

SOURCE OF INCOME DISCRIMINATION

Charlie Lanter, Commissioner of HACD
Social Services & Public Safety Committee
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LEXINGTON



Input and Discussion

Over the past year, this issue has been discussed in meetings with multiple groups including:

- Commissioner's Landlord Advisory Committee
- Commissioner's Tenant Advisory Committee
- Downtown Landlord Association
 - This group was largely opposed.
- Homelessness Prevention and Intervention Board/Continuum of Care (Homelessness providers)
 - This group adopted a resolution and sent a letter in support of a ban on SOI Discrimination.

What is SOI Discrimination?

- The practice of refusing to rent to an applicant for housing because of that person's lawful form of income.

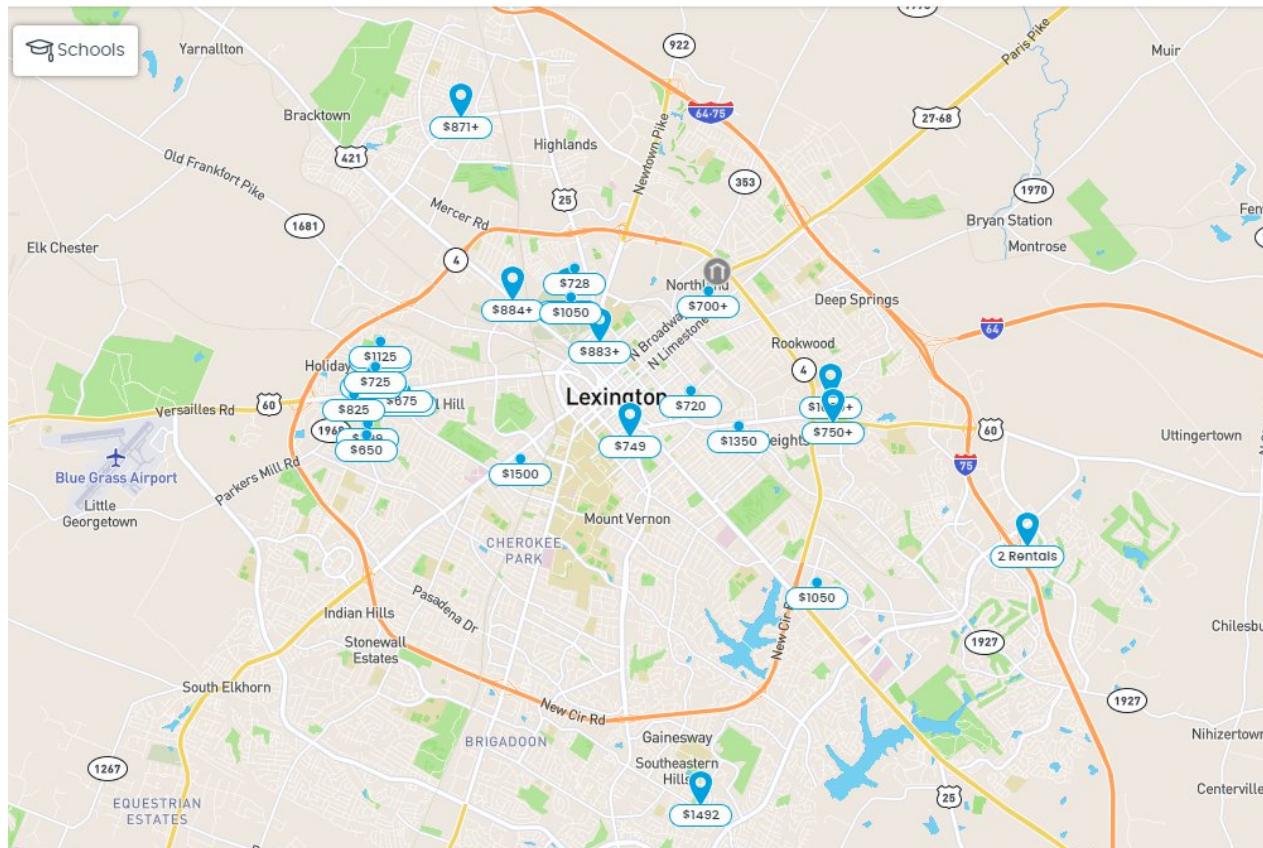
- Source of Income includes:
 - Social Security
 - Section 8 Housing Choice Vouchers
 - Other program vouchers, including VASH for veterans
 - Child Support
 - Alimony

What is the impact?

