

PRRAC

Poverty & Race Research Action Council

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Keeping the Promise: Preserving and Enhancing Housing Mobility in the Section 8 Housing Choice Voucher Program

APPENDIX B: State, Local, and Federal Laws Barring Source-of-Income Discrimination *Updated December 2009*

Set out below is a compilation of state, local, and federal statutes prohibiting discrimination in the housing market based on source of income. Please use the hyperlinks on this page to navigate through the document. This compilation updates research compiled by PRRAC in 2009 and also draws on work originally prepared by the National Housing Law Project and the Center for Policy Alternatives. Many thanks to both organizations for sharing their work. Thanks also to LeAnna Ware, Wisconsin Equal Rights Division; Ed Johnson, Oregon Law Center; Mary Hahn, Washington Lawyer's Committee; Ralph Menendez, NJ Division of Civil Rights; Rachel Batterson, Vermont Legal Aid; Connie Pascale, NJ Legal Services; Marty Blaustein, Utah Legal Services; Ken Shiotani, NDRN; Michael Miller, Legal Aid Oklahoma; Jay Wilkinson, Legal Aid of Minnesota, and staff at the Tenant Resource Center, WI. If you discover any errors in this document or have material to add, please contact Hanna Chouest (hchouest@prrac.org).

Outline

I. STATE STATUTES

- A. [California](#)
- B. [Connecticut](#)
- C. [District of Columbia](#)
- D. [Maine](#)
- E. [Massachusetts](#)
- F. [Minnesota](#)
- G. [New Jersey](#)
- H. [North Dakota](#)
- I. [Oklahoma](#)
- J. [Oregon](#)
- K. [Utah](#)
- L. [Vermont](#)
- M. [Wisconsin](#)

II. LOCAL ORDINANCES

- A. [Cities in California](#)
 - A1. [Corte Madera](#)
 - A2. [East Palo Alto](#)
 - A3. [Los Angeles](#)
 - A4. [San Francisco](#)
- B. [Cities in Illinois](#)
 - B1. [Chicago](#)

- B2. [Cook County](#)
- B3. [Harwood Heights](#)
- B4. [Naperville](#)
- B5. [Urbana](#)
- B6. [Wheeling](#)
- C. [Iowa City, Iowa](#)
- D. [Counties in Maryland](#)
 - D1. [Frederick](#)
 - D2. [Howard County](#)
 - D3. [Montgomery County](#)
 - D4. [Prince George's County](#)
- E. [Cities in Michigan](#)
 - E1. [Ann Arbor](#)
 - E2. [Hamburg](#)
 - E3. [Grand Rapids](#)
- F. [Saint Louis, Missouri](#)
- G. [Cities in New York](#)
 - G1. [Buffalo](#)
 - G2. [Hamburg](#)
 - G.3 [Nassau Co](#)
 - G2. [New York City](#)
 - G3. [West Seneca](#)
- I. [Cities in Pennsylvania](#)
 - I1. [Borough of State College](#)
 - I2. [Philadelphia](#)
- J. [Memphis, Tennessee](#)
- K. [Saint Louis, Missouri](#)
- L. [Counties/Cities in Washington](#)
 - L1. [Bellevue](#)
 - L2. [King County](#)
 - L3. [Seattle](#)
- M. [Cities in Wisconsin](#)
 - M1. [Cambridge](#)
 - M2. [Dane County](#)
 - M3. [Madison](#)
 - M4. [Ripon](#)
 - M5. [Sun Prairie](#)
 - M6. [Wauwatosa](#)

III. FEDERAL LAWS

- A. [Low-Income Housing Tax Credit Program](#)
- B. [Mark to Market](#)
- C. [Multifamily Units Purchased from HUD](#)
- D. [HUD Regulations and Notices](#)
- E. [Neighborhood Stabilization Act of 2008](#)

IV. ADDITIONAL RESOURCES

STATE LAWS

California

California Government Code Section 12955 was originally adopted by Stats.1980, c. 992, § 4, and amended by later laws. Its source of income discrimination law was added in January 2000, and more language was added to it in 2005. The law is supplemented by ordinances in several California cities, including Los Angeles, San Francisco, East Palo Alto, Corte Madera, and Woodland. The protections of the Act were recently clarified in *Sisemore v. Master Financial*, 60 Cal. Rptr. 3d 719, 724 (Cal. Ct. App. 2007), where the court ruled that the law covers lenders as well as landlords.

In California Government Code Section 12955(p) (1): "'Source of income' is defined as 'lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. For purposes of this section, a landlord is not considered a representative of a tenant.'" California's Fair Employment and Housing Department has held, therefore, that landlords are not required to accept Section 8 housing choice vouchers under the "source of income" discrimination prohibitions. Moreover, even if a landlord accepts a section 8 voucher, a tenant must meet other requirements for tenancy and have the financial resources to pay any rental amounts not covered by a voucher.

Date Enacted

Ca Gov't § 12955 was originally adopted by Stats.1980, c. 992, § 4, and amended by later laws. Its source of income discrimination law was added in January 2000, and more language was added to it in 2005.

Relevant Case Law:

Sisemore v. Master Financial, Inc., 60 Cal. Rptr. 3d 719, 724 (Cal. Ct. App. 2007) (finding that despite the language of subsection (p)(1), protection against discrimination on the basis of source of income is not limited to landlords and tenants and may be applied to borrowers and lenders).

Operative Language:

Cal. Gov't Code § 12955; effective January 1, 2005 (Section of the Fair Employment and Housing Act):

"For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. For the purposes of this section, a landlord is not considered a representative of a tenant."

Rules Pertaining to Source of Income

Source of income discrimination applies to landlords; real estate brokers, home sellers, mortgage companies, and banks may not refuse to deal with you because of the source of

your income. They also cannot charge a higher deposit or treat you differently because of your source of income.

A landlord cannot advertise or state a preference for certain sources of income. Making a statement or advertisement that indicates a landlord's preference or limitation based on an applicant's source of income is illegal.

However, a landlord can discriminate based on the amount of someone's income. That is considered a legitimate business concern for the landlord. A landlord can have a minimum income requirement. Landlords can require that tenants have a certain amount of income (such as two or three times the rent).

A landlord can require each person in the household to meet the minimum income requirement separately only if he or she would make a husband and wife who applied each meet the income requirement separately. Otherwise, the landlord must consider all household members' incomes combined to see if the household as a whole meets the minimum income requirement. In other words, landlords must use the minimum income requirement in the same way for members of a married couple as for members of any household.

If the applicant receives a governmental rent subsidy, such as Section 8 or Shelter Plus Care, landlords can only use a minimum income requirement that relates to the tenant's portion of the rent. For example, suppose a landlord requires that a tenant's income must be three times the rent of \$900. If an applicant has a Section 8 voucher with a tenant-portion of the rent being only \$200 (because of her income), then the landlord can only require her income to be \$600 (three times her portion of the rent), not \$2700 (three times the total rent). If the landlord does otherwise, it constitutes discrimination.

A landlord can ask what an applicant's source of income is. However, a landlord cannot ask about other protected categories, such as marital status, disability, or ancestry. But the law allows landlords to ask about the source of an applicant's income as long as they do not discriminate based on that information.

The fair housing protections for source of income apply to all housing EXCEPT a home in which the landlord lives and rents out only one room.

Banks, mortgage companies, and real estate brokers cannot distinguish among applicants based on their sources of income.

Enforcement Process

The Fair Employment and Housing Act may be enforced by filing a complaint with the California Department of Fair Employment and Housing (DFEH). One can also file a civil action in an appropriate court. The DFEH can be contacted for intakes at 1-800-233-3212 and (510) 622-2945. See also:

http://www.dfeh.ca.gov/complaints/Default.aspx?process=housing#main_content_1

- Sec. 12980 governs the enforcement of Sec. 12955.
- The Department of Fair Employment and Housing is able to investigate discrimination complaints
- After concluding the investigation, the department prepares a report indicating that it will not be issuing notice of the complaint. The complainant is notified that he or she can bring a civil action against the person named in the verified complaint. (Sec. 12980(h)).
- A filing with the department for a discrimination claim does not bar an individual from seeking redress in the courts, but once an individual files a civil action, then the department shall terminate proceedings.
- Civil action – one can file a civil action in an “appropriate court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into, whichever occurs last.” § 12989.1. See, *Sabi v. Donald T. Sterling, Corp.* (Voucher tenant filed suit alleging that defendants violated California laws prohibiting discrimination based upon source of income).

Attorney’s Fees

“The commission may award the prevailing party, other than the state, reasonable attorney's fees and costs against any party other than the state, including expert witness fees.” § 12987(a)(3).

Organizations Helping Victims of Discrimination

Volume of Complaints

2008 Annual Report

- Pursuant to Government Code section 12930(k), the California Department of Fair Employment and Housing (DFEH or Department), California's civil rights agency, submits its Annual Report for calendar year 2008 to the Governor and the Legislature.

Goals

In 2008, the DFEH established the following goals:

- Improve Delivery of Public Service
- Vigorously Enforce the Law
- Expand Educational Outreach
- Provide Civil Rights Leadership

Achievement 1: Improve Delivery of Public Service

Automated Appointment System -

- Using available technology, the Department has improved its efficiency and effectiveness in serving the public by automating an online appointment system, saving Californians time and the State's expense on telephone calls. See <http://www.dfeh.ca.gov/onlineAppt/>
- Automated Right-to-Sue System

- The DFEH established an automated right-to-sue system for persons who are already represented by counsel and/or wish to proceed directly to civil court. Important to complainants, the system explains the administrative consequences of electing private action. See <http://www.dfeh.ca.gov/onlinerts/>
- Telephone Intake
- To save on complainants' time and travel expenses, and to expedite intake processing, the Department developed a pilot project to conduct telephone rather than in-person intakes.

Achievement 2: Vigorously Enforce the Law

Greater Productivity and Significant Results

- The DFEH received over 20,000 complaints in 2008, approximately 3,000 more than in 2007.
- Prosecutions increased by 28 percent from the last six months of 2007 to the last six months of 2008.
- Post-accusation settlements increased by 18 percent over the same period.
- Over \$9.5 million plus affirmative relief were settled out of court in 960 cases, including a \$618,000 class action involving familial status discrimination in housing. The average pre-accusation case settled for over \$8,000 and the average post-accusation case settled for nearly \$40,000. See press releases of DFEH settlements and judgments at <http://www.dfeh.ca.gov/DFEH/Announcements/pressReleases.aspx>.

Achievement 3: Expand Educational Outreach

Active Outreach and Technical Assistance

- The DFEH outreached and provided technical assistance to communities statewide. In 2008, Director Phyllis Cheng made 44 keynote and panel presentations; and the DFEH staff made another 40 presentations to: civil and human rights organizations; employee and employer groups; tenant and landlord representatives; plaintiffs' and defense bars; the private and public sectors; and all stakeholders in our diverse state.
- Innovative Equal Rights 101 Campaign for Youth Outreach
- Under grants from the EEOC and the State Bar Labor & Employment Law Section, and using DFEH staff as writers and actors, with the assistance of the Department of General Services' Video Multimedia Center, DFEH produced its acclaimed "Equal Rights 101" videos and a special Web site to outreach to young people about their rights and responsibilities in the workplace. Topics include pregnancy discrimination, pre-employment inquiries, reasonable accommodation, and sexual harassment. The videos received 4.5 out of 5 stars on YouTube and received over 3,500 hits. See <http://www.youtube.com/califdfeh> or <http://www.dfeh.ca.gov/equalrights101/>

Achievement 4: Provide Civil Rights Leadership

Civil Rights and Public Policy Advancement

- FEHA 50th Anniversary: The Department made year-long plans to collaborate with stakeholders to celebrate the FEHA 50th anniversary in 2009.
- UCLA-RAND Study: The DFEH is working with the UCLA-RAND Center for Law and Public Policy to conduct a 2009 policy study of what the FEHA has achieved, what it has not yet achieved, and where the law should be headed in the future.

- New State Bar Fair Housing and Public Accommodations Subsection: Director Phyllis Cheng spearheaded the formation of the first entity at the State Bar devoted to fair housing and public accommodations and to train attorneys about this important practice.

New Enforcement Initiatives

- Special Investigations Unit: The DFEH established a unit to investigate systemic discrimination.
- Director's Complaints: Using its statutory authority to issue Director's complaints, the Department focused on high impact and/or under served cases.
- Class Complaints: The DFEH merged multiple complaints into class complaints to maximize efficiency and effectiveness and to minimize duplication.
- Collaboration with Other Agencies: The Department collaborated with other State and federal agencies to share resources and limit duplication.

