



Miami Valley Fair Housing Center, Inc.  
505 Riverside Drive  
Dayton, OH 45405  
937-224-6035 • Fax 937-558-5868  
Jim McCarthy, President/CEO

February 28, 2023

The Honorable Mayor Jeffrey J. Mims  
The Honorable Commissioner Matt Joseph  
The Honorable Commissioner Chris Shaw  
The Honorable Commissioner Daryl Fairchild  
The Honorable Commissioner Shenise Turner-Sloss

RE: City of Dayton Ordinance No. 32024-23

Dear Honorable Mayor and Commissioners of the City of Dayton:

On behalf of the Board of Directors, staff, and the membership of The Miami Valley Fair Housing Center, I write to provide our unequivocal endorsement for the passage of Dayton Ordinance No. 32024-23, which will add "source of income," including the receipt of a federal housing choice voucher, as a protected class under the City of Dayton's housing anti-discrimination laws.

We know of the campaign that our friends at Dayton REALTORS® have conducted to have their membership contact you and tell you to vote NO on Ordinance No. 32024-23. We respectfully disagree with the position taken and even some of the basic arguments advanced by our friends at the Dayton REALTORS®.

Unfortunately, the Dayton REALTORS® currently stated rationale for the opposition is that "We strongly oppose any legislation that would **infringe on private property rights** and any legislation that would require housing providers to enter into a program that is riddled with bureaucratic hurdles. This legislation will put an unnecessary burden on housing providers, potentially resulting in smaller providers closing."

It is striking how similar this language is to the language used by REALTORS® to support redlining and racially restrictive covenants and oppose the 1968 Fair Housing Act more than fifty years ago.

In 1961, Realtors in Seattle, WA opposed to "open housing" printed and distributed flyers with banners proclaiming "Personal Freedom" and "Your Rights Are at Stake" because they alleged that an open housing law would **limit fundamental freedoms and private property rights**.

It is well-documented how the National Association of REALTORS® (NAR) worked in tandem with federal, state, and local governments to prevent Black Americans from buying homes in neighborhoods of their choice, thereby shutting them out of opportunities to build the generational wealth that government programs helped White Americans accrue. NAR and its predecessor organization, the National Association of Real Estate Boards, codified the real estate industry's opposition to integration in its 1924 Code of Ethics, supported redlining and racially restrictive covenants, and opposed the 1968 Fair Housing Act. This unfortunate history led NAR President Charlie Oppler to apologize on behalf of NAR in 2020. Oppler said unequivocally that NAR's past policies in support of racist practices, including steering, redlining, and creating covenants that prohibited nonwhite people from living in certain communities, were wrong.

Despite the claims of the folks at Dayton REALTORS®, Ordinance No. 32024-23 does not infringe on private property rights and does not require housing providers to enter into a program riddled with bureaucratic hurdles.

It does prevent housing providers from advertising or making the blanket statement "No Housing Choice Vouchers," or "No Section 8", or "I don't accept Vouchers." It does require housing providers to allow people with housing choice vouchers to apply for any unit available for rent or lease that is publicly advertised

**Housing providers can use their regular screening criteria regarding tenant history.** Although Housing providers cannot refuse to rent to a voucher holder solely because of their source of income under voucher non-discrimination laws, they are not required to accept all voucher holders regardless of other considerations. Some Housing providers mistakenly believe that voucher non-discrimination laws require them to rent to any voucher holder without regard to their criminal background or credit history. Under these laws, Housing providers can continue to apply their usual background screening criteria; they just cannot refuse to accept tenants based on their use of a voucher to help pay their rent.

**Housing providers can charge security deposits.** One common misconception of the voucher program is that Housing providers are not allowed to charge voucher holders security deposits. Though this was true before the mid-1990s, HUD changed the rules in 1994 to let Housing providers charge security deposits to voucher holders as long as they are similar to deposits charged to other renters.

**Rent payments are dependable.** Housing providers may express concerns that tenants will not make their rent payments or will not pay in a timely manner. In the HCV program, however, a large portion of the payment (typically about 70 percent) comes directly from the Public Housing Authority (PHA). This is usually through electronic direct deposit and reliably arrives by the first business day of the month.

