

# 2022

# Cook County Commission on Human Rights

4/5/22



**Sisavanh Baker**

Director, Cook County Commission on Human Rights

# Our Mission



The mission of the Cook County Commission on Human Rights is two-fold:

- (1) To protect people who live or work in Cook County from discrimination and harassment in the areas of employment, housing, public accommodations, credit transactions, and access to Cook County facilities, services and programs, and;
- (2) To ensure that those who work in, or for the benefit of, Cook County are paid an appropriate wage for their labors and receive appropriate benefits.

# Our Work



Enforce the County's anti-discrimination law:

## **Human Rights Ordinance**

Enforce several wage and benefits laws:

## **Living Wage Ordinance**

## **Minimum Wage Ordinance**

## **Earned Sick Leave Ordinance**

## **COVID-19 Vaccination Rights for Employees and Employer Obligations Ordinance**

# Human Rights Ordinance



Protects against discrimination and harassment in a variety of contexts, including employment, public accommodations, housing, and County programs.

The Ordinance also provides protection against retaliation for making a discrimination or harassment complaint.

# Human Rights Ordinance



Protects persons in Cook County from discrimination and harassment on a variety of bases, including:

- race,
- color,
- sex,
- age,
- religion,
- disability,
- national origin,
- ancestry,
- sexual orientation,
- marital status,
- parental status,
- military discharge status,
- source of income,
- covered criminal history,
- housing status, or
- gender identity.

# Wage & Benefit Laws



- Minimum Wage Ordinance
  - As of 2022: County Minimum Wage is \$13 per hour, and the base wage for tipped employees is \$7.20 per hour.
- Earned Sick Leave Ordinance
  - Employers are required to provide at least 1 hour sick leave for every 40 hours worked.
- Living Wage Ordinance\*
  - The living wage is \$13.34 for employers who provide health benefits to an employee where the employee's health benefit contribution does not exceed 25% of the cost of the health benefit premium. Otherwise, the living wage is \$16.68 per hour.

