

STAYING COMPLIANT with HOUSING VOUCHERS



April is Fair Housing Month, and one of the fair housing questions we often get is whether landlords and property managers must accept tenant applicants with housing vouchers. Many times, the hesitation to accept tenants with housing vouchers is the perceived administrative burden of dealing with the housing authority.

To start, Virginia Code section 36-96.3 states that it is unlawful to refuse to rent to someone based on source of funds. The law defines "source of funds" as "any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity." (Virginia Code section 36-96.1.1.) Thus, source of funds includes housing vouchers.

Additionally, the Virginia Real Estate Board and Fair Housing Board have indicated that refusing to rent to a housing voucher holder because of the administrative burden is not a viable defense to a fair housing violation claim.

However, there are still some exceptions to these rules. First, if an owner does not own more than four rental dwelling units in Virginia, then that owner may deny or limit rentals based on source of funds. Also, keep in mind that if the owner owns more than a 10% interest in more than four rental dwelling units in Virginia, the exception does not apply, and that owner cannot limit or deny an applicant based on source of funds.

Second, an owner may deny or limit a rental based on source of funds if "such source is not approved within 15 days of the person's submission of the request for tenancy approval." (Virginia Code section 36-96.2(J).) Two specific events must occur for this exception to apply. The clock only starts when a complete request for the tenancy approval is mailed, emailed, or delivered to the housing administrator. An incomplete submission does not start the clock. The second event is when the source of funds is considered approved, and that date is the date the unit passes inspection. Landlords and property managers are required to act in good faith with the applicant and voucher administrator. Assuming good faith, if a complete packet is submitted and more than 15 days elapse before the unit is approved, then the landlord or property manager would be able to deny or limit rental of the unit based on the source of funds.

