

Insult to injury

Government policy encourages landlords to evict domestic-violence victims.

by Ann Mullen

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Arronica Warren's brush with a chronically violent ex-boyfriend and an equally deranged housing policy came to a head on Leap Year Day, Feb. 29, 2000.

Warren had put her month-old son to bed just as the boy's father dropped by. The estranged couple had split 10 months earlier, with the ex-boyfriend moving out of their Ypsilanti townhouse. An argument erupted and the ex-boyfriend manhandled Warren. He grabbed her arm and shoved her onto the couch, then pushed her into the entertainment center and onto the floor. He dragged her outside, picked her up and threw her to the ground. Warren, a petite woman, landed on her face. She ran back into the apartment and called the police. Her assailant fled.

When her landlord, the Ypsilanti Housing Commission, learned of the incident, it offered no assistance or consolation. Instead, it issued the new mother an eviction notice. Warren is one of several women around the state and country who has faced eviction proceedings because they are domestic-abuse victims.

In 1988, Congress passed the Anti-Drug Abuse Act, which is commonly referred to as the "One Strike, You're Out" policy. The initiative implemented by the U.S. Department of Housing and Urban Development (HUD) allows public-housing authorities to deny occupancy to applicants with criminal records and to evict tenants for illegal activity, even if they are not the source of it. Though the policy was adopted primarily to rid public housing of drug-related violence, some housing authorities have also applied the law to victims of domestic violence, holding them responsible for their abusers' illegal behavior. Some privately owned housing complexes that receive federal subsidies also have adopted the One Strike rule and applied it to domestic-violence victims.

Warren, who fought the eviction and won, is now suing the Ypsilanti Housing Commission in federal court. Her lawsuit alleges that the commission's application of the One Strike policy discriminates against women since they make up the majority of domestic-violence victims.

Attorney Frederick McDonald who represents the Housing Commission says that his client "has done nothing wrong."

Women's-rights experts say that taking on the public housing policy is the next frontier in combating violence against women. Warren, who is represented by the American Civil Liberties Union of Michigan and a private law firm, is the first woman in the state — and the second in the nation — to sue in federal court over a policy that she says re-victimizes the victim.

A growing number of people are coming to see the policy as nonsensical.

"There is this idea that she should be able to control him and his behavior and if she doesn't, it's her fault," says Susan McGee, former director of Domestic Violence Project, Inc. SAFE House in Ann Arbor.

Trailblazer

Arronica Warren sits at a large conference table in the Ann Arbor office of her lawyer. Her 2-year-old son, Kinte, is asleep in her arms. She smiles and explains that he is exhausted from day care. Warren, who is earning her General Equivalency Diploma by day and works nights at a fast-food restaurant, looks a bit worn out herself.

She makes little eye contact when she recounts the events that led to the attempted eviction and the ensuing lawsuit.

Warren, 23, moved into the Ypsilanti housing complex with her son's father in 1999. She asked him to move that same year. He sometimes assaulted her; she obtained an order of protection in 1999, but did not serve it on him for fear of retaliation. When he attacked her on Leap Year Day, she called police.

Medics were called to Warren's home, where she was treated for bruises, aching muscles and a swollen eye.

Still fearing reprisals, she did not formally press charges against her ex-boyfriend.

About a week after the assault, the Ypsilanti Housing Commission served Warren with an eviction notice. It stated that her tenancy was terminated "In accord with a policy to crackdown on criminals, gangs, drugs and violence in public housing."

"I knew I was going to be put out," says Warren.

But it didn't work out that way. The Housing Commission took her to court, but a Washtenaw County judge dismissed the case for procedural errors.

McDonald says that his client did not have adequate documentation to evict Warren and agreed to the dismissal.

Warren remained in the townhouse until January 2002, when she moved.

About a month later, Warren sued the Housing Commission in federal court, alleging that the policy discriminates against women.

