



INFORMATIONAL MEMORANDUM

TO: Community Development and Neighborhoods Committee

FROM: Laurel Humphrey, Council Analyst

CC: Mayor Ekberg

DATE: February 17, 2017

SUBJECT: An Ordinance Prohibiting Source of Income Discrimination in Rental Housing

ISSUE

Source of Income Discrimination (SOID) Legislation is a mechanism used by many cities and states to prevent landlords from denying tenancy to renters based solely on the fact that their income includes government housing subsidies e.g., Section 8 and HUD-VASH (Veterans Affairs Supportive Housing) vouchers. The 2016 Community Affairs and Parks Committee was briefed on SOID legislation and gave staff direction to return in 2017 with a proposal for further consideration. House Bill 1633, currently in play in the State Legislature, would ban source of income discrimination on a state level.

DISCUSSION

In Tukwila, the average asking rent for 800 sf has increased 14% since 2015, 41% since 2007, and the current rental occupancy rate is 96.7%. (Source: CoStar) Incomes have not kept pace with this increasingly competitive housing market, and families or individuals receiving housing subsidies are subject to discrimination by landlords. While the Fair Housing Act prohibits discrimination based on race, national origin, religion, etc., it is legal for a landlord to discriminate against type of income unless specifically prohibited by a jurisdiction. Some cities are responding by enacting laws to prevent this discrimination and thereby helping to decrease barriers to housing access for vulnerable residents.

Washington agencies that have enacted SOID legislation include King County, Renton, Redmond, Kirkland, Tumwater, Bellevue, Seattle, Vancouver, and Kent. Seattle, Vancouver, and Kent's ordinances prohibit discrimination on the basis of all types of housing assistance while the others in the list are targeted only to Section 8 vouchers. The City of Renton enacted emergency legislation on November 7, 2016 in response to actions taken by certain landlords who gave notice to all Section 8 tenants that their leases would not be renewed. The eviction notices in question were rescinded or extended due in part to the swift response by the City. The 2016 Community Affairs and Parks Committee gave direction to develop an ordinance with an expanded definition of income to include other types of assistance beyond Section 8.

If a City implements SOID legislation, a landlord may still use legal and fair screening criteria on applicants, and can still reject tenants who do not have enough income to meet the rental payment or who have a negative rental history. In addition, the 2016 Washington State Legislature directed the Department of Commerce to develop a mitigation program to provide financial assistance to landlords who have had units damaged by tenants who use Section 8 vouchers. However, this program is only available in jurisdictions that have adopted SOID legislation.

The attached draft ordinance proposes a new chapter in the Tukwila Municipal Code entitled "Fair Housing Regulations." The chapter title is purposely broad so that future housing related regulations could be added under this section if directed by Council. The draft defines "source of income" to include legally-derived income from social security, supplemental security, retirement programs, or federal, state, local or nonprofit administered benefit or subsidy programs. It establishes exceptions, gives enforcement authority to the Department of Planning and Development, and sets civil penalties for violations. It is important to consider impact to the Code Enforcement staff's workload in light of the recent significant expansion of pest control requirements along with other competing priorities.

RECOMMENDATION

The City of Tukwila's Strategic Plan includes a goal of "A solid foundation for all Tukwila residents." One of the adopted budget priorities for 2017-2018 is to "encourage healthy, safe and affordable housing." Adoption of this ordinance would provide another tool to combat housing instability in Tukwila. Staff is seeking Committee review of the draft ordinance with a recommendation to the March 27, 2017 Committee of the Whole for further discussion. If approved by the Committee of the Whole, the final proposed ordinance will be presented at the April 3, 2017 Regular Meeting for possible action.

