No. 4-26-0444

In The Appellate Court

Fourth Judicial District

BARBARA COLE,

Plaintiff-Appellant

v.

TIMBERBROOK REALTY, LLC., Defendant-Appellee.

Appeal from the Circuit Court of Peoria County, Illinois, Tenth Judicial Circuit, No. 25-CH-25, The Honorable James Mack, Judge Presiding.

BRIEF AMICUS CURIAE OF ACCESS LIVING, CHICAGO AREA FAIR HOUSING ALLIANCE, CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS, HOPE FAIR HOUSING, HOUSING ACTION ILLINOIS, LAND OF LINCOLN LEGAL AID, LEGAL AID CHICAGO, NATIONAL HOUSING LAW PROJECT, THE NETWORK: ADVOCATING AGAINST DOMESTIC VIOLENCE, NORTHSIDE COMMUNITY RESOURCES, OPEN COMMUNITIES, POVERTY RACE RESEARCH ACTION COUNCIL, AND THE SOUTH SUBURBAN HOUSING CENTER IN SUPPORT OF PLAINTIFF-APPELLANT BARBARA COLE

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SUMMARY OF ARGUMENT

Amici Curiae Access Living, Chicago Area Fair Housing Alliance, Chicago Lawyers' Committee for Civil Rights, HOPE Fair Housing Center, Housing Action Illinois, Land of Lincoln Legal Aid, Legal Aid Chicago, National Housing Law Project, The Network, Northside Community Resources, Open Communities, Poverty & Race Research Action Council, and South Suburban Housing Center (collectively "Amici,"), pursuant to leave of the Court and Illinois Supreme Court Rule 345 respectfully submit this brief in support of the brief filed on behalf of the Appellant Barbara Cole ("Ms. Cole").

The Housing Choice Voucher program was created by the United States Congress to meet the badly underserved housing needs of extremely low-income and very low-income households. The program relies upon private-public partnerships between low-income tenants, private landlords, and public housing authorities and cooperative federalism to achieve its goals.

The Illinois Human Rights Act's protections against source of income discrimination are a part of a longstanding effort by housing advocates, housing providers, and others to ensure that Illinois residents with federal Housing Choice "Section 8" Vouchers ("Housing Choice Vouchers" or "vouchers") have a fair and meaningful opportunity to use a Housing Choice Voucher to afford and access rental housing in Illinois. The lower court's decision to interpret the Illinois Human Rights Act not to require a landlord to enter into a Section 8 Housing Assistance Payments Contract ("HAP contract") effectively nullifies Illinois law's prohibition against source of income discrimination, plays into longstanding efforts by property owners to circumvent these laws, and undermines efforts to ensure households with vouchers can secure housing and avoid homelessness.

Timberbrook Realty's refusal to continue to rent to Ms. Cole because she had a Housing Choice Voucher directly contradicts the purpose and intent of the Illinois Human Rights Act's source of income protections and its overall efforts to prohibit housing discrimination. The Illinois General Assembly specifically amended the Act in 2022 to prevent individuals like Ms. Cole from experiencing housing discrimination and housing denials due to their use of a voucher. The lower court's ruling that property owners cannot be compelled to enter into HAP contracts effectively nullifies the intent of the Illinois General Assembly to prohibit discriminatory housing practices and denials of households with vouchers. Sanctioning such discriminatory tactics here will greenlight other, already ongoing discriminatory tactics by other landlords in Illinois and in the Fourth District to evade the Illinois' prohibition on source of income discrimination. Only by reversing the lower court's decision that creates an end run around state civil rights protections will housing stability and security among low-income households with vouchers be fully realized.

STATEMENT OF INTEREST

Amici have a strong and unique interest in this appeal concerning source of income protections under the Illinois Human Rights Act. making them well-situated to assist the Court. *Amici* are national, state, and local experts on fair housing and the Housing Choice Voucher program. *Amici* specialize in or run projects devoted to advocating on behalf of victims of housing discrimination and have specific knowledge of how vouchers are heavily relied upon by low-income families, older adults, and persons with disabilities to afford their housing. In particular, many of the *Amici* have drafted, advocated in support of, and assisted in the implementation of laws to protect the housing rights of households with vouchers, including supporting efforts to pass the Illinois Human Rights Act source of income provision at issue here. *Amici* have seen firsthand how the refusal by property owners to give individuals and families with vouchers a fair chance to be considered for rental housing contributes to housing instability and homelessness. When individuals cannot use vouchers, a resource that they have often waited decades to secure, they are forced to rent housing that they cannot afford or forego housing all together. *Amici* are also well situated to assist the Court by explaining how landlords continue to skirt their obligations under these laws, how courts around the country have responded to such landlord tactics, and how source of income protections create balance and accountability in the housing market.

STATEMENT OF FACTS

Amici accepts the facts as stated by Appellant Ms. Cole.

ARGUMENT

I. RENTAL HOUSING VOUCHERS ARE VITAL TO ENSURING HOUSING ACCESS AND STABILITY FOR INDIVIDUALS AND FAMILIES IN A MANNER THAT REFLECTS BROAD POLICY CONSENSUS.

The Housing Choice Voucher program[1] is the federal government's signature intervention for meeting the badly underserved housing needs of extremely low-income and very low-income households. Understanding that point is critical to grasping why it is so important that states and localities have the power to enact and enforce protections against source of income discrimination.

A. The U.S. and Illinois Have a Significant Fair and Affordable Housing Crisis That Disproportionately Harms People of Color, Female-Headed Households, and Disabled People.

Illinois, like the country as a whole, suffers from an acute housing affordability crisis. 47.6% of renter households in Illinois and 49.4% of renter households in the U.S. are cost-burdened, paying more than 30% of their income towards rent. Joint Ctr. for Hous. Stud. of Harvard Univ., *America's Rental Housing 2026*: *Appendix Tables,* tbl. W-8, F7, F21(2026), https://www.jchs.harvard.edu/sites/default/files/interactive-item/files/Harvard_JCHS_Americas_Rental_Housing_2026_Appendix_Tables.xlsx. Under the

[1] The program is officially called Housing Choice Voucher and sometimes by its former name, "Section 8." See 42 U.S.C. § 1437f(o); see 24 C.F.R. § 982.1 *et seq.*

federal definition of cost-burden, a person is considered "cost burdened" when they are paying over 30% of one's income towards housing costs, 24 C.F.R. § 91.5 (2026). Housing affordability challenges are especially pronounced for lower income renters. 87% of extremely low-income renter households (with incomes up to 30% of the area median income) in Illinois are cost-burdened, as are 76% of very low-income renter households (with incomes of more than 30% and up to 50% of the area median income). Nat'l Low Income Hous. Coal., *The Gap: Illinois* https://nlihc.org/gap/state/il, (last visited July 20, 2026). In light of both the correlation between race and income levels and the constrained choices that Black individuals and families face in the housing market due to race discrimination, housing unaffordability falls especially heavily on Black households: 58% of Black renter households in Illinois are cost-burdened. Nat'l Equity Atlas, *Housing Burden: Illinois* https://www.nationalequityatlas.org/indicators/housing-burden?geo=02000000000017000, (last visited July 20, 2026), Female-headed renter households and disabled renters experience similarly elevated precarity: 54% of female-headed renter households in Illinois are cost-burdened. *Id.*

In the worst-case scenario, the housing affordability crisis manifests as homelessness. In 2025, the most recent year for which data is available, there were 14,576 unhoused individuals in Illinois, including 2,074 who were unsheltered and living outdoors. U.S. Dep't of Hous. & Urb. Dev., *2007–2025 PIT Counts by State*, tbl. 2025, cells C18, FG18 (2026), https://www.huduser.gov/portal/sites/default/files/xls/2007-2025-PIT-Counts-by-State.xlsb. The overall number of unhoused people was down from a record high in 2024 but was still the second highest figure since 2008. *Id.* As with cost burden, Black Illinoisans are disproportionately more likely to be unhoused. *Id.* People with disabilities are also disproportionately more likely to be unhoused, including in the area served by the Home for All Continuum of Care, which covers

Peoria and multiple surrounding counties. U.S. Dep't of Hous. & Urb. Dev.,, *HUD 2025 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations: IL-507 Peoria, Pekin/Fulton, Tazewell, Peoria, Woodford Counties CoC*, HUD Exchange (Jan. 28, 2025), https://files.hudexchange.info/reports/published/CoC_PopSub_CoC_IL-507-2025_IL_2025.pdf. This helps frame the stakes of the housing affordability crisis in Illinois: the affordability gap is high, the worst-case scenario of homelessness is dire, and the consequences fall precisely on the marginalized populations that Congress intended to protect when it passed and subsequently amended the Fair Housing Act. *See* 42 U.S.C. § 3604 (enumerating protected classes under the Fair Housing Act).

