



## SOURCE OF INCOME DISCRIMINATION IN HOUSING

### **New Yorkers Are Protected from Housing Discrimination on the Basis of Lawful Source of Income**

The New York State Human Rights Law protects those who rely on any lawful source of income from discrimination in housing.

#### **What sources of income are protected?**

Lawful sources of income include, but are not limited to:

- child support
- alimony or spousal maintenance
- foster care subsidies
- social security benefits
- federal, state, or local public assistance
- federal, state, or local housing assistance
- any other form of lawful income.

**Housing assistance includes Section 8 or any other type of vouchers, or any other form of housing assistance, regardless of whether paid to the tenant or the landlord.**

#### **Who are persons who may not discriminate?**

All housing providers and real estate professionals are required not to discriminate. These include:

- Owners, landlords
- Managing agents or companies
- Co-op boards and condominium associations
- Tenants seeking to sublet
- Real estate brokers and salespersons
- Any employee or agent of the above

## **What actions are discriminatory when based on a person's lawful source of income?**

- Refusal to sell, rent or lease or otherwise deny public or private housing
- Providing different terms, conditions or privileges, or denying the use of facilities or services, of any public or private housing
- Making any advertisement, publication, statement, inquiry, record, or using a form of application for public or private housing which expresses any intent to limit or discriminate
- A real estate professional's refusal to negotiate for sale, rental or lease

**It is not unlawful to ask about income, only to discriminate based on lawful sources of income.** Housing providers may ask about income, and about the source of income, and require documentation, in order to determine a person's ability to pay for the housing accommodation, but must accept all lawful sources of income equally.

A publicly-assisted housing accommodation may include eligibility criteria in statements, advertisements, publications or applications, and may make inquiry or request information to the extent necessary to determine eligibility. Such eligibility criteria must be only those required by federal or state law or programs.

Retaliation for filing a complaint or opposing discrimination is unlawful. The Human Rights Law prohibits a housing provider or any other entity covered by the Human Rights Law from retaliating against an individual for filing a complaint of discrimination or otherwise opposing practices that are discriminatory.

## **What are other Human Rights Law protections in the area of housing?**

The Human Rights Law also protects against housing discrimination on the basis of race, creed, color, disability, national origin, sexual orientation, gender identity or expression, military status, age, arrest record, sex, marital status, and familial status.

### ***Limitations in the Human Rights Law***

*The New York State Human Rights Law does not cover: rental units in two-family homes occupied by the owner; rental in rooming houses occupied by the owner; rental of all rooms to persons of the same sex; certain senior housing.*



More information is provided in the Division's publication entitled Fair Housing Guide, available on the Division's website (dhr.ny.gov). Refusal by a housing provider to accept and treat equally any type of benefits received due to disability is also disability discrimination. See the Division's brochure Housing Rights of Persons with Disabilities, available on the Division's website.

Refusal by a housing provider to accept and treat equally child support, spousal support or foster care subsidies may also be familial or marital status discrimination.

### **SOME EXAMPLES:**

Margaret is seeking an apartment and is told by a landlord, who has an available apartment that Margaret can afford with her housing voucher, that vouchers are not accepted. Is this a valid reason to refuse to rent to Margaret?

**No. The law requires that an apartment may not be denied to an applicant because of the use of a voucher.**

Gwen receives child support from the father of her children, and with this support she is qualified to rent an available apartment. The landlord tells her that he does not take into account child support because fathers sometimes stop paying.

**This is discriminatory. The landlord may evict a tenant who fails to pay the rent, but may not refuse to rent on speculation of future inability to pay based on the possibility that child support won't be paid.**

During the pandemic, Theresa has fallen behind in her rent and has applied for emergency rental assistance to pay her arrears. After being deemed eligible for rental assistance, Theresa's landlord reports that they do not want the money, they just want her out.

**This is discriminatory. The landlord may not refuse ERAP because it is a lawful source of income. Additional ERAP tenant protections can be found at <https://otda.ny.gov/ERAP>.**

Luis is denied the use of fitness equipment available to other tenants because he receives governmental housing assistance to pay part of his rent. Is this lawful?

**No. Equal terms, conditions and privileges cannot be denied to a tenant on the basis of the source of the tenant's income.**



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**dhr.ny.gov  
1-844-862-8703**

## **FILING A COMPLAINT at the DIVISION**

If you believe that you have discriminated against by a housing provider with regard to your lawful source of income, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division within one year of the alleged discriminatory act. To file a complaint:

- Visit the Division's website, at **DHR.NY.GOV**, and download a complaint form. Completed complaints should be signed and returned to the Division, by email, fax, mail or in person.
- Stop by a Division office in person
- Contact one of the Division's offices, by telephone or by mail, to obtain a complaint form and/or other assistance in filing a complaint.

For more information or to find the regional office nearest to you, visit the Division's website **DHR.NY.GOV**.

You can also call the Division's toll-free HOTLINE at **1 (844) 862-8703**.

Your complaint will be investigated by the Division, and if the Division finds probable cause to believe discrimination has occurred, your case will be sent to a public hearing, or the case may proceed in state court. There is no fee charged to you for these services.

If the Commissioner of Human Rights finds in your favor following the hearing, the relief awarded to you may include such remedies as a cease-and-desist order, provision of housing that was denied, and monetary compensation for the harm you suffered.



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