

No. 15-0282

In the

Appellate Court of Illinois

First Judicial District

Beatrice Tucker,

Plaintiff-Appellant

v.

Chicago Housing Authority,

a municipal corporation,

Defendant-Appellee.

Appeal from the Circuit Court of Cook County, Illinois,
First Municipal District, No. 13 CH 14018
The Honorable David B. Atkins, Judge Presiding.

MOTION OF THE

The Chicago Metropolitan Battered Women's Network, Lifespan Center for Legal Services and Advocacy, LAF, John Marshall Law School's Domestic Violence Clinical Advocacy Program, Illinois Coalition Against Domestic Violence, National Network to End Domestic Violence, American Civil Liberties Union, Legal Momentum, the Women's Legal Defense and Education Fund, National Housing Law Project, National Law Center on Homelessness and Poverty, Domestic Violence Legal Empowerment and Appeals Project, National Women's Law Center, and Sargent Shriver National Center on Poverty Law

FOR LEAVE TO APPEAR AS AMICI CURIAE AND TO FILE A BRIEF INSTANTER IN
SUPPORT OF PLAINTIFF-APPELLANT

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Pursuant to Illinois Supreme Court Rule 345(a), the *Amici curiae* the Chicago Battered Women's Network, Life Span Center for Legal Services and Advocacy, LAF (formerly known as Legal Assistance Foundation), John Marshall Law School's Domestic Violence Clinical Advocacy Program ("JMLS DV Clinic"), Illinois Coalition Against Domestic Violence, NNEDV, The American Civil Liberties Union ("ACLU"), Legal Momentum, National Housing Law Project (NHLP), The National Law Center on Homelessness and Poverty, The Domestic Violence Legal Empowerment and Appeals Project (DV LEAP), National Women's Law Center, and Sargent Shriver National Center on Poverty Law (collectively "*Amici*,") respectfully move the court for leave to file instant their brief amici curiae in support of the responsive brief filed on behalf of the Plaintiff-Appellant Beatrice Tucker.

Ms. Tucker is appealing the Circuit Court of Cook County ruling, affirming the Chicago Housing Authority's ("CHA") decision to terminate her Housing Choice "Section 8" Voucher ("Housing Choice Voucher"), without consideration of the applicability of the Violence Against Women Act and Ms. Tucker's status as a victim of domestic violence. *Amici* seek to file their brief to demonstrate to this Court that the CHA's decision to terminate Ms. Tucker's Housing Choice Voucher runs afoul of the purpose and intent of the Violence Against Women Act, the federal Fair Housing Act, CHA's own policies, and the sound body of literature on the dynamics of domestic violence. In further support of Ms. Tucker's opening brief, *Amici* state as follows:

1. As described in more detail in the proposed brief, the CHA's rejection of Ms.

Tucker's VAWA defense at her informal Housing Choice Voucher termination hearing directly contradicts the purpose and intent of the Violence Against Women Act, which was specifically amended in 2005 and then again in 2013 to include

housing protections for victims of domestic violence like Ms. Tucker and to prevent them from losing their housing due to the acts of their abuser. There is as well a growing recognition that those housing policies and practices that blame and hold victims accountable for the acts of their abusers can constitute sex discrimination in violation of the Fair Housing Act because the vast majority of victims of domestic violence are women. The facts of Ms. Tucker's case and the literature on domestic violence clearly show that her abuser, Mr. Cole, was not a guest in her home under the law, because she had no control over – and therefore did not consent to – his actions. As the literature demonstrates and based upon the expertise of the *Amici*, Mr. Cole was a classic abuser, and by dominating and controlling Ms. Tucker he forced her to comply with his demands, such as entry into her home, in order to avoid abuse. Left unaltered, the informal Hearing Officer's failure to recognize the dynamics of domestic violence and the mandates of VAWA not to evict victims for the acts of their abusers renders VAWA a nullity and penalizes Ms. Tucker and others like her for the acts of their abusers.

2. *Amici* have a strong and unique interest in this appeal concerning domestic violence and housing that makes them well-situated to assist the Court. *Amici* are national, state, and local experts on domestic violence and the intersection of housing and economic insecurity experienced by victims of domestic violence. *Amici* specialize in or run projects devoted to advocating on behalf of victims of domestic violence, and have specific knowledge of how domestic violence can impact all aspects of a person's life, including housing. In particular, many of the *Amici* have drafted, advocated in support of, and assisted in the implementation of laws to protect the

housing rights of victims of domestic violence, including the VAWA provisions at issue here.

- The **Chicago Metropolitan Battered Women's Network ("the Network")** is a collaborative membership organization dedicated to improving the lives of those impacted by domestic violence through education, public policy and advocacy, and the connection of community members to direct service providers. The Network is the leading systemic advocacy voice, in addition to being the forum for information exchange, within the Cook County domestic violence services community. The Network is committed to keeping informed on what's happening in the field of domestic violence service provision, along with legal and social implications surrounding domestic violence, both locally and nationally. The Network collaborates with other providers such as the Shriver Center to address concerns such as housing issues faced by domestic violence victims and their children.
- **Life Span**, a non-profit founded in 1978, provides counseling, advocacy, and legal services to more than 3500 victims of domestic violence and their children each year. Life Span Center for Legal Services and Advocacy, located in Chicago, provides representation to domestic violence victims in order of protection cases, divorces, contested custody and visitation matters, and immigration cases. In addition to its direct service work, Life Span provides training to judges, prosecutors, mental health professionals, advocates and attorneys throughout Illinois and across the country on complicated family law/domestic violence litigation strategies and techniques. Life Span engages in

systemic advocacy aimed at improving meaningful access to legal remedies and legal relief for victims of domestic violence.

- **LAF** (formerly known as Legal Assistance Foundation) is a not-for-profit organization that provides free legal representation and counsel in civil cases to disadvantaged people and communities throughout Cook County. Each year LAF's advocates represent thousands of clients who are living in poverty, or otherwise vulnerable, in a wide range of civil legal matters. LAF practices extensively in the areas of subsidized housing and domestic violence, and a substantial percentage of the population LAF serves are survivors of domestic violence. Access to affordable housing is a key component to an abuse survivor's ability to maintain safety and security from further abuse. LAF provides trainings to lawyers, advocates, and other community organizations on the laws that can protect survivors of violence in their housing. LAF also provides a broad array of legal representation to survivors of violence in all other aspects of their lives, including divorce, child custody, support, order of protection, employment, consumer, immigration, and public benefits matters.
- **The John Marshall Law School's Domestic Violence Clinical Advocacy Program ("JMLS DV Clinic")** organizes educational and training programs, creates legal resources, engages in empirical and multi-state research, proposes legal reforms, and provides various forms of legal assistance to survivors of domestic violence. Under its "Safety Through Knowledge Legal Assistance Project" students work with adjunct faculty and volunteer attorneys to provide legal information, assistance, and representation to survivors of domestic violence

under eight areas of civil law: (i) orders of protection, (ii) family law, (iii) housing protections, (iv) employment protections, (v) crime victim compensation, (vi) immigration relief, (vii) debt relief/credit repair, and (viii) tax liability relief.

- The **Illinois Coalition Against Domestic Violence (ICADV)**, is a not for profit organization, founded in 1978 by twelve local domestic violence programs with the vision to eliminate violence against women and children, and to promote the eradication of domestic violence across the state of Illinois. Currently, ICADV fund approximately 50 domestic violence programs across the state of Illinois, and last year ICADV collectively served 43,201 adult survivors of domestic violence and 8,234 child witnesses. ICADV's primary purposes are to provide statewide leadership as the voice for survivors of domestic violence and the programs that serve them, change fundamental and societal attitudes and institutions that promote, tolerate or condone domestic violence, and ensure that women and children have knowledge of and access to all services and opportunities endeavoring to promote these services locally. ICADV are leaders on legislative issues affecting domestic violence victims and agencies in Illinois, and worked to pass the Illinois Domestic Violence Act in 1982.
- The **National Network to End Domestic Violence (NNEDV)**, a 501(c)(3) organization, is the leading voice for domestic violence victims and their allies. NNEDV members include all 56 of the state and territorial coalitions against domestic violence, including over 2,000 local programs. NNEDV has been a premiere national organization advancing the movement against domestic violence for over 20 years, having led efforts among domestic violence advocates

and survivors in urging Congress to pass the landmark Violence Against Women Act ("VAWA") of 1994 and subsequent reauthorizations. NNEDV has expertise in the nature and dynamics of domestic violence and its impact on victims; issues of financial abuse and economic security for survivors of domestic violence; and the intersection of housing policy and domestic violence. In particular, NNEDV has substantial expertise in the VAWA housing protections, the McKinney-Vento homelessness program (HEARTH Act), implementation of housing programs through the U.S. Department of Housing and Urban Development, the Office on Violence Against Women transitional housing program, and other housing rights and protections for domestic violence survivors. Its member programs consistently report that a lack of housing options is one of the most pressing problems faced by survivors and that housing discrimination against victims contributes to their inability to escape abusive situations. For that reason, NNEDV strongly advocates to improve housing opportunities for victims and to ensure that the law protects them against discrimination.

