



## **Breaking News: Income Source Discrimination - Guidance on New Clark County Emergency Ordinance**

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A new Clark County ordinance was passed prohibiting property owners and managers from discriminating against prospective tenants based on the source of their income or an eviction related to a loss of income experienced because of the pandemic. The temporary ordinance is effective immediately and sunsets at the end of the year. It's important to note that this is an evolving situation and the ordinance subject to change. As such, as we learn more, we will keep our members apprised.

**Q1: Please provide clarification whether you are allowed to ask a potential tenant to provide proof of income to qualify for a rental property in unincorporated Clark County.**

A1: Great care needs to be taken when asking potential tenants how much and source of income questions. It's important to review what Clark County has identified as practices and examples of inquires/comments that may evidence income source discrimination: [See Clark County Source of Income Ordinance Flyer.](#)

**Q2: As a permitted property manager, we have an owner(s) who has only one rental property but the property is within the jurisdiction of "unincorporated" Clark County, can the property manager or the owner decline a prospective renter subsidized with Section 8 voucher? Our portfolio of rental properties includes houses within city limits AND unincorporated Clark County.**

A2: Enforcement will apply to violations within unincorporated Clark County only. To determine what county the property is located, first [review the Clark County / Las Vegas Valley Jurisdictional Boundaries Map](#) then confirm the particular address using the following look-up tool: <http://maps.co.clark.nv.us/ow/?@782884,26762114,6>. In our discussions with the Clark County District Attorney's Office, if the rental property is "unattached" (like an owner's second home), the ordinance would apply; exemptions are for an attached single unit or for a two-unit dwelling where at least one (1) of the units is owner-occupied (like a duplex). The new ordinance creates a rebuttable presumption of discrimination if a Section 8 applicant is denied, and as such, it is the best practice that property owners and managers provide a denial in writing providing legitimate, non-discriminatory reasons for the denial. Some examples of reasonable denials include: tenant's with a history of being disruptive, destructive, and/or engaging in illegal criminal activity.

**Q3: It is my understanding that due to this new ordinance, we cannot deny inquiries or applications based on source of income such as Section 8 housing vouchers. However, Section 8 housing vouchers require contractual and procedural obligations such as long wait times for property inspections and recipient approval, and limits on the rent amount.**



A3: This ordinance provides equal opportunity to rent real property without discrimination, as such, denying inquiries and applications from Section 8 tenants as stated in Q2, creates a rebuttable presumption of discrimination. Property owners and managers need to ensure denials are in writing, are credible and do not circumvent the protections prescribed. The new ordinance does not require property owners and managers to accept the Section 8 program if it creates undue burdens.

Section 8 Approval Process. If the process to pass the program's housing quality standards is too arduous, the property owner needs to be able to demonstrate that it is not feasible. For more information on HUD's approval process, visit their Resources for Landlords:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/landlord](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/landlord)

Limits on Terms and Amounts on Vouchers. If the voucher is valid for less than a standard one-year rental agreement and the owner is seeking long-term tenants, that should be included in the written denial along with other legitimate, non-discriminatory reasons. Similarly, if the rent rate in a higher-income neighborhood is uniformly offered to all, the ordinance does not require the rent amount to be reduced based on voucher limits. Voucher holders can choose to live in units with higher rents, but typically, they are responsible for paying any amount above HUD's payment standard.

**(a) Does this new ordinance require me to accept the additional terms required by the Section 8 program? For example, if a property requires a security deposit greater than Section 8 will allow, are we required to lower the deposit?**

A3(a): Typically, security deposits are paid directly from the tenant's resources (See HUD's Housing Choice Voucher's Fact Sheet:

[https://www.hud.gov/topics/housing\\_choice\\_voucher\\_program\\_section\\_8](https://www.hud.gov/topics/housing_choice_voucher_program_section_8)). In accordance with Nevada Law, security deposits must not exceed a total amount or value of 3 months periodic rent (NRS 118A.242). Again, denials should be in writing in addition with other legitimate, non-discriminatory reasons set forth.

**(b) How should I respond to inquiries such as "do you accept Section 8" when I know we require a larger security deposit than the section 8 program will allow?**

A3(b): A simple, generic, non-discriminatory response to an inquiry regarding whether Section 8 applicants are accepted would be: *"Yes, we do not discriminate based on income source or prior COVID-19 related eviction."* As stated in Q1 above, please review the information from Clark County regarding what comments are not acceptable in response to a Section 8 applicant. For further inquiries regarding compliance with Section 8, please reach out to Nevada's HUD representatives (<https://www.hud.gov/states/nevada/community/contacts>) or our local Public Housing Agency about the housing voucher program ([https://www.hud.gov/sites/dfiles/PIH/documents/PHA>Contact\\_Report\\_NV.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PHA>Contact_Report_NV.pdf))

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