Warren decided to sue after talking with her legal aid attorney and Pamela Kisch, director of the Fair Housing Center of Washtenaw County.

"We asked if she was interested in pursuing it as a fair-housing issue because it was probably happening to other women," says Kisch.

The federal Fair Housing Act prohibits discrimination against tenants or applicants because of their sex, race, disability, religion or ethnicity.

Kisch says she has seen a handful of cases in the past decade in which women were threatened with eviction or denied public housing because they were alleged victims of domestic violence. But past cases were not as clear-cut as Warren's.

"This case was so well-documented," she says, because the Housing Commission put into writing why it intended to evict Warren. "They couldn't later come back and say it was for another reason."

Kisch contacted the ACLU of Michigan, which filed the lawsuit on Warren's behalf.

According to her attorney, Michael J. Steinberg, legal director of the ACLU of Michigan, up to 95 percent of domestic violence victims are women. Therefore, the eviction policy overwhelmingly harms women, he says.

"We want the court to declare that the One Strike policy as applied to victims is illegal sex discrimination under the Fair Housing Act," he says. "By securing such a ruling we cannot only be assured that the Ypsilanti Housing Commission will not evict victims of domestic violence, but we can assure it will not happen elsewhere."

One Strike victims

About two years ago, Veronica Owens, who lived in a Pontiac apartment complex, was given 30 days to move when the managers learned that her husband had fired a gun at her during an argument, according to her attorney, Paula Zimmer. Owens and her three children, who were home during the incident, were not harmed.

The apartment managers didn't know about the shooting until Owens' husband, who was arrested, informed them of it in a letter sent from Oakland County Jail.

Zimmer, director of Oakland Livingston Legal Aid, contends that Owens' husband knew that the complex would likely evict his wife and children because of the shooting.

"It was his way of still trying to control her from jail," she says.

Zimmer contacted the managers, who said federal guidelines required them to evict Owens. Zimmer says the complex has a policy similar to the "One Strike" law.

"They were sympathetic, but said they had to follow the law," she says.

According to HUD regulations, the One Strike policy applies to most public housing.

But U.S. HUD Secretary Mel Martinez announced this month that managers of publicly subsidized or owned housing need not evict tenants that violate the One Strike policy, but may do so at their discretion.

When the complex took Owens to court, Zimmer asked for a jury trial, which gave her some time to strategize. She represented Owens in her divorce and contacted the ACLU, which agreed to sue in federal court on Owens' behalf. To sue, Owens had to remain at the complex. But without her husband's income, she was unable to afford the rent and had to move about three months later. She now lives in an undisclosed place, fearful that her husband will escape from prison and come looking for her as he has in the past.

Meanwhile, in Port Huron, attorney Sarah Prout-Stubbs of Lakeshore Legal Aid also asked for a jury trial last year when her unidentified client was threatened with eviction. Her client had been separated from her husband about three months when he broke down her apartment door.

"They tried to evict her, saying she couldn't control her guests," says Prout-Stubbs.

HUD maintains that the One Strike rule applies to tenants' guests. The privately owned

complex is partially subsidized by the federal government and incorporated a policy similar to the “One Strike” law into its lease agreements.

When Prout-Stubbs threatened to go before a jury, the managers of her apartment complex settled the case. They allowed her client to stay if she paid to replace the door.

Prout-Stubbs has handled other eviction cases on behalf of domestic violence victims and often resolves them before they go to court.

“We talk to management and try to make them understand that the behavior of the abuser is not the woman’s fault,” she says.

Last year, Lakeshore Legal Aid received a \$200,000 grant from the Violence Against Women Act fund, which enables staff to do preventative work on behalf of victims. This entails educating landlords about domestic violence and trying to resolve cases before they go to court.

Prout-Stubbs explains that the abuser tries to get the victim evicted so she must turn to him for help. If management evicts her, they help the abuser achieve his goal, she says.