- Households attempting to rent a unit in Lexington have their pool of available options significantly restricted.
- Housing searches take longer and tenants may lose their voucher or other assistance. They become or remain homeless.
- Quality and size of available units is limited.
- Location of units is limited.

What is the impact?

- Map below from the web site the Lexington Housing Authority refers to for those seeking units. Searched on 9/27/2023.





True Stories

“We’ve had multiple clients that have lost or had to re-apply for a mainstream voucher multiple times because it expired while they were trying to find an acceptable unit and clients that have voluntarily given up their voucher and chosen to stay with family or friends because they were unable to find affordable independent housing.”

- New Beginnings Bluegrass



What is the impact?

- According to data from the Lexington Housing Authority, their voucher program has a high utilization rate, considered successful by HUD:
 - Moving To Work Vouchers – 99.8%
 - VASH Tenant Based (Veterans) – 84%
 - VASH PBV (Veterans) – 94%
 - Emergency Housing Vouchers – 96%
 - Mainstream Vouchers – 97%
 - Foster Youth Initiative – 90%
 - Family Unification Program (FUP) – 79% (recently funded for this grant)
 - Continuum of Care (homeless) – 83%
 - Supportive Housing Grant (homeless) – 100% leased
- It takes an average of 36 days from issuance of the voucher to lease up.
- From 1/1/2023 through 7/1/2023 – 215 new vouchers were issued and 18% were returned unused.
- Nonprofit partners have struggled to spend LFUCG’s HUD ESG funding for Rapid Rehousing because so few landlords will accept the program funds as payment.

What is the impact?

- Most significant impact is on vulnerable populations such as those exiting homelessness.
- Continuum of Care data show average length of time between program enrollment and housing move in exceeds 100 days.
- People live on the streets or in shelter with a housing voucher in their hand.



What is the impact?

- Very few rental listings that accept these vouchers, traditionally referred to as Section 8.
- On September 15, of 557 rental listings, 534 said no vouchers or “Section 8” accepted. That’s only 4% of units and those are just the ones that publish they don’t accept Section 8.
 - 1 bedroom: 164 listings - 10 accept Section 8, 154 don’t.
 - 2 bedrooms: 167 listings - 6 accept Section 8, 161 don’t.
 - 3 bedrooms: 149 listings - 6 accept Section 8, 143 don’t.
 - 4 bedrooms: 77 listings - 1 accepts Section 8, 76 don’t.



Solution

- State and local governments are able to adopt legislation which prohibits housing discrimination based on source of income.
- The effect is to require that all landlords accept these legal forms of payment from any otherwise eligible applicant.
- 21 states and 119 cities/counties, including Louisville and Cincinnati, have some form of law addressing source of income discrimination (Poverty & Race Research Action Council, August 2022).



Who is impacted? - TENANTS

- Households with low- and moderate-incomes are most likely to utilize a housing voucher or other form of income not accepted by many landlords.
- These households are disproportionately comprised of minority populations.
- In Lexington, 76% of Section 8 Housing Choice Vouchers are held by black households.
- Doesn't mean landlords are intentionally discriminating based on race but the demographics yield that indirectly.



Who is impacted? - TENANTS

- Less risk they'll lose the voucher because they can't find a unit in the allotted time.
- Improved access to neighborhoods with resources – transportation, schools, groceries, etc.

