

TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends passage of "A LOCAL LAW amending the Laws of Westchester County, in relation to prohibiting housing discrimination based on source of income."

Your Committee is informed that this Honorable Board has adopted the Westchester County Fair Housing Law, which protects Westchester County residents from discrimination in housing on the basis of race, color, religion, ethnicity, creed, age, national origin, alienage or citizenship status, familial status, gender, marital status, sexual orientation or disability. Notably, many residents also experience housing discrimination based on their source of income.

Your Committee is advised that the Housing Choice Voucher Program, also known as the Section 8 voucher program, is the largest rental subsidy program in the country. The Section 8 Housing Assistance program was created by the Housing and Community Development Act of 1974 and the Housing Choice Voucher Program is funded by the U.S. Department of Housing and Urban Development ("HUD"), and administered by local housing authorities. Housing assistance payments are authorized "for the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing." *See* 42 U.S.C. § 1437f(a). Section 8 participants, many of whom are poor, disabled or elderly minority residents, pay no less than 30 percent and no more than 40 percent of their adjusted gross income toward rent, and receive the vouchers to supplement their income in order to obtain affordable housing. *See* 42 U.S.C. § 1437f(o).

Not all recipients who receive Section 8 vouchers are able to use them. After receipt of a voucher, a recipient has a limited amount of time in which to find housing accommodations,

before the voucher is no longer valid. Voucher holders often have difficulties finding landlords who will accept the vouchers within the given time frame, which can force them to relinquish their vouchers and begin the process again. Indeed, studies demonstrate that Section 8 voucher holders encounter significant amounts of discrimination from landowners who discriminate against prospective tenants because they would pay their rent with Housing Choice Vouchers. A survey of multi-family property owners and managers conducted by the U.S. Census Bureau found that approximately 8.7 million out of approximately 20.5 million owners and managers surveyed will not accept Section 8 vouchers. With respect to Westchester, the Committee has received testimony that Section 8 holders have significantly fewer housing options than those without Section 8 who are looking for apartments within similar rent guidelines.

A number of jurisdictions have enacted legislation that prohibits discrimination on the basis of source of income. States with this legislation include California, Connecticut, Maine, Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Utah, Vermont and Wisconsin. In addition, Washington, D.C., Chicago, San Francisco, Montgomery County, Maryland, and Seattle have local legislation barring source of income discrimination. Several localities within New York State have passed ordinances and laws protecting Section 8 voucher holders from discrimination based on source of income, including New York City, Nassau County, the city of Buffalo, and the towns of West Seneca and Hamburg.

Your Committee is informed that legislation prohibiting source of income discrimination has been successful in ensuring that needy families have greater access to decent, affordable housing. Indeed, a 2001 HUD study found that Section 8 voucher holders had a 12 percent higher placement rate in areas that have laws protecting against source of income discrimination.

Your Committee is further informed that this proposed local law, which is similar to laws passed in other states and localities, would create an additional protected class in the County's Fair Housing Law and would prohibit discrimination in the sale, rental or lease of housing accommodations based on source of income. Source of income is defined as "lawful, verifiable income derived from social security, or any form of federal, state or local public assistance or housing assistance, grant or loan program, including the federal housing subsidy known as 'Section 8', any disability payment, and assistance, grant or loan program from a private housing assistance organization." Thus, the statutory definition of income would include a number of income sources, including governmental assistance programs, such as Temporary Assistance for Needy Families ("TANF") and Supplemental Security Income ("SSI").

In addition, the proposed local law provides that it will not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income. The local law specifically indicates that it is not discriminatory for differentiations or decisions to be based solely upon factually supportable, objective differences in the level of the individual's income. Income is defined as the sum total of all sources of lawful and verifiable income, including, but not limited to, the sources of income listed in the law. Nevertheless, differentiations or decisions based on level of income must bear a reasonable relationship to the individual's ability to meet his or her personal housing payment obligations arising from the tenancy, ownership or occupancy of the housing accommodation. Indeed, the Local Law provides that it shall not constitute an unlawful discriminatory real estate practice on the basis of source of income that a housing accommodation was denied based on the use by a landlord of his, her or its reasonable business judgment in not accepting a tenant.

