



RENO & CAVANAUGH PLLC

March 6, 2023

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: The Violence Against Women Act Reauthorization Act of 2022 (“VAWA 2022”):
Overview of Applicability to HUD Programs
Docket No. FR-6330-N-01

To Whom It May Concern:

The Council of Large Public Housing Authorities (“CLPHA”) and Reno & Cavanaugh, PLLC (“Reno & Cavanaugh”) are pleased to submit comments to HUD’s initial implementation guidance and request for comment action titled “The Violence Against Women Act Reauthorization Act of 2022: Overview of Applicability to HUD Programs” (the “Proposed Rule”).

CLPHA is a non-profit organization that works to preserve and improve public and affordable housing through advocacy, research, policy analysis, and public education. We support the nation’s largest and most innovative public housing authorities (“PHAs”) by advocating for policies and programs that most effectively serve low-income residents and provide them with long-term economic opportunities. Our members own and manage nearly half of the nation’s public housing program, administer a quarter of the Housing Choice Voucher (“HCV”) program, and operate a wide array of other housing programs. CLPHA members collectively serve over one million low-income households.

Reno & Cavanaugh has represented hundreds of PHAs throughout the country. The firm was founded in 1977, and over the past three decades the firm has developed a national practice that encompasses the entire real estate, affordable housing, and community development industry. Though our practice has expanded significantly over the years to include a broad range of legal and legislative advocacy services, Reno & Cavanaugh’s original goal of providing quality legal services dedicated to improving housing and communities still remains at the center of everything we do.

We applaud and support HUD’s commitment to provide and strengthen housing protections to survivors of domestic violence, dating violence, sexual assault, and stalking. We further acknowledge that VAWA 2022 includes important additional measures to protect a broader category of survivors from abuse. We are concerned, however, that HUD’s implementation of

these important protections prioritizes enforcement without providing the necessary tools, guidance, and resources to PHAs and other housing providers to actually comply with these mandates.

We note that all but one¹ of the HUD-related amendments pursuant to VAWA 2022 took effect on October 1, 2022. Since then, HUD has issued additional enforcement guidance and resources for survivors but no safe harbors or best practices for PHAs and other housing providers.

On January 20, 2023, HUD issued FHEO Notice FHEO-2023-01 (the “FHEO Notice”) announcing that HUD’s Office of Fair Housing and Equal Opportunity (“FHEO”) “will implement and enforce the housing provisions of VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for in the Fair Housing Act.” The FHEO Notice clarified that FHEO would accept and investigate VAWA complaints as of October 1, 2022, over three months prior to issuing the FHEO Notice.

Further, on February 1, 2023, HUD launched a new VAWA website “which serves as a clearinghouse for HUD’s VAWA resources.” Available VAWA trainings include “Legal Protections for Survivors,” “How to Identify Persons Impacted by Domestic Violence and Sexual Assault,” and “Housing Protections for Persons Impacted by Domestic Violence and Sexual Assault.” The objectives for these trainings include “best practices” for survivors to access VAWA housing protections. While it is important to highlight these protections and ensure that survivors are aware of their rights and how to access these protections, the absence of trainings, technical assistance, best practices, and safe harbors for PHAs is concerning in light of the new enforcement authority under the FHEO Notice.

We would therefore welcome guidance and resources that provide specific trainings, technical assistance, best practices, and safe harbors for PHAs seeking to fully comply with VAWA 2022. We recognize the important policy objectives of VAWA but we also note that the HUD guidance thus far seems to cast PHAs in the position of counselor and social worker for VAWA survivors. Such a position requires special training, technical assistance, and subject-matter expertise in handling domestic violence situations that PHA personnel do not have. This is in addition to the fact that PHA capacity is limited by historic and continued underfunding. PHAs should have the benefit of such trainings, technical assistance, best practices, and safe harbors prior to facing the enforcement actions contemplated under the FHEO Notice.

In addition, we have the following specific comments to the Proposed Rule:

Oversight of Third-Party Property Owners and Managers. The Proposed Rule references the application of VAWA 2022 to third-party property owners and managers of tenants utilizing a Housing Choice Voucher administered through a PHA. However, PHAs have very limited enforcement authority over such third-parties. Therefore, it is imperative that HUD issue guidance that recognizes these limitations and protects PHAs from enforcement actions for matters outside of their control.

¹ The one exception, which took effect upon enactment of VAWA 2022, requires HUD to study and report on housing and service needs of survivors of human trafficking and individuals at risk for trafficking.

Implementation of VAWA Protections Consistent with HUD's Equal Access Rule and in Furtherance of the Goal to End Gender-Based Violence. VAWA 2022 requires PHAs to protect survivors of domestic violence, dating violence, sexual assault, and stalking without regard to their respective sexual orientation or gender identity. While confidentiality is critical in processes related to housing protections for survivors, it is unclear how PHAs should identify and aid the lesbian, gay, bisexual, transgender, and queer (“LGBTQ+”) community without unwarranted intrusion into privacy or the risk of breaching the trust of survivors within the LGBTQ+ community. Absent clarity from HUD, PHAs would be required to independently determine how to bridge the gap between nondiscrimination on the basis of actual or perceived sexual orientation or gender identity and ensuring fair and equal VAWA implementation for LGBTQ+ survivors of domestic violence, dating violence, sexual assault, or stalking. Additional guidance in this regard is also necessary.

Thank you for the opportunity to submit these comments to the Proposed Rule. CLPHA and Reno & Cavanaugh look forward to working with HUD on this and future rulemaking.

Sincerely,



Sunia Zaterman
Executive Director
CLPHA



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