Connecticut

Connecticut's source of income discrimination statute, Connecticut General Statutes, section 46a-64c, was passed in 1989. The law prohibits discrimination against all lawful forms of income, including state and federal housing vouchers, federal welfare or disability assistance, etc. The statute has been challenged twice in court; in both cases, the Connecticut Supreme Court upheld the law. *See Commission on Human Rights & Opportunities v. Sullivan Associates*, 739 A.2d 238 (Conn. 1999); *Commission on Human Rights & Opportunities v. Sullivan*, 939 A.2d 541 (Conn. 2008).

In Connecticut, each of the following programs are considered a "lawful source of income" (Connecticut General Statutes Sec. 46a-64) and it is illegal to refuse to rent to a person who participates in the following: Section 8 housing voucher; state housing assistance, such as the Rental Assistance Program (RAP) and Transitional Rental Assistance Program (T-RAP); using the Security Deposit Guarantee Program in lieu of paying cash for a security deposit.

Date Enacted

Connecticut's source of income discrimination statute, Connecticut General Statutes, section 46a-64c, was passed in 1989.

Relevant Case Law

Commission on Human Rights & Opportunities v. Sullivan Associates, 739 A.2d 238 (Conn. 1999) (*Sullivan I*) (upholding statute and finding that landlords may only consider the section 8 recipient's personal rent obligation and other reasonable obligations associated with the rental when assessing sufficiency of income).

Commission on Human Rights & Opportunities v. Sullivan, 939 A.2d 541 (Conn. 2008) (upholding statute and affirming *Sullivan I*).

Operative Language

Conn. Gen. Stat. Ann. § 46a-64c (West 2008): Discriminatory housing practices prohibited. Disposition of complaints. Penalty:

“‘Lawful source of income’ means income derived from Social Security, supplemental security income, housing assistance, child support, alimony or public or state-administered general assistance.”

Enforcement Process

The Connecticut source of income law can be enforced either through the state Commission on Human Rights and Opportunities or in state court. Complaints may be filed with the Commission’s Fair Housing Unit at (860) 541-3403 or (800) 477-5737 ext. 3403. <http://www.ct.gov/chro/cwp/view.asp?a=2524&Q=316274>

- Human Rights Commission Statute (Conn. Gen. Stat. § 46a)
- The commission has dual functions: to carry out the anti-discriminatory purposes of the statutory scheme *and* to protect and to vindicate the rights of those discriminated against. *See, Williams v. Commission on Human Rights & Opportunities*, 777 A.2d 645 (2001).
- A person may file a complaint with the commission (§ 46a-82(a)).
- The commission may issue a complaint on its own, if it suspects discrimination, except for violation of § 46a-80(a). (§ 46a-82(b)).
- The commission can investigate and mediate discriminatory practice complaints (§ 46a-54(8). Commission duties), including those of housing discrimination on the basis of source of income (§ 46a-64(a), (b))
- The commission can hold hearings, subpoena witnesses and compel their attendance, take testimony under oath, require production of books and papers related to any matter under investigation so they can be examined (§ 46a-54(9))
- The commission can require written answers to interrogatories under oath relating to a complaint under investigation that alleges discriminatory practice (§ 46a-54(11))
- The commission can and proceed in all cases of discriminatory practices and noncompliance (§ 46a-56)
- § 46a-100 grants a private cause of action upon release from the commission in the superior court for the judicial district in which the discriminatory practice is alleged to have occurred. Any action involving state agency or official may be brought in the superior court for the judicial district of Hartford.
- § 46a-98a. A private cause of action may be brought against one in violation of section 46a-64c or 46a-81e or in breach of a conciliation agreement entered into pursuant to this chapter, in the superior court, or the housing session of said court. Suit should be brought within one year of the date of the alleged discriminatory practice or of a breach of a conciliation agreement entered into pursuant to this chapter.

Attorney’s Fees

Commission can award attorney fees, or seek it in court on complainant's behalf. *See, Commission on Human Rights and Opportunities v. Sullivan* 939 A.2d 541 (Conn. 2008) (Landlords challenging prospective tenant's claim for attorney fees had right to call tenant's attorney as witness in order to question her regarding her affidavit and billing records and test reasonableness of fees for housing discrimination case.); *see also, Commission on Human Rights and Opportunities v. Litchfield Housing Authority*, 978 A.2d 136 (Conn. 2009). (Commission seeking an award of costs and reasonable attorney's fees pursuant to § 46a-86)

Organizations Helping Victims of Discrimination

Victims of source of income discrimination can contact the Connecticut Fair Housing Center at (888) 247-4401.

Volume of Complaints

In 2002, the Center for Survey Research and Analysis at the University of Connecticut, in conjunction with the Connecticut Bar Foundation, conducted a statistically valid survey of low income Connecticut residents to better understand their civil legal needs. Researchers completed 401 telephone interviews with self identified heads of households whose household incomes were at or below 125 percent of the federal poverty level. Overall, this study indicated that each low income household in Connecticut had faced an average of 2.7 civil legal problems in the previous year.

Issues surrounding housing were the most common category of problem cited by respondents (with 35% of respondents citing this problem). Housing problems were followed by consumer law, employment, and livelihood support, including public assistance. The most common housing problems reported were housing discrimination, electrical/gas shutoffs, and the failure of landlords to make repairs. Source of income was the most common reason cited for the discrimination. Respondents reported trying to solve more than half (53%) of the legal problems themselves. One third (33%) of the problems did not receive any action, and legal help was sought for only 10% of the problems. Of those who received legal help, half (51%) had consulted a private attorney, a third (33%) had contacted one of four legal aid organizations in the state, and the remainder went to other sources such as friends or family members.

Many housing consumers are not aware of their fair housing rights. As a result, many do not know that their rights have been violated unless they happen to read fair housing educational materials or are informed by a social service provider or community based organization. However, a 1997 survey, administered to community organization professionals at a statewide Connecticut Housing Coalition conference, revealed that such professionals also held misperceptions about housing discrimination and could not correctly identify several protected classes.

The Center for Survey Research and Analysis at the University of Connecticut conducted the survey from November 8 through December 13, 2002.

Table 1: 2002 UConn Survey

Housing Problems (n=401)	% of all households
Housing discrimination	13%
Electric/gas shut off	11
Landlord neglected to make repairs	9
Mice, rats or insect infestation	8
Get/keep government funded housing	4
Landlord entered home w/o permission	4
Landlord tried to evict	4
Moved because home was unfit	4
Improvements needed for disability	4
Foreclosure	3
Problem with security deposit	3
Public housing threatened w. demolition	2
Landlord locked tenant out	1
Landlord made unwanted sexual advances	1
Reason for Housing discrimination:	
source of income	10
age or ethnicity	4
children	2
gender or sexual orientation	1

Fair Housing Complaint Data

It is the statutory responsibility of the CHRO to “enforce human rights laws to end illegal discrimination in employment, housing, public accommodations and credit transactions.”
See, <http://www.state.ct.us/chro/metapages/purpose.htm>.

In fiscal year 2004-2005, the CHRO received 156 affidavits describing fair housing discrimination. The most common reason for the complaint was discrimination due to physical disability (34% of complaints), followed by source of income (24%), race (22%) and color (21%). However, if the categories of race and color were combined, that category would represent 43% of complaints and would constitute the most common reason for discrimination.

District of Columbia

The D.C. Human Rights Act of 1977 (D.C. Code Ann. § 2-1402.21), and which was formerly cited as D.C. Code. § 1-2515 (1981), provides additional protections not covered under the Fair Housing Act i.e., source of income. The law prohibits discrimination on the basis of income or its derivation, defining those terms specifically within the section.

Date Enacted

The D.C. Human Rights Act of 1977 (D.C. Code Ann. § 2-1402.21), and which was formerly cited as D.C. Code. § 1-2515 (1981), provides additional protections not covered under the Fair Housing Act i.e., source of income.

Relevant Case Law

Bourbeau v. Jonathan Woodner Co., 549 F. Supp. 2d 78 (D. D.C. 2008) (holding that DCHRA, prohibiting source of income housing discrimination against federally funded rental assistance voucher holders, did not alter, amend, or conflict with federal statute establishing Housing Choice Voucher Program (HCVP), permitting landlords to accept as many or as few voucher holders as they chose, as required for preemption of DCHRA, under Supremacy Clause, since preemption would affect District's power to regulate matter of local concern, and DCHRA's nondiscrimination requirement neither compelled nor permitted parties to violate any provision of HCVP and advanced HCVP's objective of aiding low-income families in obtaining decent place to live).

Jonathan Woodner Co., 549 F. Supp. 2d at 78 (finding that private landlord's refusal to rent apartment to prospective tenant who was federally funded rental assistance voucher holder fell within ambit of District of Columbia Human Rights Act (DCHRA), prohibiting source of income housing discrimination, despite technical amendments correcting error that applied intervening legislation to public, rather than private, housing, since amendments merely clarified DCHRA's long-standing definition of source of income as including federal payments, and intervening District of Columbia Low-Income Housing Preservation and Protection Act (LIHPPA) expressly declared that Housing Choice Voucher Program (HCVP) assistance was source of income under DCHRA).

Feemster v. BSA Limited Partnership, 471 F. Supp. 2d 87 (D.D.C. 2007) (mem.) (stating that DC Human Rights Act requires a showing that a landlord's refusal to accept vouchers is based on discrimination rather than the desire to ready the property for sale).

Statutory Language

D.C. Code Ann. § 2-1402.21: Definition of Source of Income:

“‘Source of income’ means the point, the cause, or the form of the origination, or transmittal of gains of property accruing to a person in a stated period of time; including, but not limited to, money and property secured from any occupation, profession or activity, from any contract, agreement or settlement, from federal payments, court-ordered payments, from payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist.”

D.C. Code Ann. § 2-1402.21(e): “The monetary assistance provided to an owner of a housing accommodation under Section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. § 1437f), either directly or through a tenant, shall be considered a source of income under this section.”

D.C. Code Ann. § 42-2851.06(c): “The owner of a housing accommodation shall not refuse to rent a dwelling unit to a person because the person will provide his or her rental payment, in whole or in part, through a Section 8 voucher.”

Enforcement Process

The D.C. source of income law can be enforced either through the Commission on Human Rights or in the D.C. courts. The DCOHR may be contacted at (202) 727-4559. See also <http://ohr.dc.gov/ohr/cwp/view,a,3,Q,637906,PM,1.asp#housing>

- Commission on Human Rights (D.C. Code § 2-1404)
- The commission hears and decides cases of unlawful discrimination after determining there is probable cause that there has been an act of unlawful discrimination. (D.C. Code §§ 2-1403.01, 2-1404.02).
- A private cause of action can be filed as provided in Sec. 2-1403.16 for anyone claiming to be aggrieved by an unlawful discriminatory practice.

Attorney's Fees

The District of Columbia Human Rights Act does not require courts to award reasonable attorney's fees to prevailing parties, but rather, confirms court's discretionary authority over attorney's fee applications. *See*, D.C. Code 1981, §§ 1-2501 et seq., 1-2553, 1-2553(a)(1), 1-2556, 1-2556(b); *see also*, *Thompson v. International Ass'n of Machinists and Aerospace Workers*, 664 F. Supp. 578 (1987) (holding that the goal of awarding attorney's fees in civil rights cases is to attract competent counsel for these cases, but not to provide them with windfalls).

Organizations Helping Victims of Discrimination

- Equal Rights Center
- Washington Lawyers Committee for Civil Rights & Urban Affairs (established in 1968) with pro bono assistance from private law firms.
- Any additional questions concerning D.C. source of income protections should contact Julie Becker at jbecker@legalaiddc.org.

Volume of Complaints

- The Equal Rights Center received complaints from voucher holders in the District of Columbia that landlords were refusing to rent to them because they were intending to use a housing voucher to pay for their rent. In response to these complaints, beginning in 2003, the Equal Rights Center conducted an investigation of area landlords to determine the extent of illegal discrimination against voucher holders.
- From 2003 through 2005, Equal Rights Center conducted testing of rental properties advertised in local news media with rents at or below Fair Market Rents.
- Between 2003 and 2005, ERC testers responded to 108 advertisements for rental housing priced within voucher payment standards. The testers inquired about availability of housing and gathered information about the policies and practices of housing providers with respect to accepting housing vouchers as a source of income.
- In all, testers contacted approximately 75 apartment buildings and 13 real estate management companies. Testers were told 26% of the time that vouchers were not accepted as a form of rent payment under any circumstances. In 35% of the test calls, housing providers noted limitations that would bar most vouchers

holders from renting available units. 61% of the test calls resulted in responses of outright refusal to rent to voucher holders or in the testers learning of significant obstacles for voucher holders looking for rental housing.

