NAR Issue Summaries

Fair Housing â€“ Housing Choice Voucher Program

NAR Committee:

Fair Housing Policy Committee

What is the fundamental issue?

The Housing Choice Voucher Program (formerly known as Section 8) is a federal program that helps low-income families, people with disabilities, and the elderly afford private housing. There is no requirement under federal law that housing providers accept vouchers; however, many states and localities have added “source of income” as a prohibited basis for discrimination under their fair housing laws. This means that, in many parts of the country, refusing prospective tenants who use vouchers, or who pay rent with Social Security Disability benefits, spousal support, veterans benefits, or other lawful sources of income, may expose housing providers, including real estate professionals, to fair housing liability.

For those states or municipalities where "lawful source of income" is an additional protected category, refusing an applicant because they are using a housing choice voucher may constitute source of income discrimination. This type of discrimination could include telling applicants that vouchers are not accepted, asking whether the applicant is receiving any government assistance and then denying the application, and advertising units with phrases like “no programs” or “no section 8”. When source of income is a protected category, the housing provider may refuse a prospective tenant only if the tenant is disqualified under other screening criteria, not because the tenant is using a voucher.

I am a real estate professional. What does this mean for my business?

In states across the country, there have been numerous "sting" operations uncovering housing providers' refusal to accept vouchers.

These lawsuits illustrate that it is critical for real estate professionals to understand and comply with federal, state and local fair housing laws. Here are some best practices to consider:

- Review your state and local fair housing laws to determine if they include any additional prohibited categories, beyond the federal Fair Housing Act. Keep in mind that if your state includes source of income as a prohibited basis, you risk fair housing liability if you reject tenants because they use Housing Choice vouchers.
- If your jurisdiction has source of income as a protected class, educate yourself and your employees about your local law and the programs that prospective tenants might be using (housing choice voucher, Social Security Disability, etc.).
- Apply the same screening criteria to applicants using a voucher as to all prospective tenants. Applying more stringent screening criteria to those prospective tenants that fall within a prohibited category increases your risk of a fair housing violation allegation.
- Finally, document your decision-making process. Check out NAR’s fair housing resources here.

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NAR Policy:

NAR supports full funding for the Housing Choice Voucher program, greater flexibility for local housing authorities, and proposals to make the program easier for housing providers to participate. NAR opposes proposals to mandate housing voucher acceptance for housing providers.

Opposition Arguments:

Opponents to NAR's policy argue that housing providers should not discriminate based on a tenant's lawful source of income.

Legislative/Regulatory Status/Outlook

No actions at this time.

Current Legislation/Regulation (bill number or regulation)

No actions at this time.

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