A. The History and Design of the Housing Choice Voucher Program Reflects an Emphasis on Public-Private Partnerships and Cooperative Federalism.

Congress's design of the Housing Choice Voucher program reflects a small government approach to addressing the housing affordability crisis that relies upon private-public partnerships between low-income tenants, private landlords, and public housing authorities and cooperative federalism to achieve its goals. Congress created the program through the passage of the Housing and Community Development Act of 1974, which then-President Gerald Ford, a Republican, signed into law. Housing and Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633 (1974). The law represented a pivot away from the approach of the direct provision of affordable housing by public entities through the public housing program, which came under question as physical conditions in developments like St. Louis's Pruitt-Igoe deteriorated, kicking off an era of public housing demolitions starting just before passage of the 1974 law. Colin Marshall, *Pruitt-Igoe: the Troubled High-Rise That Came to Define Urban America – a History of Cities in 50 Buildings, Day 21*, The Guardian (Apr. 22, 2015, at 7:52 EDT), https://www.theguardian.com/cities/2015/apr/22/pruitt-igoe-high-rise-urban-america-history-cities. The Housing Choice Voucher program works differently by enabling low-income renters to access homes through the private market. Additionally, Congress designed the program to leverage state and local capacity for on-the-ground administration rather than managing the program from afar in Washington, D.C. Taken together, the history and features of the voucher program underscore that it is a modest intervention in the housing market that respects the tradition of localism in housing regulation and reflects a bipartisan consensus approach.

B. Vouchers Are an Effective Tool for Addressing Housing Needs That Cannot Be Met without Public Subsidy.

In the face of high rates of rental cost burden and homelessness, the Housing Choice Voucher program is extremely effective at offering financial stability to individuals and families with insufficient income to compete for housing in the private market. The effectiveness of the program is baked into the design of the program. In most circumstances, households with vouchers commit 30% of their income towards housing costs (rent + utilities) with the public housing authority using funds from the U.S. Department of Housing and Urban Development ("HUD") to pay the difference between the tenant's amount and the contract rent for the unit. 42 U.S.C. § 1437f(o)(2)(A)(i). Even when public housing authorities authorize households with vouchers to pay more than 30% of their income towards rent, they are limited in their first year to paying no more than 40% of their income towards housing costs. *See* 42 U.S.C. § 1437f(o)(3) (providing that households paying more than 30% of their income towards their contribution may not initially pay more than 40% of their income towards rent); 24 C.F.R. § 91.5 (2026) (defining severe housing cost burden as paying more than 50% of one's income towards housing costs). Research confirms that the basic design of the Housing Choice Voucher program increases housing affordability, reduces homelessness, decreases poverty, and improves health and other outcomes for children and adults. Will Fischer et al., *Research Shows Rental Assistance Reduces Hardship and Provides*

Platform to Expand Opportunity for Low-Income Families, Ctr.on Budget and Pol'y Priorities (Dec. 5, 2019), https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand.

Congress expressly intended for the Housing Choice Voucher program to serve the lowest income households. By statute, housing authorities must prioritize at least three-quarters of their vouchers for extremely low-income households. 42 U.S.C. § 1437n(b)(1). These are the households that are at the greatest risk of homelessness, the most unable to afford rent in the private market, and the least likely to receive significant earnings from employment, whether because they have disabilities that prevent them from working or because they work low-wage jobs. In Illinois, a full-time worker employed at a minimum wage job would have to work 69 hours per week to afford a modest one-bedroom apartment and 79 hours a week to afford a two-bedroom apartment. Nat'l Low Income Hous. Coal., *Out of Reach: Illinois* (last visited July 20, 2026), https://nlihc.org/oor/state/il. A meaningful proportion of extremely low-income households consists of households with members who would be at significant risk of institutionalization in the absence of rental assistance and voluntary, community-based supportive services. Indeed, programs like the Housing Choice Voucher program have played a significant role in helping states like Illinois itself comply with the community integration mandate of the Americans with Disabilities Act as interpreted by the U.S. Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999). *See* Ill. Dep't of Hum Servs., *Williams v. Quinn Settlement – Final Implementation Plan Pending Court Approval*, IDHS (June 28, 2011), https://www.dhs.state.il.us/page.aspx?item=56446; *Colbert v. Quinn – Filed Implementation Plan* (Nov. 8. 2012), https://hfs.illinois.gov/content/dam/soi/en/web/hfs/sitecollectiondocuments/filed-implementation-plan-11-08-2012.pdf. Whether it is with respect to helping a family with children that has been living in a car find a single-family home to rent in a well-resourced school district or ensuring that a frail older adult or person with a disability has options other than living in a nursing home for the remainder of their life, vouchers are extremely effective at ensuring housing stability and avoiding worst-case situations.

C. There Are Significant Barriers to Obtaining a Voucher.

The vast majority of households that need rental assistance in order to afford housing in the private market do not receive vouchers, and those that do must survive a gauntlet of barriers. Congress only appropriates funding for the Housing Choice Voucher program sufficient to assist one-quarter of eligible households. Sonya Acosta & Erik Gartland, *To Better Meet Record Levels of Need, Keep Families Housed, Congress Must Increase 2025 Funding for Housing Assistance*, Ctr. on Budget and Pol'y Priorities (Feb. 27, 2025), https://www.cbpp.org/research/housing/to-better-meet-record-levels-of-need-keep-families-housed-congress-must-increase. Consistent with this scarcity, the waiting lists that public housing authorities administer for the program are often lengthy, and, to manage them effectively, housing authorities often keep them closed to new, needy households. In Chicago, for instance, there are approximately 16,000 households on the Housing Choice Voucher waiting list of the Chicago Housing Authority and those individuals and families can wait decades to get assistance. Alexandra Murphy, *The Years-Long Wait for Affordable Housing in Chicago Could Get Even Longer*, Block Club Chi. (May 19, 2026), https://blockclubchicago.org/2026/05/19/the-years-long-wait-for-affordable-housing-in-chicago-could-get-even-longer/.

To obtain and use a voucher, low-income households must go through extensive vetting. Under 42 U.S.C. § 13661(a)-(b) and 42 U.S.C. § 13663(a), the following categories of people are ineligible to receive Housing Choice Voucher assistance: those who have been evicted from federally assisted housing during the preceding three years for drug-related criminal activity and who have not successfully completed a rehabilitation program; those who are engaged in the current use of an illegal controlled substance; those who are engaged in the current use of an illegal controlled substance or abuse of alcohol and whose use or abuse may interfere with the health, safety, and right of peaceful enjoyment of fellow residents; and those who have been convicted of an offense that subjects them to a lifetime sex offender registration requirement under state law. Additionally, under 42 U.S.C. § 13661(c), housing authorities have the discretion to deny assistance to individuals who, within a reasonable lookback period, have engaged in drug-related or violent criminal activity that would adversely affect the health, safety, or right of peaceful enjoyment of others. Housing authorities also have discretion to adopt preferences that result in the more expedient admission of some households to the programs than others, such as preferences for families that have been the victims of crimes of violence. 42 U.S.C. § 1437f(o)(6)(A)(i). From there, landlords maintain the discretion to select individual households to which to rent and may apply their own screening criteria, so long as those criteria are consistent with other laws like the Fair Housing Act, 42 U.S.C. § 1437f(o)(6)(B), and the Illinois Human Rights Act, 773 ILCS 5/Art. 3.