- These obstacles included statements that an apartment building had reached its capacity for voucher holders, rent was higher for voucher holders, the building didn't pass code inspect, or only apartments of a certain size were available to voucher holders. In some cases, testers were told that voucher holders, who qualify for the housing subsidy by virtue of their low income, could be accepted for tenancy only if they earned as much money as regular applicants.
- In 2% of the calls, housing providers expressed ignorance about the voucher program. Only in 37% of test calls did providers say they accepted vouchers as a form of rent without obstacle. It is estimated that the discriminatory policies of these landlords effectively makes well over 4,000 rental units unavailable to tenants who use housing vouchers.
- Studies shows that rent in DC have increased over 50% since 2001, and the vacancy rates have dropped. The combination of rent increase and fewer available apartments in DC, combined with discriminatory practices against voucher holders, has created a housing crisis for low-income tenants in the District. Tenants in D.C., who wait on an average of 6 years to receive a voucher, find that their housing options can become even more reduced when they finally received the voucher.

Maine

The Maine Human Rights Act was amended to include source of income discrimination in 1975, and later in 1985. It protects recipients of both state and federal public assistance from discrimination on the basis of their status as a recipient. It was amended to specifically include medical assistance and housing subsidies. Me. Rev. Stat. Ann. tit. 5, § 4582.

Date Enacted

Laws 1975, c. 151, § 1, added provision prohibiting the refusal to rent or the imposition of different tenancy terms to individuals receiving public assistance

Laws 1985, c. 638, § 1, made provisions applicable to any person furnishing public accommodations, and made discrimination unlawful where refusal to rent or imposition of different tenancy terms is done primarily because an individual is receiving public assistance.

Relevant Cases

There are no cases citing the Source of Income provision.

Operative Language

Me. Rev. Stat. Ann. tit. 5, § 4582 - Unlawful housing discrimination:

“For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as recipient.”

Enforcement Process

The Maine Human Rights Act may be enforced by filing a charge with the Maine Human Rights Commission. The Commission must issue a right-to-sue letter before a civil complaint may be filed in state court.

- The Maine Human Rights Commission was established by Section 12004-G subsection 15.
- The commission can investigate all conditions and practices that allegedly "detract from the enjoyment, by each inhabitant of the State, of full human rights and personal dignity," including investigating all forms of discrimination, whether carried out legally or illegally, and whether by public agencies or private persons." (Sec. 4566).
- The commission has the power to hold hearings, take testimony under anyone under oath (and administer oaths, issue subpoenas, and create advisory agencies. (Sec. 4566(4)).
- Charges should be filed in person or by mail by completing the Commission's form, after completion of the intake process. To initiate a an intake, call, write, or visit the Commission at 51 State House Station, Augusta, Maine 04333-0051, 207-624-6050. The intake questionnaire is available at http://www.state.me.us/mhrc/file_a_charge/housing_intake_form.html.
- The Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection shall cooperate with the Maine Human Rights Commission in its enforcement of this subchapter. § 4598.
- Procedure in Superior Court 1. Actions filed by commission. Any such action filed by the commission shall be heard by the Superior Court and may be advanced on the docket and receive priority over other civil cases where the court shall determine that the interests of justice so require. Except as otherwise provided in this chapter, the court shall hear the case and grant relief as in other civil actions for injunctions. Any such action shall be brought in the name of the commission for the use of the victim of the alleged discrimination or of a described class, and the commission shall furnish counsel for the prosecution thereof. Any person aggrieved by the alleged discrimination may intervene in such an action. In no such action brought by the commission shall any injunction bond be required, nor shall damages be assessed for the wrongful issuance of an injunction. § 4613

Attorney's Fees

Attorney's fees are covered under § 4614. Attorneys' fees and costs may be awarded in the court's discretion to the prevailing party, other than the commission.

Housing applicant was “prevailing party” in his action alleging that federally subsidized housing project owner's use of application that inquired into nature of person's disability

was illegal, and thus, applicant was entitled to attorney fee award under Maine Human Rights Act. *Robards v. Cotton Mill Associates*, 713 A.2d 952 (Me. 1998).

Organizations Helping Victims of Discrimination

Advocacy Groups and Legal Resources

Pine Tree Legal Assistance

- Augusta, 39 Green Street
Tel: 207-622-4731 or 207-623-7777 or 207-623-7770 (TTY)
- Bangor, 61 Main Street
Tel: 207-942-8241 or 207-942-1060 (TTY)
- Lewiston, 37 Park Street, Suite 401
Tel: 207-784-1558
- Machias, Route 1 and Old County Road
Tel: 207-255-8656 or 207-255-6179 (TTY)
- Portland, 88 Federal Street
Tel: 207-774-8211 or 207-828-2308 (TTY)
- Presque Isle, 373 Main Street
Tel: 207-764-4349 or 207-764-2453 (TTY)
- Farmworker & Native American Units - Bangor
Tel: 207-942-0673
- Multi-lingual Language Line
Tel: 207-774-8211

Maine Volunteer Lawyers Project

Tel: 1-800-442-4293

Maine Equal Justice Project

Tel: 207-626-7058

Disability Rights Center

Statewide Hotline, Tel. 1-800-452-1948 (V/TTY)

Volume of Complaints

- 819 new charges were filed.
- Nearly 74% of these new charges alleged discrimination in employment.
- The largest number of complaints was filed on the basis of disability (33.5%).
- The second and third largest number of complaints were based on whistleblower's 14.4% and sex 13.7%.
- Disability, whistleblower's and sex comprised 62% of the complaints filed.
- Retaliation was the 4th largest category of complaints (10.5%), followed by
- Race/color (8.1%)
- Ancestry/national origin (7.6%).
- Age (7%)

- Of the sex discrimination complaints filed, ninety-nine (99) alleged sexual harassment. This number comprised 50% of the total of sex discrimination complaints.

BASES OF CHARGES FILED FY 1999-2008

BASES FY:	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
RACE / COLOR	71	68	73	97	82	64	60	64	88	113
SEX	258	263	316	296	262	258	201	236	207	196
PHYSICAL DISABILITY	213	221	267	223	203	202	201	201	244	370
MENTAL DISABILITY	72	88	81	97	117	104	80	107	102	97
RELIGION	10	14	14	17	13	18	15	10	16	25
AGE	79	99	95	117	82	95	75	66	94	97
ANCESTRY / NATIONAL ORIGIN	33	49	29	54	42	38	43	40	43	106
MARITAL STATUS (Credit only)	0	1	0	1	0	0	0	0	0	0
SOURCE OF INCOME (Housing)	4	2	4	3	7	15	10	16	8	9
FAMILIAL STATUS (Housing)	9	7	5	6	14	6	14	19	13	6
WHISTLEBLOWER	94	119	126	155	151	167	138	143	147	201
RETALIATION										
WORKER'S COMP	7	8	5	2	5	2	4	1	3	0
RETALIATION										
RETALIATION	20	43	95	82	91	72	68	98	98	147
SEXUAL ORIENTATION	N/A	N/A	N/A	N/A	N/A	N/A	N/A	13	33	32
GENETIC PRE-DISPOSITION	0	0	0	0	0	0	0	0	1	0
TOTAL ALLEGATIONS	870	982	1110	1150	1069	1041	909	1014	1097	1394

Six hundred and thirty-nine charges (639) of discrimination were investigated and closed during the last fiscal year.

Massachusetts

Massachusetts source of income discrimination law, Mass. Gen. Laws Ann. ch. 151B, § 4, prohibits discrimination against individuals or families receiving public assistance or rental subsidies, or because of any of the requirements of these programs. There is no exemption to this section of the Massachusetts Fair Housing Law.

Date Enacted

Amendments

Section 19A of St.1989, c. 722, in subsec. 10, substituted "because the individual is such a recipient, or because of any requirement of such public assistance, rental assistance, or housing subsidy program" for "solely because the individual is such a recipient".

Relevant Case Law

DiLiddo v Oxford Street Realty, Inc., 876 N.E.2d 421 (Mass. 2007) (holding that the terms of the voucher program lease are requirements that cannot be rejected by landlords or their agents, and that agents can be held liable for discrimination).

Attorney Gen. v. Brown, 511 N.E.2d 1103 (Mass. 1987) (finding that because a landlord did not discriminate against a Section 8 voucher holder “solely” on the basis of the tenant’s status as a participant in the program, that the landlord’s actions were lawful. Later, the legislature removed “solely” and added new language that made it unlawful for a landlord to discriminate either because the person is a housing subsidy recipient or because of any requirements of the program.).

Operative Language

Mass. Gen. Laws Ann. ch. 151B § 4:

“It shall be an unlawful practice: . . . For any person furnishing credit, services or rental accommodations to discriminate against any individual who is a recipient of federal, state, or local public assistance, including medical assistance, or who is a tenant receiving federal, state, or local housing subsidies, including rental assistance or rental supplements, because the individual is such a recipient, or because of any requirement of such public assistance, rental assistance, or housing subsidy program.”

Enforcement

Massachusetts source of income discrimination law can be enforced through the Human Rights Commission or the Massachusetts Commission against Discrimination. A plaintiff can file a complaint with the Commission. If the Commission finds probable cause, then it can commence a suit against the offender. If the offender so chooses, this suit may be resolved in the Superior Court. Additionally, the injured party can substitute herself in this suit so as to seek damages against the landlord. Mass. Gen. Laws Ann. ch. 151B § 3(1-7).

- Massachusetts Commission Against Discrimination (Gen Laws of Mass Part I, Title XXI, Ch. 151B Sec. 2)
- The Commission has the power to receive, investigate and pass upon complaints alleging illegal discrimination, including receiving public assistance
- The Commission has the power to hold hearings, subpoena witnesses, compel witnesses' attendance, take testimony of anyone under oath, require production of books or papers to examine.

Attorney’s Fees

Mass. Gen. Laws Ann. ch. 151B § 9 governs allocation of attorney’s fees. *See also*, *Bandera v. City of Quincy*, 220 F. Supp. 2d 26 (D. Mass. 2002). (holding that mediation fees were includable as part of the reasonable attorney fees and costs allowed by court under Massachusetts civil rights statute).

Organizations Helping Victims of Discrimination

If you have a question, or believe you have been a victim of housing discrimination, you may contact the following organizations for assistance:

Cambridge Human Rights Commission

51 Inman Street

Cambridge, MA 02139
617-349-4396

Massachusetts Commission Against Discrimination

One Ashburton Place - Room 601
Boston, MA 02108
(617)994-6000
www.state.ma.us/mcad/

Office of Fair Housing & Equal Opportunity

U.S. Department of Housing & Urban Development
Boston Regional Office
O'Neil Federal Building, Room 321
10 Causeway Street
Boston, MA 02222-1092
(617)565-5304

Boston Center for Independent Living

95 Berkeley St., #206
Boston, Massachusetts 02116
(617)338-6665

Boston Mayor's Office for Fair Housing

(617)725-4408

Disability Law Center

11 Beacon St. #925
Boston MA 02108
617-723-8455

National Consumer Law Center

77 Summer St.
Boston MA 02110
617-542-8010

Volume of Complaints

1968–Present: Housing Discrimination

Through testing, the Fair Housing Center of Greater Boston (FHCGB) has found that:

- African Americans and Latinos experience discrimination in half of their attempts to rent, purchase, or finance homes in greater Boston.
- Families with children and people with Section 8 vouchers are discriminated against two-thirds of the time when seeking rental housing.

What Form Does Discrimination Take?

African Americans and Latinos were:

- Shown fewer homes and told about fewer listings

- Asked more questions about their qualifications
- Steered to other communities, to lower priced homes or to open houses
- Required to provide 24 to 48 hours notice before viewing houses
- Quoted higher loan rates and offered fewer discounts on closing costs

Advantages of Whiteness:

- White testers presumed more qualified
- White testers given greater access to properties
- White testers given more information
- White testers given lower loan rates, better discounts
- White testers more likely to succeed in home buying

Evidence of Discrimination in Newton (audit completed in 2005)

- Overall, testing showed evidence of discrimination in 11 of the 24 paired tests, or 45.8%.
- Discrimination based on National Origin was the most common: 66%.
- Discrimination based on Race happened in 50% of the tests.
- Families with children and discrimination based on Source of Income both happened 33% of the time.