Your Committee is advised that this proposed Local Law would be applicable to all housing accommodations, except: (1) cooperative apartments; (2) condominiums; (3) those housing accommodations already exempted from the provisions of the Fair Housing Law; and (4) those housing accommodations, other than publicly-assisted housing accommodations, for six or fewer families living independently of each other, provided that the person owns or has ownership interest in only one such housing accommodation. In addition, this Local Law provides for separate civil penalties to be paid to the County of Westchester for unlawful discriminatory real estate practices on the basis of source of income.

Next, this local law makes clear that it was not intended to limit the applicability of any Federal, State or local laws, rules, regulations or restrictions on the residency of registered sex offenders. Further, the proposed Local Law requires that educational programs be conducted by the County to ensure that the public is informed regarding the prohibitions against unlawful discriminatory real estate practices. This complies with the County's obligations in its fair housing contract with the U.S. Department of Housing and Urban Development.

This proposed Local Law would take effect immediately with respect to prohibiting discriminatory practices on the basis of source of income against current lessees. With respect to prohibiting discriminatory practices on the basis of source of income against any other persons, the proposed Local Law would take effect one hundred and eighty (180) days after its enactment. Notably, the Local Law will expire five (5) years after the effective date of that portion of the Local Law with respect to prohibiting discriminatory practices on the basis of source of income against any persons other than current lessees.

This proposed Local Law would prevent the growing trend of discrimination based upon a person's source of income, which creates an extreme hardship for individuals with lower

incomes, including the disabled and the elderly, and for families transitioning from welfare to work.

As you know, the Board must comply with the requirements of the State Environmental Quality Review Act. The Commissioner of Planning has reviewed the applicable SEQRA regulations, and has concluded that since the proposed local law will not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to the State Environmental Quality Review Act, the law does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no further environmental review is required.

Since the proposed Local Law will better ensure that all Westchester County residents enjoy equal rights and opportunities to housing and will also promote tolerance and fairness, your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: May 13, 2013  
White Plains, New York

*[Handwritten signatures]*  
Catherine [unclear]  
Alexandra Williams  
Mary [unclear]

COMMITTEE ON

COMMUNITY SERVICES

*[Handwritten signatures]*  
William J. Ryan  
James M. [unclear]  
Catherine [unclear]  
P. [unclear]  
Alexandra Williams  
Mary [unclear] (w/o/p)  
ROB [unclear]

LEGISLATION

LOCAL LAW INTRO. NO. 6057 2013

A LOCAL LAW amending the Laws of Westchester County, in relation to prohibiting housing discrimination based on source of income.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The table of contents of Article II of Chapter 700 of the Laws of Westchester County is hereby amended to read as follows:

**Chapter 700  
HUMAN RIGHTS**

<b>Article II.</b>	<b>Fair Housing Law</b>
Sec. 700.19.	Declaration of policy.
Sec. 700.20.	Definitions.
Sec. 700.21.	Unlawful discriminatory real estate practices.
Sec. 700.22.	Unlawful discriminatory real estate practices in relation to credit.
Sec. 700.22-a.	Discrimination in the provision of brokerage services.
Sec. 700.23.	Additional provisions defining discriminatory practices.
Sec. 700.23-a.	Education and Outreach.
Sec. 700.24.	Creation of a Fair Housing Board.
Sec. 700.25.	Formulations of policies by the Board.
Sec. 700.26.	Powers and duties of the Board.
Sec. 700.27.	Relations with county departments and agencies.
Sec. 700.28.	Administrative procedure – preliminary matters.
Sec. 700.29.	Administrative procedure—removal, orders and awards and review.
Sec. 700.30.	Complaints of discrimination; limitations.
Sec. 700.31.	Temporary injunctions.
Sec. 700.32.	Jurisdictional limitations.
Sec. 700.33.	Enforcement by private persons.
Sec. 700.34.	Judicial review and enforcement.
Sec. 700.35.	Separability.

Section 2. Paragraph H of Section 700.20 of the Laws of Westchester County is hereby amended to read as follows:

H. *Group identity* shall mean the race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status or disability of a person or persons, a person's source of income, or a person's status as a victim of domestic violence, sexual abuse, or stalking.