Who is impacted? - LANDLORDS

- Applies to properties within the maximum allowable rents for the third-party voucher.
- Fair Market Rents – used as max for most programs – as of September 2023:
 - 3BR - \$1,599
 - 2BR - \$1,177
 - 1BR - \$983
- Properties with rents higher than the voucher limits would not be impacted. *Landlords do not have to lower rent to the voucher amount.*



Who is impacted? - LANDLORDS

- Could not advertise “No Section 8.”
- Must include value of the voucher in calculation of household income for purposes of eligibility.
- Must participate in the inspection process for a voucher, HOWEVER:
 - **Not required** to repair items that fail inspection if they wouldn't have repaired them for another renter.
 - **Not required** to wait unreasonable amounts of time – OK to tell a prospective renter the program is taking too long but must attempt.

True Stories

“We’ve also had clients come to us for help finding new housing because the apartment they’ve lived in for years decided to no longer accept vouchers/work with programs and they’ve been given 30-days notice to move. Even with our CoC program, which can lease the unit in the company’s name, pay full rent, double security deposit, and pay for any damages, we cannot find properties willing to work with the program.”

- New Beginnings Bluegrass



Option

- Add language to Lexington’s Fairness Ordinance which extends a ban on Source of Income Discrimination.
- Include language requiring the value of the voucher be included in the household’s income calculation for purposes of eligibility to rent.

“This policy shall also extend to discrimination in housing on the basis of lawful source of income as evidenced by the refusal to consider any lawful source of income in the same manner as ordinary wage income.”

“may include lawful income paid to or on behalf of a renter or buyer including, but not limited to, income derived from wages, salaries, or other compensation for employment, court-ordered payments, income derived from social security, grants, pensions, or any form of federal, state, or local public assistance and/or housing assistance, including section 8 vouchers, and any other forms of lawful income. “Lawful source of income” does not include income derived in an illegal manner.”



Mythbusting

- A ban on source of income discrimination does not:
 - Prevent landlords from using credit history, eviction history, criminal history, or any other “commercially reasonable and nondiscriminatory” practice in making a rental decision.
 - Require landlords to make repairs or alterations to units if their unit does not pass inspection for acceptance into the Section 8 or any other assistance program.
 - Change or restrict any landlord rights to enforce compliance with a written lease agreement once executed.

Mythbusting

- Accepting vouchers does not force landlords to hold units vacant for unreasonable amounts of time.
 - The Lexington Housing Authority reports that landlords can be set up on the same day they receive the Direct Deposit and W-9 form.
 - Requests for tenant approval are processed same day or the next day depending on time received.
 - Inspections are scheduled and conducted within 3 business days.
 - The contract is entered into the LHA system within 2 days of the unit passing inspection.
 - Payments are processed on the first business day of each month and again at mid-month.



Effects

- Studies have found these ordinances do produce more available units for people with non-standard income sources, however, they are not a panacea.
- Also makes units available in areas where they may not previously have been, near high-performing schools, jobs, and transportation.
- Reduce the amount of time it takes someone with a voucher or other income source to find a unit – often they are homeless or marginally housed while searching.
- Does not solve every challenge – tenants with poor credit history, eviction history, ex-offenders, etc., will still face barriers.

Question

- Won't landlords just raise the rents above the amount allowed for a typical voucher?
 - This hasn't happened in other communities.
 - Rent is driven by the market. The free market allows landlords to price their own monthly rents they will accept for their property.
 - They can already do this now – landlords do sometimes set rents just above Lexington's Fair Market Rent rates which makes properties ineligible for certain vouchers.

Question

- Louisville passed a more restrictive ordinance in November 2020 – Average Rent was **\$891/mo**
- Protections took effect in Louisville March 2021 – Average Rent was **\$895/mo**
- The following month, April 2021, Louisville rents were averaging **\$904/mo**

The ordinance had no measurable impact on rents in Louisville. Lexington rents increased by more during that same time period.

Enforcement & Education

- Enforcement
 - Enforcement would be delegated to the Human Rights Commission.
 - Little or no enforcement for the first year – education only.
 - Louisville experienced only a handful of actionable complaints.
- Education
 - Lexington Fair Housing Council has agreed to work with landlord groups to provide education on compliance.
 - Lexington Housing Authority can work with new landlords on the process for accepting vouchers.
 - HACD and the Housing Advocate positions will assist with education along with Community & Resident Services.

Questions?