Evidence of Discrimination in Lowell (Audit completed in 2004)

- Overall, testing showed evidence of discrimination 31 of the 66 paired tests conducted, or 47%.
- Latino testers experienced the highest incidence of discrimination: 63%.
- African Americans experienced discrimination in 52% of the tests
- Asians experienced discrimination in 38% of the tests
- Families with children faced discrimination in 33% of the tests

Mortgage Lending Discrimination Today:

- Mortgage discrimination testing revealed differences in treatment that disadvantaged homebuyers of color 45% of the time. (FHCGA Audit 2005-2006)
- Upper income African Americans are 8 times more likely to have high cost loans than their white counterparts. (MA Community Banking Council)
- The presence of high-risk lenders is 3.7 greater in minority neighborhoods than in white neighborhoods (*Paying More for the American Dream*, 2008)
- Upper and middle income African Americans and Latinos are 10 times more likely to have high cost loans than low income whites. (MA Community Banking Council)

Minnesota

Minnesota's source of income ("public assistance") law was enacted in 1990, although it was later undermined by the judicial interpretation listed below in 2003. Minn. Stat. Ann. § 363A.09. The law was amended to read "or due to the receipt of federal, state, or local public assistance including medical assistance."

Date Enacted

Minnesota's source of income ("public assistance") law was enacted in 1990.

Relevant Case Law

In two separate orders, two judges granted judgment for a company, BBY, and the property manager, finding that participation in the Section 8 program was voluntary, so a landlord's refusal to participate could not be a per se violation of the law. The law required a showing both of a refusal to rent and a failure to do so because of the tenant's status with respect to public assistance. Instead, the landlord could choose not to participate in the Section 8 program for non-discriminatory reasons, such as an unwillingness to pay for the administrative requirements of the program. *Babcock v. BBY Chestnut Limited Partnership*, Court of Appeals of Minnesota, No. CX-03-90 (2003).

This case, although not a binding authority since it is unpublished, has gutted the protections of the statute, and practitioners are waiting for an ironclad case with which to challenge the ruling.

Operative Language

Minn. Stat. Ann. § 363A.09:

“‘Status with regard to public assistance’ means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.”

Enforcement:

In Minnesota, unfair discriminatory practice must be brought as a civil action pursuant to section 363A.33, subdivision 1, filed in a charge with the Department of Human Rights Commission pursuant to section 363A.07, subdivision 3. One may also file a private cause of action as granted in Sec. 363A.28.

- The department can issue complaints, receive and investigate charges alleging unfair discrimination, determine whether probable cause exists for a hearing, subpoena witnesses, take testimony, require production of materials for examination, attempt to eliminate unfair discriminatory practice (Sec. 363A.06).
- There is a private cause of action granted in Sec. 363A.28. Any person can either bring a civil action or file a verified charge with the commissioner.

Attorney's Fees

Minn. Stat. Ann. § 363A.33 governs allocation of attorney's fees.

New Jersey

The New Jersey's discrimination laws: N.J. STAT. ANN. § 10: 5-4 and 10:5-12 were originally passed in 1945, and were both amended in 2002 to include source of income discrimination.

New Jersey law makes it illegal for a landlord to refuse to rent to a person because the person has a Section 8 voucher or another type of housing assistance. N.J. STAT. ANN. 10:5-12(g). This applies to tenants who obtain Section 8 while already tenants in a house or apartment and to tenants who are seeking to rent from a landlord for the first time. A landlord cannot refuse to accept rental assistance from a tenant and then turn around and sue to evict that tenant for nonpayment of rent. *Franklin Tower One, L.L.C. v. N.M.*, 157 N.J. 602 (1999).

Date Enacted

The New Jersey's discrimination laws: N.J. STAT. ANN. 10: 5-4 and 10:5-12 were originally passed in 1945, and were both amended in 2002 to include source of income discrimination.

Relevant Case Law

In Pasquince v. Brighton Arms Apartments, 378 N.J. Super. 588 (App. Div. 2005), the court held that a person with a Section 8 voucher could be denied an apartment if there was a poor credit history, even though the poor credit was a result of disability. It depends on the facts of the case. *Pasquince* is the leading case on section 8 vouchers, and it is not a good precedent for SOI discrimination law, so practitioners are looking for cases to overcome it.

Franklin Tower One v. N.M., 157 N.J. 602 (1999) (upholding the statute stating that Section 8 vouchers are covered by source of income protection because the statute prohibits discrimination not only against source of income but also against the source of a lawful rent payment).

In tenant's action alleging landlord discriminated against her by rejecting application because of her dependence upon government assistance, trial court did not violate statute and substitute its standards for landlord's business judgment in determining tenant's creditworthiness when it found that tenant's disputed credit problems were used by landlord as a pretext; though statute did not limit landlords from refusing to rent based on creditworthiness, it was up to trial court to make assessment of credibility. *T.K. v. Landmark West*, 802 A.2d 527, (N.J. Super. App., 2002).

Operative Language

N.J. STAT. ANN. §10:5-4 (2002):

“All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex or source of lawful income used for rental or mortgage payments, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.”

Enforcement

If you have a Section 8 voucher or another subsidy and a landlord refuses to rent to you, you should immediately contact an attorney or the New Jersey Division of Civil Rights. New Jersey law also makes it illegal to refuse to rent to a person who will pay rent with other sources of income, such as welfare, alimony, or child support. N.J. STAT. ANN. 10:5-12[g].

How to file a discrimination complaint

If you feel that the landlord will not rent an apartment to you because of your race, religion, color, national origin, ancestry, marital status, sex, handicap, sexual preference, source of income for rent payment, or because you have children, you can do several things, one of which is to file a discrimination complaint directly with one of three government agencies. These agencies are required to investigate your complaint and take action to help you if they find that you have suffered discrimination. They can make landlords who discriminate pay money damages and can even get you into the apartment you wanted but were denied. Landlords who violate the Law against Discrimination are subject to substantial fines—up to \$10,000 for a first offense. *See*, N.J. STAT. ANN. 10-5-14.1(a).

There are two main agencies—one federal and one state—that handle housing discrimination complaints:

The U.S. Department of Housing and Urban Development (HUD)

Fair Housing and Equal Opportunity Division
1 Newark Center, 13th Floor
Newark, NJ 07102
1-800-496-4294 (discrimination complaints)
(973) 622-7900 (HUD complaints)

New Jersey Department of Law and Public Safety Division on Civil Rights

Atlantic City Office

26 S. Pennsylvania Avenue, 3rd Floor
Atlantic City, NJ 08401

(609) 441-3100

Serves Atlantic, Cape May, Cumberland, Ocean, and Salem counties

Camden Office

1 Port Center, 4th Floor

2 Riverside Drive, Suite 402

Camden, NJ 08103

(856) 614-2550

Serves Burlington, Camden, and Gloucester counties

Newark Office

31 Clinton Street, 3rd Floor

P.O. Box 46001

Newark, NJ 07102

(973) 648-2700

Serves Essex, Hudson, Union, and Middlesex counties

Paterson Office

100 Hamilton Plaza, 8th Floor

Room 800

Paterson, NJ 07505

(973) 977-4508

Serves Bergen, Morris, Passaic, Sussex, and Warren counties

Trenton Office

140 East Front Street, 6th Floor

P.O. Box 090

Trenton, NJ 08625-0090

(609) 292-4605

Serves Burlington, Mercer, Hunterdon, Somerset, Monmouth, and Middlesex counties

You can find out more about the Division on Civil Rights, including information about filing a complaint, at the [Division's Web site](#).

Both agencies handle complaints about the various forms of illegal discrimination described above.

You also can go directly to court without using these agencies and sue the landlord and/or broker who you believe has discriminated against you. This means, however, that you may need your own lawyer and will have to do your own investigation. If you succeed in court, you may be able to get money damages, the apartment that was wrongfully denied you, and attorney's fees.

If your complaint involves an owner-occupied two-family home, the Division on Civil Rights, HUD, and the Real Estate Commission won't be able to help you. Your only choice in such a case is to go to court.

Enforcement Hurdles

What may not be discrimination

Connie Pascale of Legal Services believes that specialized agencies are the main vehicle by which landlords can avoid complying with SOI laws by supposedly allowing them to use business judgment reason to reject to rent to a section 8 recipient. There are certain reasons a landlord may refuse to rent to you that are not illegal discrimination. A landlord doesn't have to rent to you if your income is not high enough to afford the rent or if a check of your financial background shows that you have failed to pay rent for apartments in the past or have been unable to pay other debts. But these reasons may not be good reasons if you have a Section 8 voucher or another type of housing assistance. *See, T.K. v. Landmark West*, 353 N.J. Super. 223 (2002). But see, *Pasquince v. Brighton Arms Apartments*, 378 N.J. Super. 588 (App. Div. 2005), where the court held that a person with a Section 8 voucher could be denied an apartment if there was a poor credit history, even though the poor credit was a result of disability. It depends on the facts of the case. If you have a Section 8 voucher or another subsidy and a landlord refuses to rent to you because of your credit history or the amount of your income, you should contact an attorney or the New Jersey Division on Civil Rights. *See Refusal to rent to Section 8 recipients and people with other types of income.*

Additionally, a landlord can refuse to rent to you if your family is too large for the size of the apartment. Whether or not your family is too large usually depends upon how big the whole apartment is, not just how many bedrooms it has.

It is important for a tenant to ask the landlord to be specific about why he or she is refusing to rent to the tenant because landlords use the above laws to discriminate.

Pascale believes SOI law is important because the few times they have filed complaint, the tenant usually win or the landlord settles out of court. However, because of the credit laws, most tenants with poor credit refuse to file suit.

Bill S3001 has been introduced and it establishes guidelines for creditworthiness determinations concerning affordable housing programs. There will be a public hearing soon. Pascale is hopeful that the bill will pass since it has the support of a lot of middle class people who are now having credit problem because of the recession.

Practitioners are trying to find ways to overcome those industries that have grown stronger and which help landlords to hide behind them to discriminate.

Legal services - Federal restrictions on class actions has made it harder for cases brought to have a bigger impact.

Funding – The civil rights division has enough funding. However, it has used the funding less effectively in the past. With its new director and the new administration, enforcement will hopefully be more aggressive.

Attorney's Fees

N.J. STAT. ANN. 10:5-27.1 governs attorney's fees and allows the prevailing party to be awarded "reasonable attorney's fees," with a bad faith exception.

Organizations Helping Victims of Discrimination

Proving housing discrimination can be difficult and complicated. You may need help from one of the fair housing groups listed above. You will also need a lawyer. The fair housing groups may be able to refer you to a lawyer. You can also call your Legal Services program for their help or a referral to a private attorney specializing in housing discrimination cases.

Local fair housing groups. Some counties have fair housing organizations that can help you with your discrimination complaint. They can investigate your complaint for free and help you get the housing you want. They can also help you bring charges against the landlord and/or real estate broker, find you an attorney, or help you file a complaint with HUD or the Division on Civil Rights.

The following counties have organizations that may be able to help you with your fair housing complaint:

Bergen County

Fair Housing Council of Northern New Jersey

131 Main Street, Suite 140
Hackensack, NJ 07601
(201) 489-3552

Middlesex County

Puerto Rican Housing Coalition
90 Jersey Avenue,
New Brunswick, NJ 08901
(732) 828-4510

Monmouth County

Monmouth County Fair Housing Board

Community Development
Hall of Records Annex
1 East Main Street, 2nd floor
Freehold, NJ 07728
(732) 431-7490

Morris County

Urban League of Morris County

Fair Housing and Assistance Program

300 Madison Avenue, Suite A
Morristown, NJ

07960-6116
 (973) 539-2121
 (973) 998-6520 (Fax)

Low-income New Jerseyans can get free legal help by calling toll-free hotline at 1-888-LSNJ-LAW (1-888-576-5529), Monday through Friday, 8:00 a.m. to 5:30 p.m. Outside of New Jersey; they can call 732-572-9100 and ask to be transferred to the hotline.

