

Creating Welcoming Communities

Additions to Fair Housing Code to Address Source of Income Discrimination

Purpose:

It is hereby declared to be the purpose of this chapter to provide, within constitutional limitations, for fair housing throughout the City, to assure that all persons have full and equal opportunity to consider all available housing for themselves and their families within the City without being discriminated against on the basis of race, color, religion, sex, sexual orientation, gender identity, age, ancestry, disability, including people associated with or residing with a person meeting the definitions of a disability, ethnic group, marital status, familial status, national origin, military status, association with someone of a protected class, sources of income, or receipt of public assistance and to promote a stable, racially integrated community.

Definitions:

(a). "Source of income" (SOI) means lawful income derived from wages, social security, supplemental security income, all forms of federal, state or local assistance payments or subsidies, child support, spousal support, and public assistance which can be verified and substantiated.

Exemptions:

- Includes exemptions for certain property types such as religious organizations and nonprofits
- Do not exempt small owners from SOI laws; these property owners are a crucial part of the market, especially in higher opportunity neighborhoods that would benefit many voucher holding families. Extending exemptions beyond small owner-occupied properties will severely limit the effectiveness of the ordinance.

Enforcement Mechanisms

- Private right of action in the local court system combined with the availability of damages and attorney's fees is the most recommended way to ensure compliance in the local real estate market. Using a human rights agency to combat an administrative complaint procedure can also be useful. Ideally, victims of discrimination would have both options available
- Uncapped available damages for emotional distress, punitive damages and other actual damages as deemed appropriate. Publicized damages awarded are effective deterrents in the local real estate market.
- Attorneys' fees are a powerful deterrent to housing discrimination as they are designed to incentivize lawyers to prosecute cases. Court awarded attorneys' fees, which are paid by the losing defendant, would be based on the amount of hours worked instead of the total amount of damages awarded. This can also encourage settlements that include ongoing injunctive relief to benefit other families in the future.

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- Enforcement program or environment: public education campaign, which details outreach to landlord groups and real estate brokers to explain how the SOI law works, why it is needed, and the advantages of renting to families with Housing Choice Vouchers. Funding for local enforcement groups, which can be represented by legal services or fair housing centers, so they can properly investigate and prosecute SOI complaints. Resources permitted, a systematic plan for audit testing in the local real estate market, with referrals to enforcement agencies and real estate licensing boards for property owners who have violated the law, as it can serve as a deterrent.
- Many of the defenses used by landlords reflect their unwillingness to deal with the “burdens” of the Housing Choice Voucher program, not the desire to discriminate against voucher families. Recommended to insert language in the ordinance that references the administrative requirements of the voucher program.

Resources:

Crafting an Effective Local Source of Income Discrimination Law, PRRAC, March 2020, <https://prrac.org/pdf/crafting-a-strong-and-effective-source-of-income-discrimination-law.pdf>

Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination, PRRAC, June 2020, <https://prrac.org/pdf/AppendixB.pdf>

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