

STAFF MEMORANDUM
City Council Meeting – May 3, 2021

Date: April 29, 2021

To: Matthew Greeson, City Manager

From: Ethan Charles Barnhardt, Management Assistant

Subject: Process to Develop Legislation Related to Source of Income

EXECUTIVE SUMMARY

The Management Assistant will deliver a presentation providing a brief background regarding source of income discrimination and discuss a proposed framework for public engagement and adoption of legislation.

RECOMMENDATION

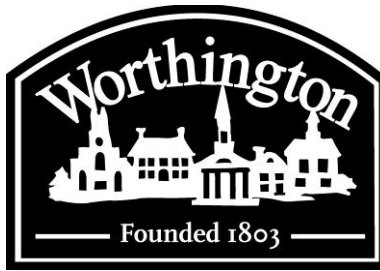
Staff requests Council input and direction on the proposed framework for community engagement and adoption of legislation.

BACKGROUND/DESCRIPTION

City Council and members of the Community Relations Commissions have expressed interest in pursuing legislation preventing source of income discrimination in Worthington. In response, staff has worked to prepare a comprehensive research memorandum along with a proposed framework for public engagement and adoption of legislation.

ATTACHMENTS

Source of Income Discrimination Background and Proposed Framework for Adoption Memorandum



MEMORANDUM

TO: Matt Greeson, City Manager

FROM: Ethan Charles Barnhardt, Management Assistant

DATE: April 29, 2021

SUBJECT: Source of Income Discrimination Background and Proposed Framework for Adoption

As a result of the 2021 Council Retreat, a variety of focused priorities were decided upon, including the preparation and adoption of Source of Income legislation. This memorandum along with the included draft ordinance are meant to provide a starting point for Council discussion, providing background information on what source of income discrimination looks like, an overview of different types of income used by renters, an examination of potential additional responsibilities for landlords as a result of restricting source of income discrimination, and a proposed timeline and framework to engage stakeholders and pass legislation. Council will need to determine what they would like this process to look like, in addition to deciding what role the Community Relations Commission engages in.

The adoption of Source of Income Legislation aligns closely with other recently adopted pieces of Council legislation including *Ordinance No. 14-2019 - To Enact New Chapter 539 "Discriminatory Practices, Civil Rights, Disclosure"* of the Codified Ordinances of the City of Worthington to Prohibit Discrimination in Housing, Employment, and Public Accommodations Based on Designated Classes, *Resolution No. 27-2020 - Resolution Recognizing the Impacts of Racism, Condemning Racism in All Forms, and Committing to Promote Racial Equity*, and *Resolution No. 09-2021 - Adopting the Vision Statements and Supporting Principles from the Vision Worthington Initiative*. Source of Income Legislation would further solidify Worthington as a community that values equality and non-discrimination and is welcoming of people from diverse backgrounds.

What Is Source of Income Discrimination?

Source of Income (SOI) discrimination is the practice of landlords, owners, and real estate brokers to refuse to rent to prospective tenants seeking to pay for housing costs with lawful income other

than job wages. SOI discrimination affects a broad demographic of individuals and families, but disproportionately affects renters of color, women, and persons with disabilities, and is more prevalent in areas with higher rents, quality schools, transportation services, and jobs.

This type of discrimination essentially prohibits individuals from having access to resource-rich neighborhoods where there are sparse affordable housing options. Research has indicated that there is a close connection between the neighborhood that children grow up in and their future outcomes. Families that relocate to lower-poverty neighborhoods with the help of a variety of assistance programs see improved health outcomes, higher incomes, and greater rates of college attendance.¹

Why is Source of Income Legislation Needed?

The Fair Housing Act of 1968 prohibits discrimination concerning the sale, rental, and financing of housing based on race, religion, national origin, sex, and as amended, handicap and family status. The Ohio Fair Housing Law includes ancestry and military status. Unfortunately, some landlords choose not to accept housing assistance for variety of reasons such as perceived bureaucratic red tape, misconceptions about tenants, or personal prejudices. This has prevented families from being able to move into higher-opportunity and resource rich neighborhoods.

To address this issue, states and municipalities have been passing laws that prohibit SOI discrimination. Currently, SOI laws cover at least 18 states and over 100 local municipalities, including Bexley, Columbus, Westerville, and Reynoldsburg in Franklin County. Upon examination, studies have indicated that families such as those with housing vouchers experience greater success using their vouchers in jurisdictions with SOI laws in place. A 2018 United States Department of Housing and Urban Development (**HUD**) study showed that cities without SOI protections had voucher denial rates of up to 78%, but cities with SOI protections saw denials as low as 15%.²

The recent MORPC Regional Housing Strategy (**RHS**) emphasizes that the Central Ohio area is at a critical inflection point due to the highly competitive real estate market and a persistently high poverty rate which is leading to more vulnerable groups struggling to find housing in neighborhoods of their choice.³ The report identifies five core regional housing issues that more acutely impact low-to-moderate-income households, families with children, people of color, older adults, and people living with disabilities. Within these core issues, barriers limiting access to homes due to housing discrimination and the limited supply of homes priced for low-income households are featured prominently as issues that communities are grappling with.