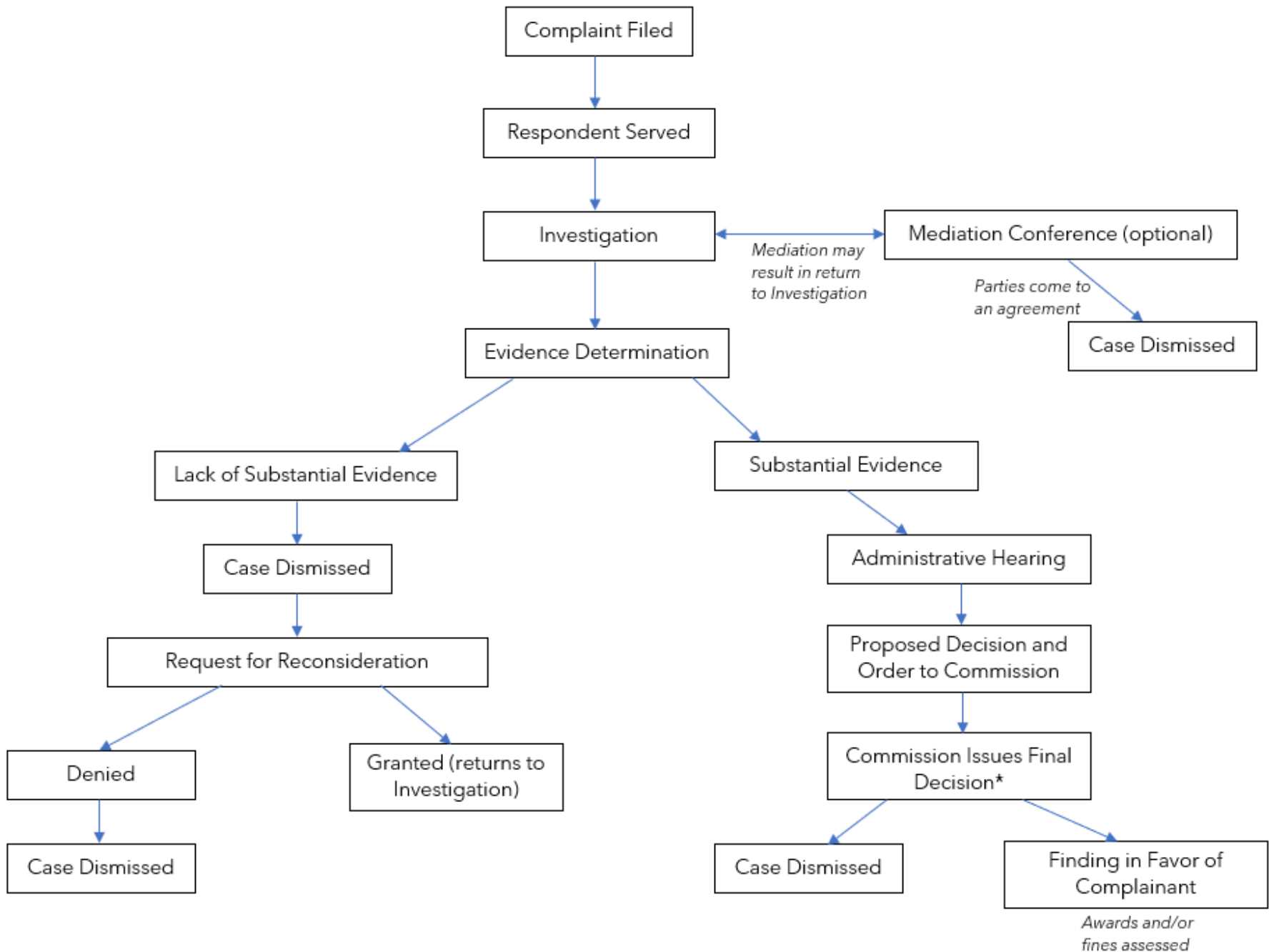
\*This applies to all employees who contract with Cook County government to provide labor or who operate on property in Cook County that receives a Class 6B, Class 8 or Class 9 property tax incentive.

# So, what do we do?



- Receive and investigate complaints
- Mediate disputes and conduct hearings
- Advise Elected Officials on matters involving discrimination
- Outreach and collaborate





\*Parties can request reconsideration of a decision.



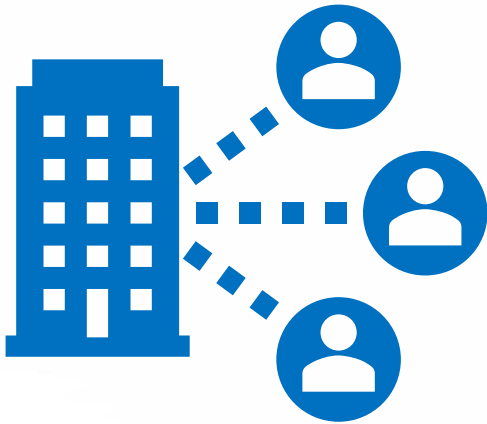
# Fair Housing and the Human Rights Ordinance



# Fair Housing and Violations



- Fair housing is the right to choose housing free from unlawful discrimination.
- Violations occur when prohibited acts are made against a person because they belong to a protected class.



