



HOUSING AUTHORITY OF THE CITY OF LOS ANGELES

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

2600 Wilshire Boulevard • Los Angeles, California 90057 • (213) 252-2500
TTY (213) 252-5313

PRESIDENT AND CEO
DOUGLAS GUTHRIE

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Council File: 18-0462
Council Districts: Citywide
Contact Persons: Ryan Mulligan (213) 252-6965
Carlos Van Natter (213) 252-2570
Douglas Guthrie (210) 252-1810

Honorable Members of the City Council
City of Los Angeles
c/o City Clerk
Room 395, City Hall
200 N. Spring Street
Los Angeles, CA 90012

COUNCIL REPORT BACK: THE HOUSING AUTHORITY OF THE CITY OF LOS ANGELES AND THE LOS ANGELES HOUSING + COMMUNITY INVESTMENT DEPARTMENT WITH CONSULTATION FROM THE CITY ATTORNEY OFFICE'S REPORT REGARDING CITY ORDINANCE TO PROTECT AFFORDABLE HOUSING OPPORTUNITIES FOR RENTERS UTILIZING RENTAL ASSISTANCE OR OTHER SOURCES OF INCOME AS PAYMENT

SUMMARY

In response to a Council Motion request (C.F. #18-0462), the Housing Authority of the City of Los Angeles (HACLA) and the Los Angeles Housing + Community Investment Department (HCIDLA) have been instructed to report on policy options that include applicable enforcement mechanisms, which will increase acceptance and utilization of Section 8 vouchers, Rapid-Rehousing vouchers, Veterans Affairs Supportive Housing (HUD-VASH) vouchers, and other third-party payment programs.

Pursuant to the Housing Committee's request, HACLA and HCIDLA in consultation with the City Attorney's Office submits this joint-report summarizing the accompanying draft ordinance to protect affordable housing opportunities for renters utilizing rental assistance or other sources of income as payment.

RECOMMENDATIONS

The President and CEO of HACLA respectfully requests that:

- I. Your office schedule this report for consideration at the next available meeting(s) of the appropriate City Council Committee(s) and the City Council thereafter;
- II. The City Council receive and file this report.

BACKGROUND

As of October 26, 2018, HACLA has 1,168 vouchers on the street for new applicants searching for housing and an additional 2,490 vouchers for current participant families who have requested to move. Due to a combination of factors including source of income discrimination, low vacancy rates and the high cost of housing, at present only 53% of Section 8 voucher holders are successful in finding a unit. Even with increases in the voucher payment standard for the HUD-VASH program for veterans, only 45% of them are successful in finding a unit. While those applicants in HACLA’s special programs, like HUD-VASH, who do not locate housing can be re-referred for assistance, those from the Section 8 waitlist cannot and lose their opportunity to participate in the Section 8 program.

Utilized vouchers have a direct impact on the amount of federal funding the Housing Authority receives the following year. It is very important to successfully utilize all vouchers allocated in order to house the greatest number of families and maintain the level of funding that will assist them over time. The Housing Authority is funded for Housing Assistance Payments and Administrative Fees based on the total number of families assisted. If totals decrease and vouchers are not fully utilized, HUD reduces the federal funding proportionately.

HACLA administers over 58,000 vouchers across its portfolio of housing assistance programs. Over the past five years, the Housing Authority has experienced a decline in the number of landlords who participate in the various housing assistance programs. As shown on the chart below, HACLA’s pool of landlords has decreased by 7% since 2014 and continues to trend downward. With the shortage in housing stock in the City of L.A. and the increase in luxury rentals in upscale buildings, the availability of affordable housing is becoming scarce.

Date	No. Landlords
October 2014	14,339
October 2015	13,949
October 2016	13,714
October 2017	13,534
October 2018	13,306

In addition, the Los Angeles Homeless Services Authority (LAHSA), which administers Rapid Re-Housing programs, reports a total of approximately 5,500 households enrolled in Rapid Re-Housing programs and searching for housing, including both programs funded by LAHSA and programs funded by other sources. Rapid Re-Housing is a service model offering people experiencing homelessness quick reconnection to permanent housing using time-limited financial assistance, individualized supportive services, and connection to mainstream resources. LAHSA reports that the mean number of days from enrollment in the program to securing housing has increased from a mean of 80 days in FY 17 to 92 days in the third quarter of FY 18.

REPORT BACK

One tool cities and states have used to increase voucher utilization is Source of Income Discrimination Laws as it relates to Section 8 Vouchers and other forms of rental assistance. These Source of Income laws operate by including “source of income” as one of the tenant characteristics which are protected from housing discrimination and specifically defines “source of income” as including any type of rental assistance such as Section 8.