- The **American Civil Liberties Union ("ACLU")** is a national, nonpartisan public interest organization of more than 500,000 members, dedicated to protecting civil and human rights. Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has long been a leader in legal battles to ensure women's full equality. In recent years, the ACLU Women's Rights Project has taken a leading role at the local, state, and national levels to improve access to housing for survivors of domestic violence and their children. It litigates on behalf of survivors who face eviction based on the abuse they

experienced and advocates for legislation and policies that advance survivors' housing rights. It helped draft and is actively working to implement the housing provisions of the Violence Against Women Act. The ACLU of Illinois, the organization's affiliate in Illinois, was founded to protect and advance civil rights and civil liberties, and currently has more than 25,000 members and supporters in the state. The ACLU of Illinois long has been a leader in Illinois in advocating for gender equality and for the rights of domestic violence survivors through litigation, public education and legislative advocacy.

- **Legal Momentum, the Women's Legal Defense and Education Fund**, is the nation's oldest legal advocacy organization for women. Legal Momentum performs a broad range of legal and educational services in support of efforts to eliminate domestic violence. Legal Momentum chaired the national task force that was instrumental in passing the historic 1994 Violence Against Women Act ("VAWA"). As one of the leading advocates for the Violence Against Women Act and its subsequent reauthorizations, including support for responses to housing insecurity (to increase the number of vouchers available and the portability of those vouchers for survivors of domestic violence.) Legal Momentum has long sought to redress the historical inadequacy of the justice system's response to domestic violence. Legal Momentum successfully litigated a test case in Colorado's federal district court, *Blackwell v. H.A. Housing, LP*, 2005. This case ensured that all employees who regularly interact with Section 8 family housing tenants attend a training session that covers a basic understanding of domestic violence. Legal Momentum has appeared as co-counsel or amicus in

numerous other cases in which women are pursuing their rights under that law and others in support of the rights of women who have been the victims of domestic and other gender-motivated violence. One of the organization's key programs, the National Judicial Education Program (NJEP), has played an instrumental role in eradicating gender bias from the courts. Through the NJEP, Legal Momentum has fostered the formation of state Supreme Court task forces on gender bias in the courts, conducted numerous judicial trainings and created countless publications, curricula and training on domestic violence, sexual assault and custody and visitation disputes.

- The **National Housing Law Project (NHLP)**, is a private, non-profit, national housing and legal advocacy center established in 1968 and located in San Francisco, California. NHLP's mission is to advance housing justice for poor people by increasing and preserving the supply of decent, affordable housing; improving existing housing conditions, including physical conditions and management practices; expanding and enforcing low-income tenants' and homeowners' rights; and increasing housing opportunities for racial and ethnic minorities. NHLP played a key role in the 2013 Reauthorization of the Violence Against Women Act (VAWA) and frequently works with the U.S. Department of Housing and Urban Development and the U.S. Department of Agriculture's Rural Development on the agencies' implementation of VAWA. NHLP's Domestic Violence Project provides technical assistance and support on the housing rights of domestic violence survivors to hundreds of housing providers, domestic violence advocates, and legal aid attorneys across the country. NHLP conducts

regular trainings on the housing protections of survivors under the Violence Against Women Act (VAWA), the Fair Housing Act, as well as state and local laws. NHLP publications on domestic violence and housing are widely used by housing providers and survivor advocates alike, and are cited by federal housing agencies.

- The **National Law Center on Homelessness & Poverty** is the only national organization dedicated solely to using the power of the law to prevent and end homelessness in America. With the support of an extensive network of pro bono lawyers, the Law Center uses legal expertise to help pass, implement and enforce laws addressing the immediate and long-term needs of those who are homeless or at risk. In partnership with state and local advocates, the Law Center work towards strengthening the social safety net through advocacy and advocacy training, public education, and impact litigation. The Law Center promotes laws that ensure everyone can afford safe, adequate housing, including having helped draft sections of the 2005 and 2013 Reauthorizations of the Violence Against Women Act (“VAWA”) relevant to housing and provides frequent input to the U.S. Department of Housing and Urban Development on its implementation of VAWA.
- The **Domestic Violence Legal Empowerment and Appeals Project (DV LEAP)** provides a stronger voice for justice by fighting to overturn unjust trial court outcomes, advancing legal protections for victims and their children through expert appellate advocacy, training lawyers, psychologists and judges on best practices, and spearheading domestic violence litigation in the Supreme Court.

DV LEAP is committed to ensuring that courts understand the realities of domestic violence and the law when deciding cases with significant implications for domestic violence litigants. DV LEAP has co-authored amicus briefs in numerous state courts and the United States Supreme Court, including one explaining why a woman's consent to her abuser's presence at her employment was not a deliberate violation of the employer rules but rather a necessary accommodation to the ongoing threat of violence by the abuser. DV LEAP benefits from the support of the George Washington University Law School and a network of participating law firms providing *pro bono* service.

- The **National Women's Law Center** is a nonprofit legal advocacy organization dedicated to the advancement and protection of women's legal rights and opportunities since its founding in 1972. The Center focuses on issues of key importance to women and their families, including economic security, health, reproductive rights, employment, and education, with special attention to the needs of low-income women. Protecting the housing stability of women who experience intimate partner violence is critical to women's health and economic security and the Center has an interest in ensuring that this housing stability is not compromised by arbitrary or discriminatory policies or practices.
- The **Sargent Shriver National Center on Poverty Law ("Shriver Center")** is a national non-profit legal and policy advocacy organization based in Chicago. The Shriver Center's housing unit operates the Safe Homes Initiative, which provides legal representation and policy advocacy to advance and protect the housing rights of survivors of violence. The Shriver Center housing unit drafted sections

of the 2013 Reauthorization of the Violence Against Women Act (“VAWA”) and provides frequent input to the U.S. Department of Housing and Urban Development on its implementation of VAWA. The Shriver Center housing unit also provides trainings to housing providers, lawyers, and domestic violence advocates on the laws that can protect survivors of violence in their housing, and regularly consults with advocates around the country about the housing rights of survivor of violence. The Shriver Center’s Women’s Law and Policy Project also provides a broad array of legal and policy support to survivors of violence in all other aspects of their lives, including employment, education, public benefits, and access to the courts.

3. *Amici* believes that the proposed brief will assist the Court in this case because they are uniquely situated to provide the Court with information based upon their broad spectrum of advocacy on behalf of victims of domestic violence whose lives are upended due to the controlling acts, domination, and sabotage of abusers. *Amici* also have extensive experience in the representation and advocacy of victims of domestic violence, many of whom frequently have their housing jeopardized or are rendered homeless due to the acts of their abusers. *Amici* have seen firsthand how a failure by housing providers to fully adhere to VAWA’s mandate to not evict victims of domestic violence due to the acts of their abusers further penalizes victims. *Amici* have also seen firsthand how housing providers fail to understand the dynamics of domestic violence, where abusers dominate and control their victims, and how that failure forces victims to comply with abusers’ demands—such as entry into a home—in order to avoid further abuse.

4. Based upon this collective experience, *Amici* can highlight for the Court the ideas and significant insights not raised by the litigants as to why the Court should overturn the CHA's administrative hearing decision terminating Ms. Tucker's Housing Choice Voucher and thus allow the full purpose and intent of VAWA to be served.
5. The proposed brief is only 22 pages, and *Amici* believe it will not unduly burden the Court.
6. A proposed order and proposed brief are submitted herewith for filing, in the event this Court allows the Motion. See Exhibit A.

WHEREFORE, *Amici* respectfully request this Honorable Court to grant its Motion For Leave To Appear as *Amici-Curiae* and To File a Brief Instante in Support of the Plaintiff-Appellant Beatrice Tucker.