Congress has also ensured that when low-income tenants living in site-based, federally-subsidized housing are forced to leave due to poor housing conditions or the end of a program contract, those tenants are issued Housing Choice Vouchers. 42 U.S.C. § 1437f(t). The specific intent by Congress to use vouchers as replacement subsidies underscores how much value the Congress places in the Housing Choice Voucher program as its primary housing stability tool. As more and more site-based, federally-subsidized housing, including both public housing and Project-Based Rental Assistance properties, either falls into disrepair or otherwise comes to an end, HUD, at Congress' direction, will issue vouchers to tenants in order to ensure that they continue to have affordable housing. Susan J. Popkin et al., *America's Public Housing Program Faces an Uncertain Future*, Urb. Institute (Dec. 17, 2018), https://www.urban.org/urban-wire/americas-public-housing-program-faces-uncertain-future. The absence of, or failures to adhere to local and state source of income protections, forces these households to face broad rejection in the private rental market and undermines Congress's goal to ensure that they remain stably housed. Vincent Reina and Ben Winter, *Safety Net? The Utility of Vouchers When a Place-Based Rental Subsidy Ends*, Urb. Studies (March 24, 2017) (finding that less than half of tenants issued vouchers when their Project-Based Rental Assistance ends are able to use those vouchers, with a particular impact on older adults and Black households).

II. THE PASSAGE OF SOURCE OF INCOME PROTECTIONS IN ILLINOIS WAS A RESULT OF A DECADES' LONG EFFORT TO ADDRESS VOUCHER DISCRIMINATION.

Before January 1, 2023, Illinois did not offer protection against housing discrimination based on a person's source of income. That meant that renters with non-wage income, such as Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), veterans' benefits, child support, and Housing Choice Vouchers, could still legally be turned away from available housing or threatened with eviction simply because a landlord or property manager refused to accept their form of payment.

Source of income discrimination results in fewer households actually being able to use the voucher to afford their housing and avoid homelessness. Shortly before the Illinois General Assembly outlawed source of income discrimination, success in finding housing for households with vouchers was significantly declining, meaning that a key homeless prevention tool was being thwarted. Nationally, success rates, measuring the ability of a household to find a landlord who would accept their voucher, fell from 65.7% to 57.3% from 2020 to 2022.[2] At the same time, the median successful search time, meaning the time it takes a household with a voucher to secure a home, rose from 62 to 78 days. *Id.* More than 70% of public housing authorities saw declining success. *Id.* Illinois communities matched and exceeded those trends, including in the Fourth District. *Id.*

The COVID-19 Pandemic laid bare inequities in terms of housing affordability and homelessness. Many more residents were struggling with rent or mortgage payments due to economic conditions beyond their control. The federal and state governments responded with emergency relief, including authorizing a new set of Emergency Housing Vouchers and dedicating billions to temporary rental assistance programs to keep people safely housed. U.S. Dep't of Hous. & Urb. Dev., Notices PIH 2021-15 (HA) (May 5, 2021); 2023-14 (HA) (June 29, 2023); U.S. Dep't of the Treasury, *Emergency Rental Assistance Program*, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program. Despite these interventions, advocates, social service agencies, and other professionals witnessed a precipitous increase in households at risk of losing their housing because many property owners refused to accept rental assistance and vouchers. In response, these stakeholders formed the Illinois Coalition for Fair Housing ("Coalition") in 2021. Evelyn Sanguinetti, *Source of Income Discrimination—Let's End It*, Daily Herald (Jan. 13, 2021), https://www.dailyherald.com/20210113/opinion/source-of-income-discrimination-lets-end-it/.

[2] N.Y.U. Furman Ctr., *Success Rates in the Housing Choice Voucher Program 2018–2022* (2025), https://www.furmancenter.org/publication/success-rates-in-the-housing-choice-voucher-program-2018-2022/; *Calculating Success Rates for the Housing Choice Voucher Program using HUD Administrative Data*, https://www.furmancenter.org/news/calculating-success-rates-for-the-housing-choice-voucher-program-using-hud-administrative-data/.

The Coalition quickly identified the need to re-energize a decades-old campaign to pass source of income protection for all Illinois renters. At the time, over half of Illinois households (2.7 million out of 4.8 million) were earning non-wage income, such as Social Security, retirement income, and public assistance, and about 99,000 households across the state used Housing Choice Vouchers to pay their rent. *HB2775 Talking Points Rep Ford Concurrence – FINAL*, April 2022 (on file with the author). Prior to the 2023 law, with the exception of a few local ordinances, these renters could lawfully be turned away from housing across Illinois if a landlord or property manager refused the household's lawful source of income.

The unmet needs of households experiencing voucher discrimination were a central motivation for the Coalition to advance the legislation. Jurisdictions with source of income discrimination protections have significantly lower rates of landlord voucher refusals. U.S. Dep't of Hous. & Urb. Dev., Off. of Pol'y Dev. & Rsch., *The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes* (Feb. 2011). Eligible households in jurisdictions with source of income protections are more likely to move to neighborhoods with lower poverty rates and higher opportunity levels. J. Rosie Tighe et al., *Source of Income Discrimination and Fair Housing Policy*, 32 J. Plan. Literature 3 (2017). Expanding source of income protections across Illinois has begun to reduce the number of households unable to live in the neighborhood, city, or county of their choice merely because of how they pay their rent.

The Coalition looked to other jurisdictions with source of income protections for guidance on drafting their proposed legislation. At the time, nineteen states and the District of Columbia had adopted source of income protections that covered rental subsidies in their state fair housing laws.[3]

[3] Those states are California, Colorado, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington.

Well over a hundred municipalities around the country had also passed source of income protections, including Cook County, Chicago, Naperville, and Urbana in Illinois. The Coalition also recognized that there had been court challenges to a few source of income laws, including on the issue of whether vouchers were included among lawful sources of income. *See Knapp v. Eagle Prop. Mgmt. Corp.,* 54 F. 3d 1272, 1282 (7th Cir. 1995) (finding that Wisconsin's Open Housing Act's definition of "lawful source of income" did not include Section 8 vouchers).

Informed by these other states and localities, the Coalition avoided mirroring language from the challenged laws, including the Wisconsin language at issue in *Knapp*. *HB 2775 SOI Floor Vote Materials* (on file with the author). Instead, the Coalition's introduced legislation, HB 2775, expressly included Housing Choice Vouchers among other sources of lawful income in the bill's text. H.B. 2775, 102d Gen. Assembly (Ill. 2021) (as introduced). After discussions with other stakeholders, including the Illinois Association of REALTORS, which serves as the primary advocacy representative for rental property owners in Illinois, the Coalition amended the bill's text to mirror the exact language from the Cook County and Chicago source of income ordinances.[4] The rationale behind adopting the language from the Cook County and Chicago source of income provisions was that the Illinois Appellate Court had previously determined that this very language expressly included protections for renters with Housing Choice Vouchers. *Godinez v. Sullivan-*Lackey, 352 Ill. App. 3d 87, 93 (2004) (declining to adopt the *Knapp* reasoning that Housing Choice "Section 8" vouchers are not included within the City of Chicago's definition of "source

[4] Cook County Human Rights Ordinance, Art. II, Ch. 42-31, "*Source of income* means the lawful manner by which a person supports themselves and/or their dependents"; City of Chicago Fair Housing Ordinance, Ch. 5-8-020, adopting City of Chicago Human Rights Ordinance, 06-010-020, "Source of income" means the lawful manner by which an individual supports himself and his or her individuals support themselves and their dependents.

of income.”). The stakeholders also agreed that using this existing language had the benefit of already being familiar to various constituencies in Illinois.