Appended below is a list of states that have statutes that prohibit discrimination in the housing market based on source of income as found in the Poverty & Race Research Action Council website which was last updated on June 19, 2018. For a full list of County/City ordinances, see Appendix 1.

1. California (covers source of income, but not Section 8)
2. Connecticut
3. Delaware
4. District of Columbia
5. Maine
6. Massachusetts
7. Minnesota (weakened by court interpretation)
8. New Jersey
9. North Dakota
10. Oklahoma
11. Oregon
12. Utah
13. Vermont
14. Washington
15. Wisconsin (covers source of income, but not Section 8)

California Ordinances

The California Fair Employment and Housing Act (FEHA) already prohibits discrimination based on "source of income," however rental assistance, including Section 8 vouchers, are not part of its definition of Source of Income. The Los Angeles Superior Court and California Court of Appeal, First District have held that this does not preempt local jurisdictions from enacting their own Source of Income policies in order to promote affordable housing opportunities.

Below is a list of local city/county Source of Income ordinances in California that are in place:

1. Berkeley
2. Corte Madera
3. East Palo Alto
4. San Diego
5. Marin County
6. San Francisco
7. Santa Clara County
8. Santa Monica
9. Woodland

Source of Income policies impact on utilization rates

According to research conducted by the Urban Institute (*A Pilot Study of Landlord Acceptance of Housing Choice Vouchers*, Cunningham, M. et.al, August 2018), people who use federal vouchers to help pay for their rent are denied housing by landlords at startling rates. However, the rates of discrimination were substantially less in cities that have passed laws protecting people who receive such federal housing vouchers.

The study looked at five sites: Washington D.C., Los Angeles County, except for 13 small cities, Fort Worth, Philadelphia and Newark. Researchers screened over 341,000 online advertisements and had “testers” call up landlords and track their interactions with potential voucher-holding tenants.

According to the study, landlords denied renting to voucher recipients 78 percent of the time in Fort Worth and 76.4 percent of the time in Los Angeles — two cities without legal protections for voucher renters. Philadelphia, where voucher holders were denied housing 66.8 percent of the time, has source-of-income anti-discrimination laws on the books.

Meanwhile, two cities where voucher holders are considered protected classes had the lowest discrimination rates: Washington D.C. had a denial rate of 14.8 percent and Newark, 30.9 percent.

Additionally, the study found that voucher holders were 12% more likely to find housing in those jurisdictions with a source of income ordinance. Another study showed a 5-12% boost in voucher acceptance in those areas.

ENFORCEMENT / PENALTY OPTIONS

Jurisdictions with Source of Income laws employ various options for enforcement. In the cities we contacted, the law was first enforced with a warning and either an informal or formal mediation process. Some cities, such as Denver and San Francisco have Human Relations/Rights Commissions who have power to hold formal hearing processes which come with their own set of penalties. Cities that do not have these types of bodies rely on either their City Attorney’s office or an outside legal organization to take legal action on behalf of the aggrieved person should the warning and mediation fail to achieve compliance. The presiding judge over the case ultimately makes the final determination on the damages owed to the aggrieved person. In these cities, there is a provision in the policy for attorney’s fees which helps recover the legal costs. The City of Los Angeles could enforce its own ordinance either through the City Attorney’s office or through the Housing and Community Investment Department’s (HCID) existing contract with the Housing Rights Center (HRC).

The table below outlines how various cities have addressed the penalty/enforcement piece:

CITY	OVERSIGHT	COSTS	IMPLEMENTATION	COMMENTS
Santa Monica	City Attorney	No additional funding necessary. Ordinance provides for recovery of attorney's fees should the city prevail in the lawsuit	Complaint-driven. City sends letter and if it continues, City will file lawsuit against the landlord. Judge then makes determination about damages owed to the tenant. They will eventually begin to do proactive enforcement through testing as well.	Have been enforcing since April. Have had 12 cases brought to them so far (some referred from housing authority and others from LAFLA). All cases have been resolved through a letter that notifies landlords of the new law.
San Diego	Contract with third-party legal aid organization	Their Housing Authority used some of their Section 8 dollars to fund the contract as they are a Moving To Work agency which HACLA is not.	1 year grace period of education (also funded through contract). After 1 year, the third party contractor will begin mediation and if necessary, litigate landlords who are in violation of the ordinance. Will be complaint-driven with proactive testing elements as well.	Ordinance provides for one- year grace period. City just released an RFP to hire a contractor who will do education and outreach to landlords for one year before enforcement provisions of the law take effect.