¹ Chetty, R., Hendren, N., & Katz, L. (2015, August). *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*.

https://scholar.harvard.edu/files/hendren/files/mtop_paper.pdf.

² U.S. Department of Housing and Urban Development. (2018). *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers*. <https://www.huduser.gov/portal/portal/sites/default/files/pdf/Landlord-Acceptance-of-Housing-Choice-Vouchers.pdf>

³ MORPC Regional Housing Strategy. Retrieved April 23, 2021, from <https://www.morpc.org/rhs/>.

The need for SOI protection laws grew out of the RHS stakeholder outreach process as a priority action step for municipalities to pursue as part of broader regional strategy to begin limiting barriers to access in housing. With more communities adopting SOI legislation, renters will have expanded housing options in more resource rich areas in Central Ohio. Since Ohio is a Home Rule state, municipalities can pass laws to govern themselves, including the passage of SOI discrimination legislation. For those jurisdictions that adopt SOI legislation, they are able to determine how to enforce the law and what options are available to victims of income discrimination. The approach for how to enforce SOI laws can be accomplished in different ways, including through the courts, or administrative actions.

Overview of Non-Wage Income Types

Prospective renters can receive income from a multitude of sources other than income from job wages including investment earnings, child/spousal support, and federal, state, or local assistance payments, benefits, or subsidy programs:

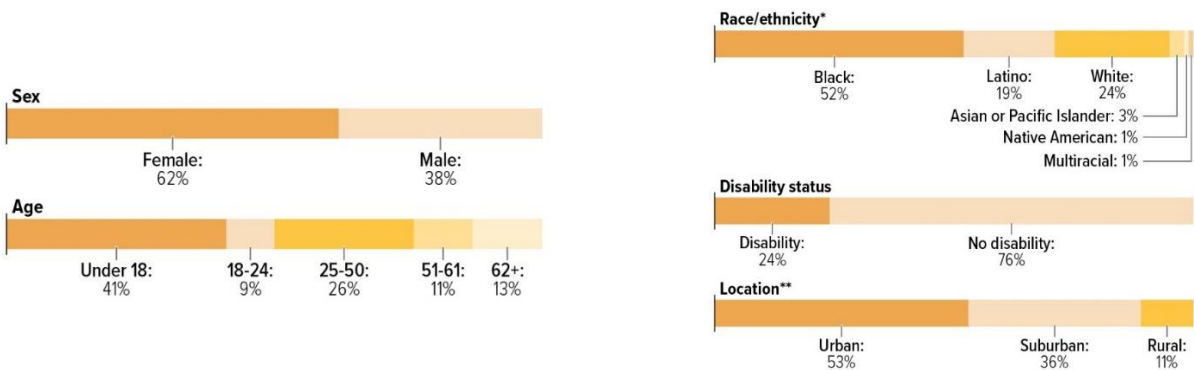
Assistance Programs

- Housing Vouchers
- Public Assistance
- Veterans’ Benefits
- Social Security Benefits
- Disability Income

Income

- Unemployment
- Retirement/Pension Payments
- Trusts
- Child Support
- Spousal Support

One of the most well-known types of housing assistance is the Housing Choice Voucher (HCV) program, sometimes referred to as Section 8. The HCV program assists more than 5 million people in 2.3 million low-income families, and aids in reducing homelessness, lifting people about the poverty line, and giving families a choice in where to live, including neighborhoods with more resources. HCV families represent a diverse demographic and 36% of HCV holders are using their vouchers in suburban areas, such as Worthington, underscoring that demand does exist.⁴



⁴ Policy basics: The housing choice voucher program. (2021, April 21). Retrieved April 23, 2021, from <https://www.cbpp.org/research/housing/the-housing-choice-voucher-program>

Individuals and families issued vouchers are then able to find their own housing, including single-family homes, townhouses, and apartments. Housing voucher holders often spend a substantial amount of time searching for a landlord willing to accept their vouchers, which can lead to them losing their voucher after typically spending years on a wait list. Due to the difficulty of finding a landlord willing to accept their voucher, and the time limitations of the vouchers, many individuals are forced to find rentals in areas that are high-poverty and racially segregated.

In response to the COVID-19 pandemic, the federal government has provided funding to a number of different housing assistance programs through the CARES ACT and the American Rescue Plan in order to support communities most affected by the impacts of the virus. Individuals who have lost their jobs or had their hours cut, are more likely to be a recipient of non-wage income from these emergency funding sources. This underscores the importance of SOI protections to protect vulnerable communities which have been disproportionately affected and are the most susceptible to the negative economic impacts of the pandemic. These programs will provide dollars over the next several years with assistance for renters to provide back and forward rent payments in order to strengthen housing stability.⁵

What Effect Will This Have on Worthington Landlords?

