

# SOURCE OF INCOME DISCRIMINATION A TENANT ADVOCATE'S FAQ

The NYC Human Rights Law protects tenants from discrimination in New York City based on their “lawful source of income.” “Lawful source of income” refers to Section 8, portable housing vouchers, security deposit vouchers, and all forms of public assistance.

The NYC Human Rights Law protects tenants based on many protected classes in housing, including race, national origin, gender, sexual orientation, pregnancy, and others. For a complete list, visit [NYC.gov/HumanRights](http://NYC.gov/HumanRights).

## Q1. What does Source of Income Discrimination sound like?

**A1.** Any of the following statements made by an owner, manager, or real estate agent is evidence of source of income discrimination:

- This building does not take vouchers.
- There is a ‘waitlist’ for people with vouchers or programs.
- This building only takes ‘working Section 8.’
- You can rent this apartment with a voucher, but you have to pay six (6) months of rent up front.
- **For tenants in housing:** ‘I’m not taking Section 8 for your unit. You need to move.’

## Q2. Are there exceptions to the lawful source of income portion of the NYC Human Rights Law for small landlords?

**A2.** Most buildings in New York City are covered by the portion of the NYC Human Rights Law prohibiting discrimination based on lawful source of income. There are some exceptions for smaller owners who do not own any property of six (6) or more dwelling units in New York City. Even small landlords exempt under the NYC Human Right Law may be prohibited from discriminating against you by New York State law and other applicable law. If you have questions about whether a building is exempt under the NYC Human Rights Law, call **(212) 416-0197**.

## Q3. If I have a housing voucher, can my rental application be denied because I do not earn enough income? Can I be required to find a guarantor/co-signer?

**A3.** So long as **(1)** your voucher program would approve the monthly rent for the apartment and **(2)** you have a housing voucher such as Section 8 that calculates your portion of the rent based on your income, you cannot be rejected based on insufficient income. You also cannot be required to find a guarantor or co-signer.

## Q4. What if I am permitted to apply for a rental apartment with a voucher but all applicants must have a high credit score (e.g. 700 or above)?

**A4.** If you have a housing voucher that covers 100% of the rent, you should not be rejected based on your credit. If you pay a portion of the rent out of pocket, your credit may be considered on a case-by-case basis. Requiring a minimum credit score may be a violation of the NYC Human Rights Law.

#### Q5. What if I am denied based on my past or pending housing court cases?

**A5.** If you are rejected based on your housing court history, it may be evidence of discrimination under the NYC Human Rights Law. Keep all documents from your prior housing court cases and, if you are rejected, ask the broker or owner for a letter explaining the reason as well as a copy of the background check used to reject you. (As of June 2019, state law prohibits landlords from rejecting applicants to rental housing based on pending or past landlord-tenant actions.)

#### Q6. Can I be asked to pay a large application fee or make an upfront deposit to “hold” or view an apartment?

**A6.** New York State Law caps application fees at \$20.00 or the actual cost of a background or credit check, whichever is less. If you have a housing voucher and are asked to pay upfront fees or deposits of more than \$20.00, this may be evidence of discrimination under the NYC Human Rights Law. This applies to all rental apartments, including cooperatives, condos, fair market and rent stabilized apartments.

#### Q7. Can a real estate agent or landlord prefer one voucher program over another (e.g. Section 8 but not HASA)?

**A7.** No. Accepting only some vouchers or programs still violates the NYC Human Rights Law. This is true even if certain programs require extra paperwork, pay a lower fee to the broker, or involve longer processing times.

#### Q8. What should I do to protect myself against source of income discrimination?

**A8.** When searching for an apartment, keep detailed notes of all your calls and inquiries.

- If responding to an advertisement, take a photo or screenshot of the advertisement **immediately**.
- Save all your text messages and e-mails in a safe place (not just on your phone).
- When possible, record your phone calls and conversations. (While this is permissible in New York, other states have different laws. Always consult with a lawyer if you have questions.)
- Report denials to the Commission **immediately** while the unit is still available. The Commission can call the real estate agent or landlord to enforce the NYC Human Rights Law.

#### Q9. What should I do if I’m told an apartment is no longer available and/or I stop receiving responses once I mention my housing voucher?

**A9.** Have a trusted friend who earns employment income call the agent and ask if the apartment is still available. If the real estate agent or landlord moves forward with your friend’s potential application, that is evidence of source of income discrimination. Having a recording may be helpful to your case.

#### Q10. What happens if I file a complaint against a real estate agent and/or landlord?

**A10.** If the Commission finds the real estate agent and/or the landlord violated the law, all of the following are potential remedies:

- A real estate agent or landlord may rent you the apartment or a similar apartment.
- You may seek damages for your out-of-pocket expenses and emotional suffering. Keep notes of your experiences, feelings, and expenses after you are denied housing.
- If you have a lawyer represent you in your case at the Commission, the agent and/or landlord may be responsible for paying your attorney’s fees.
- The City of New York can collect civil penalties of up to \$250,000 per willful violation, monitor the agent or landlord’s activity, and report licensed brokers & salespeople who violate the law to the New York State Licensing Division.

For more information and to find out about trainings on the NYC Human Rights Law, please visit our website at [NYC.gov/HumanRights](https://nyc.gov/HumanRights) or call (212) 416-0197.