# Prohibitions



- Refusing to rent, sell, etc. because of a person's protected status
- Discriminatory terms and conditions
- Discriminatory communications (advertisements, etc.)
- Refusing examination of a listing because of unlawful discrimination
- Unequal access to accommodations, amenities

# Prohibitions (cont.)



- Representing that a unit is unavailable for inspection, sale, rental, or lease when it is available because of discrimination
- Blockbusting or encouraging blockbusting
- Creating alarm
- Preemptive inquiries regarding covered criminal history
- Harassment, including sexual harassment

# Common Violations in Cook County



- Discrimination against Housing Choice Voucher holders
- Failure to provide reasonable accommodations
- Discrimination against people with arrest or conviction records

Source: Housing Choice Partners - Fair Housing Resources for Landlords / Housing Providers (<https://www.housingchoicepartners.org/fair-housing-for-landlords>)

# Examples of Potential Violations



- "Income three times the rent"
- Varying rent or fees based on source of income
- Rejecting an applicant based on criminal history that occurred more than 3 years ago
- In advertisements:
  - "No vouchers"
  - "No Section 8"
  - "No felonies"



# Source of Income Protection in the Human Rights Ordinance



# SOI Protection: Background



- Previously voucher holders were not protected under the source of income protection outlined in the Ordinance, and landlords could refuse to rent to voucher holders.
- Amended HRO on May 8, 2013, with delayed enforcement until August 8, 2013.



# Current Protections



- Current source of income protections prohibit landlords from discriminating against Housing Choice Voucher holders:
  - In advertisements,
  - Throughout the housing application/screening process,
  - In rental requirements or associated payments.





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**MEMORANDUM**

Date: February 3, 2022

To: Cook County Landlords and Rental Housing Providers

From: Cook County Commission on Human Rights Commissioners

Re: Source of Income Protections Under Cook County Human Rights Ordinance

It is illegal for any person to discriminate in a real estate transaction against an individual based on their participation in the **Housing Choice Voucher ("HCV")** Program (sometimes called "**Section 8**"). See County Code, §42-38(b). Doing so will allow an injured HCV holder to file a complaint with the Cook County Commission on Human Rights. The Commission can impose significant fines for substantiated violations as well as award damages and impose injunctive relief to the injured party. *Id.* at § 42.34(c).

A landlord or property manager may not refuse to rent to a tenant because they are using an HCV. Landlords and property managers shall not:

- Advertise that they are not renting to HCV or Section 8 tenants;
- Refuse to process, or delay processing, a potential tenant's application (including but not limited to paperwork and inspections) because of use of an HCV;
- Treat HCV holders less favorably than other potential tenants by inflating rents or screening HCV holders more stringently; or
- Utilize a screening, selection, or application tool that: (a) is specifically designed to exclude an HCV holder, or (b) in practice automatically excludes an HCV holder.

HCV is a source of income. **Accordingly, a landlord or property manager must include the value of an HCV in any screening or rental application calculation of "income."** To calculate the rent-to-income ratio of a prospective HCV tenant, a landlord should only consider the portion of the rent that the HCV applicant would be directly responsible for.

For example, a two-bedroom unit is advertised at a rent of \$1,500 per month. The property manager has a policy that all households must have an income of at least three times the rent to qualify for a unit. A household with an HCV applies for the apartment. The tenant's portion of the rent is \$500, and the housing authority will pay the additional \$1000. The housing provider is permitted to require that the tenant have an income of at least \$1500 a month (the tenant portion X 3). The housing provider cannot require that the tenant make three times the total rent for the unit (\$4500) as this would include the portion that will be paid by the housing authority.<sup>1</sup>

	Without HCV	With HCV
Rent Due by Tenant:	\$1,500	\$500
Income Minimum:	\$4,500	\$1,500

The Commission would rather help landlords and property managers comply with the law than prosecute anyone. Please contact the Commission at the phone number above with questions.

📌 Fiscal Responsibility 🌱 Innovative Leadership 🗳️ Transparency & Accountability 🏠 Improved Services

<sup>1</sup> The example and chart used are based on information included here: [https://www.dhcr.ny.gov/wp-content/uploads/2019/07/20190709-Source-of-Income-FAD\\_FINAL.pdf](https://www.dhcr.ny.gov/wp-content/uploads/2019/07/20190709-Source-of-Income-FAD_FINAL.pdf). Final rent amounts are set per discussions between the government entity that issues the voucher and the housing provider. An HCV holder with no income would not be responsible for any rent per HCV program rules but can still qualify for a unit because the government entity in that instance covers all the rent. Such an HCV holder has an infinite rent-to-income ratio when compared to a market tenant.