Dated: May 22, 2015

Respectfully submitted,

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EXHIBIT A

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BRIEF OF AMICI IN SUPPORT OF PLAINTIFF-APPELLANT

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POINTS AND AUTHORITIES

| | |
|---|---|
| <u>INTRODUCTION</u> | 1 |
| <u>STATEMENT OF INTEREST OF AMICI</u> | 2 |
| <u>STATEMENT OF FACTS</u> | 2 |
| <u>SUMMARY OF THE ARGUMENT</u> | 3 |
| <u>ARGUMENT</u> | 4 |

I. THE INTENT OF VAWA’S HOUSING PROVISIONS WAS TO ADDRESS A CRISIS OF EVICTIONS OF VICTIMS OF DOMESTIC VIOLENCE.....4

Screening and Eviction for Drug Abuse and Other Criminal Activity, 66 Fed. Reg. 28776 (May 24, 2001). 4

Steven Scott Mgmt, Inc. v. Steven Rayfield Scott and Carol Norman, C7-98-2024, 1999 WL 366596, (Minn. Ct. App., June 8, 1999)..... 4

Laura Griffin, *Eviction Upheld for Woman Who Was Attacked in Home*, Dallas Morning News, May 26, 19994-5

Moundsville Hous. Auth. v. Porter, 370 S.E. 2d 341, 343 (W. Va. 1988)..... 5

Anne Menard, *Domestic Violence and Housing: Key Policy and Program Challenges*, 7 Violence Against Women 707 (2001). 5

A. The VAWA 2005 Reauthorization Provided Specific Housing Protections for Victims of Domestic Violence, which were Expanded in 2013.....5

Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 41402, 119 Stat. 2960 (2006)..... 5

Testimony before the S. Committee on the Judiciary on the Violence Against Women Act of 2005, 109th Cong. 14 (2005)..... 6

The Increased importance of the Violence Against Women Act in a Time of Economic Crisis: Hearing Before the S. Committee on the Judiciary, 111th Cong. 16 (2010).....6

| | |
|---|----------|
| VAWA 2005 § 41401(1), (10), (3)..... | 6 |
| Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, 80 Fed. Reg. 17,548, 17,549 (Apr. 1, 2015) | 7 |
| Chicago Housing Authority, <i>Chicago Housing Authority Housing Choice Voucher Program Administrative Plan</i> (2012) | 8 |
| 24 C.F.R. § 5.2007(c)..... | 8 |
| <i>Alvera v. C.B.M. Grp.</i> , Case No. 01-857 (D. Or. 2001)..... | 8 |
| <i>Warren v. Ypislanti Hous. Auth.</i> , Case No. 4:02-cv-40034 (E.D. Mich. 2003)..... | 8 |
| <i>Bouley v. Young-Sabourin</i> , 394 F. Supp. 2d 675 (D. Vt. 2005)..... | 8 |
| <i>Lewis v. North End Vill.</i> , Case No. 2:07-cv-10757 (E.D. Mich. 2007)..... | 8 |
| Memorandum from Sara K. Pratt, Deputy Assistant Secretary for Enforcement and Programs, U.S. Department of Housing and Urban Development on Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA) to FHEO Office Directors and FHEO Regional Directors (Feb. 9, 2011)..... | passim |
| B. The CHA Violated Ms. Tucker’s Express Rights Under VAWA..... | 9 |
| 24 C.F.R. § 5.2007(c)..... | 9 |
| 24 C.F.R. § 5.100 24 C.F.R. § 5.2005(c)(2)..... | 9 |
| II. DOMESTIC VIOLENCE IS NOT DISCRETE OR ISOLATED ACTS OF VIOLENCE BUT ENCOMPASSES A BROAD PATTERN OF BEHAVIOR DEFINED BY AN ABUSER’S ASSERTION OF POWER AND CONTROL...10 | |
| Claire M. Renzetti, <i>Economic Stress and Domestic Violence</i> (September 2009)... | 10 |
| Shannan Catalano, Ph.D., Bureau of Justice Statistics, <i>Intimate Partner Violence</i> (2007)..... | 10 |

| | |
|---|-----------|
| A. Ms. Tucker Was a Victim of Violence At The Hands of an Abuser Who She Accommodated to Preserve Her Safety and That of her Children..... | 10 |
|---|-----------|

| | |
|---|-----------|
| B. Domestic Violence is a Pattern of Coercive Control, Domination and Intimidation Interspersed with Acts of Violence..... | 12 |
|---|-----------|

| | |
|---|----|
| Deborah Tuerkheimer, <i>The Real Crime of Domestic Violence</i> , in <i>Violence Against Women in Families and Relationships: Vol. 3, Criminal Justice and the Law</i> (Evan Stark & Eve S. Buzawa eds., 2009)..... | 12 |
|---|----|

| | |
|--|----|
| Domestic Abuse Intervention Programs, Power and Control Wheel..... | 12 |
|--|----|

| | |
|---|----|
| Elizabeth Schneider, <i>Battered Women and Feminist Lawmaking</i> (2000)..... | 13 |
|---|----|

| | |
|---|--------|
| Mary Ann Dutton, <i>Understanding Women's Responses to Domestic Violence; A Redefinition of Battered Woman Syndrome</i> , 21 Hofstra L. Rev. 1191, (1993) | passim |
|---|--------|

| | |
|---|--------|
| Evan Stark, <i>Coercive Control: How Men Entrap Women in Personal Life</i> (2009) | passim |
|---|--------|

| | |
|--|----|
| Evan Stark, <i>Re-Presenting Women Battering: From Battered Women Syndrome to Coercive Control</i> , 58 Alb. L. Rev. 973 (1995)..... | 13 |
|--|----|

| | |
|---|-----------|
| C. Battering Often Forces the Victim to Engage in a Pattern of Behavior to Survive, Minimize the Abuse, and Manage the Abuser..... | 14 |
|---|-----------|

| | |
|--|----|
| Alafair S. Burke, <i>Rational Actors, Self-Defense, and Duress: Making Sense, Not Syndromes, Out of the Battered Woman</i> , 81 N.C. L. Rev. 211 (2002)..... | 14 |
|--|----|

| | |
|--|----|
| Ruth E. Davis, "The Strongest Women": <i>Exploration of the Inner Resources of Abused Women</i> , 12 Qual. Health Res. 1248 (2002);..... | 14 |
|--|----|

| | |
|---|--------|
| Kate Cavanaugh, <i>Understanding Women's Responses to Domestic Violence</i> , 2 Qualitative Social Work 229 (2003)..... | passim |
|---|--------|

| | |
|--|--|
| Lisa Goodman, et al., <i>The Intimate Partner Violence Strategies Index:</i> | |
|--|--|

| | |
|--|---------------|
| <i>Development and Application</i> , 9 Violence Against Women (2003)..... | 163 passim |
| Lee Harrington Bowker, <i>Beating Wife-Beating</i> (1983)..... | 14 |
| Mary Ann Dutton, <i>Update of the “Battered Woman Syndrome” Critique</i> (August 2009)..... | 15 |
| Mary Ann Dutton, <i>Battered Women’s Strategic Response to Violence: The Role of Context</i> , in <i>Future Interventions with Battered Women and Their Families</i> (Jeffrey L. Edleson & Zvi Eisikovits eds., 1996)..... | 15 |
| Sherry Hamby, <i>Battered Women’s Protective Strategies</i> (July 2009)..... | 15 |
| D. These Known Dynamics of Domestic Violence Explain How Mr. Cole Was Not a Guest of Ms. Tucker | 16 |
| Leah E. Daigle, <i>Victimology: A Text/Reader</i> (2012)..... | 17 |
| James Ptacek, <i>Battered Women in the Courtroom</i> (1999)..... | 17 |
| Tom Lininger, <i>Prosecuting Batterers After Crawford</i> , 91 Va. L. R. 747, (2005)..... | 17 |
| Carolyn N. Ko, <i>Civil Restraining Orders for Domestic Violence: The Unresolved Question of “Efficacy”</i> , 11 S. Cal. Interdisc. L.J. 361, 374 (2002)..... | passim |
| <i>Metro North Owners v. Thorpe</i> , 870 N.Y.S. 2d 768 (2008)..... | 18 |
| Judith Herman, <i>Trauma and Recovery</i> (1992)..... | 18 |
| Brief for National Network to End Domestic Violence et al. as Amici Curiae Supporting Respondents, <i>Davis v. Washington</i> and <i>Hammon v. Indiana</i> , 547 U.S. 813 (2006) (Nos. 05-5224 and 05-5705) | 18 |
| <i>Encyclopedia of Domestic Violence</i> (Nicky Ali Jackson ed., 2007)..... | 18 |
| 42 U.S.C. § 14043e-11(c) (2013)..... | 19 |

| | |
|---|----|
| HUD Programs: Violence Against Women Act Conforming Amendments, 75 Fed. Reg. 66,246 (Oct. 27, 2010)..... | 19 |
|---|----|

