

“Source of Income” Discrimination in Housing

- OHR Guidance No. 16-01 -



Purpose

The purpose of this issuance is to focus on “source of income” discrimination and provide clarifying guidance on how OHR analyzes this particular type of housing discrimination. Housing discrimination is prohibited under the DC Human Rights Act of 1977 (HRA), as amended, as well as under the federal Fair Housing Act (FHA). The Office of Human Rights (OHR) investigates claims under both the HRA and the FHA.

Under the HRA, the following are prohibited bases of discrimination under housing:

- Race
- Color
- Religion
- National Origin
- Sex
- Age
- Marital status
- Personal appearance
- Sexual orientation
- Gender identity or expression
- Family responsibilities
- Political affiliation
- Disability
- Matriculation
- Familial status
- Source of income
- Place of residence or business
- Status as a victim of an intra-family offense

-Legal Authority: D.C. Code § 2-1401.01 et seq.-

What does the law prohibit?

It is an unlawful discriminatory practice to deny, directly or indirectly, any individuals the full and equal enjoyment of housing, including the rental of a dwelling, services, facilities, and privileges, based on the source of income of the individual.

Source of Income Definition

HRA defines source of income as “the point, the cause, or the form of the origination, or transmittal of gains of property accruing to a person in a stated period of time; including, but not limited to, money and property secured from any occupation, profession or activity, from any contract, agreement or settlement, from federal payments, court-ordered payments, from payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist.”

OHR interprets this definition to include monetary assistance provided to an owner of a housing accommodation either directly or through a tenant. Discrimination based on one’s “source of income” can include, but is not limited to:

- Payments from federal and local programs
- Short- and long-term rental subsidies
- Housing choice vouchers (Section 8)
- Emergency assistance payments
- Social Security Supplemental Security Income (SSI)
- Unemployment insurance payments
- Alimony
- Veteran’s benefits
- Disability benefits payments

Examples of federal and local subsidy programs include, but are not limited to the following:

- Housing Choice Vouchers
- Rapid Re-Housing
- Emergency Rental Assistance
- Permanent Supportive Housing
- Tenant-Based Rental Assistance under Housing Opportunities for Persons with HIV/AIDS (HOPWA)
- Short-Term Rent, Mortgage, and Utility (STRMU)
- Veterans Affairs Supportive Housing (VASH)
- Shelter Plus Care

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Examples of Source of Income Discrimination

The following examples are provided as interpretation guidance only. OHR evaluates each case on its own merit.

EXAMPLE A

A building owner or representative (such as a property manager or superintendent) refuses to accept Housing Choice Voucher (Section 8) funds toward the tenants' rent payments.

An applicant calls a housing provider to inquire about the availability of a two-bedroom unit. The housing provider states that the unit is still available and the rent is \$1,700. The applicant asks does the housing provider accept Housing Choice Vouchers. The housing provider asks a number of questions. Eventually, the housing provider tells the potential applicant that they don't "use" housing choice vouchers.

This type of refusal may be a source of income violation under the Human Rights Act because the housing provider has refused to consider the applicant's housing voucher.

Examples of inquiries/comments that may be evidence of discrimination include:

- "We don't take people on SSI."
- "Two years steady employment required."
- "Each roommate has to make three times the rent."
- "I've found that people on Section 8 don't fit in well here."
- "We don't give home loans unless you are employed full-time."
- "Even if you have a Housing Choice Voucher (Section 8), you must make three times the full rent."
- "Don't bother applying if you don't have a job."

Other policies or practices which may constitute source of income discrimination:

- Denying a rental application because of the applicants' partner's or family member's lawful source of income;
- Asking whether the applicant is receiving any government assistance or Social Security and then denying the application;
- Advertising apartments with the phrase "No Programs" or "No Section 8" included;
- Stating that the HRA doesn't apply to rent-controlled units [even though you were living there when the law went into effect];
- Stating that the HRA only applies to new Section 8 voucher holders – not to existing tenants with vouchers.

Best Practices

Housing providers have a right to set financial and credit qualifications, a process that provides some assurance that the applicant will be a good tenant. Qualifications and inquiries must be applied equally to all applicants and must not be influenced by race, national origin, sex, source of income or other protected factors. Whatever qualifying screening criteria a landlord uses, he or she should apply them equally to all applicants.

When the landlord, broker, or owner screens a tenant during the application process, the landlord should carefully distinguish between legitimate questions about a tenant and discriminatory ones that violate fair housing law.

The Human Rights Law generally prohibits housing providers from asking direct or indirect questions that may reveal a person's protected class. However, inquiries designed to qualify a person for housing are permissible.

Resources

- Visit OHR's website for information regarding housing and for training on housing discrimination: <http://ohr.dc.gov/fairhousing>
- Watch OHR's webinar "Equal and Inclusive Housing: Knowledge for Stakeholders" here: <http://ohr.dc.gov/fairhousing/webinar>
- Call OHR at 202-727-4559. Emails and phone messages will be responded to within 24 hours of receipt during normal hours of operation, 8:30 AM to 5:00 PM, Monday through Friday, and on all non-Federal holidays.