Section 3. Section 700.20 of the Laws of Westchester County is hereby amended by relettering paragraphs V, W and X as paragraphs W, X and Y, respectively, and adding a new paragraph V, to read as follows:

V. *Source of income* shall mean, as it relates to unlawful discriminatory real estate practices, lawful, verifiable income derived from social security, or any form of federal, state or local public assistance or housing assistance, grant or loan program, including the federal housing subsidy known as "Section 8", any disability payment, and assistance, grant or loan program from a private housing assistance organization.

(1) For the purposes of this article, as they relate to unlawful discriminatory real estate practices on the basis of source of income, it shall not be considered discriminatory if differentiations or decisions are based solely upon factually supportable, objective differences in the level of the individual's income, which is defined as the sum total of all sources of lawful and verifiable income, including, but not limited to, the sources of income defined herein.

Differentiations or decisions based on the level of income must bear a reasonable relationship to the individual's ability to meet his or her personal housing payment obligations that arise from the tenancy, ownership or occupancy of the housing accommodation.

(2) For purposes of this article, as they relate to unlawful discriminatory real estate practices on the basis of source of income, it shall not constitute an unlawful discriminatory real estate practice on the basis of source of income to make a written or oral inquiry concerning the level or source of income.

(3) The provisions of this article, as they relate to unlawful discriminatory real estate practices on the basis of source of income, shall be applicable to all housing accommodations, with the following exceptions: (a) cooperative apartments; (b) condominiums; (c) housing accommodations otherwise exempted by section 700.21(C) of this article; and (d) housing accommodations, other than publicly-assisted housing accommodations, for six or fewer families living independently of each other, provided that the person owns or has ownership interest in only one such housing accommodation.

(4) It shall not constitute an unlawful discriminatory real estate practice on the basis of source of income that a housing accommodation was denied based on the use by a person of his or her reasonable business judgment in relation to transactions involving housing accommodations that the person owns or in which the person has an ownership interest. The provisions of this subdivision shall not be construed to impair, alter, limit or modify the rights, obligations and/or defenses otherwise available to a respondent against whom any unlawful discriminatory real practice has been alleged pursuant this article.

W. Transaction shall mean, for purposes of this [chapter] article, the sale, rental, lease, sublease, assignment, transfer, finance, refinance, loan, or appraisal and any and all other terms and conditions of any housing accommodation.



[W]X. *Unlawful discriminatory real estate practice* includes only those practices specified in section 700.21 through section 700.23 of this article which occurred in Westchester County.

[X]Y. *Victim of domestic violence, sexual abuse or stalking:*

1. A victim of domestic violence shall mean:
  - a. Any person who has been subjected to an act or series of acts that:
    - (i) Would constitute a misdemeanor, felony or other violation of law against the person as defined in state or federal law; or
    - (ii) Would constitute a misdemeanor, felony or other violation of law against property as defined in state or federal law.
  - b. Such act or series of acts as defined in subdivision (a) must have been committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or who has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
  - c. Such act or series of acts as defined in subdivision (a) and (b) must also:
    - (i) Result in the actual or physical or emotional injury of the person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction; or
    - (ii) Create a substantial risk of physical or emotional harm to such person whether or not such conduct has actually resulted in criminal charges, prosecution or conviction.
2. A victim of sexual abuse or stalking shall mean any person who has been:

a. A victim of an act or series of acts which would constitute a violation of Article 130 of the Penal Law;

b. A victim of an act or series of acts which would constitute a violation of section 120.45, 120.50, 120.55, or 120.60 of the Penal Law.

A victim of domestic violence, sexual abuse or stalking shall also include any individual who is perceived to be a person who has been, or is currently being, subjected to acts or series of acts as set forth in subdivisions (1) and (2) above.

Section 4. Subparagraph 3 of Subdivision (C) of Section 700.21 of the Laws of Westchester County is hereby amended to read as follows:

3. Nothing in this article:

a. Limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling;

b. Shall prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for older persons, as defined by the federal Fair Housing Act, as amended, 42 U.S.C. § 3607(b)(1) through (4) as of the effective date of the local law codified in this article, or for persons with disabilities[.]

c. Limits the applicability of any Federal, State or local laws, rules, regulations or restrictions on the residency of registered sex offenders.

