

VAWA Enforcement Strategies

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VAWA Enforcement - Strategies

- ❑ No explicit statutory cause of action
- ❑ HUD administrative advocacy
- ❑ Eviction / termination defense
- ❑ Affirmative VAWA claim
- ❑ As part of Fair Housing Act case

Check out nhlp.org/OVWgrantees

Enforcement through HUD Advocacy

- ❑ Consider contacting HUD HQ along with local office on VAWA matters. Refer to points of contact listed on 81 Fed. Reg. 80,724.
- ❑ When a Fair Housing Act claim could also be raised, consider contacting relevant program office and FHEO.
- ❑ Emergency transfers: Providers will be required to keep data for three years. Could request as part of advocacy.
- ❑ Refer to 81 Fed. Reg. 80,780-80,782.

Eviction / Termination Defense

Metro North Owners, LLC v. Thorpe, 870 N.Y.S.2d 768 (N.Y.C. Civ. Ct. 2008)

Landlord sought to evict Section 8 tenant on the grounds that she stabbed her partner. Tenant submitted police reports and a restraining order showing that she was the victim of domestic violence, along with declination of prosecution. Court found that the tenant was the victim, and that VAWA precluded the landlord from evicting her.

Eviction / Termination Defense

Tucker v. Chicago Hous. Auth. (Ill. Cir. Ct. 2014)

Affirmed voucher termination based on abuser's arrest at her home pursuant to drug and weapons offenses. Court concluded that VAWA did not offer protection because crimes were not directly related to abuse, disregarding tenant's testimony re: dv. Court also found that CHA could still terminate based on threat of abuser to others. Settled favorably for tenant upon further appeal.

Affirmative VAWA Claim

May be possible to enforce via section 1983 – need to analyze provision for which you are seeking enforcement under *Gonzaga Univ. v. Doe*, 536 U.S. 273 (2002) and progeny. Available to consult on these claims.

Meister v. Kansas City, KS Housing Auth. (D. Kan. 2011) (not reported)

Court opines on enforcement of VAWA via section 1983 but makes no ruling

Affirmative VAWA Claim

Jennings v. Hous. Auth. of Baltimore City
(D. Md. 2015)

Voucher was terminated based on criminal activity of tenant's son – one incident involved violence against tenant. Tenant filed suit alleging that termination violated VAWA. Court concluded PHA violated Admin. Plan by considering dv incident but that tenant could not show but-for causation. Case dismissed.

Affirmative VAWA Claim

Preemption – Sue in equity to enjoin state or local laws or regulatory actions preempted by VAWA.

Briggs v. Borough of Norristown (E.D. Pa. 2013) (settled)

Claim that VAWA preempts local ordinance

VAWA as Part of FHA Claim - Evidence

Dickinson v. Zanesville, 975 F. Supp. 2d 863 (S.D. Ohio 2013)

PHA blamed dv survivor for incidents and threatened her with eviction. Court found that PHA's failure to meet its VAWA obligations supported FHA sex discrimination claim.

VAWA as Part of FHA Claim - Remedies

Survivor v. New England Family Housing Management Org. (HUD 2014)

Conciliation of FHA complaint alleging refusal to renew lease because of calls to police regarding domestic violence resulted in adoption of VAWA lease and training.

Watkins v. Southgate (HUD 2014) – HUD issued charge of discrimination in case involving voucher holder who faced eviction after dv incident. Settlement included adoption of VAWA policy and training.

VAWA as Part of FHA Case – Practice Note

Watkins v. Southgate (HUD 2014): In advocacy, make sure you cite VAWA and FHA in order to preserve retaliation claim.