CITY	OVERSIGHT	COSTS	IMPLEMENTATION	COMMENTS
Denver	Anti-Discrimination Office; Human Rights and Community Relations		City hearing process administered through the Human Relations Commission. Complaint-driven, send letter, mediation, and then hearing if there is no resolution through mediation.	
San Francisco	Human Rights Commission and City Attorney	No additional funding necessary. Ordinance provides for recovery of attorney's fees should the City prevail in the lawsuit.	Complaint-driven. Complaints are filed with the Human Rights Commission first; the Human Rights Commission investigates and tries to eliminate the unlawful practice through conciliation, if it is not resolved in 20 days then it goes through an internal hearing process within the City. Should the hearing officer determine it to be unlawful discrimination, they will send a cease-and-desist letter requiring the landlord to rent to the tenant. The Director of the Human Rights Commission may also refer the matter to the City Attorney's office for the appropriate legal action.	Their Human Rights Commission has not been enforcing due to FEHA preemption; now that the preemption issue has been settled, the Human Rights Commission may begin to enforce again, but as of now, both the Commission and City Attorney's office will send a letter to the landlord and so far all the cases have been resolved through the letter.

ADDRESSING LANDLORD CONCERNS

HACLA has already implemented and is in the process of reviewing several measures to streamline the Housing Choice Voucher program. In response to concerns raised by the apartment association regarding frequent inspections from both HACLA and HCIDLA, the two departments are in the process of developing a data sharing agreement to decrease the number of rental unit inspections conducted for the same housing unit. This in turn will save time for landlords and eliminate multiple inspection reports.

HCIDLA's Code Enforcement attempts to inspect all rental units and property only once every 4 years. The scope of the HCIDLA inspections is more detailed related to the property as a whole which includes the approved use of the building and potential zoning violations. Currently all privately owned rental properties containing 2 or more rental units are subject to and pay for the Systematic Code Enforcement Program.

HACLA is reviewing whether complaint driven inspections originated by tenants can be routed to HCIDLA's complaint department for processing in order to help streamline these inquiries across the City.

HACLA in partnership with HCIDLA is working on sharing inspection data related to properties with open Orders to Comply. Once inspectors from either department identify properties with deficiency violations, the other agency is notified. Also the two agencies are working on leveraging each other's communications to gain quicker deficiency correction from landlords.

Additional existing efforts to streamline the process of leasing to a voucher holder include expedited processing of all new contracts (i.e. process the inspections and contracts for new participating landlords first), electronic signature and provision of documents by landlords, one vendor (landlord) set up per building in HACLA's business system, checks issue to landlords every other week, an online Landlord Portal which displays check detail broken down by building, upfront negotiation of unit rents to prevent delays resulting from renegotiations, and a Homeless Incentive Program funded through Measure H that

Prepared by:

for Patricia A. Mendoza

Ryan Mulligan
Assistant Director of Section 8

Reviewed by:

James Johnson

James Johnson
General Counsel

Reviewed by:

Carlos Van Natter

Carlos Van Natter
Director of Section 8

Approved by:

Douglas Guthrie

Douglas Guthrie
President and CEO

Cc: Honorable Mayor Eric Garcetti

Attachment A: Ordinance No. _____ (Draft)

Appendix 1: Full list of Counties and Cities with Source of Income ordinance

1. Wilmington, DE
2. Cities in Colorado
 - Denver
3. Counties in Florida
 - Broward County
 - Miami- Dade County
4. Counties/Cities in Illinois
 - Chicago
 - Cook County
 - Harwood Heights
 - Naperville
 - Urbana
 - Wheeling
5. Cities in Iowa
 - Iowa City
 - Marion
6. Counties/Cities in Maryland
 - Annapolis
 - Baltimore
 - Frederick
 - Frederick County
 - Howard County
 - Montgomery County
7. Cities in Massachusetts
 - Boston
 - Cambridge
 - Quincy
 - Revere
8. Cities in Michigan
 - Ann Arbor
 - East Lansing
 - Grand Rapids
 - Lansing
 - Jackson
9. Minneapolis, Minnesota
10. Saint Louis, Missouri
11. Counties/Cities in New York
 - Buffalo
 - Hamburg
 - Erie County
 - Nassau County
 - New York City
 - Suffolk County
 - Syracuse
 - Westchester
 - West Seneca

12. Cities in Ohio

- Linndale
- South Euclid
- University Heights
- Warrensville Heights
- Wickliffe

13. Cities in Pennsylvania

- Borough of State College
- Philadelphia
- Pittsburgh

14. Memphis, Tennessee

15. Cities in Texas

- Austin
- Dallas

16. Counties/Cities in Washington

- Bellevue
- King County
- Kirkland
- Olympia
- Redmond
- Renton
- Seattle
- Spokane
- Tumwater
- Vancouver

17. Cities in Wisconsin

- Cambridge
- Dane County
- Madison
- Milwaukee
- Ripon
- Sun Prairie
- Wauwatosa

ORDINANCE NO. _____

An ordinance adding Article 5.5.1 to Chapter IV of the Los Angeles Municipal Code to protect affordable housing opportunities for renters utilizing rental assistance or other sources of income as payment.