Throughout the campaign to pass HB 2775, the Coalition focused on preserving the central protections for households with vouchers. In meetings between the Coalition and another industry group representing property owners in fall 2021, the latter group expressed strong opposition to the bill and proposed amendments that would exclude households with vouchers from the law’s protections. The proposed amendments included a carve-out for third party contracts: “Nothing in this section shall be construed to require an owner to enter into a third party contract, agreement, addendum or lease.” *Coalition Response to Illinois Rental Property Owner Association’s Amendments* (Oct. 15, 2021) (on file with the author). In response, the Coalition refused to change the language, explaining that protections for households with vouchers were central to the bill’s intent and that the proposed insertion of the third-party contract provision was another way to discriminate against participants in rental subsidy programs. *Id.* Throughout the campaign, the Coalition and legislative sponsors focused on educating stakeholders about the benefits of the Housing Choice Voucher Program, emphasizing the importance of clear protections for participants in rental subsidy programs across Illinois. *HB 2775 SOI Floor Vote Materials* (on file with the author).

Households with vouchers were also key leaders and voices in the campaign. Voucher program participants shared their personal stories trying to rent with vouchers, including how source of income discrimination blocks people with disabilities, veterans, families, and older adults from moving to the neighborhood or apartment of their choice or even securing housing at all. HOPE Fair Hous. Ctr., *Source of Income Discrimination Testimonies*, YouTube (Apr. 13, 2021), https://www.youtube.com/watch?v=mgM6ViLSDWo. They participated directly in the

Coalition's working groups and spoke at hearings and in the press in support of the HB 2775. *H.B. 2775 Passage Press Release* (Apr. 8, 2022) (on file with the author); *H.B. 2775 Letter to Governor Re Signing* (on file with the author).

By the time HB 2775 passed the Illinois House and Senate, it had over 130 endorsing organizations, from domestic violence, veterans, and homelessness prevention organizations across the state, to the Attorney General's Office and Illinois Department of Human Rights ("IDHR"). Importantly, two groups representing the interests of rental property owners, Zillow and the Illinois Association of REALTORS, who understood that the express purpose of the law was to protect households with vouchers from discrimination, signed on to support the law. *Sign on Letter to Senator Crowe to Support HB 2775* (on file with the author). On May 24, 2022, the governor signed HB 2775 into law.

Finally, between the bill's signing and effective date, the Coalition and other stakeholders focused their outreach and education campaigns on how this would affect households with vouchers. The Coalition presented on the new protections and distributed information for voucher households, other renters, landlords, local governments, and other stakeholders on the protections under the new law. Hous. Choice Partners, *SOI Campaign*, https://www.housingchoicepartners.org/soi-campaign (last visited July 26, 2026). The Illinois Association of REALTORS and other industry groups also worked to educate the rental housing industry across Illinois on the benefits and process of renting to households with vouchers. *See, e.g.,* Illinois Realtors, *Source of Income: General FAQs* (Dec. 2022); Illinois Realtors, *Source of Income Became a Statewide Law on Jan. 1, 2023*, https://www.illinoisrealtors.org/legal/sourceofincome/ (last visited July 26, 2026). IDHR published Frequently Asked Questions that included specific guidance for landlords who would be evaluating applications from households with vouchers for the first time. Ill. Dep't of Hum. Rts., *Source of Income Discrimination: Frequently Asked Questions*, https://dhr.illinois.gov/about-us/idhr-faqs/know-your-rights-faqs/faq-sourceincome.html (last visited July 27, 2026). On January 1, 2023, the law went into effect, a culmination of a decades-long effort to expand legal protections for households with vouchers across Illinois.

III. DESPITE THE PASSAGE OF ILLINOIS' SOURCE OF INCOME LAW, DISCRIMINATION AGAINST HOUSEHOLDS WITH VOUCHERS REMAINS RAMPANT.

Unfortunately, the 2022 passage of source of income protection in Illinois did not end discrimination against households with vouchers. Rather, what used to be explicit discrimination is now increasingly effectuated through facially neutral tactics which discourage, hamper, or effectively bar households with vouchers from applying to or living in qualifying rental housing. Such discrimination occurs throughout the state, including within the Fourth District.

A. Voucher Discrimination Prevents Individuals and Families from Securing Safe and Stable Housing and Exposes Them to the Collateral Consequences of Housing Instability.

Source of income discrimination is an ongoing problem in Illinois. For example, IDHR's Fair Housing Division docket rose from 353 charges in Fiscal Year 2024 to 476 in Fiscal Year 2025, and, of those, source of income charges went from 26 to 144: a 453% increase in one year. Ill. Dep't of Hum. Rts., *FY2025 Annual Report 13* (2025). In March 2025, IDHR filed its first Department-initiated charge in decades after eight separate charges alleged that brokers at a single large realty company refused to show rentals to applicants with vouchers. *Id.* at 7.

Fair housing testing, where trained volunteers pose as potential renters and assess how housing providers treat them based on protected characteristics under civil rights laws, further confirms that voucher discrimination, including even explicit discrimination, remains rampant. A single undercover investigation by the Housing Rights Initiative, a national nonprofit organization, generated 176 IDHR complaints against 165 agents, brokerages, and landlords. Testers reported explicit voucher discrimination, such as outright refusals by property management staff to deal with voucher holders, in roughly 36% of completed tests. Disability Rts. Advocs., *Housing Rights Initiative v. 160+ Housing Providers*, (filed Jan 20. 2025), https://dralegal.org/case/housing-rights-initiative-v-160-housing-providers/.

Prairie State Legal Services has also conducted 82 fair housing tests relating to source of income discrimination since the amendments took effect on January 1, 2023. 66% of the 82 tests supported a finding of discrimination based on source of income. The numbers within the Fourth District are worse still: of the 54 tests conducted in Fourth District counties, principally Peoria, McLean, Rock Island, Winnebago, and Stephenson, 78% supported a finding of discrimination based on source of income. *Testing data of Prairie State Legal Services* (2026) (on file with counsel). Springfield-area testing tells the same story: 42% of the 24 tests conducted in Sangamon and McLean Counties between 2023 and 2026 showed discrimination. *Testing data of South Suburban Housing Center* (2026) (on file with counsel). These local results are consistent with testing from HUD's five-site pilot study, comprising nearly 4,000 tests, which found that landlords refused applicants with vouchers at rates of 78% in Fort Worth, 76% in Los Angeles, and 67% in Philadelphia — with rejection rates higher in lower-poverty neighborhoods. Mary Cunningham et al., *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers* (2018), Urb. Inst. & U.S. Dep't of Hous. & Urb. Dev., https://www.huduser.gov/PORTAL/pilot-study-landlord-acceptance-hcv.html.

There are real-life consequences for families and individuals with vouchers who experience source of income discrimination. For example, in 2024, Damita Parsley, an individual with a voucher, was searching for housing in Champaign, Illinois. After a period of homelessness, including living in a van while she waited for her voucher, Ms. Parsley learned that getting "the voucher was the easy part." HOPE Fair Hous. Ctr., *Sectioned Off*, https://hopefair.org/sectioned-off/, (last visited Aug. 7, 2026). When her name finally reached the top of a waitlist and she started looking with a voucher, landlords never told her they did not accept vouchers; instead, she was met with "let me check and get back to you," followed by radio-silence. At the property where Ms. Parsley most wanted to live, she was passed between three different property managers before being denied. Others told her she needed income three times the rent independent of her voucher, an impossibility on her otherwise fixed income. A minimum income requirement made little sense for someone with a voucher, since their rent portion was calculated based on a percentage of their income, with the rest paid for by a housing authority. "You already had me pegged out because I have a voucher," she recalls. "You don't know me […] they stigmatize you." *Id.* When she finally secured a lease with her voucher, the change was immediate: "A stable place to live […] gives you the opportunity to do more to make your life better […] I didn't feel like this through all the denials." *Id.*

Ms. Parsley's experience is the norm for so many, who often wait years to secure a voucher in the first place, only to face discrimination in the market:

- One woman with five children had to move out of her unit in Kane County due to unsafe living conditions, as well as stalking and harassment. While she was able to secure a voucher, she could not find a place to live for the next eight months and the family had to sleep in hotels, cars, and other people's homes. While there was plenty of housing stock, landlords threw up various roadblocks: they told her they do not take vouchers, required an 820 credit score (likely a pretext, as hers was 725), or mandated that she make three or four times the rent, despite the certainty of the voucher. On several occasions it appeared the landlord agreed to rent to her and even scheduled a move-in date, but then things would somehow fall apart—including because the landlord just stopped answering the phone. She inquired about more than 40 homes without success and had to request multiple extensions on her voucher (which comes with time limits on the number of days that the voucher remains active) to avoid losing her voucher. She was forced to continually spend money on application fees and hotel rooms throughout the process. As she continued to hit roadblocks in Kane County, the family had no choice but to leave their community in Aurora where the children went to school and move their voucher to Will County, where she finally found a landlord who would accept it. The family described the process as "horrible," "depressing," and "embarrassing."