ATTACHMENTS

- Draft ordinance
- Housing Development Consortium Local Policy Toolkit – SOID excerpt
- Washington Low Income Housing Alliance Policy Information Page

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ESTABLISHING REGULATIONS PROHIBITING RESIDENTIAL RENTAL DISCRIMINATION, TO BE CODIFIED AT TUKWILA MUNICIPAL CODE CHAPTER 8.47; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Tukwila and all communities in King County are experiencing an unprecedented demand for rental housing units; and

WHEREAS, there are government programs that assist families, the elderly, veterans and people with disabilities through financial subsidies that allow them to afford decent and safe housing in the private market; and

WHEREAS, a significant number of people have difficulty securing adequate rental housing without such financial assistance, and it is essential to ensure housing is available to those families and individuals; and

WHEREAS, it has come to the City Council's attention that in a housing market such as King County's, families and individuals using rental subsidies are subject to denial of housing; and

WHEREAS, when people lose their homes as a result of income-source-based discrimination, there is an increased risk of homelessness, and children can experience disruptions to education and social development; and

WHEREAS, practices of discrimination on the basis of participation in housing subsidy programs are a matter of local concern and contrary to the public welfare, health, peace and safety of Tukwila residents;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Regulations Established. Tukwila Municipal Code Chapter 8.47, “Fair Housing Regulations,” is hereby established to read as follows:

**CHAPTER 8.47
FAIR HOUSING REGULATIONS**

Sections:

8.47.010	Source of Income Discrimination Prohibited
8.47.020	Definitions
8.47.030	Applicability
8.47.040	Exceptions
8.47.050	Enforcement
8.47.060	Penalties

Section 2. Regulations Established. TMC Section 8.47.010, “Source of Income Discrimination Prohibited,” is hereby established to read as follows:

8.47.010 Source of Income Discrimination Prohibited

No property owner, property manager, landlord or agent who rents or leases rental units may refuse to rent or lease a rental unit to any tenant or prospective tenant, or otherwise discriminate or retaliate against that person, solely on the basis that the person proposes to pay a portion of the rent from a source of income as defined in this chapter.

Section 3. Regulations Established. TMC Section 8.47.020, “Definitions,” is hereby established to read as follows:

8.47.020 Definitions

For purposes of this chapter, the following words or phrases shall have the meaning prescribed as follows:

1. “Source of income” includes legally-derived income from social security; supplemental security income; other retirement programs; or any federal, state, local, or nonprofit administered benefit or subsidy programs, including housing assistance, public assistance and general assistance programs.

2. Other terms used in this chapter shall be defined as set forth in Tukwila Municipal Code Chapter 5.06, “Residential Rental Business License and Inspection Program.”

Section 4. Regulations Established. TMC Section 8.47.030, “Applicability,” is hereby established to read as follows:

8.47.030 Applicability

Nothing in this chapter will apply if the rental unit does not qualify for participation in the tenant’s “source of income” program, although any property owner or manager that refuses to rent a rental unit to a person on this basis must notify that person in writing of the reasons why the rental unit is ineligible. Refusal to allow a health and safety inspection of the

property by a public housing authority shall not be considered a legitimate basis for refusing to rent due to program ineligibility.

Section 5. Regulations Established. TMC Section 8.47.040, "Exceptions," is hereby established to read as follows:

8.47.040 Exceptions

Nothing in this chapter shall:

1. Apply if the tenant's source of income is pre-scheduled to terminate during the term of the initial lease;
2. Apply to the renting, subrenting, leasing or subleasing of a portion of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home or abode therein;
3. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the rental or occupancy of dwellings it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on the basis of race, color, national origin or other illegal discriminatory basis;
4. Be construed to prohibit treating people with a disability more favorably than people who do not have a disability; or
5. Be construed to protect criminal conduct or prohibit any person from limiting the rental or occupancy of a dwelling based on the use of force, threats, or violent behavior by an occupant or prospective occupant.

Section 6. Regulations Established. TMC Section 8.47.050, "Enforcement," is hereby established to read as follows:

8.47.050 Enforcement

The provisions of TMC Section 8.45.050 shall be adopted by reference herein, and shall apply to violations of this chapter.