WHEREAS, the City of Los Angeles is committed to providing and preserving desperately needed affordable housing for all segments of the community, in particular for its most vulnerable residents, as matter of social justice and in order to preserve diversity; and

WHEREAS, the City of Los Angeles desires to protect affordable housing opportunities for renters utilizing rental assistance or other sources of income as payment; and

WHEREAS, California's Fair Housing and Employment and Housing Act (FEHA) (Government Code Section 12900 et seq.) as amended from time to time, makes it unlawful for the owner of any housing accommodation to discriminate against any person based on certain factors, including a person's source of income; and

WHEREAS, FEHA defines source of income as "lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant", however, excludes landlords as "a representative of a tenant"; and

WHEREAS, this ordinance defines "source of income" more broadly to include rental assistance from any federal state, local or non-profit administered benefit or subsidy program, among other sources; and

WHEREAS, the Housing Authority of the City of Los Angeles, which administers the City's Section 8 program, reports a shortage of landlords participating in the Section 8 program; and

WHEREAS, this shortage may in part, reflect discrimination against Section 8 vouchers holders as well as against those receiving rental assistance from other federal, state, local, or non-profit administrated benefit or subsidy programs, among other sources; and

WHEREAS, there is concern that any such discrimination may significantly limit the pool of housing available to those receiving rental assistance; and

WHEREAS, California and federal law require the City to identify impediments to providing affordable housing and discrimination free housing and to develop strategies for removing these impediments; and

WHEREAS, in order to fulfill its commitment to fair and affordable housing opportunities and to fulfill its legal obligations, it is necessary protect affordable housing opportunities for renters utilizing rental assistance or other sources of income as payment and enact appropriate civil remedies.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES DO
ORDAIN AS FOLLOWS:**

Section 1. Article 5.5.1 is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

CHAPTER IV, ARTICLE 5.5.1

**PROTECTING AFFORDABLE HOUSING OPPORTUNITIES FOR RENTERS
UTILIZING RENTAL ASSISTANCE OR OTHER SOURCES OF INCOME AS PAYMENT**

Sec. 45.56. Findings and Purpose.

The City Council finds and declares:

Housing is a fundamental necessity of life. Housing plays a major role in defining quality of life, security, connection to community and access to opportunity. Objective 3.1 of the City's Housing Element of its General Plan provides that the City must ensure that housing opportunities are accessible to all residents without discrimination on the basis of race, ancestry, sex, national origin, color, religion, sexual orientation, marital status, familial status, age, disability (including HIV/AIDS), and student status.

The Housing Authority of the City of Los Angeles (HACLA) which administers the Section 8 rent subsidy program, reports a shortage of landlords participating in the Section 8 program, that 18,000 of Los Angeles residents are on the waiting list of Section 8 rental assistance, and that many tenants who qualify for Section 8 rental assistance are unable to benefit from it because of the unavailability of participating landlords. This lack of participation has resulted in a local housing crisis among Section 8 recipients. In fact, due to a combination of factors including discrimination, low vacancy rates and the high cost of housing, at present, only 53% of Section 8 voucher holders are successful in finding a unit.

In August 2018, the U.S. Department of Housing and Urban Development (HUD) reported the results of "A Pilot Study of Landlord Acceptance of Housing Choice Vouchers" in five jurisdictions, finding that in Los Angeles, 76.4% of landlords contacted by phone in response to advertised rental units answered that

he or she did not accept vouchers. The average denial rate was 81.5% in low-poverty areas, 80.7% in medium poverty areas and 66% in high poverty areas. The study also found that the tests in jurisdictions that have local laws against voucher discrimination, the denial rates were lower as compared to sites without such protections. While it was not possible to conclude that local laws against voucher discrimination were the cause of lower denial rates in those jurisdictions with such laws, the results of the study suggest that local anti-discrimination laws may have a desired effect in increasing voucher acceptance.

