

LANDLORDS & PROPERTY OWNERS: KNOW THE ANTI-DISCRIMINATION LAWS ON HOUSING VOUCHERS

INTRODUCTION

Housing vouchers are an important tool to help tenants afford an apartment on the private market. They also are **good business for landlords**: the voucher agency pays part or all of the rent directly to the landlord--guaranteeing reliable rental payments.

However, Massachusetts landlords don't always know these benefits of renting to tenants with vouchers – or the requirements of the Massachusetts Anti-Discrimination law. The Fair Housing Alliance of Massachusetts (“FHAM”) has prepared this brief guide to provide landlords, property owners, and other housing providers with information to help you participate in voucher programs and comply with anti-discrimination laws.

WHAT ARE HOUSING VOUCHERS?

Housing vouchers help low- or moderate-income tenants by paying some or all of their rent. Vouchers are generally funded through federal or state programs. Housing Choice Vouchers (HCV, “Section 8”), MA Rental Voucher Program (MRVP), and Alternative Housing Voucher Program (AHVP) are all examples of housing vouchers. In addition to housing vouchers, some tenants receive help through programs like HomeBASE or RAFT that may be used to assist with rent and/or other housing-related expenses.

Tenants usually receive their voucher from a housing authority or a regional non-profit organization. These are called “administering agencies.” The tenant then looks on the private market for an apartment to rent. Landlords who rent to tenants with vouchers will have a landlord-tenant relationship with the tenant and a contractual relationship with the administering agency.

MASSACHUSETTS LAW BANS VOUCHER DISCRIMINATION

In Massachusetts, a landlord cannot simply refuse to accept housing vouchers or rental assistance. The Massachusetts Anti-Discrimination law, G.L. c. 151B, prohibits discrimination against voucher holders (and recipients of other rental or public assistance), which includes:

- Discrimination based on the receipt of a housing voucher; and

- Refusing to accept housing vouchers because of the rules of a housing voucher program.

WHAT ARE SOME EXAMPLES OF VOUCHER DISCRIMINATION?

Discrimination includes discouraging tenants from applying and rejecting them because they will use a housing voucher. Below are some common examples of voucher discrimination.

When advertising a unit:

- Advertising that people with vouchers cannot apply or using phrases that discourage voucher holders from applying (e.g., “Not Section 8 approved,” “No housing programs”).¹

When talking to applicants:

- Telling a voucher holder that housing is not available to avoid renting a property to them.
- Telling a voucher holder that the housing won't pass inspection so they can't use their housing voucher to rent it.

When deciding who to rent to:

- Refusing to rent housing, refusing to negotiate, or setting different terms or conditions because an applicant has a voucher.²
- Using application criteria that exclude people using housing vouchers or other public assistance, such as requiring proof of *employment* income or requiring an applicant's monthly income to be at least three times the full monthly rent even though they have a voucher.
- Screening out voucher holders using algorithms or tenant screening services or processes that do not take into consideration the additional security that comes from a voucher, which guarantees regular payments by the housing authority.

¹ M.G.L. c. 151B, § 4 (7B).

² M.G.L. c. 151B, § 4 (10).

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When following the administering agencies' procedures:

- Refusing to follow a requirement of the voucher program, such as refusing to complete necessary paperwork, schedule an inspection, or make repairs required by the voucher administering agency.³
- Refusing to accept housing vouchers from a particular voucher administering agency.
- Moving on to another rental applicant if a local housing authority's process for approving an apartment is moving too slowly.
- Deciding not to rent to a voucher holder because repairs found in the housing inspection are too costly.

HOW WILL A LANDLORD KNOW THAT A VOUCHER HOLDER WILL BE ABLE TO AFFORD THE RENT?

When a tenant has a voucher, the tenant's portion of the rent adjusts based on their income. This means that even if the tenant loses income – e.g., they lose their job or have their hours cut – the administering agency can adjust or recalculate the tenant's portion so it remains affordable, and then the agency pays more to complete the full monthly rent payment. This is a huge benefit of renting to tenants with vouchers – the rent should always be affordable to the tenant!

When a tenant applies for an apartment, they should have guidance from their administering agency on whether their voucher may cover the rent. In developing this guidance, many administering agencies in Massachusetts now use what are called "Small Area Fair Market Rents" that seek to make the voucher limits match prevailing rents in the local community as closely as possible. That said, the tenant may be able to go above the limit in certain circumstances, like if they need a higher rent limit as a reasonable accommodation because of a disability.

Because the calculations are individualized, a landlord should not automatically assume that a unit or the asking rent will not be approved. Instead, the landlord should work closely with the administering agency and

tenant to determine if the voucher will cover the requested rent.

HOUSING INSPECTIONS

As part of the lease-up process, administering agencies require an inspection. This inspection aims to ensure that the unit meets the basic standards of habitability set by the voucher program. For federal programs, the inspection is conducted and paid for by the program. For state programs, the landlord generally must pay the cost of the inspection. Refusing to pay for, or cooperate with, a required inspection can constitute voucher discrimination.

Additionally, if a family with children under the age of 6 will be living in the property and the property was built before 1978, the landlord will be required to provide documentation of compliance with the Massachusetts Lead Law. A landlord **cannot** refuse to rent to a family because they believe there is lead paint in the apartment or the lead status is unknown.⁴

WHAT FEES CAN A LANDLORD CHARGE A VOUCHER HOLDER AS PART OF THE RENTAL PROCESS?

A landlord can only ask tenants/prospective tenants to pay the following costs to move into an apartment: the tenant's portion of the first month's rent and last month's rent; a security deposit; and the reasonable cost of changing the rental unit's locks and keys, if applicable. Additional fees, such as holding fees and application fees are **unlawful**.⁵

**ACCEPTING HOUSING VOUCHERS GUARANTEES
RELIABLE RENTAL PAYMENTS TO HOUSING
PROVIDERS, PROVIDES MUCH NEEDED HOUSING
OPPORTUNITIES TO TENANTS, AND IT'S THE LAW!**

CONTACT

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⁴ M.G.L. c. 111, § 199A.

⁵ M.G.L. c. 186, § 15B; *Merkulova v. LDJ Development, LLC*, No. 22-P-1224 (Mass. App. Ct. March 12, 2024).

³ *DiLiddo v. Oxford St. Realty, Inc.*, 876 N.E.2d 421 (Mass. 2007).