III. ABUSERS OFTEN TAKE STEPS TO JEOPARDIZE A VICTIM'S HOUSING..... 19

| | |
|---|--------|
| Susan A. Reif & Lisa J. Krisher, <i>Subsidized Housing and the Unique Needs of Domestic Violence Victims</i> , 34 Clearinghouse Rev. 20 (2002)..... | passim |
|---|--------|

| | |
|---|----|
| The Economic Stability Working Group of the Transition Subcommittee of the Governor's Commission on Domestic Violence, <i>Voices of Survival: The Economic Impacts of Domestic Violence: A Blueprint for Action</i> (2002)..... | 19 |
|---|----|

| | |
|---|----|
| The U.S. Conference of Mayors, <i>Hunger and Homelessness: A Status Report on Hunger and Homelessness in America's Cities</i> (2007)..... | 20 |
|---|----|

| | |
|---|----|
| Rebekah Levin, et al., <i>Pathways to and From Homelessness: Women and Children in Chicago Shelters</i> (2004)..... | 20 |
|---|----|

| | |
|---|----|
| <i>Floyd v. Hous. Auth. of Cook Cnty</i> , No. 12 CH 14563, 2013 WL 753240 (Ill.Cir.Ct. Feb. 27, 2013)..... | 20 |
|---|----|

| | |
|---|----|
| Press Release, Chi. Hous. Auth., <i>CHA Waitlist Lottery Officially Closes as More Than 282,000 Households Register for Affordable Housing</i> (Nov. 25, 2014)..... | 21 |
|---|----|

| | |
|--|----|
| Jonah Newman, <i>CHA Wait list Exposes Chicago's Affordable Housing Crisis</i> , Chicago Reporter (Nov. 26, 2014)..... | 21 |
|--|----|

| | |
|---|-------|
| Chi. Hous. Auth., <i>FY2015 Administrative Plan for the Housing Choice Voucher Program</i> (Oct. 23, 2014)..... | 21-22 |
|---|-------|

| | |
|--|----|
| Matthew Desmond, <i>Eviction and the Reproduction of Urban Poverty</i> , 118 Am. J. Sociology 88 (2012)..... | 22 |
|--|----|

IV. CONCLUSION..... 22

INTRODUCTION

Amici curiae the Chicago Metropolitan Battered Women's Network ("the network"), Life Span Center for Legal Services and Advocacy, LAF, John Marshall Law School's Domestic Violence Clinical Advocacy Program ("JMLS DV Clinic"), Illinois Coalition Against Domestic Violence (ICADV), National Network to End Domestic Violence (NNEDV), American Civil Liberties Union ("ACLU"), Legal Momentum the Women's Legal Defense and Education Fund, National Housing Law Project (NHLP), National Law Center on Homelessness and Poverty, Domestic Violence Legal Empowerment and Appeals Project (DV LEAP), National Women's Law Center, and Sargent Shriver National Center on Poverty Law ("Shriver Center") (collectively "*Amici*"), pursuant to leave of the Court and Illinois Supreme Court Rule 345, respectfully submit this memorandum in support of the brief filed on behalf of Plaintiff-Appellant Beatrice Tucker ("Ms. Tucker").

Amici are uniquely positioned to inform the Court that the purpose and intent of the housing provisions in the Violence Against Women Act (VAWA) are there to broadly protect victims of domestic violence like Ms. Tucker from losing their housing or being denied admission to housing due to the acts of their abusers. In addition to VAWA's broad mandate, the federal Fair Housing Act protects victims of domestic violence, the majority of whom are women, from those policies or practices that may constitute sex discrimination because they blame victims or try to hold them accountable for the acts of their abusers. *Amici* will explain how the dynamics of domestic violence and how abusers' control of their victims often undermine victims' housing and other aspects of their lives. Abusers such as Mr. Cole will intentionally sabotage victims' housing security to render them homeless and force them to return to the abuser. *Amici* will inform the Court how abusers like Mr. Cole who demand access

to a victim's home are not, from a legal or practical standpoint, "guests" of a victim of domestic violence because victims like Ms. Tucker are only permitting access to their home to avoid further abuse.

STATEMENT OF INTEREST OF *AMICI*

Amici have a strong and unique interest in this appeal concerning domestic violence and housing that makes them well-situated to assist the Court. *Amici* are national, state, and local experts on domestic violence and the intersection of housing and economic insecurity experienced by victims of domestic violence. *Amici* specialize in or run projects devoted to advocating on behalf of victims of domestic violence, and have specific knowledge of how domestic violence can impact all aspects of a person's life, including housing. In particular, many of the *Amici* have drafted, advocated in support of, and assisted in the implementation of laws to protect the housing rights of victims of domestic violence, including the VAWA provisions at issue here.

Amici have seen firsthand how a failure by housing providers to fully adhere to VAWA's mandate to not evict victims of domestic violence due to the acts of their abusers further penalizes victims. *Amici* have also seen firsthand how housing providers fail to understand the dynamics of domestic violence, where abusers dominate and control their victims, and how that failure forces victims to comply with abusers' demands—such as entry into a home—in order to avoid further abuse. Only by reversing the Chicago Housing Authority's (CHA) rejection of Ms. Tucker's VAWA defense at her informal Housing Choice Voucher termination hearing will the full purpose and intent of VAWA be served.

STATEMENT OF FACTS

Amici accepts the facts as stated by Plaintiff-Appellant Beatrice Tucker.

SUMMARY OF THE ARGUMENT

The Violence Against Women Reauthorization Act of 2005 was specifically amended to include housing protections for victims of domestic violence like Ms. Tucker and to prevent them from losing their housing due to the acts of their abuser. There is also a growing recognition that those housing policies and practices that blame and hold victims accountable for the acts of their abusers can constitute sex discrimination in violation of the Fair Housing Act because the vast majority of victims of domestic violence are women. The facts of Ms. Tucker's case and the literature on domestic violence clearly show that Mr. Cole was not a "guest" of Ms. Tucker under law, because she had no control over—and therefore did not consent to—his actions. Rather, Mr. Cole, like other abusers, dominated and controlled Ms. Tucker, thereby forcing her to comply with his demands—such as entry into a home—in order to avoid further abuse.

On May 13, 2013, a Hearing Officer issued an informal hearing decision letter terminating Ms. Tucker's assistance in the CHA's Housing Choice Voucher Program. While the Hearing Officer recognized the history of domestic violence by Mr. Cole against Ms. Tucker, the Hearing Officer held Ms. Tucker responsible for Mr. Cole's actions and determined Mr. Cole "was indisputably Ms. Tucker's guest" in her home. (C00012–C00016)

For the reasons set forth below, *Amici* submit that the Hearing Officer erred in terminating Ms. Tucker's Housing Choice Voucher and finding that Mr. Cole "was indisputably Ms. Tucker's guest" in her home. (C00016) Although Ms. Tucker clearly articulated a VAWA defense, triggering her right to receive a written request for and the opportunity to provide proof of the domestic violence should the CHA elect to reject that defense, the Hearing Officer made no reference to VAWA and the protection from termination it provides to victims of domestic

violence. The Hearing Officer further failed to articulate any understanding of the dynamics of domestic violence, including the acts of sabotage, domination, and control exerted by Mr. Cole in this case against Ms. Tucker, which included his claim he lived with Ms. Tucker. As a result, the Hearing Officer failed to recognize that Mr. Cole was not and could not be a “guest,” as that term is defined by both VAWA and the U.S. Department of Housing and Urban Development’s (HUD) regulations, in Ms. Tucker’s home because she could not control his access to the home without further violence.

