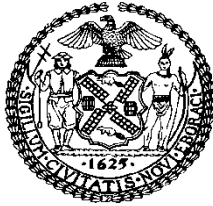


Committee on Civil and Human Rights
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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION

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COMMITTEE ON CIVIL AND HUMAN RIGHTS

Hon. Mathieu Eugene, Chair

October 29, 2020

PROPOSED INTRODUCTION NO. 2082-A: By Council Member Powers

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the prohibition against discrimination in housing accommodations based on lawful source of income

ADMINISTRATIVE CODE: Amends § 8-102; Repeals § 8-107(5)(o)

I. INTRODUCTION

On October 29, 2020, the Committee on Civil and Human Rights, chaired by Council Member Eugene, will hold a vote on Proposed Introduction Bill Number 2082-A (Int. 2082-A), in relation to the prohibition against discrimination in housing accommodations based on lawful source of income. On September 15, 2020, the Committee heard a previous version of the bill, and testimony was received from the New York City Commission on Human Rights (CCHR), advocacy groups and other stakeholders. This feedback has informed the changes to the bill.

II. BACKGROUND

In response to reports about discrimination against Section 8 voucher holders, in 2008, the Council enacted a local law adding “lawful source of income” to the New York City Human Rights Law (NYCHRL) as a protected class for prospective tenants, making it illegal to refuse to rent an apartment because someone has a housing assistance voucher.¹ The law prohibits landlords or real estate brokers with a building of six or more units to refuse to rent to current or prospective tenants who use any form of government assistance to pay their rent.² It also makes it unlawful for landlords and housing agents to publish any type of advertisements, including online or print, that indicate a refusal to accept these programs.³ Two City agencies enforce the source of income (SOI) discrimination law: the HRA SOI Unit and the City Commission on Human Rights (CCHR). Both entities conduct education and outreach, and bring enforcement actions on behalf of renters.⁴

¹ Local Law 10 of 2008 (Enacted Mar. 26, 2008) available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=445504&GUID=9169F46F-40C0-4F3D-BCF4-AE4036D9A40A>

² *Id.*

³ *Id.*

⁴ NYC Dept. of Social Services, Press Release, City Sues Landlords for Discriminating Against New Yorkers Using Rental Assistance, (June 20, 2018), available at <https://on.nyc.gov/2MdYVBI>; NYC Human Rights Commissioner, Source of Income Discrimination, available at <https://www1.nyc.gov/site/cchr/media/source-of-income.page>.

CCHR has handled SOI discrimination complaints since SOI discrimination was outlawed in New York City in 2008. Since then, they have formed a unit specifically tasked with the handling of such complaints.⁵ CCHR's SOI discrimination unit investigates and, if applicable, prosecutes real estate brokers and landlords in New York City who refuse to rent to tenants based on their lawful source of income. According to CCHR, the Commission received 493 complaints of SOI discrimination in fiscal year 2020.⁶ In 2018 and 2019, the SOI unit investigated and resolved over 350 cases of SOI discrimination in 2018 and 2019.⁷ CCHR's SOI discrimination unit filed 176 cases of source of income-based discrimination against landlords and brokers in New York City.⁸ In addition to receiving complaints, the Commission also uses a method called matched pair testing, in which two identical potential tenants apply for the same housing, with the only difference between them being that one applicant is using some form of lawful rental assistance in order to pay rent. This is meant to identify discriminatory landlords and brokers. The unit also conducts outreach and education to combat SOI discrimination. Despite increased multilingual educational outreach efforts and campaigns, there remains a lack of knowledge among those facing SOI discrimination regarding their rights and the available resources to combat such discrimination.⁹

⁵ New York City Commission on Human Rights. "Source of Income Discrimination." *New York City Commission on Human Rights*, New York City Commission on Human Rights, available at www1.nyc.gov/site/cchr/law/source-of-income.page.

⁶ NYC Commission on Human Rights, "Annual Report Fiscal Year 2020," (October 2020) at 11, available at: https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/CCHR_Annual_Report_FY20.pdf

⁷ NYC Dept. of Social Services, Press Release, City Sues Landlords for Discriminating Against New Yorkers Using Rental Assistance, (June 20, 2018), available at https://www1.nyc.gov/assets/hra/downloads/pdf/news/press_releases/2018/Income%20Discrimination%20Lawsuits%20Press%20Release%2006202018.pdf; NYC Human Rights Commissioner, Source of Income Discrimination, available at <https://www1.nyc.gov/site/cchr/media/source-of-income.page>

⁸ *Id.*

⁹ New York City Council. "Our Homelessness Crisis: A Case For Change." *New York City Council*, New York City Council, Jan. 2020, available at council.nyc.gov/data/wp-content/uploads/sites/73/2020/01/FINAL-PAPER.pdf.

