

**State of Texas
County of Bexar
City of San Antonio**



**Meeting Minutes
City Council Special Meeting**

No in-person access to this meeting

Thursday, April 21, 2021

2:00 PM

Phone/Video Conference

ROLL CALL

The City Council convened in a Special Meeting. City Clerk Tina J. Flores took the Roll Call noting a quorum with the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage, and Perry

Once a quorum was established, the City Council considered the following:

1. Briefing on the Creation of a Source of Income Anti-discrimination ordinance in San Antonio. [Lori Houston, Assistant City Manager; Veronica R. Soto, FAICP, Director, Neighborhood and Housing Services]

Neighborhood and Housing Services Director Veronica Soto stated that Source of Income Discrimination (SOID) was defined as refusing to rent or sell a housing unit to an applicant, or ending a tenancy, based on the applicant's lawful form of income such as vouchers. She indicated that SOID was not denying an application based on the applicant's inability to pay the advertised rent or meet other qualifications.

Ms. Soto reported that the Everyone Home Initiative and the Strategic Housing Implementation Plan had information regarding enactment of the Housing Policy Framework. She noted that staff presented to the Planning and Land Development Council Committee and various sessions with stakeholders were held. She stated that stakeholders included the Development Process Task Force whose members included representatives from the San Antonio Board of Realtors (SABOR), the San Antonio

Apartment Association (SAAA) and others. She noted that staff reached out to the South Alamo Regional Alliance, community housing development organizations and others to provide input.

Ms. Soto stated that one of the priorities of the Housing Policy Framework was to reduce housing discrimination, expand opportunities and ensure access to housing. She noted that the Housing Act of 1968 and the amendments of 1988 prohibited discrimination on the basis of race or color, religion, national origin, familial status or age, disability or sex. She indicated that in addition to the protections guaranteed by the Fair Housing Act, the City could extend housing protections further to include other groups and prioritize affordable housing.

Ms. Soto reported that currently Federal programs prohibited SOID in participating properties and 17 states and the District of Columbia had state-wide statutes. She noted that a national study that included Dallas-Ft. Worth found that voucher acceptance increased in areas with Ordinances.

Ms. Soto stated that the City of Austin passed an Ordinance in 2014 which applied to all properties and landlords. She indicated that the Ordinance was struck down by the State of Texas in 2015. She noted that an Ordinance could be enacted for properties receiving support from the City, those receiving City incentives or for Veterans.

Ms. Soto reported that the two largest administrators of the Housing Voucher Program were the San Antonio Housing Authority (SAHA) and the Housing Authority of Bexar County which had 13,000 and 1,800 households utilizing vouchers respectively. She added that additional vouchers were administrated by the Veterans' Administration and others.

Ms. Soto stated that households with vouchers had a median gross annual income of \$9,636; 53.9% had a disability; 19.4% were elderly and 42.1% were families. She reported that 53% of new voucher holders in 2020 were unable to find a place to rent within three months and the current average rent subsidy was \$650.

Ms. Soto noted that staff proposed the following for the City of San Antonio:

ACTION	APPLICABILITY
<ul style="list-style-type: none">• New Ordinance prohibiting SOID in City-supported properties• Include language in award contracts prohibiting SOID	<ul style="list-style-type: none">• Rental developments receiving support from the City of San Antonio, including but not limited to:<ul style="list-style-type: none">➢ Tax Increment Reinvestment Zone (TIRZ)➢ Neighborhood Improvement Bond (NIB) awards➢ SAWS and City fee waivers➢ Tax abatements➢ Loans and grants➢ City-owned land dispositions• Would only apply to awards issued after the Ordinance was approved for future incentivized developments only• Does not apply to rezoning cases

Ms. Soto stated that Ordinance considerations included:

- Consistency – Applicable to funding awards of all sizes going forward

- Right-sizing compliance – Compliance period to match funding source compliance period
- Alignment – Aligned with actions to be taken by the San Antonio Housing Trust
- Enforcement – Applied to future awards and was not retroactive

Ms. Soto reported that complaints could be received through 3-1-1, the Office of Equity or the Fair Housing Team. She noted that the contracted agency could conduct testing of subject properties, not less than annually. She added that the consequences of violation of the Ordinance would include progressive discipline to include warnings, mandatory compliance training and fines up to and including recovery of awards and debarring.

