

MEMORANDUM

TO: Kyoko Matsumoto-Wright, Mountlake Terrace City Councilmember

FROM: Chris Collier, Alliance for Housing Affordability Program Manager

DATE: December 21, 2016

SUBJECT: Source of Income Discrimination Law

Issue

Source of Income Discrimination (SOID) is when a landlord refuses to rent or sell (or continue to rent) to a tenant due to their source of income. Typically, this is in regard to tenants receiving HUD Section 8 vouchers, but can also apply to recipients of child support, social security insurance, or other non-standard forms of income that are applied to the tenant's rent. SOID is, unless otherwise stated by a local law or ordinance, legal in the state of Washington.

Historical Background

Federal law defines several protected classes that are protected from discrimination. Those classes are race, color, religion, national origin/ancestry, sex, age, disability, veteran status, pregnancy, family status genetic information and citizenship. States and local jurisdictions are able to define additional protected classes, and Washington State chose to include gender identity/expression, HIV/AIDS and Hepatitis C status, and use of a guide dog or service animal to its list of protected classes. As of 2015, nine states (CN, HI, ME, MA, NJ, ND, OK, OR, VA and Washington D.C.) and seven Washington State local jurisdictions (Bellevue, Redmond, Kirkland, Seattle, Olympia, Tumwater, Vancouver, King County, and Renton) have passed laws prohibiting SOID either by declaring income a protected class, or simply stating income cannot be the sole reason for non-renewal of a rental lease.

The usual rationale behind SOID is based on a landlord's concern about the habits of their tenants. Concern typically centers on wear and tear on the unit, tenant association with others that may damage the unit, lower the property value or engage in criminal activity, and finally belief that Section 8 tenants are less likely than regular tenants to pay their monthly rent.

Impacts

There are definite negative consequences associated with families being forced to move due to SOID. An unexpected change in housing is difficult for individuals at all income levels, with Section 8 voucher recipients typically in situations that amplify these negative impacts. First and foremost is the ability to find (and afford the up-front costs of) replacement housing, which is increasingly scarce in Western Washington due to regional rents increasing rapidly along with increasing demand for housing.

Additional negative impacts from housing relocation include loss or reduction in access to supportive services, social networks, and job opportunities. For individuals in tenuous living situations, such negative impacts can be the deciding factor in outcomes in the areas of job or educational achievement, relapse into substance abuse, and mental health issues. Any one of these factors could contribute to, or initiate, a cycle

of negative circumstances that ends with the household becoming homeless. Furthermore, consideration must be given for children also in the home, who will suffer all of these negative impacts, as well as their own tumultuous change in social settings and schools.

In Washington State, landlords are only required to give 20 days' notice prior to the normal end to the lease that they intend to not renew it. In that 20-day window, a tenant must find replacement housing. Reviewing the Snohomish County Housing Authority's (HASCO) Section 8 program, of the 369 Section 8 program participants who were on the program already but sought to move with their voucher to a new unit, whether due to their own choice or because they had no other option, only 90 did so in 20 days or less, a rate of 24%. If all of these 369 Section 8 participants had to move to a new residence within 20 76% of them, 280 voucher holders, would have had to find temporary substandard housing alternatives (living with a friend or family member in overcrowded conditions), or become homeless while they searched for a new place to live. Furthermore, an additional 20 Section 8 participants looked for a new place to live and failed to do so in the allotted time (180 days) and were terminated from the Section 8 program. This is a failure-to-lease rate of 5.1% when the tenant does not have the option of staying in their current unit (regardless of reason) and suggests that in Snohomish County for every 100 people affected by SOID at least 5 of them will be forced into being under housed or homeless. It is important to stress that this rate is likely higher in reality, as the above information was calculated including tenants who chose to move of their own volition and likely gave themselves more than 20 days to find a new place to live, or had a place in mind before formally searching. This was done because no data is currently available on failure-to-lease rates of Section 8 tenants in cases of unexpected moves.

Current Events

In a recent case, apartment managers in the City of Renton were not renewing tenants' leases as a result of their participation in the Section 8 voucher program. In response, the city passed an emergency ordinance (#5826) on November 7, 2016, prohibiting discrimination or retaliation by a landlord against a current or potential tenant solely on the basis of receiving a Section 8 voucher. The ordinance took effect immediately, and expires on August 1, 2017. The goal of this short window is to temporarily address this problem while the city and community have a thorough discussion of this issue and create a permanent, long-term solution.

The Washington State Department of Commerce (Commerce) on November 4, 2016 created a fund to help reimburse landlords for property damage done by Section 8 or VASH (Veterans Affairs Supportive Housing) tenants. Commerce can reimburse landlords \$500 to \$5,000 for damages that have been caused by the tenant, in excess of normal wear and tear. The caveat of the program is that applications can only be made if the applying landlord owns property in jurisdictions with SOID prohibitions.

Paths Forward

For jurisdictions that are interested in addressing this issue in their communities, laws prohibiting SOID can be pursued at two levels – local and state. The first approach is pursuing SOID laws at the local level, enacting them city-by-city and county-by-county. This approach could address the issue more quickly, and providing information about Commerce's landlord reimbursement program could be used to assuage concerns of the community and local landlords that may oppose an SOID prohibition. Additional work to allay landlord concerns about Section 8 tenants (either through education or incentives) are another viable path to community support for local SOID prohibition ordinances.

The second option, which can be done in tandem with the first option, is to advocate for SOID laws to be passed at the State level. The Washington Low Income Housing Alliance is planning to introduce a bill to

that effect in 2017. Once introduced, the first step in the bill's passage is the House Judiciary Committee and Senate Law and Justice Committee. Senator Kirk Pearson of District 39 sits on the Senate Law and Justice Committee and could be contacted by the AHA jurisdictions in District 39 to advocate support for the bill's passage out of committee. Following that, the bill would be voted on by both the House and Senate. AHA members could contact the Senators and Representatives that cover their jurisdictions to advocate support for the bill. Once passed, the bill would go to the Governor's Office for final signature, enacting it into law.