ARGUMENT

I. THE INTENT OF VAWA’S HOUSING PROVISIONS WAS TO ADDRESS A CRISIS OF EVICTIONS OF VICTIMS OF DOMESTIC VIOLENCE.

VAWA’s housing provisions came in direct response to an increasing recognition that the strict liability crime-reduction mandate of federal housing providers, as upheld in part by the U.S. Supreme Court in *HUD v. Rucker*, U.S. 125 (2002), and commonly referred to as “one-strike,” had led to disastrous results for victims of domestic violence. The one-strike rule permitted housing authorities to evict tenants for criminal activity committed by a household member or guest. Screening and Eviction for Drug Abuse and Other Criminal Activity, 66 Fed. Reg. 28776 (May 24, 2001). However, housing authorities went well beyond the purpose and intent of the one-strike law, applying it as a strict liability means of eviction whenever criminal activity occurred in the home, which led to victims being punished for the violence committed against them. Across the country, victims of domestic violence were being evicted from their homes because of the violence against them. See e.g. *Steven Scott Mgmt, Inc. v. Steven Rayfield Scott and Carol Norman*, C7-98-2024, 1999 WL 366596, at * 1 (Minn. Ct. App., June 8, 1999) (victim attacked in her home and then told she violated her lease because her attacker “substantially annoyed and endangered other residents”); Laura Griffin, *Eviction Upheld for*

Woman Who Was Attacked in Home, Dallas Morning News, May 26, 1999 at 1A (victim assaulted in her home and was evicted because she was held responsible for any criminal activity occurring in her apartment, including domestic violence; this case later settled); *Moundsville Hous. Auth. v. Porter*, 370 S.E. 2d 341, 343 (W. Va. 1988) (per curiam) (court overturned landlord's eviction of victim two days after she was beaten and hospitalized and reported the incident to police).

In 1999, as part of a program titled the "National Discussion on Housing and Domestic Violence," advocates, federal policy makers, and HUD officials addressed the question: How can crime reduction efforts be supported without forcing battered women to suffer the consequences of their abusive partner's behavior? Anne Menard, *Domestic Violence and Housing: Key Policy and Program Challenges*, 7 Violence Against Women 707, 714 (2001). It was noted that of particular concern were crime reduction policies that expose a victim to the risk of eviction because of her partner's or ex-partner's violence, his property damage, his threat to other tenants, or his violation of family one-strike policies. *Id.*

A. The VAWA 2005 Reauthorization Provided Specific Housing Protections for Victims of Domestic Violence, which were Expanded in 2013.

In 2005, Congress responded to this call to address the growing national problem, inserting for the first time in the Violence Against Women Act Reauthorization of 2005 (VAWA 2005) bill language to protect victims of domestic violence, dating violence, and stalking from eviction and admission denials due to the acts of their abusers. Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 41402, 119 Stat. 2960, 3041-49 (2006). In testimony before Congress regarding the VAWA 2005 reauthorization and the need for housing protections for survivors, then executive director of the National Network to End Domestic Violence Lynn Rosenthal explained that "[m]any victims of domestic

violence have been evicted or denied housing due to the crimes committed against them or because of their abuser's actions." *Testimony before the S. Committee on the Judiciary on the Violence Against Women Act of 2005*, 109th Cong. 14 (2005) (statement of Lynn Rosenthal, Executive Director, National Network to End Domestic Violence). Additionally, Economic Justice Specialist at the Vermont Network Against Domestic And Sexual Violence, Auburn L. Watersong, explained that "[a]busers intentionally use tactics to limit and control victims' access to finances, transportation, housing, and banking," and "[l]andlords often threaten victims with penalties or evictions, or unfairly hold victims accountable for the behavior of their abusers." *The Increased importance of the Violence Against Women Act in a Time of Economic Crisis: Hearing Before the S. Committee on the Judiciary*, 111th Cong. 16 (2010) (statement of Auburn L. Watersong, Economic Justice Specialist, Vermont Network Against Domestic and Sexual Violence, Montpelier, Vermont).

Congress addressed the concerns raised by advocates by incorporating many findings on the subject in VAWA 2005, including: "a strong link between domestic violence and homelessness," the fact that "abusers frequently manipulate finances in an effort to control their partners," and the fact that women "are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence." VAWA 2005 § 41401(1), (10), (3). Based on these findings, Title VI of VAWA 2005 is expressly intended to ensure "that [] victims have meaningful access to the criminal justice system without jeopardizing [] housing" and further ensure that "the status of being a victim of such a crime is not a reason for the denial or loss of housing." *Id.* at § 41405(a), § 41402.

VAWA was reauthorized in 2013 under the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 built upon VAWA 2005's recognition that victims

cannot be denied or evicted from housing due to the acts of their abusers and provided additional housing protections for victims of domestic violence, dating violence, and stalking, such as an opportunity to transfer to safe housing, and for the first time, covered survivors of sexual assault. VAWA 2013 also expands VAWA protections to seven additional HUD housing programs,¹ on top of the Low-Income Housing Tax Credit Program operated by the Department of Treasury and affordable housing programs operated by the Department of Agriculture. In short, Congress has recognized the need to expand and further protect victims of violence so they can access and maintain safe and affordable housing. Indeed, the HUD Proposed Rule for VAWA 2013 notes that this expansion of rights and covered programs is intended by HUD to signal “to all tenants in the covered housing programs that HUD is an active part of the national response to prevent domestic violence, dating violence, sexual assault, and stalking.” Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, 80 Fed. Reg. 17,548, 17,549 (Apr. 1, 2015).

In this case, however, while the CHA acknowledged that Ms. Tucker was abused (C00171:12), the hearing officer and the CHA ignored the obligation to consider this prior to termination and seemingly operated from a pre-VAWA legal landscape that held victims accountable for the acts of their abusers. In fact, the Hearing Officer’s express reference to *HUD v. Rucker*, and not to VAWA, underscores the officer’s complete failure to apply either this binding federal law or the CHA’s own broader rules mandating consideration of the impact of domestic violence on the ability of a Voucher tenant to meet her family obligations prior to any

¹ VAWA 2013 makes the following HUD programs subject to the VAWA protections: Section 202 Supportive Housing for the Elderly, Section 811 Supportive Housing for Persons with Disabilities, Housing Opportunities for Persons With AIDS, HOME Investment Partnerships program, FHA mortgage insurance for multifamily rental housing under Section 221(d)(3), FHA mortgage insurance for multifamily rental housing under Section 236, and HUD programs assisted under the United States Housing Act of 1937. Notice, The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs, 78 Fed. Reg. 47,717, 47,718 (Aug. 6, 2013).

decision to terminate the family's assistance. *See* Chicago Housing Authority, *Chicago Housing Authority Housing Choice Voucher Program Administrative Plan* 12-9 (2012) (CHA will consider whether a tenant is a victim of domestic violence, cannot meet a family obligation due to domestic violence, or the extent of participation or culpability of family members, including if the culpable family member is a victim of domestic violence prior to termination); *see also* 24 C.F.R. § 5.2007(c) ("In order to deny relief for protection under VAWA, a [public housing authority], owner, or management agent must provide the individual with a written request for documentation of the abuse.").

In addition to the protections for survivors under VAWA, there is a growing recognition that those housing policies and practices that blame and hold victims accountable for the acts of their abusers can constitute sex discrimination in violation of the Fair Housing Act. *See e.g., Alvera v. C.B.M. Grp.*, Case No. 01-857 (D. Or. 2001); *Warren v. Ypsilanti Hous. Auth.*, Case No. 4:02-cv-40034 (E.D. Mich. 2003); *Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675 (D. Vt. 2005); *Lewis v. North End Vill.*, Case No. 2:07-cv-10757 (E.D. Mich. 2007). A 2011 guidance from the HUD Office of Fair Housing and Equal Opportunity advises that "survivors of domestic violence often face housing discrimination because of their history or the acts of their abusers," and "[i]n many of these cases, adverse housing action punishes victims for the violence inflicted upon them." Memorandum from Sara K. Pratt, Deputy Assistant Secretary for Enforcement and Programs, U.S. Department of Housing and Urban Development on Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA) to FHEO Office Directors and FHEO Regional Directors (Feb. 9, 2011), at 1-2, *available at* <http://www.hud.gov/offices/fheo/library/11-domestic-violence-memo-with-attachment.pdf>. The

guidance goes on to describe the “double victimization,” such as evictions and denials of housing because of domestic violence, as “unfair and [] may be illegal” in violation of the Fair Housing Act. *Id.* at 2.