The attorney also makes sure victims get orders of protection served on the abusers. If the orders are violated, they can be arrested. When necessary, she also helps victims get divorced.

But what about public-housing tenants who have to put up with the disturbance — and safety threat — domestic violence may cause?

The best way to protect the tenants is to protect the victim, says Susan McGee, former executive director of Domestic Violence Project, Inc. SAFE House in Ann Arbor. McGee, who worked at Safe House for about 15 years, saw many landlords threaten to evict domestic-violence victims.

She points out that if a woman was assaulted by a stranger, the landlord would not evict her — they would go after the assailant. She says managers should take the same approach with victims of domestic violence.

McGee has tried to educate landlords about domestic violence, explaining that the mission of the abuser is to control the victim. He may terrorize her at home or work so that she is evicted or fired and forced to return to him.

McGee says that, rather than punish the victim for her abuser’s behavior, landlords and employers need to press criminal charges, get orders of protection that keeps the perpetrators off their property and direct the victim to a domestic-violence program.

New frontier

Tiffani Ann Alvera of Seaside, Ore., was the first domestic-violence victim in the country to sue housing managers in federal court for sex discrimination. The lawsuit was filed in 2001. Alvera had been living with her husband for about a year when he assaulted her. She contacted the police, who arrested her husband; Alvera went to the hospital with a fractured cheekbone.

The following day, she obtained an order of protection against her husband. Alvera showed

the restraining order to the manager of the privately owned, 30-unit low-income housing complex.

The next day, management issued Alvera an eviction notice, giving her 24 hours to move. They cited an Oregon law similar to the One Strike rule. She contacted a women's resource center that put her in touch with attorney Ellen Johnson of Legal Aid Services of Oregon. Johnson advised her to not move. The landlords eventually agreed to allow Alvera to stay.

Johnson advised Alvera to file a Fair Housing Act complaint against the management company and the owners of the complex. Alvera agreed, hoping to help other victims facing eviction.

"Tiffani is unique," Johnson says. "She is not different as a victim, but she understood that what happened to her was repeated across the country."

The number of domestic-violence victims who have been evicted or threatened with eviction is not known, says Lenora Lapidus, director of the Women's Rights Project for the national ACLU in New York City.

It's difficult to track because many victims don't know they can challenge such evictions. Lapidus says the One Strike policy also encourages women not to report the abuse to police.

"We were seeing women coming forward and then we get policies like this that turn the clock back because women don't want to risk losing their homes," she says.

She says another problem with the One Strike policy is that once a victim is evicted for the alleged illegal activity, they can be barred from public housing. If a landlord does a criminal background check and sees that the victim had obtained an order of protection, they may reject her occupancy application, she says.

Lapidus says there is a growing legal movement to address discrimination against domestic-violence victims.

The U.S. Supreme Court last month upheld the eviction of four elderly residents of public housing in Oakland, Calif. The four were ousted after housing authorities learned that their family members or caretakers had been arrested for minor drug violations.

The National Organization of Women's Legal Defense and Education Fund filed a companion brief in that case, asking the high court to rule on the eviction of victims of domestic violence under the One Strike policy, but the court was silent on that issue.

Johnson and others hope that the day will come when such evictions will be illegal nationwide. She has reason to be optimistic. In Alvera's case, the fair-housing enforcement office of HUD deemed that the complex sexually discriminated against Alvera.

The management company, which operates roughly 5,000 apartment units in several states, was forced to change its policy. Alvera's case also prompted the U.S. Justice Department in Portland, Ore., to sue the management company. Alvera joined the suit, but settled the case before it went to trial.

"At that point, the client had gotten what she set out for," says Johnson. "She got economic recovery and policy changes."

As for Warren, her case is just getting under way; no trial date has been set. Like Alvera, she hopes her lawsuit will prevent other victims from facing eviction.

“I’m not doing it for the money,” says Warren. “You can’t evict someone for being a victim of domestic violence. You aren’t asking for someone to come and beat you up.”

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