

October 7, 2013

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, D.C. 20410-0500
Via: www.regulations.gov

RE: “The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs”, Docket Number: FR-5720-N-01

To Whom It May Concern:

The undersigned organizations represent a diverse group of housing providers, including private property owners and managers and public housing authorities (“PHAs”), who are directly affected by the implementation of the Violence Against Women Reauthorization Act of 2013. Our industry is committed to providing high quality, affordable, and safe homes, and we believe that preserving housing for victims of domestic violence, dating violence, sexual assault and stalking (“domestic violence”) is critically important. Therefore, we strongly support the goals of the Violence Against Women Act (“VAWA” or “the Act”), and appreciate the opportunity to comment on HUD’s prospective guidance and regulations.

Our organizations actively participated in the legislative development of VAWA and the regulatory implementation of the 2005 Act. Throughout the process, we have worked to ensure that the Act provided important protections for victims of domestic violence, while balancing the needs of victims, their communities and housing providers alike. As such, we have several recommendations to aide in HUD’s implementation efforts moving forward.

Lease Bifurcation

Lease bifurcation is an element of both VAWA 2005 and VAWA 2013 that enables housing providers to remove or terminate assistance to a perpetrator of domestic violence while maintaining housing or assistance for a domestic violence victim. Where the removed or terminated individual is the sole person eligible for housing assistance, housing providers must provide the remaining tenant an opportunity to establish eligibility under the applicable housing program or allow time to find new housing or establish eligibility under an alternate program.

There are several issues to consider as HUD develops lease bifurcation guidance. First, we believe that a 60 to 90-day time period provides a “reasonable” amount of time for tenants to establish program eligibility or find new housing under VAWA. Importantly, this reasonableness requirement is only attached to the time period allotted for a tenant to find new housing or establish new program eligibility. There is no statutorily required time frame for the “opportunity” to establish eligibility under the existing housing program. These provisions may therefore be satisfied concurrently, and HUD should avoid any interpretation that would result in an unreasonably long period of time to meet these requirements. We recommend a 60 to 90-day period for a tenant to either: 1) establish eligibility under the existing program; 2) establish eligibility under a different program; or 3) find new housing.

Further, housing providers should not be penalized where a local housing agency fails to act on a remaining tenant's application for program eligibility during the specified time period. HUD guidance must also address the payment of rent during this time period. Such guidance should establish that remaining tenants are responsible for rent payment and meeting other lease obligations during this period, or HUD should commit to continuing assistance to the housing provider for the duration of the time period.

In addition, it is important to recognize that the housing programs covered under VAWA have differing wait list and tenant selection requirements. Guidance is necessary to clarify whether VAWA's bifurcation and tenant eligibility provisions impact existing wait list and admission criteria.

Notification

VAWA 2013 expands the notification requirements enacted in VAWA 2005. To the extent practicable, the required notifications should be incorporated into existing standard program documents and materials that are provided to tenants. Examples include the Tenants' Rights and Responsibilities brochure and the Section 8 Tenancy Addendum - HUD 52641-A – which already includes a notification of rights under VAWA 2005. HUD should also prioritize the translation of these notification materials to satisfy Limited English Proficiency requirements.

Documentation

VAWA 2005 established a certification process designed to provide housing providers with third-party verification of incidents of domestic violence to ensure that only bona fide victims of domestic violence receive benefits under the Act. However, when HUD implemented this provision, they interpreted the language to permit self-certifications, but allowed housing providers to request additional information to document the claim of domestic violence in some cases. VAWA 2013 specifically allows housing providers to require third-party certification where there is conflicting information about an incident of domestic violence. We expect HUD's implementing guidance and forms to reflect the ability for housing providers to require third-party certification when there is not clear evidence that domestic violence occurred, or there is a question about who is a victim and who is the perpetrator.

Emergency Transfer Plans

As HUD develops a model emergency transfer plan, it is particularly important to recognize the differing characteristics, roles and capabilities of various housing providers and property types. For example, while a PHA may have the ability to relocate residents upon request, private property owners and managers (like those participating in the Section 8 Voucher Program and other HUD programs) generally are not in a position to transfer residents to another property or assist individuals in making alternative housing choices. This ability is limited by the differing financial partners and ownership interests that hold private properties. Any emergency transfer provision should acknowledge the limitations of transfer policies and reflect the practical realities of the rental housing sector. Considerations include the volume and availability of dwelling units under the control of various program participants.

The emergency transfer plan should also provide guidance for use in situations where it is not feasible for an individual PHA, owner or manager to effectuate a transfer. For example, HUD should consider providing a HUD resource person in each HUB or program center that an owner or manager can direct a tenant to for alternate housing options. HUD personnel is in the best position to discuss housing solutions including: 1) assisted housing properties with local preferences for victims of domestic

violence; 2) referral to the local PHA for admission to public housing or the voucher program; and 3) access to and use of Tenant Protection Vouchers. Similarly, HUD should address the implementation of emergency transfers as they relate to other competing tenant selection/relocation preferences such as disability, homelessness, etc.

We look forward to working with HUD as you implement VAWA 2013, and continuing collaboration to improve housing protections for victims of domestic violence. For further information, please contact Paula Cino, 202-974-2345, pcino@nmhc.org or Denise Muha, 202-785-8888, dmuha@hudnlha.com.

Sincerely,

Council for Affordable and Rural Housing

Institute of Real Estate Management

LeadingAge

National Affordable Housing Management Association

National Apartment Association

National Association of Housing Cooperatives

National Association of Home Builders

National Leased Housing Association

National Multi Housing Council