The de Blasio Administration has attempted to encourage the real estate community to accept rental assistance vouchers through administrative changes and financial incentives. Brokers can earn a commission equivalent to 15% of the annual rent and landlords can receive a \$3,500 bonus for renting an apartment to a voucher recipient and one month's rent from the City to hold an apartment while the City conducts inspections to ensure the housing complies with regulations.¹⁰ However, given the prevalence of SOI discrimination reports, there is concern that dialogue around this issue needs to be more frequent and expansive.

Despite a prohibition against SOI discrimination, it continues to exist as a barrier to permanent housing.¹¹ In 2019, after consistent organizing efforts from stakeholders and advocates, the State took action to ban SOI discrimination statewide by amending the State Human Rights Law. As opposed to the City SOI law, the State SOI law covers all buildings and units, except for: rental units in two-family homes occupied by the owner; rentals in rooming houses occupied by the owner; rental of all rooms to persons of the same sex; and certain senior housing.¹² The NYCHRL is thus more limited in scope, because it does not cover properties with fewer than six units. The State also broadened the definition of “lawful source of income” to explicitly include a wider variety of types of income, such as child support, foster care subsidies and other forms of lawful income.¹³ At the Committee’s hearing on September 15, 2020, several advocacy groups testified in favor of aligning the NYCHRL with state law. This testimony directly informed changes to Int. 2082.

¹⁰ NYC Department of Social Services, CityFHEPS Frequently Asked Questions for Landlords and Brokers, available at <https://www1.nyc.gov/assets/hra/downloads/pdf/cityfheps-documents/dss-8j-e.pdf>.

¹¹ Else Olumhense, Landlords Ghost Apartment Hunters When Housing Vouchers Come Up, The City, Nov. 19, 2019) available at <https://thecity.nyc/2019/11/landlords-ghost-apartment-hunters-over-housing-vouchers.html>.

¹² NY Exec. Law § 296(5)

¹³ NY Exec. Law § 292

III. BILL ANALYSIS

Int. 2082-A

Prohibitions against discrimination in housing accommodations based on lawful source of income currently do not apply to housing accommodations comprised of five or fewer units. This bill repeals this exception, aligning the City’s Human Rights Law with recently enacted state law source of income discrimination provisions. This bill does not impact existing exceptions that apply generally to the housing accommodations law, such as the exclusion of owner-occupied, non-advertised two-unit dwellings and the rental of rooms within a housing unit.

This bill also amends the definition of “lawful source of income” to clarify that the term encompasses other types of lawful income that low-income New Yorkers may have access to, including, but not limited to, “child support, alimony, foster care subsidies, income derived from social security, or any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, whether or not such income or credit is paid or attributed directly to a landlord.” Although this list gives examples of lawful sources of income, the definition of “lawful source of income” encompasses all forms of lawful income, not only those types listed.

If passed, this bill would take effect 90 days after it becomes law.

Proposed Int. 2082-A

By Council Members Powers, Rosenthal, Kallos, Adams, Chin and the Public Advocate (Mr. Williams)

A Local Law to amend the administrative code of the city of New York, in relation to the prohibition against discrimination in housing accommodations based on lawful source of income

Be it enacted by the Council as follows:

Section 1. The definition of “lawful source of income” in section 8-102 of the administrative code of the city of New York, as added by local law 63 for the year 2018, is amended to read as follows:

Lawful source of income. The term "lawful source of income" [includes income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.] includes, but is not limited to, child support, alimony, foster care subsidies, income derived from social security, or any form of federal, state, or local public assistance or housing assistance including, but not limited to, section 8 vouchers, whether or not such income or credit is paid or attributed directly to a landlord.

§ 2. Paragraph (o) of subdivision 5 of section 8-107 of the administrative code of the city of New York is REPEALED.

§ 3. This local law takes effect 90 days after it becomes law.

NC/BAM
LS #9554
10/21/2020