- An elderly Black former municipal employee with a pension and a voucher spent two years searching for a smaller apartment for herself and her adult son, who has a disability. No landlord refused her voucher outright. Instead, they asked questions like, "are you sure you can afford to live here?" and demanded a guarantor "besides the [Chicago Housing Authority.]" Every landlord made her feel like she and her son were unwanted. During the two years the search dragged on, she remained in a nearly empty five-bedroom unit where she endured abuse by an ex-boyfriend who exploited the empty apartment to maintain access to her. Legal Aid Chicago, *Client Interview Narrative* (June 5, 2026).
- A formerly homeless Latina senior with a voucher could not find housing for 13 months. When she toured buildings, staff followed her through units and asked whether opening the kitchen cabinets was "really necessary." At one building, she toured a bright, front-facing apartment. When she applied, however, she was told "actually, we only have this

other apartment." The other apartment was a dark unit overlooking the parking lot that she was told would be the "most suitable" for her. Although landlords rarely rejected her voucher explicitly, they steered her away from desirable units once they learned she intended to use rental assistance. The only units she was permitted to pursue were, in her words, "the leftover scraps, the units that the landlord couldn't or wouldn't rent to others." Legal Aid Chicago, *Client Interview Narrative* (June 5, 2026).

Source of income discrimination can also serve as pretext for other forms of prohibited discrimination.[5] Of the 14,170 households with vouchers in the Fourth District, over seventy-nine percent of the voucher participants are female head of households and nearly 60% are headed by a Black person. More than 44% of these households include children, 42.2% include a person with a disability, and close to a quarter are elderly. U.S. Dep't of Hous. & Urb. Dev., *Picture of Subsidized Households* (2025), https://www.huduser.gov/portal/datasets/assthsg.html (HCV-program rows for the 41 PHAs serving Fourth District counties). Advocates and social service agencies trying to help their clients with vouchers secure housing in the Fourth District see the connection between the race, disability, and familial status of their clients and housing access. In the Fourth District, a policy that effectively bars households using vouchers also effectively bars a large number of Black families with children. For these families and individuals, it is deeply personal and leaves them to feel as if they are "unrentable."[6]

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[5] Before source of income protections were added to the Illinois Human Rights Act, two administrative complaints were filed with IDHR and HUD, alleging that refusing to rent to a household with a voucher had an unlawful disparate impact on the basis of race. *HOPE v. Trinity Property Consultants,* IDHR 2022CH0518; HUD 05-22-4397-8 (2021); and *HOPE v. BH Management Services, LLC.,* IDHR 2022CH1647; HUD 05-22-6022-8 (2022).

[6] Interviews with Blake Mitchell, Assoc. Dir. of Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026), Nicole Morrow, Housing Coordinator, Peoria, Ill. (June 15, 2026) and Armeca Crawford, CEO, DuPage Hous. Auth. (June 16, 2026).

B. Since the Passage of Source of Income Protections, Landlords Now Use More Insidious Methods to Discrimination Against Households with Vouchers.

While explicit discrimination may be less prevalent, advocates and housing officials note that the discrimination continues and has evolved into more insidious methods. A Peoria housing advocate with three decades of experience puts it plainly: landlords "are slicker now" with the overt discrimination having "moved underground." Interview with Regina Morgan, housing advocate, Peoria, Ill. (June 15, 2026). The director of the Bloomington Housing Authority's voucher program finds that landlords "have become more sophisticated, but discrimination remains just as prevalent." Interview with Jorge Ovalle, HCV Dir., Bloomington Hous. Auth. (June 16, 2026). A fair housing enforcement director describes post-2023 practice as "chasing down loopholes." Interview with Blake Mitchell, Assoc. Dir. of Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026). Indeed, landlords employ several seemingly facially neutral tactics with the intent and effect of preventing households with vouchers from securing and keeping housing.

Ghosting prospective tenants with vouchers. The most common tactic by landlords to evade households with vouchers is silence. Landlords who know or suspect a potential applicant is a voucher holder may ignore inquiries for information, tours, or applications. And even when landlords initially respond to such inquiries, they may falsely represent that the unit has been rented or simply go silent after the person discloses that they have a voucher or falsely tell a person with a voucher that a unit is no longer available. Applicants often have spent time and resources completing tours, paying application fees, and expressing interest but then never receive the promised application link.

Using screening criteria which operate to automatically bar individuals with vouchers. Landlords often apply minimum credit score requirements to tenants whose rent is federally guaranteed and protected from being unaffordable to a tenant. These minimum credit requirements are applied even when the applicant's rent is fully covered by the housing authority. Interview with Kaitlyn Greenholt, Test Coordinator, S. Suburban Hous. Ctr. (June 18, 2026). Landlords also regularly apply a "three times the income" rule to the total rent, meaning that to qualify a person's income must be at least three times the total monthly rent charged for the unit. This policy again ignores the fact that tenants with vouchers only pay a portion of the rent based upon their income and what they can afford. Not surprisingly, it produces automatic denials, notwithstanding IDHR's Guidance prohibiting such practices.[7] Technology has also made such discriminatory screening easier to implement and harder to detect. Prospective tenants are often asked screening questions by text, including with artificial intelligence. Answers not in line with tenant applicants not using vouchers can result in the application process automatically shutting down. An applicant with a voucher filtered out at this stage receives no denial letter and has nothing to appeal; as one advocate put it, "you just never know [why you were rejected]." Legal Aid Chicago, *Client Interview Narrative* (June 5, 2026).

Other screening practices that discourage applicants with vouchers from applying or continuing with the application include announcing a preference for wage-related income outright or stating this discriminatory preference or requirement after the person reveals that they rely upon a voucher to help pay for housing. Interviews with Jorge Ovalle, HCV Dir., Bloomington Hous. Auth. (June 16, 2026), and Josefina Navar, Deputy Dir., HOPE Fair Hous. Ctr. (June 18, 2026).

Refusing to complete program requirements or imposing artificial barriers to the completion of those program requirements. Another way of avoiding source of income protections is noncompliance with basic requirements of the voucher program. Those requirements

[7] Interviews with Carrie Simpson, Int. Sp. S. Suburban Hous. Ctr (June 18, 2026); Jorge Ovalle, HCV Dir., Bloomington Hous. Auth. (June 16, 2026); and Blake Mitchell, Assoc. Dir. of Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026); Ill. Dep. Of Human Rights, *FAQ*.

include: the inspection of the premises to ensure the dwelling is the right size for the family, meets basic Housing Quality Standards, and rents for a reasonable amount. 24 C.F.R. § 982.305; the owner and tenant execution of a lease that includes a HUD-approved addendum. *Id.* at § 982.308; and the owner's execution of a HAP contract with the housing authority. *Id.* at § 982.451. If a landlord denies the inspection or declines to sign the lease or contract, the dwelling cannot be approved for a tenant with a voucher to occupy. See, *e.g.*, *Housing Choice Voucher Landlord Packet*, Peoria Housing Authority, 2-3. A contract will also be at risk of termination (and the tenant will be forced to move and find new housing) if a landlord fails to make repairs when habitability defects are found. *Id.* at § 982.404.