The purpose of this article is to address the local housing crisis created by lack of participation by landlords participating in HACLA's Section 8 rental subsidy program by establishing a right on the part of Section 8 recipients, as well as participants in other rental assistance programs, to be free of discrimination based on their use of rental assistance or other sources of income as payment.

This article is also in furtherance of Goal 4 of the City and HACLA's 2018-2023 Assessment of Fair Housing Plan which is to ensure equal access to housing for persons with protected characteristics, lower-income and homeless residents through various mechanisms including the expansion of source of income protections as provided for herein.

Sec. 45.57. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined herein shall be construed as defined in Section 12.03 of this Code, if defined therein.

A. Housing Accommodation. All dwelling units, efficiency dwelling units, guest rooms, and suites, as defined in Section 12.03 of this Code, and all housing accommodations as defined in Government Code Section 12927, and duplexes and condominiums in the City of Los Angeles, rented or offered for rent for living or dwelling purposes, the land and buildings appurtenant thereto, and all housing services, utilities, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. This term shall also include mobile homes, whether rent is paid for the mobile home and the land upon which the mobile home is located, or rent is paid for the land alone. Further, it shall include recreational vehicles, as defined in California Civil Code Section 799.29 if located in a mobile home park or recreational vehicle park whether rent is paid for the recreational vehicle and the land upon which it is located, or rent is paid for the land alone.

B. Person. Any natural person, firm, association, partnership, limited partnership, organization, entity, business, trust, limited liability company, joint venture, corporation, estate, or trust.

C. Source of Income. Any lawful source of income, rental assistance, subsidy, or financial aid from any person, including but not limited to a federal, state or local government, or non-profit or charitable agency, whether paid directly to the program participant, landlord or representative, including but not limited to the Section 8 voucher program, the Los Angeles Homeless Services Authority's Rapid Re-Housing program or any other housing subsidy program, homeless assistance or prevention program or security deposit assistance program.

Sec. 45.58. Prohibited Activities.

It shall be unlawful for any person offering for rent or lease, renting, leasing or listing any housing accommodation, or any authorized agent or employee of such person, to do or attempt to do any of the following:

- A.** Refuse to rent or lease, or to continue to rent or lease, a housing accommodation, refuse to enter into or renew a rental agreement, lease or housing assistance payment contract, refuse to execute any documents required to enter into or renew a rental agreement, lease or housing assistance payment contract; require any clause, condition or restriction in the terms of tenancy, refuse access to or use of the common area or facilities associated with a housing accommodation, serve a notice of termination of tenancy, seek to terminate or terminate a tenancy, refuse to make repairs or improvements to a housing accommodation or real property associated with a housing accommodation, or otherwise deny to or withhold from any person, a housing accommodation or housing services or amenities on the basis of source of income.
- B.** Apply different terms, conditions, or privileges in connection with the rental of a housing accommodation, including but not limited to the setting of rates for rental or lease, the establishment of damage deposits or other financial conditions, based upon a person's source of income.
- C.** Represent to any person based upon their source of income that a housing accommodation is unavailable for viewing for potential rental or rental when such housing accommodation is in fact, available.
- D.** Make, print, or publish, or cause to be made, printed, or published through any medium, electronic, print, broadcast or other method, any notice, statement, sign, advertisement, application, or contract, with regard to a housing accommodation offered for rent, including but not limited to the accepted form(s) of payment for the housing accommodation, which indicates any preference, limitation, or discrimination based on a person's source of income.

Sec. 45.59. Remedies.

A. Civil Liability: Any person, including the City, may enforce the provisions of this article by means of a civil action. The burden of proof in such cases shall be preponderance of the evidence. Any person who violates any provision of this article or who aids in any such violation, is liable for, and the court must award to the person whose rights are violated, three times the amount of actual damages and special damages or three times the amount of one month's rent that the landlord charges for the housing accommodation at issue, whichever is higher. The court may also award attorney's fees, costs of the action and punitive damages.

B. Equitable Relief. The City Attorney, District Attorney or any person acting for the interests of itself, its members, the general public or a protected class, may bring an action for equitable relief, including but not limited to an injunction to secure compliance with the provisions of this article.

C. Affirmative Defense. Non-compliance with any applicable provision of this article shall constitute an affirmative defense for a tenant against any unlawful detainer action brought pursuant to California Code of Civil Procedure section 1161, as amended.

D. Nonexclusive Remedies and Penalties. The remedies provided in this article are not exclusive, and nothing in this article shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

Sec. 2. If any part, term or provision of this ordinance is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this ordinance shall not be affected.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By _____

Deputy City Attorney

Date _____

File No. _____

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____