Section 7. Regulations Established. TMC Section 8.47.060, "Penalties," is hereby established to read as follows:

8.47.060 Penalties

A. Any person violating or failing to comply with the provisions of this chapter may be issued a civil infraction citation pursuant to TMC Section 8.45.050.C. Each civil infraction shall carry with it a monetary penalty of \$1,000 for the first violation, and \$2,500 for the second violation by the same person within a two-year period.

B. Any order imposing a civil penalty pursuant to TMC Section 8.47.060.A. shall summarize the factual and legal basis for the violation and notify the recipient of the right to appeal the penalty pursuant to TMC Section 8.45.090.

Section 8. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 9. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 10. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

Source of Income Discrimination Protection (SOID)

Description

In a competitive housing market, Section 8 voucher holders and people whose primary income comes from public assistance often face discrimination in the private market, making it difficult for them to access housing. Source of Income Discrimination (SOID) disproportionately affects African Americans, who make up the majority of Section 8 voucher recipients in Washington State, as well as people with disabilities, veterans, and elderly people. Under the [Fair Housing Act](#) and the [Washington Law Against Discrimination](#), it is already illegal for landlords to discriminate based on gender, race, ethnicity, religion, familial status and other characteristics. Local and state legislation to prevent discrimination based on source of income can decrease barriers to accessing housing.

Tool Highlights
✓ Expands anti-discrimination laws
✓ Increases access to housing for vulnerable and very low income residents
✓ Increases success of public benefit programs
✓ <i>Target Population: 50% AMI & Below</i>
<i>HDC Recommended Tool</i>

Benefits

This policy ensures that people already facing high barriers to housing are not discriminated against and have access to available housing that they can afford. A 2001 study showed that Section 8 voucher holders experiences higher success rates in areas with SOID Protection legislation in place.⁴¹ Without SOID protection, many public benefit programs cannot achieve their goals of stabilizing individuals and preventing homelessness.

Considerations for Implementation

This policy is relatively easy to enact from a technical perspective. However, the policy will likely face significant political opposition from the property owner and management community. When implementing, it is important to consider how that ordinance will be enforced and what consequences landlords may face if they violate the ordinance. Advocates in Washington State have been working for many years to pass SOID legislation at the state level.

Application:

Redmond: After one of Redmond's large property owners, a national company called Archstone, terminated tenancies of all their Section 8 voucher holders throughout the country, the [Tenants Union](#) and the [Northwest Justice Project](#) started organizing to fight for the tenants who lost housing. Archstone responded to the public pressure and reinstated the residents, however only three of the residents returned to Archstone housing, one after temporarily being homeless. After this incident, Redmond City Council recognized the importance of protecting residents in their city against source of income

⁴¹ Meryl Finkel and Larry Buron, "Study on Section 8 Voucher Success Rates: Volume I Quantitative Study of Success Rates In Metropolitan Areas," Abt Associates, Cambridge, MA, 2001, <http://www.huduser.gov/publications/pdf/sec8success.pdf>.

discrimination. In February 2012, Redmond City Council went on to pass [Ordinance 2645](#) which bans discrimination against Section 8 voucher holders.

Other cities in Washington State with SOID protection:

- Bellevue
- Kirkland
- Redmond
- Unincorporated King County
- Seattle
- Vancouver

Resources

- Galvez, Martha. [What do We Know About Housing Choice Voucher Program Location Outcomes: A Review of Recent Literature](#). What Works Collaborative. Aug. 2010.
- Finkel, Meryl, and Larry Buron. "Study on Section 8 Voucher Success Rates: Volume I Quantitative Study of Success Rates In Metropolitan Areas." Cambridge, MA: Abt Associates. 2001.
- Poverty & Race Research Action Council. [Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, APPENDIX B: State, Local, and Federal Laws Barring Source-of-Income Discrimination](#). Updated March 2015.
- Washington Low Income Housing Alliance. "[Provide Choice & Mobility for Renters: Outlaw Discrimination](#)." Jan. 23, 2015.
- Tenants Union of Washington State. "[Source of Income Discrimination](#)." Accessed Sept. 9, 2015.