Landlords evade any number of program requirements to avoid renting to tenants with vouchers, including by declining to sign forms, avoiding or obstructing inspections, and slow-walking the completion of paperwork. Interviews with Kristin Andrews, Winnebago HA HCV Supervisor (June 16, 2026), Jorge Ovalle, HCV Dir., Bloomington Hous. Auth. (June 16, 2026), Josefina Navar, Deputy Dir., HOPE Fair Hous. Ctr (June 18, 2026), and Kaitlyn Greenholt, Test Coordinator, S. Suburban Hous. Ctr. (June 18, 2026). Because tenants are generally given a minimum of 60 days to find housing with their voucher, in addition to any time extensions under a PHA's discretion, the tenant risks losing their voucher to expiration.[8]

[8] 24 C.F.R. 982.554; E.g., The Springfield Housing Authority "may issue one extension not to exceed a total of 60 days" where a family submits "a written request for an extension" with "evidence justifying the extension which is satisfactory to the SHA. Springfield Hous. Auth. Admin. Plan at 61, https://springfieldhousingauthority.org/documents/section8/adminPlan2025.pdf; The Peoria Housing Authority allows one 30-day extensions upon written request, with additional extensions considered if specified "extenuating circumstances" are present. Peoria Hous. Auth. Admin. Plan at 5-15. https://www.peoriahousing.org/documents/HCV/adminPlan.pdf.

Landlords appear well-aware of the shelf-life challenge with vouchers and create these barriers to make housing advocates, housing authorities, and tenants get creative to keep people housed. For example, housing coordinators in Central Illinois describe working from short, pre-vetted lists of landlords willing to rent to households with vouchers, because applying anywhere else wastes search time a family with a voucher cannot spare. The result is that households with vouchers are clustered among a handful of landlords and properties, which frustrates the choice and mobility features of the program. Interviews with Nicole Morrow, Housing Coordinator, Peoria, Ill. (June 15, 2026), and Kristin Andrews, Winnebago HA HCV Supervisor (June 16, 2026).

In smaller communities, where a few owners may own or control most of the rental stock, creativity alone is not enough, and a single unwilling landlord can close much of the market. Interview with Blake Mitchell, Assoc. Dir. of Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026). And, when a property does open its doors, the neighborhood may resist. For example, when the Dunlap apartment complex near Peoria announced it would accept vouchers, community members protested at the City Council. Interview with Regina Morgan, Housing Advocate, Peoria, Ill. (June 15, 2026). While neither scarcity nor community hostility constitutes landlord discrimination, both narrow the options of a household with a voucher.

Even landlords who currently rent to households with vouchers create barriers to bar future households with vouchers. A property in DuPage County requires local housing authority inspectors to surrender government-issued photo identification for scanning before entering the building, which it then requires to be retained for 24 months. The housing authority, unwilling to have its employees' government IDs copied and stored, issued agency credentials instead, yet the property refuses them. Without inspections, no new tenants with vouchers can be approved to live there. Yet the same property admits the very same inspectors, without the same credential requirements, for units occupied by *existing* voucher participants. The policy applies to new, prospective tenants with vouchers alone. According to the housing authority's chief executive, new families with vouchers "are effectively unable to utilize their vouchers there" and excluded "under the guise of an identification policy." Email from Armeca Crawford, CEO, DuPage Hous. Auth. (July 2, 2026).

Steering tenants with vouchers. The discrimination does not end once a tenant with a voucher passes the initial screening. Households with vouchers are often shown different and inferior housing units than individuals without vouchers. For example, tenants with vouchers may only be offered units with fewer amenities, basement units, or units that lack light and face a parking lot. Legal Aid Chicago, *Client Interview Narrative* (June 5, 2026). At other times, the landlord's steering of tenants with vouchers follows longstanding patterns of racial segregation in a community. In Peoria, for example, tenants with vouchers are often steered towards Peoria's under-resourced, predominately Black south side. A local housing advocate used property tax records to demonstrate that many of the local landlords who engage in this practice have rental units throughout Peoria, but, for applicants with vouchers, they only offer units on the city's south side. Interview with Regina Morgan, Housing Advocate, Peoria, Ill. (June 15, 2026).

Removing housed tenants with vouchers. Just as in the case with the Appellant, the discrimination also does not end with the acceptance of a rental application. Landlords with tenants who use vouchers often refuse to make necessary (but often inexpensive) repairs, knowing full well that the housing authority will be obligated to terminate the HAP contract and direct the tenant to search for a new home. Interviews with Nicole Morrow, Housing Coordinator, Peoria, Ill. (June 15, 2026), Kristin Andrews, Winnebago HA HCV Supervisor (June 16, 2026), Josefina Navar, Deputy Dir., HOPE Fair Hous. Ctr (June 18, 2026), and Blake Mitchell, Assoc. Dir. of

Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026). Knowing this and the challenges ahead if they have to again search for a home, tenants with vouchers often quietly endure poor conditions in order to stay housed. Interview with Blake Mitchell, Assoc. Dir. of Enforcement, HOPE Fair Hous. Ctr. (June 18, 2026).

While none of the practices described above explicitly prohibit applicants with vouchers, they have the (intended) effect of denying housing opportunities to and imposing different terms and conditions on households with vouchers that the General Assembly sought to prohibit.

C. Source of Income Discrimination Also Harms Local Public Housing Authorities and Local Communities.

Source of income discrimination also imposes significant burdens on public housing authorities. Public housing authorities do not have the resources to ensure landlords comply with the Illinois Human Rights Act's source of income protections. When landlords attempt to evade source of income protections, public housing authorities must use their limited resources to process and approve requests to extend voucher search times, identify landlords willing to participate in the voucher program, and help households with vouchers identify suitable housing.

When families are unable to use their vouchers before they expire, housing authority utilization rates fall, which can jeopardize their funding and ultimately shrink the size of their voucher program, despite what are often dire and unmet community needs. Interview with Jorge Ovalle, HCV Dir., Bloomington Hous. Auth. (June 16, 2026). 24 C.F.R. §§ 985.3(n), 982.102(i); Notice PIH Notice 2026-12 (HA)(June 9, 2026); FY 2026 RFIF Notice, 91 Fed. Reg. 41058 (July 6, 2026) ("eligible renewal funding for each PHA based on VMS leasing and cost data for the prior calendar year"). When there are not enough vouchers in a community to meet the need, the burden falls to already overburdened social service agencies, homeless service providers, families, and friends to offer support and shelter. As the DuPage Housing Authority's chief executive describes it, a voucher that cannot be used sets off a cascade of harm where the family goes unhoused, the authority loses funding, and the community is forced to absorb the cost of housing instability and homelessness. Interview with Armeca Crawford, CEO, DuPage Hous. Auth. (June 16, 2026).

IV. COURTS HAVE ROUTINELY FOUND THAT LANDLORD EFFORTS TO CIRCUMVENT SOURCE OF INCOME PROTECTIONS THROUGH THE IMPOSITION OF OTHER POLICIES VIOLATE THE LAW.

Despite the popularity of source of income laws nationwide, studies echo the experiences of Illinois households with vouchers described in Section II., that source of income discrimination continues but through "more nuanced means."[9] Courts have largely understood these nuanced practices to be discriminatory, and this Court should as well.