Ms. Soto stated that feedback received included:

- Increased availability of units for those that needed them
- Broader voucher acceptance would mean more equitable housing outcomes
- Ordinance should be a starting point
- Perceived vs actual problem in the community
- Voucher programs needed improvement, burdensome to accept
- Term “discrimination” may not accurately address the issue

Assistant City Attorney Jameene Williams reviewed the following three enforcement options:

1. Criminal Penalty
 - Class C Misdemeanor
 - Fine up to \$500
 - Does not go on criminal record
2. Civil Penalty
 - Civil penalty up to \$500
 - Less formal process
 - Lower burden of proof
 - Does not go on criminal record
3. Recapture requirement
 - Would allow the City to recapture all or a portion of an award

Ms. Williams stated that staff proposed: 1) Criminal fine and recapture; 2) Civil penalty and recapture; or 3) File suit for breach of contract. She reported that the City Code provided a general penalty clause which sets a \$500 fine for any violation of the City Code or Ordinance unless a specific penalty was stated in the Ordinance. She indicated that for a criminal penalty, a trial would be held in Municipal Court by a Judge or the defendant could request a jury and the Prosecutor must meet the highest burden of proof which was “beyond a reasonable doubt”. She noted that the defendant had full constitutional protections applicable to criminal prosecution and failure to pay the fine could result in a warrant being issued for the defendant’s arrest. She added that a conviction would not go on the defendant’s record.

Ms. Williams reported that in the case of a civil penalty, the defendant would not have the constitutional protections afforded under a criminal prosecution and the civil penalty could be up to \$500. She indicated that if the defendant failed to pay the penalty, the fees would go to collections and the case would not go on the defendant’s record.

Ms. Williams stated that who was liable depended on the facts of the case and generally, the person/entity with final decision-making authority could be held responsible for a violation. She noted that the person might be the property manager, property owner, landlord or corporation that owned the property.

Ms. Williams stated that staff intended to follow what was prohibited under the Non-Discrimination Ordinance following the same enforcement process. She indicated that the City Attorney's Office and staff could develop a process recommended by the City Council.

Assistant City Manager Lori Houston presented alternatives for the City Council's consideration:

- A change of name from the SOID Policy to the Housing Voucher Incentive Policy
- Change penalty to recapture requirement only

She stated that staff would seek approval of the Ordinance by the City Council, and a public engagement campaign would be held to ensure that landlords/management companies were aware of the requirements and enforcement, and to ensure that renters knew their rights and how to report violations. She noted that staff would work with stakeholders to increase the number and the amount of vouchers for the City.

Mayor Nirenberg stated that this was a simple policy regarding the treatment of the City's Incentive Policy.

Councilmember Andrews-Sullivan asked if an inventory of units available for vouchers had been completed. SAHA Chief Operating Officer Brandy Dupree reported that the need in San Antonio was based on the wait list and the amount of time families spent searching for units was indicative of the need for additional units. She stated that staff would gather data on the need and who actually accepted the vouchers. Councilmember Andrews-Sullivan requested the data.

Councilmember Cabello Havrda asked if the language could be inserted in every contract to curb the behavior. Ms. Houston stated that staff was proposing a policy tied to policies that the City incented. She stated that recapture language which prohibited discrimination against a tenant for their source of income would be included in contracts.

Councilmember Treviño stated that given that housing was healthcare and the fact that taxpayer funds should not incentivize projects that would turn those in most need away, the enforcement language fitted the violation. He asked how many families/units would be covered by the policy. Ms. Houston stated that she would provide that information.

Councilmember Perry asked if there was a direct correlation to more available vouchers due to the policy in other cities. Ms. Houston replied that it was. Councilmember Perry expressed support for including the policy in contract language instead of passing an Ordinance.

Councilmember Rocha Garcia asked who drafted the Ordinance. Ms. Williams reported that the Development Process Task Force was engaged with members from SABOR, SAAA and other stakeholders. She indicated that staff also met with the South Alamo Regional Alliance, community housing development partners and the Housing Commission. She stated that their feedback was

incorporated into the Ordinance with assistance from the City Attorney's Office in drafting the Ordinance.

Councilmember Pelaez asked if an individual presenting a lease for signature would be included as a housing provider. Ms. Soto stated that they would not. Ms. Houston clarified that staff were proposing that there would not be civil or criminal penalties. Councilmember Pelaez expressed support for the alternatives presented.

Councilmember Sandoval asked if City staff considered requiring that city supported multi-family housing set aside 10% of their units to be rented by individuals with housing vouchers such as was done in the City of Dallas. Ms. Soto stated that it was considered but there was no guarantee that the 10% of units could be filled with voucher holders, and the logistics of the Voucher Program would probably not be able to support that kind of set aside. Councilmember Sandoval requested a presentation on the implementation process.

Mayor Nirenberg asked if there was a list of projects receiving incentives that did not have additional requirements which would require a source of income protection. Ms. Soto stated that there were 20 properties over the last five years who received City incentives and were not required to accept vouchers.

Mayor Nirenberg asked what the amount of rent was for someone at 80% Area Median Income (AMI). Ms. Soto stated that vouchers were based on the size of the family and their income and voucher limits were based on where the units they were considering were located.

Mayor Nirenberg noted that increasing the number of affordable units and shortening the wait list for voucher recipients should be the City's goal. He expressed support for the alternatives presented, recapturing and an associated penalty.

ADJOURNMENT

There being no further discussion, Mayor Nirenberg recessed the meeting at 3:49 pm.

APPROVED

RON NIRENBERG
Mayor

Attest:

TINA J. FLORES
City Clerk