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A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.



***FAIR HOUSING:
IT'S THE LAW!***

Fair Housing Tip of the Month

Tip #10 – Housing Discrimination Based on Source of Income

TENANT: “I am homeless in Los Angeles, but I recently obtained a Section 8 voucher so I will be able to afford an apartment. However, when I call landlords about their apartment listings, some say they don’t take Section 8. My friend has a different type of housing subsidy – I think it’s from a local non-profit agency – and landlords are refusing to accept the local subsidy as well. Is this legal? Can landlords refuse to accept Section 8 or other housing subsidies?”

The law says: No, as of January 1, 2020, housing subsidies are now a protected source of income under California’s Fair Employment and Housing Act (FEHA). This means it is illegal for landlords in California to discriminate against prospective or current tenants because they use federal, state or local housing subsidies to assist with paying rent. Examples of discrimination include advertising or stating a preference for non-subsidized tenants, refusing an application from a prospective tenant with a housing subsidy, or terminating a tenancy because the tenant is using or plans to use a Section 8 voucher or other housing subsidy.

California landlords are not required to accept every applicant with a housing subsidy, but applicants with housing subsidies can’t be treated differently or be subject to different requirements than unassisted applicants. If a housing provider uses an income standard, such as requiring prospective tenants to have income that is two- or three-times the rent, the housing provider can only consider whether the applicant meets the income standard as to the *tenant’s portion* of the rent, not the entire contract rent on the unit. For example, if a prospective tenant with a Section 8 voucher receives \$943 per month in Supplemental Security Income (SSI), and their portion of the rent would be \$282, that tenant would meet an income standard requiring that their income be two- or three-times the rent. A landlord who uses an income standard not based solely on the tenant’s portion of the rent is engaging in unlawful discrimination in violation of FEHA.

While California law protects tenants from source of income discrimination, the federal Fair Housing Act (FHA) does not. However, discrimination against people with housing vouchers and other subsidies might violate the FHA if it has a disparate impact on a federally-protected class of people. For example, if refusal to rent to people with Section 8 vouchers disproportionately excludes people of a certain race from housing, that practice could violate federal fair housing law.

What to do: If a housing provider rejects a prospective tenant because they have a housing subsidy, or otherwise engages in discrimination based on a source of income, that individual can file a complaint with the California Department of Fair Employment and Housing (DFEH). Although source of income is not a protected category under the federal FHA, if a housing provider’s facially neutral policy in rejecting tenants with housing vouchers has a disparate impact on a federally protected class (e.g., race, color, familial status, disability), then the practice may be a violation of the FHA, and an impacted individual could file a complaint with the U.S. Department of Housing and Urban Development (HUD).

NOTE: Other states with “source of income” discrimination protection for Section 8 Housing Choice Voucher holders include Connecticut, District of Columbia, Maine, Massachusetts, New Jersey, New York, North Dakota, Oklahoma, Oregon, Utah, Vermont and Washington.

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.

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