B. The CHA Violated Ms. Tucker’s Express Rights Under VAWA.

The CHA’s decision to terminate Ms. Tucker’s housing assistance placed her and her three children at imminent risk of becoming homeless in violation of her rights under VAWA as well as the Fair Housing Act and the robust body of laws and policies enacted and promoted by Congress, HUD, and national experts to protect the housing of victims of domestic violence. In spite of the protections Ms. Tucker has under VAWA and the Fair Housing Act, the Hearing Officer ignored all of this, failing to recognize the sound body of laws and policies enacted and promoted by Congress, HUD, and national experts to protect the housing of victims of domestic violence.

Presented with a tenant who clearly described herself as a victim of domestic violence, the CHA had an affirmative duty under VAWA to take no further steps to terminate Ms. Tucker’s housing until it provided a written request for proof that she was a victim entitled to VAWA’s protections and the opportunity to respond to the request. 24 C.F.R. § 5.2007(c). After depriving Ms. Tucker of this right, it based its decision to terminate assistance on the artifice that Mr. Cole was a household member or “at the very least an invited guest.” (C00016) As explained in Appellant’s brief, both VAWA and HUD federal regulations require that a “guest,” for housing purposes, be someone who is present with the consent and therefore under the control of the household head. *See* 24 C.F.R. § 5.100; 24 C.F.R. § 5.2005(c)(2). CHA’s finding blatantly ignored clear evidence that Ms. Tucker was a victim of Mr. Cole’s ongoing, threatened abuse,

which precluded any possibility that he was under Ms. Tucker's control or there as a result of her voluntary consent. This decision should not be allowed to stand.

II. DOMESTIC VIOLENCE IS NOT DISCRETE OR ISOLATED ACTS OF VIOLENCE BUT ENCOMPASSES A BROAD PATTERN OF BEHAVIOR DEFINED BY AN ABUSER'S ASSERTION OF POWER AND CONTROL.

The Hearing Officer also ignored what domestic violence actually is and how it affects all aspects of a victim's life. Domestic violence continues to be a terrifying reality for women and their children across the country. National estimates of the prevalence of domestic violence report up to 4 million incidents annually, with 85% of reported assaults committed by men against women. Pratt, *supra* at 2. Low-income women are five times more likely to experience domestic violence. Claire M. Renzetti, *Economic Stress and Domestic Violence 2* (September 2009), available at http://www.vawnet.org/Assoc_Files_VAWnet/AR_EconomicStress.pdf. Additionally, females who reside in rental housing are victimized at an annual average rate of more than three times the rate of females living in housing that they own. Shannan Catalano, Ph.D., Bureau of Justice Statistics, *Intimate Partner Violence* 16 (2007). Finally, women of color, particularly African-American women, experience intimate partner violence at a rate 35% higher than that of white females, and about 2.5 times the rate of women of other races. Pratt, *supra* at 2. The domestic violence experienced by Ms. Tucker, as a low-income African-American female residing in rental housing is tragically consistent with these statistics.

A. Ms. Tucker Was a Victim of Violence At The Hands of an Abuser Who She Accommodated to Preserve Her Safety and That of her Children.

Ms. Tucker represented herself during the Chicago Housing Authority's Informal Hearing on the termination of her participation in the Housing Choice Voucher Program. (C00018) During the informal hearing, Chicago Police Officer Edward Johnson testified that four times in the previous 12 months Ms. Tucker had made reports to the Chicago police, naming

Alonzo Cole as the perpetrator of acts of domestic violence against Ms. Tucker that had taken place at her home. (C00125:17–C00125:21) Officer Johnson testified that he was executing a search warrant for Mr. Cole at Ms. Tucker’s home based upon a tip Mr. Cole possessed illegal weapons. (C00123:5–C00124:24) Officer Johnson testified that Mr. Cole was found in the home with another individual and arrested. (C00128:1–C00128:10) Ms. Tucker was not home at the time and was not arrested or charged with any crime. (C00157:2–C00157:7; C00240) Officer Johnson testified that police found Mr. Cole’s AK-47 in his van and that Mr. Cole was found to have marijuana on his person. (C00130:13–C00130:14; C00131:21–C00131:22) Officer Johnson also testified that Mr. Cole identified Ms. Tucker’s home as his home. (C00132:15–C00132:20)

Ms. Tucker’s testimony was focused almost exclusively on her fear of Mr. Cole. She repeatedly alluded to his violence against her, the fact that they were “not together,” and explained her use of strategic behaviors typical of victims of domestic violence (see Subsections B, C, and D, below) to avoid his abuse. Ms. Tucker tried to arrange for Mr. Cole to pick up his son from Ms. Tucker’s grandmother’s house, but Mr. Cole frequently refused, demanding that the drop off be at Ms. Tucker’s house. (C00158:8–C00158:10; C00162:20–C00162:24) Ms. Tucker clearly stated that Mr. Cole was abusive towards her, stating that “[a]s far as the police reports I made against him, he is abusive. And when stuff don’t go his way he does to try to fight.” (C00158:14–C00158:16) Ms. Tucker clearly articulated Mr. Cole’s power and control over her:

So to keep things for me, to keep things level, I just say, okay, you can pick him up. Because he had his anger issue where this is my son, you can’t tell me what to do. And I had a restraining order against him. But I dropped it, because when we spoke of it, it wasn’t nothing they could do as far as keeping him away from his son. That’s what I was told.

(C00165:20–C00163:4)

Ms. Tucker flatly denied that Mr. Cole lived in her house. (C00156:20) Ms. Tucker said that Mr. Cole was in the home in order to pick up his son but that otherwise “I have no ties with him other than his son. We are not together. I don’t want nothing else to do with him.” (C00157:2; C00158:5–C00158:7) In her closing argument at the informal hearing Ms. Tucker again clearly and repeatedly articulated that she was abused by Mr. Cole and ceded to his demands regarding their son in order to avoid abuse:

I do have a relationship with him where he can come and pick his son up to keep down the fighting and the argument. I’ve been beat by this boy. So it is not like—I want to continue to have my ease with him. If he say, okay, I’m going to come pick him up. Okay, fine.

I don’t have anything to do with him. He is abusive. But I talk to him to hold a calmer situation with him and my son. That is the only way I can explain it. If you look at the police reports, you will see that he is very abusive. That is the only thing I have to say.

(C00173:9–C00173:15; C00174:9–C00174:14)

B. Domestic Violence is a Pattern of Coercive Control, Domination and Intimidation Interspersed with Acts of Violence.

Domestic violence is more than discrete acts of violence. Rather, it is “widely understood as an ongoing pattern of behavior defined by both physical and non-physical manifestations of power.” Deborah Tuerkheimer, *The Real Crime of Domestic Violence*, in *Violence Against Women in Families and Relationships: Vol. 3, Criminal Justice and the Law* 2 (Evan Stark & Eve S. Buzawa eds., 2009) (noting that this is “a remarkably uncontroverted proposition”). The well-known “Power and Control Wheel,” a common instrument used by advocacy and support programs, captures an array of tactics, including “intimidation, coercion, and threats; using male privilege; economic abuse; using children; minimizing, denying and blaming; isolation, and emotional abuse.” See Domestic Abuse Intervention Programs, Power and Control Wheel,

available at <http://www.theduluthmodel.org/pdf/PowerandControl.pdf>. As researchers and scholars have explained:

an accurate description of battering is ‘premised on an understanding of coercive behavior and of power and control—including a continuum of sexual and verbal abuse, threats, economic coercion, stalking, and social isolation---rather than ‘number of hits.’”

Elizabeth Schneider, *Battered Women and Feminist Lawmaking* 65 (2000); see also, Mary Ann Dutton, *Understanding Women’s Responses to Domestic Violence: A Redefinition of Battered Woman Syndrome*, 21 Hofstra L. Rev. 1191, 1204-06 (1993) [hereinafter *Redefinition*]. Evan Stark, a foremost expert on coercive control in battering relationships, explains that violence in abusive relationships is not an end in itself; rather, the abuser seeks complete possession and control of his partner, which Stark terms “entrapment.” Indeed, Stark emphasizes that the most significant harm abusers inflict is preventing their partners from “doing for themselves by appropriating their resources; undermining their social support; subverting their rights to privacy, self-respect, and autonomy; and depriving them of substantive equality,” which is far more destructive to abused women than direct physical and emotional harm. Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* 13 (2009) [hereinafter *Coercive Control*]; see also, Evan Stark, *Re-Presenting Women Battering: From Battered Women Syndrome to Coercive Control*, 58 Alb. L. Rev. 973, 986 (1995).