Provide Choice & Mobility for Renters: Outlaw Discrimination

Landlords shouldn't be allowed to discriminate against renters who pay with housing subsidies.

Track our advocacy on these issues on Twitter using this hashtag: #SOID2015

This discrimination prevents economic & housing mobility.

When landlords refuse to rent to housing subsidy holders, this decreases choices for tenants on public assistance & dashes their hopes of escaping low-opportunity neighborhoods. This practice also clusters low-income communities, making it difficult for them to break cycles of poverty.

These laws work.

Martha Galvez's 2011 study, "Defining Choice in the Housing Choice Voucher Program..." found that households on public assistance were unevenly distributed in a manner similar to black residential segregation. **Also average neighborhood poverty rates for voucher holders were lower in areas with source of income discrimination laws in place.**

Spotlight on Clark County

"Something like 300 households in Clark County, including 90 families with children, qualified for private-market rental vouchers in the year after the new Housing Solutions Center opened its doors in March 2013 — but then couldn't find a landlord who'd accept them."

Housing Solutions Center in Vancouver found that "...even with vouchers in hand, only 56 percent of households found a landlord willing to rent to them."

The Columbian, July 27, 2014

Cities & municipalities across Washington already protect these vulnerable tenants.

- Bellevue
- Kirkland
- Redmond
- King County
- Seattle

Including these states:

California, Connecticut, District of Columbia, Maine, Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, and Wisconsin.

Updated 1/23/2015

How you pay for your home shouldn't prevent you from having one.

In a home search, many vulnerable individuals and families face discrimination by landlords unwilling to rent to Housing Choice (Section 8) voucher holders. Also, seniors, veterans, and people with disabilities receiving other legal sources of income (e.g. government and nonprofit subsidies) face similar discrimination.

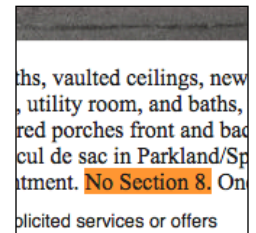
Already, several municipalities in Washington and many states have adopted laws prohibiting housing discrimination based on source of income (see sidebar). These protections are crucial to maximizing a family's ability to secure a safe and healthy home when paying with a housing subsidy or other legal sources of income other than those from current employment.

Discriminating against tenants who pay with a subsidy further harms already vulnerable people.

In most of Washington, landlords can and often do refuse to rent to people with Section 8 vouchers. Whatever their reasons, this ultimately results in huge disparities. **Veterans, people with disabilities, & seniors on public assistance often face much longer home searches or are unable to find an appropriate home at all.**

Discriminating against tenants who pay with housing vouchers is often a cover-up for racial discrimination.

Source of income discrimination disproportionately affects African American communities. Both federal & local policies over time have led to huge racial disparities in African American communities, preventing opportunities for economic mobility and safe, healthy, affordable homes. Thus, a disproportionately high percentage of voucher recipients are African American. In many cities, discrimination against Section 8 vouchers is often a cover up for discrimination on basis of race. **This discrimination is also a loophole in the nation's fair housing law that prohibits housing discrimination based on race, national origin, religion, etc.**



Screenshot of a Craigslist ad for a rental home in Tacoma taken on 10/10/14.



The new owner of Jon and Kelly Penfold's rental home started investigating his tenants' finances. **When he discovered Jon was using a HOPWA Voucher to help pay rent, he tried to make them move out, despite Jon and Kelly always paying their rent on time.** Jon described the full kitchen as very important to maintaining his health. After continued harassment from the landlord, Jon and Kelly felt they had no choice but to move.

What is the legislative solution?

Pass legislation to prevent landlords from denying tenancy based solely on the grounds of the tenant relying on a subsidy or "public subsidy" (e.g. Housing Choice voucher, SSI, etc.) to pay all or a portion of their rent.

Landlords could still reject tenants who do not have enough income/resources to meet the monthly rental payment and could still deny tenancy on legal grounds equally applied to all applicants.