Volume of Complaints

Received		REF RENT	DIF TREAT	EVICITION	DEN ACCOM	REF SELL	DEN APPL	DEN CREDIT
2002	1			1				
2003	32	27		4				
2004	29	29						
2005	48	42	5			1		
2006	32	24	6	1			1	
2007	43	30	7	3	1			1
2008	31	21	5	3	1	1		
2009	16	16						
Total:	232	189	23	12	2	2	1	1

Closed		No Probable Cause	Settled	Administrative	Withdrawn	Consent Order	Director's Order
2002	1				1		
2003	14	6	6	1	1		
2004	29	6	15	3	4	1	
2005	39	17	14	3	5		
2006	38	20	9	6	3		
2007	36	12	14	9			1
2008	32	9	9	11	2	1	
2009	15	4	3	6	1	1	
Sum:	204	74	70	39	17	3	1

North Dakota

North Dakota has two provisions governing source of income discrimination: N.D. CENT. CODE § 14-02.4-01, which was passed in 1983 (S.L. 1983, ch. 173, § 1) and amended in 1991 (S.L. 1991, ch. 142, § 1) and 1993 (S.L. 1993, ch. 140, § 1); and N.D. CENT. CODE § 14-02.5-07, which was passed in 1999 (S.L. 1999, ch. 134) and amended in 2001 (S.L. 2001, ch. 147, § 2).

Date Enacted

North Dakota has two provisions governing source of income discrimination: N.D. CENT. CODE, § 14-02.4-01, which was passed in 1983 and amended in 1991 and 1993; and N.D. CENT. CODE § 14-02.5-07, which was passed in 1999 and amended in 2001.

Relevant Cases

There are no cases citing Source of Income provision.

Operative Language:

N.D. CENT. CODE § 14-02.5-07: Residential real estate-related transaction:

“A person whose business includes engaging in residential real estate-related transactions may not discriminate against an individual in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance. A residential real estate-related transaction is the selling, brokering, or appraising of residential real property or the making or purchasing of loans or the provision of other financial assistance to purchase, construct, improve, repair, maintain a dwelling, or to secure residential real estate. . . .”

Enforcement

North Dakota’s source of income discrimination can be enforced through filing a complaint with the Human Rights Division within the Department of Labor, or by filing a private right of action.

- The division receives and investigates complaints of discrimination. N.D. CENT. CODE § 14-02.5-14.
- If the department determines that there is probable cause but cannot resolve the complaint through negotiations or conciliation, the department provides for an administrative hearing.
- Provides a private right of action. N.D. CENT. CODE § 14-02.5-39.

Attorney’s Fees

§ 14-02.5-44 governs the allocation of attorney’s fees and provides for the allocation of “reasonable attorney’s fees” to the prevailing party.

Oklahoma

The Oklahoma’s source of income discrimination law, OKLA. ST. tit. 25, § 1452 was added by Laws 1985, c. 289, § 2 and amended by Laws 1991, c. 177, § 3.

Date Enacted

Oklahoma’s source of income discrimination law was added in 1985 and amended in 1991.

Relevant Cases

There are no cases citing this provision. Persons with interest in the state’s application of these laws should contact Mike Miller, Legal Aid of Oklahoma, at (405) 488 6861 or mike.miller@laok.org.

Operative Language

OKLA. ST. tit. 25, § 1452:

“A. It shall be an unlawful discriminatory housing practice for any person, or any agent or employee of such person:

... 8. To refuse to consider as a valid source of income any public assistance, alimony, or child support, awarded by a court, when that source can be verified as to its amount, length of time received, regularity, or receipt because of race, color, religion, gender, national origin, age, familial status, or handicap....”

Enforcement

Oklahoma’s source of income discrimination law may be enforced by filing a complaint with the Human Rights Commission or by filing a private cause of action suit within the required statutory period.

- Human Rights Commission has authority to act on complaints based on discrimination prohibited by law (OKLA. ST. tit. 25, § 1452)
- The commission receives and investigates discrimination complaints and recommends eliminating injustices. The commission also holds hearings. (OKLA. ST. tit. 25, § 1502.2)
- A person claiming to be aggrieved by a discriminatory practice, his attorney, the Attorney General, a nonprofit organization chartered for the purpose of combating discrimination or a member of the Commission. (OKLA. ST. tit. 25, § 1502)
- The Commission may not issue a charge pursuant to this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced. (OKLA. ST. tit. 25, § 1502.13)
- If a timely election is made pursuant to Section 20 of this act, the Commission shall authorize, and not later than the 30th day after the election is made, the Attorney General shall file, a civil action on behalf of the aggrieved person in a district court. (OKLA. ST. tit. 25, § 1502.15)
- An aggrieved person may file an action pursuant to this section whether or not a complaint has been filed pursuant to Section 8 of this act and without regard to the status of any complaint filed pursuant to this section. (OKLA. ST. tit. 25, § 1506.1)

Attorney’s Fees

Attorney’s fees are governed by OKLA. ST. tit. 25, §1506.8, which provides for “Reasonable attorney’s fees” to the prevailing party.

Oregon

Oregon illegal discrimination law (OR. REV. STAT. § 659.033) (now OR. REV. STAT. § 659a.421)) was passed in 1995. Section 44 of the bill amended the law to add "source of

income" as a protected class and to add a definition.

Date Enacted

Oregon illegal discrimination law (OR. REV. STAT. § 659.033) (now OR. REV. STAT. § 659a.421)) was passed in 1995.

Relevant cases

There are no cases citing the Source of Income provision.

Operative Language

OR. REV. STAT. § 659A.421:

“‘Source of income’ does not include federal rent subsidy payments under 42 U.S.C. 1437f, income derived from a specific occupation or income derived in an illegal manner.”

“A person may not, because of the race, color, religion, sex, sexual orientation, national origin, marital status, familial status or source of income of any person:

(a) Refuse to sell, lease or rent any real property to a purchaser. . . .”

Enforcement

Enforcement is governed by OR. REV. STAT. § 659A.825. Oregon source of income discrimination may be enforced by filing a complaint with the Bureau of Labor and Industries or by filing a private cause of action in circuit court. A complaint may similarly be filed by the Attorney General.

Attorney’s Fees

The allocation of attorney’s fees is governed by OR. REV. STAT. § 659A.885. Reasonable attorney’s fees are allowable at the court’s discretion subject to certain exceptions. In a housing discrimination case, the court “shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action.” OR. REV. STAT. § 659A.885(8).

Organizations Helping Victims of Discrimination

Legal aid and law center

Utah

Utah’s Fair Housing Act, UTAH CODE ANN. § 57-21-5, was passed in 1989 (1989 c. 233, §5,) and amended to add source of income discrimination in 1993 by Laws 1993, c. 114, § 4.

Date Enacted

Utah's Fair Housing Act, UTAH CODE ANN. § 57-21-5 was passed in 1989 and amended to add source of income discrimination in 1993.

Relevant Cases

There are no cases citing the source of income provision. There are no cases pending. According to practitioners, the eviction laws favor landlords so extremely, that they are reluctant to take on section 8 recipients for fear of being subjected to additional federal requirements. If you are interested in additional information regarding Utah, please contact Marty Blaustein at mblaustein@utahlegalservices.org, (801) 328-8891 x 3328.

Operative Language:

UTAH CODE ANN. § 57-21-5:

(1) It is a discriminatory housing practice to do any of the following because of a person's race, color, religion, sex, national origin, familial status, source of income, or disability:

- (a) refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any person;
- (b) discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling; or
- (c) represent to any person that any dwelling is not available for inspection, sale, or rental when in fact the dwelling is available.

Enforcement:

UTAH CODE ANN. § 57-21-(8-12):

Utah's source of income discrimination laws may be enforced by filing a complaint with the Division of Antidiscrimination and Labor under the Labor Commission. One may also file a private right of action.

- The division may receive and investigate claims alleging discriminatory housing practices, including those based on source of income (UTAH CODE ANN. § 57-21-8)
- The division may initiate a civil action to enforce the rights protected against housing discrimination protected under the statute. (UTAH CODE ANN. § 57-21-8).
- Explicitly grants a private right of action. (UTAH CODE ANN. § 57-21-12).

Attorney's Fees

Reasonable attorney's fees are provided for under UTAH CODE ANN. § 57-21-11 at the court's discretion.

Vermont

Vermont's source of income (referred to as public assistance) discrimination law VT. STAT. ANN. tit. 9, § 4503 was passed in 1987.

Date Enacted

Vermont's source of income discrimination law VT. STAT. ANN. tit. 9, § 4503 was passed in 1987.

Relevant Cases

There are no cases citing Source of Income provision.

Statutory Language

VT. STAT. ANN. tit. 9, § 4503

“(a) It shall be unlawful for any person:

(1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.”

Enforcement:

VT. STAT. ANN. tit. 9, § 4506:

Vermont source of income discrimination may be enforced by filing a claim with the Human Rights Commission established under sec. 4551, or a private right of action in [State or federal] court.

- The commission has jurisdiction to investigate and enforce complaints of unlawful discrimination, including that based upon receiving public assistance.
- The commission can hold hearings, take testimony, issue subpoenas, require production of documents, and enforce conciliation agreements and prohibitions against discrimination. (VT. STAT. ANN. tit. 9, § 4553).
- Private right of action explicitly granted. However, an individual cannot pursue a claim both through the human rights commission and in the courts. (VT. STAT. ANN. tit. 9, § 4506).
- (a) A person aggrieved by a violation of this chapter may file a charge of discrimination with the human rights commission pursuant to chapter 141 of this title or may bring an action for injunctive relief and compensatory and punitive damages and any other appropriate relief in the superior court of the county in which the violation is alleged to have occurred.
(c) The human rights commission may bring an action in the name of the commission to enforce the provisions of this chapter in accordance with its powers established in chapter 141 of this title.
(d) The initiation or completion of an investigation by the human rights

commission shall not be a condition precedent to the filing of any lawsuit for violation of this chapter.

Attorney's Fees

Under VT. STAT. ANN. tit. 9, § 4506 (b), “the court may award costs and reasonable attorney's fees to an aggrieved person who prevails in an action . . .”

Organizations Helping Victims of Discrimination

Vermont Legal Aid, Inc.

Vermont Legal Aid, Inc. assists victims of housing discrimination through intake and referral, legal advice, and representation. Our housing discrimination work is funded solely by a grant from HUD; therefore, we are unable to represent victims of housing discrimination based solely on Vermont-only protected classes; however, we refer complainants of discrimination on Vermont-only bases to the VHRC for investigation. In any case in which a federally-protected basis is violated and the victim was also discriminated against based on receipt of public assistance, we also set out a separate claim on the public assistance business. During calendar year 2009 we conducted 106 intakes and gave legal advice to all of these. In the past we did represent one victim of housing discrimination based on receipt of public assistance—a Section 8 Voucher. That case settled out of court.

The Vermont Human Rights Commission is a Vermont State Agency that investigates and adjudicates charges of housing discrimination. It is a neutral body.

Champlain Valley Office of Economic Opportunity (CVOEO)'s Fair Housing Project does intake and referral of housing discrimination victims to the HRC and to VLA.

Wisconsin

WIS. STAT. § 106.50 was amended in 1980 to include lawful source of income discrimination protection and authorizes the Department to promulgate such rules as are necessary to carry out this section. Lawful source of income includes: wages, a voucher having monetary value, social security, public assistance or other related payments.

Date Enacted

WIS. STAT. § 106.50 was amended in 1980 to include lawful source of income discrimination protection.

Relevant Case Law

Knapp v. Eagle Property Management Corp., 54 F.3d 1272 (Wis. 1995). (finding that Section 8 federal rent assistance vouchers were not “lawful source of income” within meaning of Wisconsin Open Housing Act provision prohibiting landlords from discriminating in housing on basis of lawful source of income).

Fernandez-Tome v. Joseph (LIRC, 07/25/90) (The Complainant applied for an apartment advertised for rent by the Respondent. The Respondent was aware that the Complainant's income was derived from social security, although he did not know how much that income was. The Respondent declined to rent the apartment to the Complainant, stating that he preferred to rent it to "two working people." The Respondent violated the Wisconsin Open Housing Act by refusing to rent to the Complainant because of the Complainant's source of income.)

Statutory Language

WIS. STAT. § 106.50 - Open housing

“(1) Intent. It is the intent of this section to render unlawful discrimination in housing. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry and it is the duty of the political subdivisions to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under ss. 66.0125 and 66.1011. . . .”

“...1(m) Definition: (h) “Discriminate” means to segregate, separate, exclude or treat a person or class of persons unequally in a manner described in sub. (2), (2m) or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry.”