With the passage of SOI legislation, landlords are not mandated to accept every prospective tenant and they still have the ability to use tenant-qualification processes. SOI legislation simply mandates that denial solely based upon a client's desire to pay with a HCV or other, alternative means is prohibited. However, there are additional steps that landlords must take in order to accept HVC and other alternative means of payment.

In order for landlords to accept public assistance, such as Housing Choice Vouchers, and enjoy the benefits of doing so, there are several steps that will need to be undertaken. Typically, landlords will need to contact the local program administrator, such as the Public Housing Authority (PHA) for HCVs, and fill out the necessary paperwork, which includes personal identification, the property location, and the asking rent for the property. If the asking rent is determined to be too high compared to the Fair Market Rents (FMR) in the area, the property owner may be asked to lower the asking rent. Once an application is approved, an inspection will be scheduled in a reasonable timeframe, to ensure that the property meets housing quality standards including things such as sanitary facilities, smoke detectors, working plumbing, sound structure, and locks on each window and door. Typically, in order to remain compliant, rentals will need to be re-inspected every year.

Being a part of these public programs, landlords will benefit from a guaranteed rent payment every month. The program administrator will make a deposit to the landlord every month for the majority of the rent payment. Typically, HCV tenants pay their portion of the rent on time due to the fact that failing to live up to the lease can cost them the housing voucher that they potentially spent years on a waiting list to obtain. Additionally, the program administrator prescreens every

⁵ United State Department of Housing and Urban Development. (n.d.). *CARES Act & Other COVID-19 Response Funding Chart for Housing Counselors* [Brochure]. Author. Retrieved April 23, 2021, from <https://files.hudexchange.info/resources/documents/CARES-Act-Housing-Assistance-Funding-Chart.pdf>

applicant before approving a housing voucher, often including a criminal background check, drug testing, and verification of income, providing an extra layer of protection to the landlord. Many of these assistance programs are very popular and there are typically many tenants on a waitlist, providing a consistent pool of tenants to rent to.

Under the draft legislation, landlords who engage in potential discrimination are susceptible to the complaint procedure process outlined under Chapter 539 – Discriminatory Practices, Civil rights, Disclose of the Worthington City Code. People who believe they have been discriminated against because of a protected characteristic may file a charge with the Worthington City Clerk. Depending upon the specific nature of the allegations, the person will be referred to the Ohio Civil Rights Commission or Equal Employment Opportunity Commission or the Law Director or his designee will proceed with an investigation. If the City retains the matter, voluntary mediation is available. If mediation is not pursued or is unsuccessful, the matter will be scheduled for a hearing. If the hearing officer finds that discrimination occurred, a cease-and-desist order and/or fine may be issued.

Proposed Framework for Community Engagement and Adoption of Legislation

Below is a proposed framework and timeline for adopting Source of Income Discrimination legislation:

May 2021

- Law Director produces draft legislation amending the City’s Non-Discrimination Ordinance
- Provide draft legislation and background staff research to City Council for discussion at May Council meeting
 - Staff presentation on draft legislation.
 - Review proposed process with Council and seek input
 - City Council will need to determine the process used and the role of the CRC
 - *Option One:* CRC is directed to conduct community education, panel discussion, and surveys. Feedback from that work is then provided to Council to determine tweaks/changes to draft legislation for adoption.
 - *Option Two:* Council delegates to CRC to conduct community outreach and also provide tweaks/changes to draft legislation to then recommend to Council for adoption.

June 2021

- Staff information
 - Subpage posted on Worthington.org for information about the SOI ordinance to be housed
 - Create a FAQ sheet to be distributed on the website to answer community questions
- Landlord Survey
 - City staff will obtain rental registry from Franklin County Auditor in order to send out landlord survey to seek feedback

- Review questions from Westerville for surveys to determine what to add, remove, or alter.
- Send copy of draft legislation and research to landlords along with the survey
- Survey will include information inviting landlords to participate in the CRC education sessions.
- CRC Community Education Sessions
 - The CRC will conduct a series of virtual discussions to provide information to the community and landlords about proposed SOI ordinance and to answer any questions
 - Two Zoom conference opportunities for community to engage, potentially one during the daytime and other at nighttime to be accessible to community members
 - These sessions will provide a more in-depth discussion on the City’s draft ordinance, facilitated by CRC Chair Eddie Pauline with Law Director Tom Lindsey as the expert
- Conduct panel discussion, inviting individuals involved in affordable housing or source of income advocacy and affected interest groups. The panel will discuss commonly asked questions and issues that other communities have heard.
 - Amy Klaben – Strategic Opportunities
 - Renter Mentor – Jerry Valentine
 - Affordable Housing Alliance – Carlie Boos
 - Columbus Apartment Association
 - Columbus Metropolitan Housing Authority
 - Housing Stabilization Coalition
- Information gathered throughout the process will be analyzed, and the draft legislation will be further refined by Council and/or the CRC to be prepared for introduction.

July 2021

- Legislation is introduced at the July 7, 2021 Council meeting for a public hearing on the July 21, 2021 Council meeting
 - Opportunity for advocates to testify in support or those opposed to voice their opinions in front of Council