest non-profit law firm providing free, high-quality civil legal aid to low-income residents. We help clients on a variety of issues, including finding and maintaining safe and affordable housing. Many of our housing clients are survivors of domestic violence, and we work closely with domestic violence shelters, local law enforcement, and other safety agencies to help ensure our clients and their families are safe.

LAW advocates observe a lack of industry and community knowledge of VAWA requirements. When VAWA rights are not widely understood they are rarely exercised. LAW routinely obtains dismissals in our client’s eviction cases because covered housing providers are not serving VAWA notices with notices of termination of tenancy upon LAW clients. In reviewing emergency transfer plans in LAW’s service area, we have observed that CHPs adopt boilerplate language in their emergency transfer plans (ETPs), copied directly from the samples, without putting sufficient thought and detail into their plans. Emergency transfers, in our experience, are rarely requested and rarely result in accessing safe housing.

Data Collection Form

Given our concern with the lack of VAWA compliance and unrealized VAWA rights, the VAWA data collection form will be helpful in providing data to better understand the effectiveness of VAWA implementation and the extent to which HUD program participants are able to secure safe housing through the emergency transfer process. There are a few changes to the form which could be helpful in better understanding the effort CHPs are making to facilitate emergency transfers. First, some of the checkboxes in Section VI on page 5 of the form could include a follow-up question to shed more light on collaboration and outreach. The Section asks the CHP to check each item below that applies under their VAWA ETP, including:

- ☐ We collaborate or coordinate with public housing authorities, Continuum of Care, owners/managers, consortiums, or other providers for purposes of providing housing and services for victims; and
- ☐ We conduct outreach activities to organizations that assist or provide resources to VAWA victims.

For the first point, it would be helpful to know *specifically how* the CHP collaborates or coordinates for the purpose of providing services for victims and *what outcomes* have resulted from that collaboration and coordination. Similarly, for the second point, it would be helpful to know *what type* of outreach activities are conducted to organizations that assist or provide resources to VAWA victims and *how frequently* those outreach activities occur and *what outcomes* have resulted from that outreach. Those two checkbox options, as currently drafted, are too vague to provide meaningful information for evaluation.

LAW is concerned with unlawful denials of emergency transfer requests. HUD could learn more about reasons for denial and better evaluate potential training and guidance needs if HUD required CHPs to report reasons for emergency transfer denials.

Model Emergency Transfer Plan

LAW shares concerns of prior commenters regarding the following language on page two of the model plan:

[CHP ACRONYM], in response to an emergency transfer request, should not evaluate whether the tenant is in good standing as part of the assessment or provision of an emergency transfer. Whether or not a tenant is in good standing does not impact their ability to transfer under VAWA.

VAWA does not condition eligibility for an emergency transfer on a tenant being in “good standing” and *any* imposition of such a condition would violate VAWA. HUD should be crystal clear in its language that the CHP is prohibited from imposing any conditions on eligibility, like that a tenant be in “good standing” when processing an emergency transfer request. Even with HUD’s updates, the proposed language still reads more like a recommendation than a requirement, which could lead to further misunderstanding about VAWA rights and responsibilities. The following statement would provide more clarity to CHPs and afford more protection to LAW clients: “*VAWA does not allow a CHP to require that a tenant be in “good standing” to pursue an emergency transfer.*”

In much of Wisconsin, only a handful of property management companies manage the majority of the HUD assisted projects. The same developers partner with the same property managers on their projects. Therefore, area and regional property managers administer projects pursuant to very similar, if not identical, tenant selection criteria and occupancy rules. This should mean that they have access to vacancy information and could facilitate transfers throughout the properties within much of the developer’s portfolio. LAW advocates have not really seen this happen, however. Emergency transfer plans are not available on public websites of privately owned CHPs. When plans are eventually provided in response to a request, it appears that very little thought has been put into plan development and transfer facilitation.

It would be helpful to have CHPs identify to a tenant whether and which properties are within the CHP’s control that are available for an internal transfer. When a property manager is managing several properties under the same umbrella developer and ownership group, and under the same criteria, why should a tenant have to reapply for the housing? Can that be considered an internal transfer? Application fees and security deposits are barriers to a survivor transferring to safe housing. It would be helpful to LAW clients to have more housing options identified in the ETP as potentially available for internal transfer.

Notice of Occupancy Rights

Despite the clear statutory mandate to provide the notification of occupancy rights at various times throughout the tenancy, few federally assisted tenants are aware of their rights to the notice, particularly at the time of termination of tenancy when they are most vulnerable. On the bottom of page 3 of this notice, Form HUD-5380, it states:

A covered housing provider must provide a copy of the Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

This important section is buried at the bottom of page 3 and could be easily missed by a tenant. Moving it to the first page would increase the chances that it is not skimmed over. Additionally, it would be helpful to tenants, their advocates, and the courts who preside over eviction cases, if the notice were to clearly state: (a) that a CHP must strictly comply with the notice requirement prior to termination of tenancy, and, (b) that a failure to serve the notice would deprive the CHP the right to possess the unit and evict the tenant.

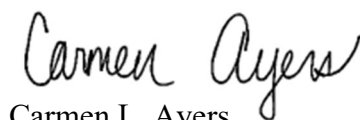
LAW understands that there are other federally assisted programs that are covered by VAWA but not under HUD's oversight. The form could be improved by specifically acknowledging that there are other CHPs outside of HUD, including LIHTC, USDA, etc., who must follow VAWA requirements but that they are outside the scope of the HUD rules. Failing to acknowledge this could lead tenants, community members, and CHPs to mistakenly believe that VAWA only applies to HUD programs.

Thank you again for the opportunity to submit comments on this important notice of information.

Sincerely,



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