Accordingly, the harm that a victim suffers is not merely that caused by discrete incidents of violence, including the physical injuries and demoralization and suffering. The essence of the harm of abuse is the cumulative effect of the abuser’s ongoing undermining of the victim in all dimensions:

What is taken from the women whose stories I tell . . . is the capacity for independent decision making in the areas by which we distinguish adults from children and free citizens from indentured servants. Coercive control entails a

malevolent course of conduct that subordinates women to an alien will by violating their physical integrity (domestic violence), denying them respect and autonomy (intimidation), depriving them of social connectedness (isolation), and appropriating or denying them access to the resources required for personhood and citizenship (control).

Coercive Control, *supra* at 15.

C. Battering Often Forces the Victim to Engage in a Pattern of Behavior to Survive, Minimize the Abuse, and Manage the Abuser.

Victims of domestic violence often engage in strategic behaviors that appease the abuser in order to minimize and manage the abuse they face. Alafair S. Burke, *Rational Actors, Self-Defense, and Duress: Making Sense, Not Syndromes, Out of the Battered Woman*, 81 N.C. L. Rev. 211, 212 (2002); Ruth E. Davis, “*The Strongest Women*”: *Exploration of the Inner Resources of Abused Women*, 12 Qual. Health Res. 1248, 1255 (2002); *Redefinition*, *supra* at 1195, 1202; Kate Cavanaugh, *Understanding Women’s Responses to Domestic Violence*, 2 Qualitative Social Work 229, 231 (2003); Lisa Goodman, et al., *The Intimate Partner Violence Strategies Index: Development and Application*, 9 Violence Against Women 163, 184 (2003). Often these strategies enable battered women to endure and survive until they can fully disengage from their abuser. *Id.*

While a victim’s behaviors can sometimes appear counterintuitive or “puzzling,” when examined within the abusive relationship, the behaviors can be better understood as a strategy to survive, manage, and minimize the specific dangers. *Redefinition*, *supra* at 1195, 1202; *see also* Lee Harrington Bowker, *Beating Wife-Beating* 63-73 (1983) (describing personal strategies women have employed in the face of violence). Appeasement and accommodation are common tactics used by abuse victims in order to cope with and manage abuse. *Redefinition*, *supra* at 1195, 1202; *see also* Bowker, *supra*; Cavanaugh, *supra* at 229, 231; Lisa Goodman, et al., *supra*;

Mary Ann Dutton, *Update of the "Battered Woman Syndrome" Critique 2* (August 2009), available at http://www.vawnet.org/Assoc_Files_VAWnet/AR_BWSCritique.pdf.

While some actions by women may appear passive, or indicative of dependence (e.g., complying with an abuser's demands), often these are strategic choices aimed at ensuring survival and safety. See Mary Ann Dutton, *Battered Women's Strategic Response to Violence: The Role of Context*, in *Future Interventions with Battered Women and Their Families* 105-24 (Jeffrey L. Edleson & Zvi Eisikovits eds., 1996). Victims employ such strategies to avoid and protect themselves and others from abuse by their intimate partners. *Redefinition, supra* at 1202, 1227; Sherry Hamby, *Battered Women's Protective Strategies 2* (July 2009), available at http://www.vawnet.org/Assoc_Files_VAWnet/AR_BWProtStrat.pdf. Complying with the abuser's demands (or anticipated demands) are a key means of "keep[ing] the peace," thus avoiding a possible violent or abusive episode. *Redefinition, supra* at 1227-28.

Because control is an abusers' goal, victims of abuse often need to allow them that control by cajoling the abuser and/or acceding to his wishes, as in Ms. Tucker's case. See Cavanaugh, *supra* at 236-38 (discussing victim's responding to violence in ways that presented no direct threat to the abuser's overall authority and power); Goodman, *supra* at 168-69. For example, in one study, an abused woman described her strategy for managing the abuser and avoiding violence as "I'd make tea or coffee or just basically try anything to keep [the abuser] in a good mood. Sometimes it worked too." Cavanaugh, *supra* at 238. Another described her appeasing behavior saying "I would agree with him all the time if that's what he wanted to hear just to keep the peace." *Id.*

Given the cumulative history of abuse in many relationships, ongoing fear often drives vigilance or the perception that few options exist, even after periods of time have elapsed

between violent episodes or during moments when the abusive partner appears to be peaceful and calm. *Redefinition, supra* at 1208-09. The ongoing impact of prior abuse elucidates why, at a moment when there *appears* to an outsider to be no threat or immediate coercion from the abuser, a victim will often still engage in appeasement and compliant behavior.

D. These Known Dynamics of Domestic Violence Explain How Mr. Cole Was Not a Guest of Ms. Tucker.

While the Hearing Officer recognized that Mr. Cole “had been abusive to her in the past” and that Ms. Tucker had repeatedly called the police to report domestic violence by Mr. Cole, the Hearing Officer found that:

Mr. Cole was indisputably Ms. Tucker’s guest and his actions in her home are illegal criminal activities prohibited by the family obligations for residents or guests. Ms. Tucker is the head of household and she is responsible for the conduct of household Members and guests regardless of her knowledge of such behavior. The Supreme Court of the United States has long held that regardless of the knowledge of the lease-holder, the actions of household members (including guests) can terminate the voucher. *HUD v. Rucker*, 535 U.S. 125 (2002).

(C00016) But as both the above-mentioned literature and the testimony of Ms. Tucker show, Ms. Tucker was not consenting to Mr. Cole’s presence in her home or inviting him in as a guest. Rather, she was complying with her abuser’s demands in order to satisfy his demand for her to be compliant with him, which reduced the risk of his hostility and his resulting abuse against her. Her testimony and the literature show Ms. Tucker was doing her best to survive and keep the violence and abuse minimized by not resisting Mr. Cole’s insistence on getting his son from her home (rather than pick up at her grandmother’s house)—a classic instance of forcing himself into her presence and not allowing her to create distance.² Mr. Cole’s history of violence against Ms. Tucker clearly shows that his dangerousness was real. In order to keep herself and her children safe, she did need to “have a relationship with him where he can come and pick his son up to

² The fact that Ms. Tucker was told that she “could not” prevent him from having access to his son further demonstrates that she believed she had no choice but to find ways to accommodate and not enrage him.

keep down the fighting and the argument. I've been beat by this boy. So it is not like --- I want to continue to have my ease with him. If he say, okay, I'm going to come pick him up. Okay, fine.” (C00173:9–C00173:15)

As supported by numerous studies, Ms. Tucker's appeasement behaviors helped the abuser feel that he controlled Ms. Tucker and her actions, which reduced the risk of violence and abuse she faced from Mr. Cole. Indeed, on those occasions where Ms. Tucker did not appease and accommodate him, she explained “when stuff don't go his way, he does try to fight.” (C00158:15–C00158:16) Ms. Tucker's appeasement behavior, typical of many victims' “managing” of an abuser, protected her from Mr. Cole's violence by allowing him to believe that he controlled her, which was essential to keep his hostility and violence at bay.

Ms. Tucker, like many domestic violence victims, also sought legal protection to stay safe—she sought and received an Order of Protection, identified by her as a “restraining order”, against him to keep him away. Rather than relying on that to corroborate her assertions of Mr. Cole's danger to her, the Hearing Officer focused instead on the fact that Ms. Tucker subsequently dropped the Order of Protection to dismiss her safety concern. (C00016)

However, dropping an Order of Protection is a common behavior by women who are indeed in danger from an abuser. Approximately 50% of women nationwide drop their Orders of Protection. Leah E. Daigle, *Victimology: A Text/Reader* 283 (2012). They do so for a variety of reasons, most of which derive from the fact that taking legal action is often extremely risky for victims of battering. Retaliatory violence against women who seek legal protection is notoriously common. See James Ptacek, *Battered Women in the Courtroom* 145-149 (1999) (detailing fear of retaliation by women seeking Orders of Protection); Tom Lininger, *Prosecuting Batterers After Crawford*, 91 Va. L. R. 747, 769 (2005) (threats of retaliatory violence in as many as half of all

charged cases; 30% of women were re-assaulted during the course of the prosecution); Carolyn N. Ko, *Civil Restraining Orders for Domestic Violence: The Unresolved Question of "Efficacy"*, 11 S. Cal. Interdisc. L.J. 361, 374 (2002) [hereinafter *Civil Restraining Orders*].³ See also *Metro North Owners v. Thorpe*, 870 N.Y.S. 2d 768 at 773-774 (2008) (finding that voucher tenant was a victim of domestic violence protected by VAWA from voucher termination, and recognizing that inconsistent victim behavior toward an aggressor fits into the cycle of violence). Victims are also often traumatized by the batterer, and testifying against him in court can feel almost as terrifying as facing the abuser outside the courtroom. Judith Herman, *Trauma and Recovery* 72, 165 (1992); Brief for National Network to End Domestic Violence et al. as Amici Curiae Supporting Respondents, *Davis v. Washington* and *Hammon v. Indiana*, 547 U.S. 813 (2006) (Nos. 05-5224 and 05-5705), at 56a, 60a-61a, 63am, 67q. Of course, when offenders do not attach any meaning or value to the Order of Protection, they are not effective. *Civil Restraining Orders*, *supra* at 4; *Encyclopedia of Domestic Violence* 585 (Nicky Ali Jackson ed., 2007). Indeed, here Ms. Tucker explained—but the Hearing Officer disregarded—that she dropped the Order of Protection when she was told she still had to provide access to his son, since she likely felt the Order of Protection would therefore provide little security or protective value.