Courts in jurisdictions that have banned source of income discrimination have weighed challenges to numerous practices that discouraged, deterred, otherwise blocked households with vouchers from leasing vacant units. For example, a court found that a tenant's lawsuit for source of income discrimination could proceed against a landlord who required households with vouchers to "apply in-person [and] pay any security deposit by money order," whereas other applicants could apply and pay deposits on-line. *Doe v. Bozzuto Mgmt. Co.,* Civil Action No. 23-3360 (TJK), 2024 U.S. Dist. LEXIS 110395, at *12-13 (D.D.C. June 24, 2024). In another case, a court found that a complaint alleging that a landlord required households with vouchers to present "documentation of a budget letter or voucher" before being shown vacant units, but did not require any such documentation from persons claiming employment income, made out a viable source of income discrimination claim and showed "an inference of discrimination" to testers posing as

[9] *See* Coty Montag et al., *The Bad Housing Blues*, Legal Def. Fund & Nat'l Fair Hous. All., at 34 (2022), https://www.naacpldf.org/wp-content/uploads/2022-11-14-Fair-Housing-2-web-1.pdf ("Racial discrimination against HCV recipients is commonplace, even [where] laws prohibit landlords from refusing to accept vouchers."); Armen H. Merjian, *Second-Generation Source of Income Housing Discrimination*, 5 Utah L. Rev. 963, 965 (2023).

tenants with vouchers. *See Fair Hous. Justice Ctr., Inc. v. Fairstead Mgmt. LLC*, No. 952363, 2024 NY Slip Op 33325(U) at *7, 25 (Sup. Ct. Sep. 19, 2024). The Appellate Court of Connecticut also affirmed a lower court's decision finding that tenants without vouchers were permitted to view rental properties without first producing a credit score, while tenants with vouchers had to first produce a credit score. *See Comm'n on Human Rights & Opportunities ex rel. Cortes v. Valentin*, 213 Conn. App. 635, 640–41, 645 (2022). Courts have also rejected the tactics of engaging in different, slow, and disinterested communications with tenants who have vouchers. See *Fairstead*, 2024 NY Slip Op 33325(U) at *16 (defendants responded to tenants with vouchers more slowly, if at all, and offered inconsistent information regarding the availability of rental properties); *see also Keith Short & Fair Hous. Justice Ctr. v. Manhattan Apartments, Inc.*, 916 F. Supp. 2d 375, 384 (S.D.N.Y. 2012) (rental agents provided different information to tenants with vouchers about apartment availability and did not follow up with their inquiries about rental applications).

Courts have also routinely found that minimum income requirements violate source of income laws when administered based on the full contract or monthly rent instead of the tenant's portion. *See, e.g.*, *Fulk v. Lee*, CV970063572, 2002 Conn. Super. LEXIS 499, at *6–7 (Super. Ct. Feb. 7, 2002) (landlord unlawfully rejected unemployed applicant for "insufficient income" even though her voucher subsidy would cover the full rent amount); see also *Fair Housing Justice Center, Inc. v. Pelican Management*, No. 23-7348-CV, 2025 U.S. App. LEXIS 1242, at *1, *4 (2d Cir. Jan. 21, 2025) (landlord's requirement that all tenants have annual income at least 43 times the total monthly rent, irrespective of subsidies, was unlawful). As one court observed, "[i]f every landlord enforced minimum income requirements in this fashion, the spirit of source of income discrimination law[s] would be subverted and rendered meaningless." *See Olivierre v. Parkchester Pres. Co., L.P.*, No. 452058, 2022 NY Slip Op 34471(U), 5 (Sup. Ct. Misc. July 28, 2022); *see* *also Comm'n on Hum. Rts. & Opportunities v. Sullivan*, 285 Conn. 208, 221 (2008) ("It would be inconsistent with the purpose of the [SOI] provision as well as basic principles of statutory construction, to [allow] income requirements that are not reasonably related to the personal periodic rental obligations of a prospective tenant who is a section 8 participant."). *See Hare v. David S. Brown Enters., Ltd.,* 491 Md. 653, 668, 340 A.3d 653, 660, 682-3 (2025) (reversing a summary judgment order in favor of the landlord and recognizing that basing a minimum income requirement on the full contract rent, rather than the tenant's portion, improperly disadvantages tenants with vouchers). Indeed, the problem of landlords trying to circumvent source of income laws through minimum income requirements is sufficiently common that agencies and legislatures in many jurisdictions, including IDHR[10] have addressed the practice through guidance or statutory language.[11]

A. Courts Have Found that Source of Income Discrimination Laws Obligate Landlords to Comply with the Ordinary Duties and Obligations of Housing Voucher Programs.

Courts have also consistently ruled that a landlord's failure to comply with the voucher program requirements, described in Section II. B., can constitute source of income discrimination. *See, e.g.*, *Comm'n on Hum. Rts. & Opportunities v. Sullivan*, 250 Conn. 763, 778 (1999) (refusal to accept HUD-approved lease addendum can constitute source of income discrimination); *Feemster v. BSA Ltd. P'ship*, 548 F. 3d 1063, 1070-71 (2008) (allowing the landlord to avoid

[10] Poverty & Race Rsch. Action Council, *Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination* (Jan. 2025), http://www.prrac.org/pdf/AppendixB.pdf.
[11] Examples of statutes specifying that imposing minimum-income requirements for voucher holders based on the full contract rent constitutes source of income discrimination include Wash. Rev. Code § 59.18.225(h)(3); Cal. Gov. Code § 12955(o); 34 R.I. Gen. Laws § 34–37–4(c); M.C.L. § 554.601c(1)(f); City of Tampa, Fla., Code ch. 12, art VII, § 12–143(a)(3); Columbus, Ohio, Code tit. 45, ch. 4551.03(b); Ill. Dep't of Hum. Rts., *Source of Income Discrimination FAQ*.

source of income liability by refusing to execute a lease or ratification with tenant would render D.C.'s source of income law "nugatory."); *Florentino v. Nokit Realty Corp.*, 29 Misc. 3d 190, 197, 200 (2010) (refusal to execute HAP contract constitutes source of income discrimination in violation of local law); *Jones v. Park Front Apts., LLC*, No. 402878, 2009 NY Slip Op 33241 (U), *3–6 (Sup. Ct. April 27, 2009) (refusal to execute HAP contract was pretextual); *see also Rakhman v. Alco Realty I, L.P.*, 81 A.D.3d 424, 425 (App. Div. 2011) (landlord's refusal to complete the lead paint disclosure form required by the New York City Housing Authority to process housing vouchers was a pretext for discrimination).

Landlords have countered that noncompliance with voucher program obligations does not violate source of income protections if the landlord's motivation was a desire to avoid the burden of the relevant requirement, rather than prejudice against tenants with vouchers or aversion to the voucher program. But courts have consistently rejected these arguments as well, and this Court should do so here.

The U.S. Court of Appeals for the D.C. Circuit observed that, even if a landlord's refusal to execute a lease with a voucher tenant was not motivated by discriminatory animus, allowing such a refusal would effectively nullify the source of income law. *See Feemster*, 548 F. 3d at 1070. Similarly, the Connecticut Supreme Court concluded the state's legislature, by passing a source of income law, could not have intended to allow landlords to reject the mandatory HUD-approved lease addendum and thereby "avoid the statutory mandate by refusing to accede to a condition essential to its fulfillment." *Sullivan*, 250 Conn. at 778; *see also Franklin Tower One v. N.M.*, 157 N.J. 602, 621 (1999) ("To permit a landlord to decline participation in the Section 8 program in order to avoid the bureaucracy of the program would create the risk that if all landlords did not want to fill out the forms then there would be no Section 8 housing available.") (internal quotations omitted).

Arguments that landlords should not have to make repairs necessary to pass housing quality inspections fare no better. The Chicago Commission on Human Relations ruled that a unit's need for repairs was not a legitimate, nondiscriminatory defense to source of income discrimination in *Evans v. Pasieka*, CCHR No. 20-H-63, at 14-15 (Sept. 14, 2023). And IDHR's guidance expressly states that a housing provider must satisfy Housing Quality Standards when a qualified applicant intends to use a housing subsidy. Ill. Dep't of Hum. Rts., *Source of Income Discrimination FAQ: Question 16*.

1. This Court should follow *Sullivan* and other cases which have held Source of Income laws obligate compliance with ordinary obligations of the voucher program.

