

## **Guidance on Implementing VAWA at an HTC property**

In 2013, President Obama signed the reauthorization of the Violence Against Women Act (VAWA). The Act protects victims of domestic violence, dating violence, sexual assault, and stalking. The reauthorization expanded covered programs to include the Housing Tax Credit (HTC) program.

As VAWA is not included in Section 42 of the Internal Revenue Code, the IRS has been reluctant to provide guidance. Consequently, most state agencies, including Mississippi Home Corporation, do not specifically monitor for VAWA. Although VAWA applies to HTC properties, noncompliance with VAWA is not a reportable instance of noncompliance for the HTC program. However, domestic violence survivors who are denied housing or evicted based on the violence in their homes may have a case for discrimination under the Fair Housing Act. Findings of violations of the Fair Housing Act are reportable instance of noncompliance under HTC.

There are a few areas where owners/managers must be careful when trying to maintain compliance with VAWA as it may affect with HTC.

### **Application Approvals**

Some application processes deny an applicant housing due to a previous incident of violence (e.g. excessive noise or police activity at their residences). In the appeal of the denial, if an applicant can prove that the calls were a result of domestic violence, the victim is protected under VAWA. However, please note that VAWA does not waive the eligibility requirements of the HTC program. The applicant would still need to qualify in the same manner as other applicants.

### **Transfers**

There may be instances that the development will need to accommodate a request to transfer a victim from the current unit as a result of an incident of domestic violence. When transferring a tenant, the manager must ask several questions.

- 1) Is the household currently income qualified?
- 2) Where are the current vacant units in my development located?
- 3) What are the project definitions at my development?

If the household does not currently income qualify and relocates to a building in a different “project”, the household will be deemed a non-qualified household.

### **Evictions**

In general, domestic violence cannot be considered a “good cause” for eviction. However, VAWA does allow for protections for the owner/manager. If the owner/manager can show that the victim’s presence poses an actual and imminent threat to other tenants or employees, the owner/manager may choose to end the lease of the victim. The owner/manager must show reasonable actions to reduce or eliminate the threat prior to seeking eviction.

VAWA is an important legislation to give victims and survivors additional protection when applying/retaining housing. Due to the complexity of maintaining compliance with multiple regulations and procedures, HTC owners and managers should be informed of the provisions of VAWA and its impact on operations, management, and compliance. Some industry recommendations are as follows:

- Educating all staff on VAWA requirements.

- Updating lease, lease addendums, tenant selection plans, occupancy rules, etc. to incorporate tenant's rights and protections.
- Developing/ adopting victim certification form(s) and emergency transfer plans.

For a complete copy of VAWA 2013, please go to <https://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf>.