



City of San Antonio

Agenda Memorandum

File Number:21-3162

Agenda Item Number: 1.

Agenda Date: 4/21/2021

In Control: City Council B Session

DEPARTMENT: Neighborhood and Housing Services Department

DEPARTMENT HEAD: Verónica R. Soto, FAICP, Director

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

Briefing on the creation of a Source of Income Anti-discrimination ordinance in San Antonio.

SUMMARY:

Proposed ordinance would prohibit Source of Income Anti-discrimination going forward for properties that receive incentives or other support from the City of San Antonio.

ISSUE:

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.

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 the next several years to meet the housing targets and needs of the community. Through this process as well as the city's anti-displacement initiative, ForEveryOneHome, staff 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, 2021. Staff provided another briefing and recommendations to Planning and Land Development Committee on February 8, 2021. Planning and Land Development Committee recommended this Ordinance be considered for council consideration.

At the April 15, 2021 A-Session council meeting, council voted to move the item to a special briefing session on April 21 to discuss the proposed Ordinance and its enforcement mechanisms.

Proposed Ordinance:

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 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. 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.

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ALTERNATIVES:

The Council 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 and potentially reduce the number of future available units for voucher holders in the city.

FISCAL IMPACT:

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

RECOMMENDATION:

Staff recommends forwarding the proposed Source of Income Discrimination Ordinance to the April 29, 2021 council meeting for consideration.