Enforcement

Wisconsin’s source of income discrimination law may be enforced by filing a complaint with the Equal Rights Division, or by filing a private cause of action in court.

- The division administers housing discrimination, including discrimination on basis of lawful source of income (WIS. STAT. § 106.50(1s)).
- Individuals can file complaints charging discrimination violations.
- The department of workforce development can hold hearings, subpoena witnesses, take testimony and make investigations, and determine whether probable cause exists.
- Provides for a private cause of action, where the petitioner may seek relief, including punitive damages, court costs, attorney's fees, and injunctive relief. (WIS. STAT. § 106.50(6m)).

Are Their Exceptions, which might affect applicability of the law?

Yes, there are circumstances when discrimination may be legal. A few examples are:

- A family with “too many” people may be turned away, if a reasonable government requirement limits the number of occupants for the dwelling unit.
- Housing primarily intended and operated for older persons may, under certain conditions, be restricted to persons over a certain age.
- Housing may be denied to a person who poses a direct threat to the safety of others or whose tenancy would result in substantial physical damage to property, provided the risk can’t be sufficiently reduced by a reasonable accommodation.

Attorney's Fees

WIS. STAT. §106.50(6) allows for reasonable attorney's fees for the prevailing complainant.

Organizations Helping Victims of Discrimination

Fair Housing Council Help?

- Fair Housing Council can help one understand one's rights under the law and outline a variety of ways to pursue a complaint.
- Fair Housing Councils may also be able to conduct investigations utilizing "testing", which is a method of investigating complaints that compares treatment of various home seekers to determine whether differences in treatment are occurring. Testing may later be used as evidence in administrative or judicial actions.
- A Fair Housing Council may also be able to refer one to an attorney experienced in fair housing matters. To determine if a Fair Housing Council serves your area of the state, contact the Metropolitan Milwaukee Fair Housing Council at (414) 278-1240.

Volume of Complaints

Housing Discrimination Report for CY 2008

1/1/2008 to 12/31/2008 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	5	5.26%
Color	2	2.11%
Disability - Housing Only	24	25.26%
Family Status - Housing	8	8.42%
Lawful Income - Housing	8	8.42%
Marital Status	2	2.11%
National Origin/Ancestry	2	2.11%
Race	30	31.58%
Religion/Creed	2	2.11%
Retaliation	5	5.26%
Sex	3	3.16%
Sexual Orientation	4	4.21%

During this time period, 59 complainants filed 95 separate bases.

Housing Discrimination Report for CY 2007

1/1/2007 to 12/31/2007 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	6	6.82%
Color	1	1.14%
Disability - Housing Only	19	21.59%
Family Status - Housing	11	12.50%
Lawful Income - Housing	7	7.95%
Marital Status	2	2.27%
National Origin/Ancestry	1	1.14%
Race	23	26.14%
Religion/Creed	1	1.14%
Retaliation	9	10.23%
Sex	6	6.82%
Sexual Orientation	2	2.27%

During this time period, 66 complainants filed 88 separate bases.

Housing Discrimination Report for CY 2006

1/1/2006 to 12/31/2006 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	8	6.67%
Color	4	3.33%
Disability - Housing Only	24	20.00%
Family Status - Housing	12	10.00%
Lawful Income - Housing	13	10.83%
Marital Status	3	2.50%
National Origin/Ancestry	2	1.67%
Race	30	25.00%
Religion/Creed	4	3.33%
Retaliation	6	5.00%
Sex	10	8.33%
Sexual Orientation	4	3.33%

During this time period, 81 complainants filed 120 separate bases.

Housing Discrimination Report for CY 2005

1/1/2005 to 12/31/2005 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	8	6.06%
Color	8	6.06%
Disability - Housing Only	28	21.21%
Family Status - Housing	15	11.36%
Lawful Income - Housing	10	7.58%
Marital Status	3	2.27%
National Origin/Ancestry	1	0.76%
Race	33	25.00%
Retaliation	8	6.06%
Sex	13	9.85%
Sexual Orientation	5	3.79%

During this time period, 80 complainants filed 132 separate bases.

Housing Discrimination Report for CY 2004

1/1/2004 to 12/31/2004 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	9	6.98%
Color	2	1.55%
Disability - Housing Only	21	16.28%
Family Status - Housing	17	13.18%
Lawful Income - Housing	17	13.18%
Marital Status	6	4.65%
National Origin/Ancestry	6	4.65%
Race	24	18.60%
Religion/Creed	2	1.55%
Retaliation	8	6.20%
Sex	14	10.85%
Sexual Orientation	3	2.33%

During this time period, 71 complainants filed 129 separate bases.

Housing Discrimination Report for CY 2003
1/1/2003 to 12/31/2003 as of 11/10/2009

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	2	2.13%
Color	7	7.45%
Disability - Housing Only	13	13.83%
Family Status - Housing	11	11.70%
Lawful Income - Housing	8	8.51%
Marital Status	3	3.19%
National Origin/Ancestry	7	7.45%
Race	25	26.60%
Religion/Creed	1	1.06%
Retaliation	8	8.51%
Sex	5	5.32%
Sexual Orientation	4	4.26%

During this time period, 55 complainants filed 94 separate bases.

LOCAL LAWS AND ORDINANCES

California

Corte Madera:

Citation: Anti-Discrimination Ordinance, Chapter 5.30

Date passed: 2000 (unverified)

Operative Language: "It is unlawful for the owner or manager of rental housing to discriminate against an existing tenant on the basis of that tenant's use of a Section 8 rent subsidy. It is a violation of this prohibition for a property owner or manager to refuse to accept a Section 8 rent subsidy for which an existing tenant qualifies, or to terminate the tenancy of an existing tenant based on the property owner's or manager's refusal to participate in a Section 8 rent subsidy program for which an existing tenant has qualified."

Administrative or court enforcement: Both (mediation or civil action for damages/injunctive relief)

Attorneys fees:

East Palo Alto:

Citation: East Palo Alto Municipal Code Chapter 14.16

Date passed: 11/06/2000

Operative Language: “For purposes of this subsection, "source of income" means all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program. Source of income includes any requirement of any such program or source of income or rental assistance.”

Administrative or court enforcement: Court

Attorneys fees:

Los Angeles:

Citation: Los Angeles Municipal Code § 151.04 (as amended by Ord. No. 174,501)

Date passed: 4/11/02

Operative Language: “It shall be unlawful for any landlord to terminate or fail to renew a rental assistance contract with the Housing Authority of the City of Los Angeles [HACLA] and then demand that the tenant pay rent in excess of the tenant's portion of the rent under the rental assistance contract.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

San Francisco:

Citation: San Francisco Police Code Art. 33, §3304

Date passed: 07/31/1998

Operative Language: “For purposes of this Subsection (a), "source of income" means all lawful sources of income or rental assistance from any federal, State, local, or nonprofit-administered benefit or subsidy program. "Source of income" also means a rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program. "Source of income" includes any requirement of any such program or source of income, or rental assistance.”

Administrative or court enforcement: Both

Attorneys fees: Discretionary

Illinois

Chicago:

Citation: Chicago Fair Housing Ordinance §5-08-030

Date passed: 1990

Operative Language: “Source of income: means the lawful manner by which an individual supports himself or herself and his or her dependents.”

Administrative or court enforcement: Both

Attorneys fees: Discretionary

Cook County:

Citation: Cook County Code of Ordinances Sec. 42-31, 42-38

Date passed:

Operative Language: “*Source of income*’ means the lawful manner by which an individual supports himself or herself and his or her dependents.”

BUT: Housing assistance program. Notwithstanding anything to the contrary contained in this article, nothing contained in this section shall require any person who does not participate in the Federal Section 8 housing assistance program (42 U.S.C. § 1437f) to accept any subsidy, payment assistance, voucher, or contribution under or in connection with such program or to lease or rent to any tenant or prospective tenant who is relying on such a subsidy, payment assistance, contribution, or voucher for payment of part of the rent for such housing accommodation.

Administrative or court enforcement: Administrative

Attorneys fees: Yes

Harwood Heights:

Citation: Harwood Heights Municipal Code Title 19

Date passed: 8/13/2009

Operative Language: “It is declared to be the public policy of the Village of Harwood Heights ("village"), in the exercise of its power to regulate for the protection of the public health, safety, morals, and welfare, to assure fair housing and freedom from discrimination throughout the community, to protect the community from the effects of residential segregation based upon a person's race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status, and to secure its citizens the economic, social, and professional benefits of living in a stable, integrated society.”

Administrative or court enforcement: Administrative with right of judicial review

Attorneys fees: No

Naperville:

Citation: Naperville Ordinance 00-92

Date passed: 6/6/2000

Operative Language: “Unlawful Discrimination: Discrimination against a person because of his or her race, color, religion, sex, national origin, ancestry, age, marital status, familial status, physical or mental handicap or disability, military status, sexual orientation, or legal source of income.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

Urbana:

Citation: Urbana City Code Ch. 12

Date passed: 11/17/1975

Operative Language: “Source of income. The point or form of the origination of legal gains of income accruing to a person in a stated period of time; from any occupation,

profession or activity, from any contract, agreement or settlement, from federal, state or local payments, including Section 8 or any other rent subsidy or rent assistance program, from court ordered payments or from payments received as gifts, bequests, annuities or life insurance policies.”

Administrative or court enforcement: Administrative, pursuant to judicial review of commission decision.

Attorneys fees: No (?)

Wheeling:

Citation: Wheeling Human Rights Ordinance Ch. 6.14

Date passed: 1995

Operative Language: “‘Source of income’ means the lawful manner by which an individual supports himself or herself and his or her dependents.”

BUT: “Notwithstanding anything to the contrary contained in this title, nothing contained in this chapter shall require any person who does not participate in the federal Section 8 Housing Assistance Program (42 U.S.C. 1437f) to accept any subsidy, payment assistance, voucher or contribution under or in connection with such program or to lease or rent to any tenant or prospective tenant who is relying on such a subsidy, payment assistance, contribution or voucher for payment of part of the rent for such housing accommodation.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

Maryland

Frederick:

Citation: Frederick City Code, Appendix F

Date passed: 5/16/2002

Operative Language: “‘Source of Income’ means any lawful, verifiable source of money paid directly or indirectly to a renter or buyer of housing including:
(1) Any lawful profession or occupation;

- (2) The condition of being a recipient of federal, state, or local government assistance, including medical assistance, subsidies, rental assistance, or rent supplements;
- (3) Any gift, inheritance, pension, annuity, alimony, child support, trust or investment accounts, or other consideration or benefit; and
- (4) Any sale or pledge of property or interest in property.”

Administrative or court enforcement: Administrative

Attorneys fees: Yes

Howard County:

Citation: Howard County Fair Housing Ordinance §§12.200-12.218.

Date passed: 1992

Operative Language: “Source of income means any lawful source of money that is paid to or for the benefit of a renter or buyer of housing, including:

- (1) A lawful profession or occupation;
- (2) A Federal, State or local government assistance, grant or loan program;
- (3) A private assistance, grant or loan program”

Administrative or court enforcement: Administrative, civil action only if authorized by the Human Rights Commission

Attorneys fees: Discretionary

Montgomery County:

Citation: Montgomery County Code, Ch. 27

Date passed: 1991

Operative Language: “Any lawful source of income (grant, gift, inheritance, pension, annuity, alimony, child support, government or private assistance) or occupation must be considered in determining qualifications for rental or sale of property and these sources of income and occupation may be verified.”

Administrative or court enforcement: Both

Attorneys fees: Only upon finding of §27-8 violation.

Prince George's County:

Citation: ? Apparently excludes §8.

Date passed:

Operative Language:

Administrative or court enforcement:

Attorneys fees:

Massachusetts

Note that Massachusetts also has a statewide voucher discrimination law

Boston:

Citation: City of Boston Municipal Code Ch. 10-3

Date passed: 1980/2002?

Operative Language: “It is the policy of the City of Boston to see that each individual, regardless of his/her race, color, religious creed, marital status, military status, handicap, children, national origin, sex gender identity or expression, age, ancestry, sexual preference or source of income shall have equal access to housing and to encourage and bring about mutual understanding and respect among all individuals in the City by the elimination of prejudice, intolerance, bigotry and discrimination in the area of housing.”

Administrative or court enforcement: Administrative ?

Attorneys fees: ?

