



Memorandum

Date: July 12, 2021

To: Louisville/Jefferson County Landlords and Rental Property Managers

From: JD Carey, Executive Director of the Louisville Apartment Association
Art Crosby, Executive Director of the Lexington Fair Housing Council

Re: Lawful Source of Income Protections Under Lou. Metro Am. Ord. No. 146-2020

Effective March 2021, the Louisville Metro Council amended its ordinance on discriminatory practices to make it a violation to deny housing opportunities to an applicant based on his or her participation in the Housing Choice Voucher ("HCV") Program (sometimes called "Section 8"). Since then, there has been some confusion with information disseminated in regard to qualifying a potential tenant who has a Housing Choice Voucher. With this Memorandum, the Apartment Association hopes to resolve any confusion.

Landlords unfamiliar with the HCV program may unwittingly use rent-to-income ratio requirements in an incorrect manner. Market tenants can use up to 100 percent of their income to pay a landlord's rent. Under the HCV program rules, however, most HCV households generally pay at least 30% of adjusted monthly income, (see 24 CRF 982.1). Minimum income requirements for rental properties are common but are often incorrectly applied for voucher holders. Landlords often require that applicants make three times the amount of monthly rent. For an applicant using a voucher, this requirement should only be applied to their portion of rent not covered by the voucher. In order to calculate the rent-to-income ratio of a prospective HCV tenant, a landlord should only consider the portion of the rent that the HCV applicant would actually be solely responsible to pay.

For example, if a unit's total monthly rent is \$1,000 (This would include rent and utilities paid by the tenant) and the tenant is responsible for paying \$200, the housing voucher covers the remaining balance: \$800. Therefore, a legal income requirement would be three times the tenant's portion of rent, \$200 X 3, which is \$600 per month or \$7,200 per year. The landlord may

only require that the tenant make \$600 per month. If the landlord were to instead say that the applicant's income must be three times the total rent, or \$3,000 per month, that would be discriminatory. This is because such an income requirement would likely disqualify many, if not all, voucher holders applying since individuals only qualify for vouchers if they make less than a certain income amount.

If a landlord determines the rent-to-income ratio, which is based on the amount of rent the applicant is responsible to pay, does not meet their requirements they should proceed with following:

- Do not deny the applicant based on income.
- Advise the applicant that further review is necessary based on their rent-to-income ratio.
- Refer them back to their case worker to determine eligibility.

A landlord or property manager may not refuse to rent to a tenant just because the tenant is an HCV holder. To avoid unlawful discrimination against HCV holders, landlords and property managers should not:

- Advertise that they are not renting to HCV or Section 8 tenants. It is illegal to discriminate against a potential lessee based on his or her source of income.
- Refuse to process a prospective renter's application because he or she has a voucher.
- Treat voucher holders less favorably than other potential tenants by inflating rents or screening such applicants more stringently.

The Lou. Metro Am. Ord. No. 146-2020 does not require landlords or property managers to rent to a tenant just because he or she is an HCV holder. Landlords and property managers should:

- Screen voucher holders as they would any other prospective tenant, using the same, neutral criteria.
- Document the selection criteria they use to screen rental applicants so that if they are ever accused by a prospective tenant of discriminating against voucher holders, they will be able to show that they use the same standards for all applicants.