**Some administrative burdens, such as inspections, may cause leasing delays but are important to ensure the safety of units.** Housing providers may raise the concern that waiting for a PHA to inspect a unit and process required paperwork leaves a unit vacant longer than if they rented to a market-rate tenant. This claim may have validity, but unit inspections ensure the safety of rental units. Additionally, changes to federal policy will reduce time delays and some inspection-related administrative burdens.

**Housing providers cannot impose neutral policies that disproportionately affect people who utilize housing choice vouchers.** For example, a housing provider may attempt to claim that they accept housing vouchers but have a separate requirement that all applicants have income equal to three times the total monthly rental amount. Doing so would have a disparate impact upon voucher holders, since they obviously won't have income that is three times the total rental amount if they are qualified for the Housing Choice Voucher Program.

The Housing Choice Voucher (HCV) program — the nation's largest rental housing program serving more than 5 million people in over 2.2 million households — is the quintessential public-private partnership. The federal government provides funds to state and local agencies to fill the gap between what families can afford to pay and local rents and to administer the program. But the program only works if private Housing providers are willing to accept the subsidies and rent to voucher holders. With limited exceptions, federal law does not prevent Housing providers from rejecting all housing vouchers.

However, just as The City of Dayton is doing, many states and localities have enacted source-of-income protection laws that can increase voucher acceptance. These laws prohibit discrimination based on income sources such as alimony and disability benefits and frequently also prohibit discrimination against families that use housing vouchers to help pay their rent.

Voucher non-discrimination laws appear to be associated with substantial reductions in the share of Housing providers that refuse to accept vouchers, a recent U.S. Department of Housing and Urban Development (HUD) study has found, consistent with earlier analyses.

In 2017, the American Bar Association adopted a resolution that "urges federal, state, local, tribal, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income." This resolution may help persuade policymakers and also can guide bill drafting. For example, it includes a definition of "lawful sources of income" that specifically includes voucher holders. Although no federal laws generally prohibit Housing providers from discriminating against families that want to use a voucher to help pay the rent, multiple bills recently have been introduced in Congress that would provide protections to all voucher holders.

Several studies have found that voucher holders in areas with voucher non-discrimination protections are more likely to succeed in using their vouchers to lease a unit. A recent large-scale, multi-site HUD

study looked at landlord acceptance rates of vouchers as a way to measure the differential treatment of renters who use vouchers. The study shows a lower rate of voucher denial in jurisdictions with voucher non-discrimination protections.

Voucher non-discrimination laws also appear to help state and local housing agencies use more of the vouchers they administer. Research has found that public housing agencies in jurisdictions with laws banning source of income discrimination had five to 12 percentage points higher voucher utilization rates than those without the laws. Based on these results, a PHA with 10,000 vouchers served an additional 500 to 1,200 families with their available funds because of a source of income protection, researchers estimate.

Simply put, a source of income protection under the City of Dayton's fair housing law is needed, increasing housing opportunities for low and moderate-income residents and making the City of Dayton a less segregated city.

Might some housing providers pull up stakes and leave, as suggested by those opposed to this legislation? Perhaps. But even if they do, they will not take their properties. They will need to sell their Dayton properties. So, if some decide to leave Dayton rather than comply with this new ordinance, we should just bid them a pleasant goodbye and best wishes. Because there will be other housing providers to follow them, who will buy their properties and structure their rental business to comply with the new ordinance.

Where else can a housing provider get a guarantee from the federal government that 70% of a unit's rental amount will be electronically deposited into their bank account by the first of each month? Certainly not in the open market.

The Miami Valley Fair Housing Center strongly supports the City of Dayton Ordinance No. 32024-23. We encourage the Honorable Mayor and Commissioners to vote **YES** and pass Ordinance No. 32024-23 into law.

Sincerely,



Jim McCarthy  
President/CEO

cc: Miami Valley Fair Housing Center, Inc. Board of Directors  
Dayton REALTORS®  
Greater Dayton REALTIST Association, Inc.  
Greater Dayton Apartment Association  
Greater Dayton Real Estate Investors Association