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## Discrimination Against Voucher Recipients Now Prohibited in Chicago

By Andrew Dougherty

The Illinois Appellate Court has ruled that Chicago landlords may no longer refuse to rent apartments to prospective tenants who receive rental assistance under the Housing Choice Voucher Program. *Godinez v. Sullivan-Lackey*, 815 N.E.2d 822, 828 (2004).

The Housing Choice Voucher Program, commonly referred to as the "Section 8 Program," is funded by the U.S. Department of Housing and Urban Development and administered by local public housing authorities. The program allows voucher recipients to secure living accommodations in the private market as opposed to site-

and economic costs of complying with the Section 8 Program, simply refuse to rent their apartments to voucher recipients solely on the basis of the tenant's economic status. Finally, even in states that do prohibit source-of-income discrimination, courts have been reluctant to include the Section 8 voucher within the statutory definition of "source of income." For example, in *Knapp v. Eagle*, 54 F.3d 1272, 1282-83 (7th Cir. 1995), the court held that Section 8 vouchers do not constitute a source of income under the anti-discrimination provisions of the Wisconsin Open Housing Act.

In *Godinez*, however, the Appellate Court of Illinois refused to follow the lead of the Seventh Circuit in *Knapp*. While state law is silent on the issue, source-of-income discrimination is prohibited in Chicago under the city's Fair Housing Ordinance, codified in the Chicago Municipal Code at §5-8-030 (2003). The *Godinez* court held that Section 8 vouchers do constitute

"income" under the Fair Housing Ordinance.

The decision came as a relief to housing advocates. "We really needed this decision, especially as we become more reliant on vouchers" to house low-income tenants, said Cecilia Abundis, a staff attorney at the Lawyers' Committee for Better Housing,

The court in *Godinez* distinguished its decision from *Knapp* on three grounds. First, the court noted the greater breadth of the "source of income" definition under the City's ordinance in comparison to the statute at issue in *Knapp*. Whereas the Wisconsin statute detailed specific income sources, the Fair Housing Ordinance defines income simply as "the lawful manner by which an individual supports himself and his or her dependents." Second, the court found that the City of Chicago Commission on Human Relations had consistently interpreted "source of income" in the Fair Housing Ordinance to include voucher recipients. Finally, the court relied on the explicit policy considerations of the ordinance "to assure a full and equal opportunity to all residents of the city to obtain fair and adequate housing for

***Absent a showing of actual and substantial economic burden, landlords may no longer discriminate on the basis of a prospective tenant's status as a voucher recipient.***

based public housing developments.

The first step under the Section 8 Program is for a tenant to find an apartment suitable to his or her needs. The apartment is then inspected by the local public housing authority to ensure that it meets the program's Housing Quality Standards, which typically follow local building codes, and that the rent is reasonable in comparison to other units in the area. If the unit meets these requirements, the local housing authority will enter into a contract with the private landlord, whereby the government agrees to pay a certain portion of the monthly rent to the landlord. The Section 8 tenant, pursuant to his or her lease with the landlord, pays the remainder, which is typically set at 30 percent of the tenant's monthly income.

The success of the Section 8 Program is largely dependent upon private landlords' participation. Under federal law, however, a tenant is not protected from discrimination by a landlord based on that tenant's source of income. Many states, such as Illinois, also fail to prohibit source-of-income discrimination. Therefore, many private landlords, typically citing the administrative

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*While state law is silent on the issue, source-of-income discrimination is prohibited in Chicago under the city's Fair Housing Ordinance.*

themselves ... without discrimination against them because of their source of income."

The *Godinez* decision is not without limitations. First, its ruling only extends to the city limits of Chicago. Further, even within Chicago, the *Godinez* decision is not absolute. In *Knapp*, the Seventh Circuit questioned the wisdom of allowing a state or local government "to make to a voluntary federal program mandatory" through its own anti-discrimination legislation regarding source of income. The *Godinez* court responded to this concern by recognizing an exception to the Fair Housing Ordinance's general prohibition against source-of-income discrimination. Under this exception, a landlord may discriminate against voucher recipients if the landlord can show that compliance with the Section 8 Program would impose "more than a *de minimis*" financial burden on the landlord.

In addition to enforcing the *Godinez* decision through administrative hearings with the Commission on Human Relations, housing advocates like Abundis have undertaken efforts to educate the public. According to Abundis, "many landlords are simply unaware that source of income is a protected class." In an effort to combat this, Abundis and the Lawyers' Committee for Better Housing, in addition to other groups such as the Spanish Housing Coalition, have conducted a series of landlord-tenant workshops regarding the new source-of-income protections. The message, at least in Chicago, is clear: Absent a showing of actual and substantial economic burden, landlords may no longer discriminate on the basis of a prospective tenant's status as a voucher recipient.

## Did You Know?

**Less than one-third of U.S. adults engage in the recommended amounts of physical activity (at least 30 minutes most days).**

**34 percent of children in families with income lower than \$20,000 are obese, compared to 19 percent of children from households earning more than \$55,000 annually.**

**Low-income urban and rural areas have fewer supermarkets and more independently owned grocery stores, with less variety of fresh fruits and vegetables.**

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**strives to connect fresh produce directly from African-American farmers to inner cities.**