The present action is virtually indistinguishable from *Sullivan*, in which the Connecticut Supreme Court rejected the contention that Connecticut's source of income law did not obligate acceptance of the HUD-approved lease addendum required for voucher tenancies. *See Sullivan,* 250 Conn. at 778. Here, while it is the HAP contract with the housing authority that the landlord refuses to sign, the distinction is irrelevant because the landlord's refusal to sign either contract has the effect of excluding tenants with vouchers. *See* 24 C.F.R. § 982.451. Construing the Illinois source of income law not to require landlords to accept the standard HAP contract terms would functionally nullify the statute in the same way the *Sullivan* court found the Connecticut legislature could not have intended. *See Sullivan,* 250 Conn. at 778.

The same inference, that the legislature did not intend to enact a source of income law that landlords could effortlessly evade by declining to sign HAP contracts, is appropriate here as well. *See People v. Reed,* 280 N.E.3d 102, 108 (2025) ("We also keep in mind the reason for the statute, the purposes to be achieved, the evils sought to be remedied, and the consequences of interpreting the statute one way or another. We presume that the legislature did not intend to create inconvenient, absurd, or unjust results, and we construe the statute accordingly.") (internal citations omitted). And, as in Connecticut, "remedial legislation should be construed liberally to effectuate its purpose." *S. N. Nielsen Co. v. Pub Bldg. Comm'n of Chi.*, 410 N.E.2d 40, 44 (Ill. 1980); *see also Sullivan*, 250 Conn. at 781–82 ("we should not read into a remedial statute an unstated exception that would undermine the legislature's manifest intent to afford low income families access to the rental housing market.").

As noted in Section I., the Illinois legislature considered source of income laws from other states and local governments[12] and chose not to include an "administrative burden" defense in the Illinois statute, even though some source of income laws do contain such carve-outs. For example, the Minneapolis source of income ordinance contains an exception for requirements of public assistance programs that would impose an "undue hardship" on a landlord,[13] and the Virginia source of income law exempts landlords with fewer than four properties (on the assumption the burdens of voucher participation are greater on small owners).[14] While the Illinois legislature did not include an exemption for administrative burden here, they have included other exemptions in Article 3, the real estate transaction provisions of the Act, (such as for small owner-occupied

[12] H.R. Transcription Deb. 45, 102nd Gen. Assemb. (Apr. 22, 2021) https://www.ilga.gov/Documents/House/transcripts/Htrans102/10200023.pdf (referencing nineteen states, several municipalities in Illinois, and over one hundred cities and counties outside Illinois that had "successfully implemented source of income protection").

[13] *See*, *e.g.*, Minn. Code of Ordinances, tit. 7, § 139.40(e)(1)(2017) ("It is an affirmative defense [to source of income discrimination] if the refusal, denial, or withholding [of real property] is due to a requirement of a public assistance program and that requirement would impose an undue hardship.")

[14] *See* Va. Code § 36-96.2 (Source of Income law "shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time.").

properties at 775 ILCS 5/3-106(B)) and have established "undue burden" exceptions in other legislation.[15] The Court should therefore recognize the lack of an administrative burden exception as resulting from a deliberate legislative decision, which further militates against reading such an exception into the statute. *See, accord, DiLiddo v. Oxford St. Realty, Inc.*, 450 Mass. 66, 78 (2007) (recognizing the lack of "undue hardship" exemption to the Massachusetts source of income statute as purposeful where state lawmakers had included such exceptions for other statutes concerning landlord obligations).

2. This Court should decline to follow *Edwards v. Hopkins Place,* which is distinguishable and poorly reasoned.

In *Edwards v. Hopkins Plaza L.P.*, a division of the Minnesota Court of Appeals ruled that the state's 1973 source of income law did *not* prevent landlords from refusing to participate in voluntary programs, such as Housing Choice Vouchers, if for a "legitimate business reason." *See Edwards v. Hopkins Plaza Ltd. P'ship*, 783 N.W.2d 171, 177 (Minn. Ct. App. 2010). An outlier, *Edwards* is the only reported decision of which amici are aware in which a court excused a discriminatory treatment of voucher holders based on an implied exception to a source of income law.[16]

The reasoning of *Edwards* is immediately questionable because excluding voucher holders appeared quite clearly to violate the plain language of Minnesota's source of income law, which prohibited "refus[ing] to sell, rent, or lease or otherwise deny to or withhold from any person ...

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[15] See, *e.g.*, 2019 Ill. ALS 518 (landlord may deny documented request for a reasonable accommodation regarding service animals if the accommodations imposes "an undue financial and administrative burden").

[16] Another case, *Knapp v. Eagle Prop. Mgmt. Corp.*, ruled a landlord did not violate Wisconsin's SOID law by refusing tenants with vouchers–but for the reason that Wisconsin's legislature had not intended to include housing vouchers as a "source of income" covered by the Wisconsin statute. See *Knapp*, 54 F.3d at 1282–83.

any real property because of ... status with regard to public assistance" and defined "status with regard to public assistance" to include "receiving federal, state, or local subsidies, including rental assistance or rent supplements." *Edwards*, 783 N.W.2d at 185 (quoting Minn. Stat. §§ 363A.03, subd. 47, 363A.09, subd. 1[1]).

Even so, the *Edwards* court relied on two key factors to conclude that the Minnesota Legislature did intend to preserve latitude for landlords to decide whether to participate in voucher programs. For one, a separate Minnesota statute (enacted in 1997, after the state's source of income law) provided a tax incentive for landlords to accept tenants with vouchers. *See id.* at 176 (discussing Minn. Stat. § 273.126 [1999]). Though the statute had already been repealed, the *Edwards* court nevertheless reasoned that "[i]f participation in Section 8 programs were not voluntary, there would have been no reason for the state to provide incentives for property owner participation." *Id.* at 176. The second factor was a finding by the Minnesota Department of Human Rights "that refusal to participate in [voucher] programs cannot be characterized as discrimination based on status with regard to public assistance." *Id.* at 176-77 (discussing *State by Wilson v. High View N. Apartments* [Minn. Office of Hearing Exam'rs for Dept. of Human Rights May 2, 1979]) ("The Department's interpretation of the MHRA, although not controlling, is entitled to great weight.").

By contrast, Illinois's only existing tax incentive for landlords that accept vouchers predates the 2022 source of income law by almost two decades,[17] making that particular tax statute irrelevant to the question of whether the legislature viewed voucher participation as optional in the aftermath of the source of income legislation. Moreover, Illinois administrative guidance expressly

[17] 35 ILCS § 200/18-173 (effective Jul. 23, 2003) (offering tax abatement for property owners who lease to Section 8 voucher holders in certain "opportunity" areas).

lists "Housing Choice Vouchers (also known as Section 8)" among its "[c]ommon sources of income protected under the Illinois Human Rights Act." Ill. Dept. of Hum. Rts, *Source of Income Discrimination FAQs, Question 4.*

Finally, as discussed above, the Illinois Legislature specifically chose not to include any "business reasons" exemptions in its source of income legislation. Therefore, *Edwards* is not instructive and the Court should decline to follow it.

V. CONCLUSION

For the reasons set forth above, *Amici* respectfully urge this Honorable Court to reverse the trial court's decision that property owners cannot be compelled to enter into Section 8 HAP contracts, which effectively nullifies the intent of the Illinois General Assembly to prohibit source of income discrimination in Illinois.

Dated: August 13, 2026

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 35 pages.

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No. 4-26-0444

In The Appellate Court

Fourth Judicial District

BARBARA COLE,

Plaintiff-Appellant

v.

TIMBERBROOK REALTY, LLC., Defendant-Appellee.

Appeal from the Circuit Court of Peoria County, Illinois, Tenth Judicial Circuit, No. 25-CH-25, The Honorable James Mack, Judge Presiding.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 13, 2026, the above MOTION O AMICI CURIAE was filed and served electronically on the Clerk of the Appellate Court, Fourth District, and that true and correct copies of the same were served by electronic mail on the following:

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