



Office of the City Manager

CONSENT CALENDAR
May 30, 2017

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Zach Cowan, City Attorney
Subject: Referral Response: Create an Ordinance to Prohibit Housing
Discrimination Based on the Source of a Tenant's Income; Amending
Berkeley Municipal Code Chapter 13.24.

RECOMMENDATION

Adopt first reading of an Ordinance amending Chapter 13.24 of the Berkeley Municipal Code, to prohibit discrimination in the rental of housing based on source of income.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This report responds to a Council referral that originally appeared on the Council agenda on May 31, 2016, and was sponsored by Councilmember Worthington.

BACKGROUND

The proposed amendments would explicitly prohibit discrimination in the rental of housing based on source of income. The term "source of income" is defined as encompassing rent subsidies, such as those that are at the heart of the Section 8 program. The ordinance would thus potentially make more units available for holders of Section 8 vouchers.

ENVIRONMENTAL SUSTAINABILITY

The proposed ordinance would have no identifiable effects on environmental sustainability.

RATIONALE FOR RECOMMENDATION

The proposed ordinance responds to a Council directive. See Attachment 1.

ALTERNATIVE ACTIONS CONSIDERED

N/A

CONTACT PERSON

Zach Cowan, City Attorney, (510) 981-6998

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Attachments:

- 1: May 31, 2016 Council Report
- 2: Ordinance Amending Berkeley Municipal Code Chapter 13.24 to Prohibit
Discrimination in the Provision of Rental Housing Based on Source of Income



Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170 FAX 510-981-7177 kworthington@ci.berkeley.ca.us

CONSENT CALENDAR

May 31, 2016

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: City Manager Referral: Create an Ordinance to Prohibit Housing Discrimination Based on the Source of a Tenant's Income

RECOMMENDATION

Refer to the City Manager to create an ordinance to prohibit housing discrimination based on the source of a tenant's income.

BACKGROUND

In our current housing crisis, it has been reported that certain landlords have actively denied renting units to tenants based on their source of income. At the December 1, 2015 Council Worksession, the Berkeley Housing Authority reported that only 1,676 of the possible 1,935 vouchers issued for Berkeley were utilized. Even worse, only 15 of every 100 families that receive a Section 8 voucher are successful in finding a unit they can rent in Berkeley.

Although California State law prohibits discrimination against tenants based on their source of income, a court case involving a well-known Santa Monica landlord held that Section 8 vouchers are not an income source under state law. Therefore landlords can discriminate against Section 8 voucher holders thus making a local provision necessary to prevent discrimination.

To prevent this type of discrimination, in 2015, Santa Monica passed an ordinance preventing discrimination based on the source of income to the existing list of prohibited forms of housing discrimination. Under the ordinance's civil remedies section, if discrimination is proven, a penalty can range from \$1000 to \$10,000 and injunctive relief.

For more information:

1. <https://www.smgov.net/departments/council/agendas/2015/20150505/s2015050507-A.htm>
2. <https://www.smgov.net/departments/council/agendas/2015/20150505/s2015050507-A-1.htm>

ENVIRONMENTAL SUSTAINABILITY:

There are no identifiable environmental impacts or opportunities associated with the subject of this report.

FINANCIAL IMPLICATIONS:

Staff time.

CONTACT PERSON:

Councilmember Kriss Worthington

510-981-7170

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.24 TO PROHIBIT DISCRIMINATION IN THE PROVISION OF RENTAL HOUSING BASED ON SOURCE OF INCOME

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That the Title of Chapter 13.24 of the Berkeley Municipal Code is hereby amended to read as follows:

DISCRIMINATION ~~AGAINST FAMILIES WITH CHILDREN AND STUDENTS~~ IN PROPERTY RENTAL

Section 2. That Section 13.24.010 of the Berkeley Municipal Code is amended to read as follows:

Section 13.24.010 Findings.

A. The City Council finds that discrimination against families or other living groups with minor children (hereinafter jointly "family" or "families") and students in the leasing and renting of housing accommodations exists within the City. The council further finds that the existence of such discrimination poses a substantial threat to the health and welfare of a sizeable segment of the community, namely, families with minor children and students.

B. The council finds that a shortage of housing exists within the City. The council further finds that a low vacancy rate exists in all rental housing throughout Berkeley particularly housing suitable for families and students with limited incomes. The addition of discrimination against students and against families to the above two factors further exacerbates the limited availability of rental housing to such persons.

C. The overall effect of discrimination against families is to encourage the flight of families from the City and to further diminish family-oriented neighborhoods. It has an overall detrimental effect on the composition of the City, the stability of neighborhoods, the preservation of family life within the City, the living conditions of our children, the quality of our schools, and the viability of children's activities and organizations.

D. Discrimination against students also has a detrimental effect on the composition of the City, has resulted in an increase in the number of students who are forced to find housing outside of the City and such factor contributes to an increased demand for public transportation services and competition for off-street parking within the City.

E. Discrimination against families and students falls most heavily on the poor but cuts across all racial, ethnic and economic levels.

F. Discrimination in the provision of housing based on a person's source of income, in particular discrimination against Section 8 voucher holders, significantly reduces the pool of housing that is available to persons most in need of affordable housing.

Section 3. That a new Section 13.24.035 is added to the Berkeley Municipal Code to read as follows:

Section 13.24.035 Discrimination based on source of income prohibited.

It shall be unlawful for any person offering for rent or lease, renting, leasing, or listing any housing accommodation, or any authorized agent or employee of such person, to do or attempt to do any of the following:

- A. Refuse to rent or lease a housing accommodation, or access to or use of the common areas and facilities of the housing accommodation, serve a notice of termination of tenancy, commence an unlawful detainer action, or otherwise deny to or withhold from any person or persons, a housing accommodation on the basis of source of income;
- B. Represent to any person, on the basis of source of income, parenthood, that a housing accommodation is not available for inspection or rental when such housing accommodation is in fact available for inspection or rental;
- C. Make, print, or publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a housing accommodation offered by that person that indicates any preference, limitation, or discrimination with respect to source of income; or
- D. "Source of income" includes any lawful source of income or rental assistance from any federal, State, local or non-profit-administered benefit or subsidy program including, but not limited to, the Section 8 voucher program.

Section 4. Posting.

Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.