Cambridge:

Citation: Cambridge Municipal Code § 14.04.030

Date passed: 1992

Operative Language: “‘Source of income’ means public assistance reciprocity. ‘Source of income’ shall not include income derived from criminal activity.”

Administrative or court enforcement: Both

Attorneys fees: No

Quincy:

Citation: Quincy Municipal Code § 2.150.010

Date passed: 1992/93?

Operative Language: “‘Source of income’ means public assistance reciprocity. “Source of income” shall not include income derived from criminal activity.”

Administrative or court enforcement: Court

Attorneys fees: ?

Revere:

Citation: Revere Municipal Code §9.28.080

Date passed: 1994

Operative Language: “‘Source of income’ means the manner or means by which an individual supports herself or himself and his or her dependents, except in this chapter it shall not include any criminal activity from which a source of income is derived.”

Administrative or court enforcement: Human Rights commission can “refer individuals with complaints to the appropriate state or federal agency of any violation [based on source of income].”

Attorneys fees: ?

Michigan

Ann Arbor:

Citation: Ann Arbor City Code Ch. 112, § 9:150 et seq.

Date passed: 03/17/1978

Operative Language: “*Source of income.* Any legal source from which a person obtains money.”

Administrative or court enforcement: Both

Attorneys fees: ?

Hamburg:

Citation: Hamburg Local Law Ch. 109-3

Date passed: 3/14/2005

Operative Language: “It shall be unlawful: A: To refuse to sell or rent or refuse to negotiate for the sale or to deny any dwelling to any person because of race, color, religion, sex, age, marital status, disability, national origin, source of income, sexual orientation or because the person has a child or children.”

Administrative or court enforcement: Court

Attorneys fees: Discretionary

Grand Rapids:

Citation: Grand Rapids City Code Ch. 160, §9.361 et seq.

Date passed: 07/11/2000

Operative Language: “*Source of lawful income* means consistent income derived from wages, social security, supplemental security income, all forms of federal, state or local assistance payments or subsidies, Section 8 assistance, child support, alimony and public assistance which can be verified and substantiated.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

New York

Buffalo:

Citation: Buffalo Code of Ordinances §154-12 et seq.

Date passed: 5/2/2006

Operative Language: “Source of Income: Payments from a lawful occupation or employment, as well as other payments including, but not limited to, public assistance, supplemental security income, pensions, annuities, unemployment benefits, government subsidies such as Section 8 or other housing subsidies.”

Administrative or court enforcement: Both

Attorneys fees: Yes

Hamburg:

Citation: Hamburg General Code Ch. 109

Date passed: 3/14/2005

Operative Language: “Source of Income: Any income or source of rent payment from lawful sources.”

Administrative or court enforcement: Both

Attorneys fees: Yes

Nassau County:

Citation: Nassau County Administrative Code §21-9.7

Date passed:

Operative Language: “‘Source of income’ means any lawful source of income, including federal, state, local, non-profit assistance or subsidy program.”

Administrative or court enforcement: Both

Attorneys fees: Yes

New York City:

Citation: New York Administrative Code Tit. 8, Ch.1, §8-101

Date passed: 3/26/2008

Operative Language: “The term “lawful source of income” shall include income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.”

Administrative or court enforcement: Both

Attorneys fees: ?

West Seneca:

Citation: West Seneca Fair Housing Code Ch. 71

Date passed: 3/5/1979

Operative Language: “It shall be unlawful: A. To refuse to sell or rent or refuse to negotiate for the sale or deny a dwelling to any person because of race, color, religion, sex, age, marital status, handicap, national origin, source of income or because the person has a child or children.”

Administrative or court enforcement: Both

Attorneys fees: Discretionary

Pennsylvania

Borough of State College:

Citation: Code of Ordinances of the Borough of State College Ch. V, §501 et seq.

Date passed: 3/9/1993

Operative Language: “‘Source of income’ means income received through any legal means including, but not limited to, wages, salaries, interest, dividends, child support, alimony, public assistance, pensions or other retirement benefits, social security or other documentation of ability to pay. Nothing herein shall be construed to mean a landlord must rent to someone who does not have the ability to pay.”

Administrative or court enforcement: Administrative. If mediation fails, subsequent civil enforcement may be available.

Attorneys fees: Yes

Philadelphia:

Citation: Philadelphia Code Ch. 9-1100 et seq.

Date passed: 1980

Operative Language: “*Source of Income*. Shall include any lawful source of income, and shall include, but not be limited to, earned income, child support, alimony, insurance and pension proceeds, and all forms of public assistance, including Aid For Dependent Children and housing assistance programs.”

Administrative or court enforcement: Both

Attorneys fees: Yes

Washington

Bellevue

Citation: Bellevue City Code 9.20.045

Date passed: 1/30/1990

Operative Language: “No person shall refuse to rent a dwelling unit to any rental applicant solely on the basis that the applicant proposes to rent such unit pursuant to a Section 8 voucher or certificate issued under the Housing and Community Development Act of 1974 (42 USC 1437(F)); provided this section shall only apply with respect to a Section 8 certificate if the monthly rent on such residential unit is within the limits of fair market rent as established by the Department of Housing and Urban Development.”

Administrative or court enforcement: Both

Attorneys fees: No

King County

Citation: King County Code 12.20.040

Date passed: 3/2006

Operative Language: “‘Discriminate’ means any action or failure to act, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability, or use of a service or assistive animal by an individual with a disability.”

“‘Participation in the Section 8 program’ means participating in a federal, state or local government program in which a tenant's rent is paid partially by the government, through a direct contract between the government program and the owner or lessor of the real property, and partially by the tenant.”

Administrative or court enforcement: Both

Attorneys fees: Yes

Seattle

Citation: Seattle Municipal Code 14.08.040

Date passed: 12/11/1989

Operative Language: “‘Discrimination’ means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, participation in a Section 8 program, the presence of any disability or the use of a trained dog guide or service animal by a disabled person.”

“‘Section 8 program’ means a federal, state or local government program in which a tenant's rent is paid partially by the government program (through a direct contract between the government program and the owner or lessor of the real property), and partially by the tenant.”

Administrative or court enforcement: Both

Attorneys fees: Yes

Wisconsin

Note that Wisconsin also has a statewide voucher discrimination law

Cambridge

Citation: Village of Cambridge Wisconsin Code of Ordinances § 9.36.010

Date passed:

Operative Language: “It is declared to be the policy of the village to assure equal opportunity to all persons to live in adequate housing facilities regardless of race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.”

Note, however, that although it is ‘declared policy’ that source of income discrimination is impermissible, the subsequent sections of the code only specifically protect “race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

Dane County

Citation: Dane County Code Ch. 31

Date passed: 8/6/1987

Operative Language: “*Discriminate* and *discrimination* mean to segregate, separate, exclude or treat any person or class of persons unequally because of race, gender, age, religion, color, national origin, ancestry, marital status of the person maintaining the household, family status, mental illness, physical condition, appearance, lawful source of income, including receipt of rental assistance under 24 Code of Federal Regulations Subtitle B, Chapter VIII [the “Section 8” housing program], student status, arrest or conviction record, sexual orientation, military discharge status or political beliefs.”

Administrative or court enforcement: Both

Attorneys fees: No

Madison

Citation: Madison Code of Ordinances §39.03

Date passed:

Operative Language: “Source of income includes, but shall not be limited to, moneys received from public assistance, pension, and Supplementary Security Income (SSI). Source of income shall be limited to legally derived income.”

“Housing. It shall be an unfair discrimination practice and unlawful and hereby prohibited for any person having the right of ownership or possession or the right of transfer, sale, rental or lease of any housing, or the agent of any such person: (a) To refuse to transfer, sell, rent or lease, to refuse to negotiate for the sale, lease, or rental or otherwise to make unavailable, deny or withhold from any person such housing because of sex, race, religion, color, national origin or ancestry, age, handicap/disability, marital status, source of income, including receipt of rental assistance under 24 Code of Federal Regulations Subtitle B, Chapter VIII [the "Section 8" housing program] . . .”

Administrative or court enforcement: Administrative

Attorneys fees: No

Ripon

Citation: Ripon Municipal Code § 12.48

Date passed:

Operative Language: “In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market or in connection with any public sale, purchase, rental, financing or lease of any housing accommodation, it is unlawful within the city of Ripon for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to: A. Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his or her race, color, religion, age, ancestry, national origin, gender, sexual orientation, disability, marital status, familial status, lawful source of income, or place of birth”

Administrative or court enforcement: Administrative

Attorneys fees: ?

Sun Prairie

Citation: Sun Prairie Code of Ordinances § 9.20.010

Date passed: 10/6/2007

Operative Language: “‘Protected class’ includes persons of a specific race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of person maintaining a household, lawful source of income, place of birth, age or other federal or state designated protected classes for purposes of fair housing.”

“‘Discrimination’ or ‘discriminatory housing practice’ means any difference in treatment based upon race, color, religion, sex, or national origin; or any act that is unlawful under this chapter. Discrimination as defined in this chapter does not include, and specifically exempts defining any of the following as protected classes for purposes of fair housing discrimination unless required by state statute or federal law: . . .

5. Refusal of Section 8 housing tenants, if not otherwise income qualified, if the owner has either refused all Section 8 tenants or if they have previously set capacity controls on the number of Section 8 units allowed within the property.”

Administrative or court enforcement: Administrative

Attorneys fees: ?

Wauwatosa

Citation: Wauwatosa Municipal Code § 15.22

Date passed: 8/5/1986

Operative Language: “‘Discriminate’ and ‘discrimination’ mean to segregate, separate, exclude or treat any person unequally only because of sex, race, color, sexual orientation as defined in Section 111.32(13m) of the Wisconsin Statutes, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.”

Administrative or court enforcement: Court

Attorneys fees: ?

Other Local Ordinances

Wilmington, Delaware:

Citation: Wilmington City Code, Art. III, §35-76 et seq.

Date passed:

Operative Language: “Except as provided in section 35-80 it shall be an unlawful practice for any person because of race, age, marital status, creed, color, sex, sexual orientation, handicap, national origin, or economic or family status to: (1) Refuse to sell or rent to those who are welfare recipients, or who are dependent upon other fixed incomes, or to a parent with minor children, or to handicapped persons, if such refusal is based only upon the status of the applicant as stated above. . . .”

Administrative or court enforcement: Both

Attorneys fees: ?

Iowa City, Iowa:

Citation: Iowa city Code, Tit. 2, Ch 5, §1 et seq.

Date passed: 05/28/1997

Operative Language: “It shall be an unlawful or discriminatory practice for any person to: A. Refuse to sell, rent, lease, assign, sublease, refuse to negotiate or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion or interest therein, to any person because of the age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents or public assistance source of income of that person.”

Administrative or court enforcement: Both

Attorneys fees: ?

Saint Louis, Missouri

Citation: St. Louis City Ordinance 67119

Date passed: 06/13/2006

Operative Language: “It shall be a prohibited housing or realty practice and shall constitute a discriminatory housing practice: (a) For any person, including, without limitation any real estate broker, salesman or agent, or any employee thereof, to discriminate against any individual because of race, color, religion, sex, sexual orientation, familial status, legal source of income, disability, national origin or ancestry, with respect to the use, enjoyment or transfer, or prospective use, enjoyment or transfer, of any interest whatsoever in realty . . .”

Administrative or court enforcement: Administrative and then judicial review

Attorneys fees: Yes

Memphis, Tennessee:

Citation: City of Memphis Fair Housing Ordinance, Ord. 4932 §10-36-1

Date passed:

Operative language: "'Source of income' means a regular, verifiable income, or its equivalent, from which an individual can pay rental, mortgage or other payments associated with the provision of housing. The term shall specifically include Section 8 vouchers or certificates issued by the United States Department of Housing and Urban Development"

Administrative or court enforcement: both

Attorneys fees: yes

FEDERAL LAWS

Low-Income Housing Tax Credit Program

26 U.S.C. § 42(h)(6)(B)(iv):

“(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing...

(B) Extended low-income housing commitment. For purposes of this paragraph, the term ‘extended low-income housing commitment’ means any agreement between the taxpayer and the housing credit agency...

(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder...”