Section 5. Article II of Chapter 700 of the Laws of Westchester County is amended by adding a new Section 700.23-a, to read as follows:

§ 700.23-a. Education and Outreach.

Educational programs shall be conducted by the County to ensure that the public is informed regarding the prohibitions against unlawful discriminatory real estate practices, as set forth in this article.

Section 6. Subparagraph (1) of Subdivision (B) of Section 700.29 of the Laws of Westchester County is hereby amended to read as follows:

f. Except in cases of unlawful discriminatory real estate practices on the basis of source of income under Section 700.20(V) of this article, [A]assessing a civil penalty, in an amount not to exceed \$50,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice, or not to exceed \$100,000.00 to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious;

f-1. For unlawful discriminatory real estate practices on the basis of source of income under Section 700.20(V) of this article, assessing a civil penalty, in an amount not to exceed \$50,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory real estate practice which is found to be willful, wanton or malicious;

Section 7. This Local Law shall take effect immediately, provided that:

[a] on and after such effective date, the prohibitions against unlawful discriminatory real estate practices on the basis of "source of income", as that term is defined in this Local Law,

shall only apply to a respondent who commits, is committing or is about to commit any such unlawful discriminatory real estate practice against a person who is a current lessee in a housing accommodation owned, operated, managed and/or controlled by such respondent; and

[b] on and after the one hundred eightieth (180th) day after passage of this Local Law, the prohibitions against unlawful real estate practices on the basis of "source of income", as that term is defined in this Local Law, shall apply to a respondent who commits, is committing or is about to commit any such unlawful discriminatory real estate practice against any person.

[c] This Local Law shall expire and be deemed repealed five (5) years after the effective date of subdivision (b) of this section.

# FISCAL IMPACT STATEMENT

SUBJECT: Amendment of A LOCAL LAW- Source of Income

NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A)  GENERAL FUND       AIRPORT       SPECIAL REVENUE FUND (Districts)

### B) EXPENSES AND REVENUES

Total Current Year Cost      \$ 0

Total Current Year Revenue      \$ 0

Source of Funds (check one):       Current Appropriations

Transfer of Existing Appropriations       Additional Appropriations       Other (explain)

Identify Accounts: N/A

Potential Related Operating Budget Expenses:      Annual Amount \$ 0

Describe: No impact on the Operating Budget. A LOCAL LAW amending the Laws of Westchester County, in relation to prohibiting housing discrimination based on source of income.

Potential Related Revenues:      Annual Amount \$ 0

Describe: \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year:      \$0

Next Four years: \$0

Prepared by: Patricia Haggerty

Title:      Sr. Budget Analyst


Department: Budget

Reviewed By: \_\_\_\_\_

Budget Director

If you need more space, please attach additional sheets.

TO: Linda Trentacoste  
Associate County Attorney

FROM: Edward Buroughs   
Commissioner

DATE: April 24, 2013

SUBJECT: **SEQR DOCUMENTATION FOR AMENDMENT TO FAIR  
HOUSING LAW TO PROHIBIT DISCRIMINATION BASED  
ON SOURCE OF INCOME**

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Pursuant to your request for an environmental review of the above referenced action, Planning Department staff has determined that no environmental review is necessary.

The action involves amending the Laws of Westchester County, which pertains to fair housing, to prohibit housing discrimination based on source of income. Since the proposed local law will not "change the use, appearance or condition of any natural resource or structure," or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no further environmental review is required.

Please contact my office if you need any additional information on this matter.

EEB/dsk

ec: Katherine Delgado, Deputy Chief of Staff  
David S. Kvinge, Director of Environmental Planning

STATE OF NEW YORK            )  
  )    ss.  
COUNTY OF WESTCHESTER )

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 6057 - 2013, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on June 17, 2013, and approved by the County Executive on June 26, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the corporate seal of said County Board of Legislators on this 2<sup>nd</sup> day of July, 2013.



\_\_\_\_\_  
Tina Seckerson

Clerk of the Westchester County  
Board of Legislators

County of Westchester, New York

