



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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March 21, 2017

Board of Supervisors
County of Marin
3501 Civic Center Drive, Room 329
San Rafael, CA 94903

SUBJECT: Proposed Ordinance to amend Chapter 5.53 of the Marin County Code—Income-Based Rental Housing Discrimination, to eliminate an exception for owner-occupied structures.

Dear Board Members:

RECOMMENDATIONS: Consistent with the Board's prior direction, Staff recommends that your Board conducts a merit hearing and considers the adoption of an amendment to remove an owner-occupancy exception from Marin County Code Chapter 5.53—the County's Fair Housing Ordinance providing source of income protections for recipients of third-party rental assistance (Attachment 1).

SUMMARY: On March 7, 2017, your Board held a public hearing and first reading of the proposed ordinance (Attachment 3) and scheduled a merit hearing for March 21, 2017. The Fair Housing Ordinance expands housing choice for residents with a third party housing voucher including families, seniors and individuals with disabilities and veterans by requiring that housing providers consider them using the same standards as non-voucher holders. The proposed amendment to the Fair Housing Ordinance would remove an exception for owner-occupied structures with less than three dwelling units and for housing accommodations wherein an owner and tenant keep in common either a bathroom or kitchen facility (§ 5.53.010.C.1).

The elimination of this exception is intended to simplify the process for understanding and determining Ordinance applicability. Furthermore, it would support an original intent of the Ordinance to inhibit a discriminatory rental environment by preventing property owners from disseminating advertising materials expressing preference on the basis of a person's source of income.

In Marin, accessory dwelling units ("ADUs" or "second units"), junior accessory dwelling units ("JADUs" or "junior units"), and room rentals are the principal form of new housing stock that is likely to be affordable to low- and moderate-income households. In 2016, all of the units counted toward the County's RHNA allocation for the very-low-, low-, and moderate-income categories were second units. Your Board has encouraged the development of such units as a primary strategy to address the ongoing housing affordability crisis. Most often created on lots used primarily as single-family residences, such units would likely be exempt from the Fair Housing Ordinance if the exception for owner-occupied structures is maintained.

BACKGROUND: A comprehensive set of policy options to address the County's affordable housing needs was considered by your Board over the course of four public workshops and hearings that took place between October 2015 and February 2016. At the February 2016 workshop, your Board provided direction to staff as to which policy options should be prioritized (Attachment 2). A Fair Housing Ordinance to prohibit rental housing discrimination based on a tenant's source of income was identified as a priority and scheduled for consideration between October 2016 and February 2017.

Your Board implemented the Fair Housing Ordinance in a merit hearing on November 8, 2017 as a strategy to mitigate some of the substantial impediments to housing choice identified in the County's 2010 Analysis of Impediments to Fair Housing Choice (AI). Housing Choice or "section 8" vouchers are seen as a tool for promoting economic and racial/ethnic integration¹. However, the advantages of vouchers depend on the ability of voucher recipients to locate a landlord who will accept the voucher. Some landlords wish to avoid the administrative burden associated with the voucher program. Other landlords perceive voucher recipients to be undesirable tenants and/or fear their other tenants would object to voucher recipients as neighbors. A national survey conducted by the U.S. Department of Housing and Urban Development (HUD) found that the "success rate" for voucher holders, or the amount of time they were able to find suitable housing, increased by twelve percent (12%) in the parts of the country where source of income protection is in effect. The study showed that anti-discrimination laws gave voucher holders a "significantly higher probability of success" of finding a place to live.²

While the Ordinance lowers a barrier to housing opportunities, it does not prevent or hinder property owners and landlords from screening renters and retaining freedom of choice based on other factors such as total income, credit score, rental history, reference, etc. The Ordinance also allows property owners to take advantage of a suite of landlord incentives established by your Board in July 2016 by way of the allocation of \$404,000 to Marin Housing Authority's Landlord Partnership Program. The Landlord Partnership Program aims to make landlord participation in the Section 8 program more attractive, feasible, and streamlined. The program can cover a range of potential costs to provide coverage for perceived financial risks that may be associated with the Section 8 program, including a loss mitigation pool for damage or non-payment of rent that exceeds a security deposit, and vacancy loss coverage that can provide a month's rent payment during vacancy. The Landlord Partnership Program should help address landlord concerns in renting to low income voucher holders.

CONCLUSION:

The proposed amendment furthers the County's Fair Housing goals. No State or Federal law preempts the County's ability to eliminate this exemption.

FISCAL IMPACT:

None.

¹ Freeman, L. (2011). *The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes*. U.S. Department of Housing and Urban Development.

² Finkel, M., and Buron, L. (2001). *Study on Section 8 Voucher Success Rates: Volume I Quantitative Study of Success Rates in Metropolitan Areas*. U.S. Department of Housing and Urban Development.

REVIEWED BY:

- Auditor Controller
- County Counsel
- Human Resources

- N/A
- N/A
- N/A

Respectfully submitted,



Debbi La Rue
Planner



Leelee Thomas
Planning Manager

Attachments:

1. Ordinance to amend Chapter 5.53 of the Marin County Code.
2. Board approved housing policy options, February 9, 2016.
3. Staff report and attachments from the first reading, March 7, 2017.
4. Administrative record (comments received).