City of San Antonio

Legislation Details (With Text)

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In control:	Planning and Land Development Committee
On agenda:	2/8/2021
Title:	Briefing and possible action on the creation of a Source of Income Discrimination (SOID) ordinance. [Lori Houston, Assistant City Manager; Verónica R. Soto, FAICP, Director, Neighborhood and Housing Services]
Sponsors:	
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Attachments:	1. Staff Presentation

Date	Ver.	Action By	Action	Result

DEPARTMENT: Neighborhood and Housing Services Department

DEPARTMENT HEAD: Verónica R. Soto, FAICP, Director

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

Briefing and possible action on the creation of a Source of Income Discrimination (SOID) ordinance in San Antonio.

SUMMARY:

Briefing and possible action on the creation of a Source of Income Discrimination (SOID) ordinance in San Antonio.

BACKGROUND INFORMATION:

Source of income discrimination (SOID), as applied in other cities and states, is the refusal to rent or sell a housing unit to an applicant, or ending a tenancy, based on the applicant's lawful form of income. Lawful sources of income include government or non- profit administered income such as Social Security, spousal maintenance and child support; Housing Choice Vouchers (Section 8), Housing Opportunities for Persons with HIV/AIDS (HOPWA), and Veterans Affairs Supportive Housing (VASH) vouchers.

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At the federal level, source of income is not a protected status or class under the Fair Housing Act. However, some federal programs, such as the Low-Income Housing Tax Credit program, HOME, and CDBG do require recipients to participate in the Housing Choice Voucher program.

In 2015, the Texas legislature prevented cities from adopting ordinances prohibiting landlords from refusing to lease to a person whose source of income includes federal housing assistance, except for veterans. A city can, however, prohibit SOID in properties that receive municipal incentives or other City support. The Planning & Land Development Committee of City Council has directed staff to develop a SOID ordinance that applies to developers receiving City incentives and awards.

The Strategic Housing Implementation Plan (SHIP) process is currently underway and seeks to recalibrate the city's targets, identify funding needs, and develop housing strategies for next several years to meets the housing targets and needs of the community. Through this process the SHIP committee identified the need for the creation of a SOID ordinance as a policy to ensure those with housing vouchers don't have barriers to finding housing.

Staff presented an update on the SHIP and provided an overview on Source of Income Discrimination to the Planning and Land Development Committee on December 14, 2020. The Housing Commission voted unanimously to recommend the ordinance for approval by Council on January 27, 2020.

ISSUE:

Currently, property managers in San Antonio can use an applicant's lawful source of income as a reason to deny housing. Some federal programs, such as Low-Income Housing Tax Credit program, HOME, and CDBG require properties to accept some forms of income such as Housing Choice Vouchers. However, developments that were constructed without City-assistance or certain development incentives do not have the same requirement. Voucher holders must still meet other requirements, such as background and credit checks, and be able to pay the advertised rent with the support of their voucher.

The primary administrator of vouchers in San Antonio is the San Antonio Housing Authority (SAHA). As of November 2020, 13,015 families utilized vouchers administered SAHA. An additional 7,627 households are on the waitlist for a voucher. The Housing Authority of Bexar County (HABC) currently administers approximately 1,800 vouchers with an additional 7,000 households currently waitlisted. With a limited number of affordable units available throughout the city, ensuring City-supported properties are available for voucher holders can play a role in meeting a critical need for housing security. According to SAHA, 57% of voucher recipients are able to find housing with their voucher within the 120-day search period.

National studies from HUD and the Center for Budget & Policy Priorities found that municipalities with source of income discrimination protections observe fewer landlord denials for voucher holders. A September 2018 study that included Dallas and Fort Worth found that voucher holders were more likely to be denied in low-poverty areas of the city and had a greater than 60% chance of being denied in high- poverty areas of the city.

While there are State restrictions prohibiting a city-wide prohibition of SOID, City staff is proposing an ordinance that would require developments and properties receiving any City funding or incentives to accept applicants, regardless of their lawful source of income- including vouchers- if they are otherwise qualified.

The proposed ordinance would apply only to rental developments receiving grants, loans, tax abatements, or

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monies awarded by the City. This includes, but is not limited to, Tax Increment Reinvestment Zone (TIRZ) and Neighborhood Improvement Bond (NIB) awards, City Center Development Office (CCDO) fee waivers, loans, tax abatements, Neighborhood and Housing Services Department (NHSD) grant awards, and other incentives or awards. The Ordinance would not apply to developments receiving non-financial supports such as resolutions for Low-Income Housing Tax Credit developments. The City would align its compliance period with the compliance period of the award, which varies by program. Future rental incentive or abatement programs not yet in existence would fall under the ordinance.

The Ordinance would require any development receiving any City funding or incentives not deny any applicant based solely on their income source, including federal vouchers. This Ordinance would have no impact on the unit qualifying for the federal program and would not require developments to accept voucher holders if they are not eligible for other reasons. This ordinance would not be retroactive and would not apply to awards received before its adoption.

Enforcement of source of income discrimination ordinances is most often based on complaints and proactive testing. Complaint based enforcement will be initiated by a resident believing they have experienced SOID to the City, such as by calling 311, the Office of Equity or NHSD's Fair Housing Division. Many cities including Dallas also employ testing through a partnership with a local fair housing non-profit agency. In testing, a tester poses as a voucher holder seeking a unit and asks the property management team if vouchers are accepted. This may require a contract with a local agency experienced in testing, such as the Fair Housing Council of Greater San Antonio. Enforcement mechanisms will begin with required trainings, or non-financial penalties for first-time offenses and could graduate to financial penalties up to reclaiming awarded dollars for continued non- compliance.

The Housing Commission was briefed on this item on January 27, 2020. The Commission voted unanimously to recommend the ordinance for approval by Council.

ALTERNATIVES:

Planning and Land Development Committee may direct staff to not pursue a Source of Income Ordinance which would result in no change to the City's code at this time.

FISCAL IMPACT:

There is no fiscal impact associated with the proposed ordinance at this time.

RECOMMENDATION:

Staff recommends Planning and Land Development Committee (PLDC) approve the proposed Source of Income Discrimination Ordinance and place on City Council's agenda for consideration.

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