

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



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Before the

Committee on Government Operations
Councilmember Brandon T. Todd, Chairperson
Public Hearing

On
Fair Tenant Screening Act of 2020
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Introduction

Good afternoon Chairman Todd, Councilmembers, staff, and residents of the District of Columbia. My name is Kathryn Ladewski Jarosz and I am an Assistant Attorney General in the Civil Rights Section in the Office of the Attorney General for the District of Columbia (OAG). I am pleased to appear before the Government Operations Committee on behalf of Attorney General Karl A. Racine to testify in support of the Fair Tenant Screening Act of 2020 (FTSA), which strengthens and expands District antidiscrimination laws.

The Office of the Attorney General appreciates the Council's ongoing work to ensure equal opportunity in the District, including the Fair Criminal Record Screening for Housing Act of 2016 and, just this month, the Fairness in Renting Emergency Amendment Act. The Attorney General looks forward to continuing to work with the Council to build on that progress by ensuring that the meaningful protections in the Fair Tenant Screening Act are enacted.

Civil Rights Section

The District has a long history of robust antidiscrimination protections. The District of Columbia Human Rights Act (also known as the HRA) was enacted by the D.C. Council in 1977 and prohibits discrimination based on 21 protected traits, making the HRA one of the most protective civil rights statutes in the country. OAG is proud to work alongside the Office of Human Rights, community organizations and other private individuals to use the HRA as a tool to end all forms of discrimination in the District. And, OAG has already made great strides in addressing discrimination on a large-scale basis. Just this summer, OAG brought 11 housing discrimination cases against 15 defendants challenging source of income, race and disability discrimination. We also settled a source-of-income discrimination case earlier this year that required a large District housing provider to pay \$900,000 to the District, implement necessary anti-discrimination policies and conduct fair housing training. OAG is grateful to the Council for funding our Civil Rights Section and staff to do this important work.

Housing and Source of Income Discrimination

It will come as no surprise to any of us here that housing discrimination is of particular importance in the District. We learned last year during OAG's Civil Rights Listening Sessions that the ability

to access affordable housing free from discrimination is residents' top civil rights concern,[1] and such issues are only exacerbated during the pandemic. All too often, tenants and prospective tenants face headwinds in finding decent and affordable housing, including being unfairly penalized for credit issues unrelated to their ability to pay rent; for eviction cases that were dismissed or occurred long ago; and for minor or old criminal convictions that have no bearing on their tenancy. Significant progress has been made to eradicate these and other discriminatory practices, but there is more work to be done. OAG believes the FTSA will play a significant part in moving District antidiscrimination protections forward.

Important Provisions in the Fair Tenant Screening Act

The FTSA holistically addresses discriminatory housing barriers faced by low-income tenants in the District. While many provisions in the FTSA are beneficial, my comments will focus on those related to source of income.

Source of income protections are crucial to ensuring equal housing opportunity in the District. Extreme housing costs in the District mean that a majority of very low income households spend over half of their income on housing [2] and often find themselves unable to access decent affordable housing.[3] This lack of affordable housing means that subsidies are all the more important as a lifeline to low income households in the District, but source of income

1 *Community Voices: Perspectives on Civil Rights in the District of Columbia* 4 (2019), at 7, <https://oag.dc.gov/sites/default/files/2019-11/Civil-Rights-Report.pdf>; see also Office of the Deputy Mayor for Planning and Economic Development, *D.C. Housing Survey Report* (2019), at 16, https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20DC%20Housing%20Survey%20Report_FINAL%206-24_1.pdf.

2 Office of the Deputy Mayor for Planning and Economic Development, *D.C. Housing Survey Report* (2019), https://dmped.dc.gov/sites/default/files/dc/sites/dmped/publication/attachments/Formatted%20DC%20Housing%20Survey%20Report_FINAL%206-24_1.pdf.

3 *Id.* at 16 (noting that twice as many tenants who receive housing subsidies experience two or more housing condition issues, compared to tenants without subsidies).

discrimination remains all too common.[4] And, in a city where over 90 percent of Housing Choice Voucher holders are Black, source of income discrimination is also race discrimination.[5] By fighting source of income discrimination, we are working to reverse historical patterns of segregation and inequality and to ensure that all families, including voucher holders, have access to decent housing in the neighborhood of their choice.

And that is why the Attorney General supports the FTSA's prohibition on housing providers considering voucher holders' incomes and credit scores: Although housing providers need to assess unsubsidized tenants' ability to pay, voucher holders' rent calculations already ensure that their income is sufficient to cover their rent contribution. Allowing landlords to second-guess this determination only opens the door for discrimination. We would recommend that the law goes even further to protect voucher holders from discrimination. We are aware that amenity fees and other one-time fees, which are paid directly by voucher holders, pose a barrier to voucher holders and low-income tenants, and that many landlords will not allow DCHA to inspect the property, a necessary step to using voucher. Requiring landlords to allow these inspections is important to ensure that voucher holders have equal access to District properties. The law should address these substantive barriers.

In addition, it has become abundantly clear that having laws on the books is not enough; enforcement matters. Laws in this sphere must be designed to allow for pattern or practice enforcement so that residents are not solely responsible for enforcing these protections on an individual level. OAG would be glad to work with the Council on ensuring that the FTSA contains

4 Nick Adjami, *Source of Income Discrimination Perpetuates Racial Segregation in the District*, Equal Rights Center (2019), <https://equalrightscenter.org/voucher-discrimination-perpetuates-segregation/>.

5 *Id.*

a robust enforcement mechanism, which would necessarily include enforcement by OAG, increased fines for pattern or practice violations under the HRA and additional substantive provisions barring tenant screening companies from considering prohibited screening criteria. OAG believes that clarification on the FTSA's enforcement in these areas, including whether there is a private right of action to enforce the FTSA, will help ensure that the law's provisions have teeth.

Conclusion

I want to thank this Committee for considering this important bill and for the opportunity to testify. We at the Office of the Attorney General are grateful for the Council's enduring efforts to ensure equal treatment and meaningful opportunity for all in the District. I am happy to answer any questions that members may have.