26 C.F.R. § 1.42-5(c)(1)(xi): Regulations Relating to IRS

“(c) Certification and review provisions—

(1) Certification. Under the certification provision, the owner of a low-income housing project must be required to certify at least annually to the Agency that, for the preceding 12- month period—

(xi) An extended low-income housing commitment as described in section 42(h)(6) was in effect (for buildings subject to section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308-2311), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an

applicant because the applicant holds a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for buildings subject to section 13142(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438-439)”

Mark-to-Market

United State Housing Act of 1937, 42 U.S.C. § 1437f

24 C.F.R § 401.556: Regulations Relating to HUD

“A Restructuring Plan must prohibit any refusal of the owner to lease a unit solely because of the status of the prospective tenant as a section 8 voucher holder.”

Multifamily Properties Purchased from HUD

National Housing Act, 12 U.S.C § 1701z-12

“The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 1437f of Title 42 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.”

24 C.F.R § 290.19: Regulations Relating to Multifamily properties purchased from HUD

“The purchaser of any multifamily housing project shall not refuse unreasonably to lease a dwelling unit offered for rent, offer to sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is the holder of a Certificate of Family Participation or a Voucher under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), or any successor legislation. This provision is limited in its application, for tenants or applicants with Section 8 Certificates or their equivalent (other than Vouchers), to those units which rent for an amount not greater than the Section 8 Fair Market Rent, as determined by HUD. The purchaser's agreement to this condition must be contained in any contract of sale and also may be contained in any regulatory agreement, use agreement, or deed entered into in connection with the disposition.”

24 C.F. R § 290.39: Regulations Relating to Multifamily properties purchased from HUD

“(a) Nondiscrimination requirement. For any mortgage described in paragraphs (c) or (d) of this section that HUD sells without FHA mortgage insurance, the project owner shall not unreasonably refuse to lease a dwelling unit offered for rent, offer to sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is a certificate or voucher holder under 24 CFR part

982...

(c) Applicability to mortgages securing unsubsidized projects receiving project-based assistance (partially-assisted projects) or securing subsidized projects.

(1) The nondiscrimination requirement in paragraph (a) of this section applies to the project owner upon the sale of a mortgage without FHA mortgage insurance if, at the time HUD offers it for sale, the mortgage secures:

(i) An unsubsidized project that receives any of the forms of assistance enumerated in paragraphs (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.5; or

(ii) A subsidized project, as defined in § 290.3.

(2) This requirement shall continue in effect until the mortgage debt is satisfied.

(d) Covenant requirement for all delinquent mortgages sold without FHA mortgage insurance. This paragraph (d) applies to the sale of any mortgage that is delinquent at the time HUD offers it for sale without FHA mortgage insurance, without regard to the subsidy status of the project. The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall set forth the nondiscrimination requirement in paragraph (a) of this section. The covenant shall continue in effect until a date that is the same as the maturity date of the mortgage sold by HUD.”

HUD Regulations and Notices

See also HUD Notice PIH 2002-15 (HA) (June 7, 2002) Reinstatement - Notice PIH 2001-2 (HAs), Prohibition of Discrimination against Families with Housing Choice Vouchers by Owners of Low-Income Housing Tax Credit and HOME Developments (This Notice reinstates Notice PIH 2001-2 (HA), same subject, indefinitely. Notice PIH 2001-2 (HA) expired January 31, 2002)

Neighborhood Stabilization Act of 2008 – engrossed and referred to Senate committee

In response to the federal loan and foreclosure crisis in the United States, the House of Representatives passed legislation which provided a loan and grant program for the distribution of money to areas severely impacted by foreclosures and predatory lending. Participants in this program cannot discriminate against holders of Section 8 vouchers. Section 8(h) of H.R. 5818.

ADDITIONAL RESOURCES

Annotated Bibliography: Law Reviews and Studies

Law Review Articles on Source-of-Income Discrimination

Paula Beck, *Fighting Section 8 Discrimination: The Fair Housing Act's New Frontier*, 31 Harv. C.R.-C.L. L. Rev. 155 (1996).

Author discusses the failures of the section 8 program to promote integration, reviews the effectiveness of current state and federal laws to protect against source-of-income discrimination, and suggests that an amendment to the Fair Housing Act is needed. By prohibiting discrimination on the basis of source-of-income, the social and economic burdens of section 8 vouchers will be shifted from low income renters to the landlords and middle-income renters who are in a better position to absorb them.

Kim Johnson-Spratt, Note, *Housing Discrimination and Source of Income: A Tenant's Losing Battle*, 32 Ind. L. Rev. 457 (1999).

Author presents an overview of source-of-income litigation and discusses remedies for the lack of protection given to source-of-income under federal law. Previous discrimination cases have met with success by molding source-of-income discrimination into discrimination of a protected category such as familial status or gender. In jurisdictions where source-of-income protection does exist, results have been mixed and suggest that existing protections are inadequate. Without a federal law banning source-of-income discrimination, section 8 voucher holders lack a meaningful choice in obtaining housing. The author examines Paula Beck's proposal to amend the Fair Housing Act and rejects the proposed amendment as incomplete and unlikely. The author further suggests that given legislative intent and the purpose of the section 8 statute and Personal Responsibility and Work Opportunity Reconciliation Act of 1996, protection against source-of-income discrimination may be implied in both laws. Given the public's fears of judicial activism, however, the best approach may be for HUD to promulgate a rule prohibiting discrimination on the basis of income source.

Laura Bacon, Note, *Godinez v. Sullivan-Lackey: Creating a Meaningful Choice for Housing Choice Voucher Holders*, 55 DePaul L. Rev. 1273 (2006).

Author offers Chicago and its local law barring source-of-income discrimination as a potential model for creating a realistic solution to discrimination against section 8 voucher recipients. Focusing on the HCVP in Chicago, the author discusses the history of the program and its limited effectiveness in the face of source-of-income discrimination. The city's ordinance, subject to challenge in *Godinez v. Sullivan-Lackey*, was upheld by the Illinois Appellate Court. The case may serve as an example to other cities and municipalities of the legal viability of local fair housing ordinances. Although there are shortcomings to the local legislative approach, if states and cities add source-of-income protection to their legislative agendas, the goals of HCVP can be more likely realized.

Related Law Review Articles

Mark A. Malaspina, Note, *Demanding the Best: How to Restructure the Section 8 Housing-Based Rental Assistance Program*, 14 Yale L. & Pol'y Rev. 287 (1996).

Author reviews the flaws in the section 8 program, noting that many of the program's problems result from inappropriate use of supply-side housing policies in a demand-side program (including federal eviction standards, housing quality requirements, and fixed payment structure which may fail to motivate voucher-holders). Author further suggests reforms to (1) improve the administration of the program by replacing local public housing authorities with regional government agencies, (2) increase mobility through the implementation of counseling services and extended deadlines for finding an acceptable apartment, and (3) introduce a new payment structure. Landlord acceptance of section 8 vouchers could be further increased by a federal nondiscrimination provision, barring source-of-income discrimination.

Paul Boudreaux, *Vouchers, Buses, and Flats: The Persistence of Social Segregation*, 49 Vill. L. Rev. 55 (2004).

Author presents an analysis of the failure of the Housing Choice Voucher Program in the face of the social trend towards racial and socio-economic segregation, the scarcity of affordable housing in many cities, and the difficulties of finding a landlord who will accept the voucher. Despite its goals, the rental subsidy program fails to protect its recipients from the discrimination that promotes segregation. Unless landlords are prevented from discrimination on the basis of source-of-income, real integration will not be possible.

Kristine L. Zeabart, Note, *Requiring a True Choice in Housing Choice Voucher Programs*, 79 Ind. L.J. 767 (2004).

Author offers an overview of the *Gautreaux* litigation and suggests that its remedies should be adopted by HUD, ensuring metropolitan-wide mobility. Author also argues that the HCVP is inadequate to meet its goals of increasing disbursement of public housing residents throughout an area and decreasing segregation. In looking at segregation, focus is given to the individual, community, and programmatic barriers that limit true housing choice. Through increased counseling, heightened enforcement against hate crimes, mobility grants, and equity insurance, the government may better promote low-income renters' moves to integrated areas. At the same time, the continued need for public housing stock suggests the possibility of redevelopment of demolished buildings as mixed communities.

Recent Studies of Source-of-Income Discrimination

Susan J. Popkin & Mary K. Cunningham, The Urban Institute, *CHAC Section 8 Program: Barriers to Successful Leasing Up* (1999).

This Urban Institute study examines the reasons behind voucher holders' unsuccessful searches for housing in Chicago. The authors describe four types of discrimination: (1) racial discrimination; (2) discrimination against families with children; (3) discrimination against Section 8 tenants; and (4) discrimination against former public housing high rise residents now attempting to use Section 8 vouchers. Although the study found that many

factors may contribute to families' difficulty in locating housing, discrimination against voucher holders particularly demonstrates the need for mobility services to facilitate the transition to less segregated housing.

Susan J. Popkin & Mary K. Cunningham, The Urban Institute, *Searching for Rental Housing with Section 8 in Chicago Region* (2000).

This Urban Institute report examines the challenges facing a growing population of Section 8 voucher holders in Chicago and seeks to build on their 1999 study of unsuccessful voucher holders. The authors find that Chicago voucher holders have special needs as a group that will require a more intensive approach to housing counseling. Additionally, they find that few differences exist between those voucher holders who are successful at finding housing and those holders who are unsuccessful. Discrimination, financial barriers, and participants' personal problems create barriers to finding housing through Section 8 in Chicago. Housing authorities must strategize as to how these difficulties can be managed.

Lawyers Committee for Better Housing, Inc., *Locked Out: Barriers to Choice for Housing Voucher Holders, Report on Section 8 Housing Choice Voucher Discrimination* (2002).

This study by Lawyers Committee for Better Housing seeks to substantiate the accounts of discrimination encountered by Section 8 voucher holders in the Chicago area. LCBH worked with two fair housing centers to conduct phone and in-person testing. The study finds that (1) voucher holders are routinely discriminated against, (2) evidence exists indicating increased discrimination against vouchers seeking to rent in an area designated by the Chicago Housing Authority as an "exception rent area," and (3) evidence shows that vouchers face increased discrimination due to race and ethnicity. As a result, LCBH recommends: mandatory landlord education, education for voucher holders regarding their rights and remedies, increased enforcement of Chicago's Fair Housing Ordinance, increased landlord testing for noncompliance with fair housing laws, greater inclusion source-of-income protection of county and state laws, and implementation of a media campaign to debunk myths of renting to voucher holders.

New York ACORN, *Housing for Everyone: New York City, Section 8, and Source of Income Discrimination* (2007).

ACORN conducted three series of tests to document discrimination experienced by Section 8 voucher holders seeking to rent in New York City. Results indicated that only a limited number (less than 21%) of property management companies offered apartments within voucher rent limits. Of these, less than half would accept a Section 8 voucher. In addition, only 13% of those apartments identified by common rental listing sources would accept vouchers. ACORN also found that over 40% of the units listed in the New York City Housing Authority's own rental materials were unavailable. To remedy this, ACORN recommends that New York City adopt source-of-income/Section 8 protection similar to than in place in a number of other states and cities.

Fred Freiberg and Diane L. Houk, Fair Housing Justice Center, *No License to Discriminate: Real Estate Advertising, Source of Income Discrimination, and Homelessness in New York City* (2008).

The Fair Housing Justice Center examines whether real estate brokers in New York City comply with the March 2008 addition of a prohibition on source-of-income discrimination to local fair housing law. The report focuses on the listings placed by brokers on the www.craigslist.org website during the month of July 2008. During that period, at least 363 postings used discriminatory language that made unavailable housing units based on receipt of Section 8 vouchers or of other “program” assistance. Seventy-six percent of those advertised units were priced at rates affordable to low- and moderate-income renters, and many were within the fair market rent allowed for voucher-holders. In response, the FHJC makes a number of recommendations aimed at strengthening and expanding fair housing enforcement activity: (1) City government should support systemic testing investigations; (2) fair housing organizations should increase efforts to notify state authorities when there is evidence of discrimination; and (3) fair housing enforcement should emphasize remedies that end discrimination, provide redress, and promote future compliance with fair housing laws. Additionally, the FHJC recommends that appropriate standards be created to evaluate the fair housing training received by brokers and that such training be required of all brokers. Finally, the FHJC also recommends that source-of-income protection be included in New York State fair housing law.

Other Resources

The web site of the National Housing Law Project (<http://www.nhlp.org>). Click on “Section 8” and “Source of Income Discrimination Protections for Section 8 Tenant-Based Assistance in California,” which contains both California and national information regarding source of income.

[HTTP://thomas.loc.gov](http://thomas.loc.gov) is the website which maintains all federal legislation and regulation.