Importantly, VAWA does not require that victims of domestic violence secure Orders of Protection in order to benefit from the law. For a victim of domestic violence to establish she is entitled to VAWA's protections once she is asked for proof of the violence by a housing provider, she has a range of options: she can orally identify as a victim of domestic violence; complete a HUD VAWA self-certification form; provide police, court or administrative records;

³Another study showed that after women obtained Orders of Protection, 60% reported re-abuse (Orders of Protection violated within a year after issuance), 1/3 experienced severe violence, 45% reported threats of violence and acts of property damage, and over 50% reported psychological abuse within 1 year. Carolyn N. Ko, *Civil Restraining Orders for Domestic Violence: The Unresolved Question of "Efficacy"*, 11 S. Cal. Interdisc. L.J. 361, 374 (2002).

or provide a letter from a victim service agency, medical professional, mental health professional, or lawyer from whom she is seeking services. 42 U.S.C. § 14043e-11(c) (2013). As noted above, Ms. Tucker was never even provided a request for proof, which VAWA requires in writing before any termination proceeding can move forward. Further, HUD has made clear that a victim cannot be required to submit third-party proof, such as an Order of Protection. HUD Programs: Violence Against Women Act Conforming Amendments, 75 Fed. Reg. 66,246 at 66,251 (Oct. 27, 2010) (codified at 24 C.F.R. pt. 5).⁴ This important clarification is a broader recognition by HUD of the need not to mandate that victims of domestic violence “prove it” with documents or court orders that they may not be able to obtain or maintain for a variety of reasons, including safety.

III. ABUSERS OFTEN TAKE STEPS TO JEOPARDIZE A VICTIM’S HOUSING.

Researchers have identified the lack of financial resources, including affordable housing, as one of the main reasons why battered women, risking their lives and possibly their children’s lives, remain with or return to their abusers. Susan A. Reif & Lisa J. Krisher, *Subsidized Housing and the Unique Needs of Domestic Violence Victims*, 34 Clearinghouse Rev. 20, 21-22 (2002); see also The Economic Stability Working Group of the Transition Subcommittee of the Governor’s Commission on Domestic Violence, *Voices of Survival: The Economic Impacts of Domestic Violence: A Blueprint for Action* 39 (2002) (finding that more than two out of every five survivors surveyed stated that lack of affordable permanent housing puts domestic violence victims in the position of choosing between homelessness and continued abuse). Indeed, there is a direct correlation between domestic violence and homelessness, with domestic violence being one of the leading causes of homelessness for women and their children. The U.S. Conference of

⁴ The only exception to this proof provision is when there are two parties both claiming to be the victim and claiming that the other person is the abuser. 42 U.S.C. § 14043e-11 (2013).

Mayors, *Hunger and Homelessness: A Status Report on Hunger and Homelessness in America's Cities* 12 (2007). Thus, safe and secure affordable housing, such as the Housing Choice Voucher Ms. Tucker had before her assistance was terminated, gives the victim the foundation to address the other problems she faces and to focus on other needs such as education, employment, and counseling.

Research shows that abusers commonly sabotage a victim's economic stability and isolate them from their family and friends. Reif *supra*, at 21-22. Many victims also face the loss of their housing due to the calculated acts of their abusers whose intent is to render their victims homeless and dependent and forced to return to them. See e.g., Rebekah Levin, et al., *Pathways to and From Homelessness: Women and Children in Chicago Shelters* 15 (2004), available at <http://www.impactresearch.org/documents/homelessnessreport.pdf> (finding that for a substantial portion of women surveyed in Chicago shelters, housing arrangements were destroyed due to intimate partner violence).

Amici often see abusers who are well aware that their conduct, including continued entry into a victim's home or criminal conduct at the victim's home, jeopardizes a victim's housing. In *Amici's* experience, abusers are equally aware of the importance of affordable housing for their victims and the serious consequences if it is lost and are thus known to directly threaten victims that their housing assistance will be lost and often carry those threats through. See e.g., *Floyd v. Hous. Auth. of Cook Cnty*, No. 12 CH 14563, 2013 WL 753240 (Ill.Cir.Ct. Feb. 27, 2013) (court reversed the hearing officer's decision terminating the victim's Housing Choice Voucher after finding, inter alia, that abuser voluntarily and purposefully provided information to the housing authority supporting his claim that he lived with her, seemingly with the intention of getting the victim terminated from the program).

Indeed, Mr. Cole made that very claim to police during his arrest of purporting to live with Ms. Tucker, which directly contributed to the loss of her Housing Choice Voucher. Mr. Cole's claim of living with Ms. Tucker fits all too well within the common pattern of housing sabotage by abusers. Yet, in spite of the fact that Ms. Tucker's live testimony directly contradicted his claim to police of living with her, the hearing officer relied on an abuser's destructive assertion to terminate her Housing Choice Voucher.

The problem of maintaining housing in the face of these threats and sabotage is particularly acute for low-income victims like Ms. Tucker. Given the severe shortage of affordable housing locally and nationally, the loss of affordable housing often means victims are unable to secure new affordable housing or worse, become homeless with their children. The Housing Choice Voucher waitlist is closed as of the filing of this brief. In 2014, more than 282,000 households applied to the CHA's lists for public housing, property rental assistance, and the voucher program. *See, e.g.,* Press Release, Chi. Hous. Auth., *CHA Waitlist Lottery Officially Closes as More Than 282,000 Households Register for Affordable Housing* (Nov. 25, 2014), available at <http://www.thecha.org/cha-waitlist-lottery-officially-closes-as-more-than-282000-households-register-for-affordable-housing/>; Jonah Newman, *CHA Wait list Exposes Chicago's Affordable Housing Crisis*, Chicago Reporter (Nov. 26, 2014), <http://chicagoreporter.com/cha-wait-list-exposes-chicagos-affordable-housing-crisis/>.

The CHA's closed public housing waitlist has an average wait time of 3.5 years. Newman, *supra*. Even worse, the CHA's termination of Ms. Tucker from the Voucher program due to the acts of her abuser will severely limit her ability to even be eligible for federally subsidized housing or other rental housing. *See e.g.,* Chi. Hous. Auth., *FY2015 Administrative Plan for the Housing Choice Voucher Program* 65 (Oct. 23, 2014), available

at <http://www.thecha.org/cha-waitlist-lottery-officially-closes-as-more-than-282000-households-register-for-affordable-housing/>; Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 Am. J. Sociology 88, 118-19 (2012), available at <http://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>.

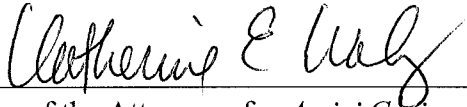
Thus, the consequence of the Hearing Officer's decision is clear: Ms. Tucker is being blamed for the acts of her abuser, and she and her children will suffer long-term housing instability and likely homelessness as a result. This is exactly the result the VAWA housing protections were established to prevent.

CONCLUSION

For the reasons set forth above, *Amici* respectfully urge this Honorable Court to overturn the CHA's administrative decision terminating Ms. Tucker's Housing Choice Voucher.

Dated: May 22, 2015

Respectfully submitted,



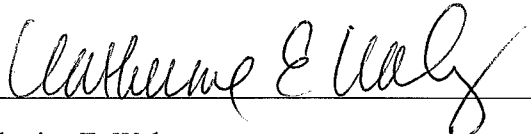
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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rule 341(a) and (b). The length of the brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 22 pages.



Katherine E. Walz