# HCV is a Source of Income

- To calculate the rent-to-income ratio of a prospective HCV tenant, a landlord should only consider the portion of the rent that the HCV applicant would be directly responsible for.



	<b>Non-HCV</b>	<b>HCV</b>
<b>Rent Due by Tenant:</b>	\$1,500	\$500
<b>Income Minimum:</b>	\$4,500	\$1,500

# Just Housing Amendment to the Human Rights Ordinance



# JHA: Background



- Went into effect January 1, 2020, with delayed enforcement until February 1, 2020.
- Applies to real estate transactions, which include the sale, rental, lease, and sublease renewal of residential properties.

# JHA: Background (cont.)



- Why did the Cook County Board of Commissioners pass the Just Housing Amendment (JHA) to the Human Rights Ordinance?
  - In most cities, people with any kind of criminal record, even just an arrest, can be unfairly denied housing. The JHA was passed to help these individuals access safe, stable and affordable housing.

# JHA: Background (cont.)



- The Just Housing Amendment (JHA):
  - 1) prohibits landlords from denying a housing application based on juvenile or adult arrest records; and
  - 2) requires landlords considering an individual's covered criminal history to perform an individualized assessment prior to denying any application for housing.
- A landlord cannot consider criminal history that is more than three (3) years old, and a landlord must conduct an individualized assessment of any criminal history that is less than three (3) years old.

# Frequent Questions



- If an applicant was arrested but not convicted in the past three (3) years, can the arrest be a basis for denying the housing application?
  - No. Arrests and convictions are very different. An arrest without a conviction cannot be considered when evaluating rental applications.





# Frequent Questions (cont.)



- What are the new and/or different requirements for processing housing applications?
  - Landlords can **no longer include a question or check box** on housing applications that asks whether an applicant has a criminal background.
  - Before accepting an application fee, a landlord must provide the following information:
    - **Tenant Selection Criteria**, which describes how an applicant will be evaluated.
    - **Notice of the applicant's right to dispute inaccuracies** relevant to criminal history and to provide evidence of rehabilitation or other mitigating factors related to their criminal background.
    - A copy of Part 700 of the Commission's procedural rules or a **link to the Cook County Commission on Human Rights' website**, with the address, email address, and phone number of the Commission.

# Just Housing Amendment

## Screening Process



### Step One: Prequalification

This step includes checking the applicant's credit history, employment, income, payment delinquencies, bankruptcies, etc.

If the applicant passes pre-qualification, then the landlord moves on to Step Two.



### Step Two: Criminal Background Check

This step screens **ONLY** the three (3) year criminal history of the applicant. Any convictions older than three (3) years **MAY NOT** be used to deny a housing application. If a conviction is found, the landlord must conduct an individualized assessment.

Based upon the individualized assessment, the landlord must notify the applicant of an approval or denial.



### Step Three: Approval or Denial and Right to Dispute

If the applicant passes both checks, they will receive notification of approval. If they did not pass Step One or Step Two, the landlord may deny the application, and the applicant has the right to dispute the denial.

# Just Housing Amendment Individualized Assessment Tool

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The individualized assessment is an evaluation tool to use after the landlord has completed a criminal background check. This tool will help determine if criminal history within the three (3) year lookback period negatively impacts the applicant's ability to fulfill the responsibilities of tenancy. This questionnaire is not an all-inclusive instrument and should not be taken as such.

All answers to questions within an individualized assessment should be documented for possible future reference.

- ▶ What is the nature, severity and recency of conduct to the criminal history?
- ▶ What is the nature of the individual's sentencing?
- ▶ What is the number of convictions for the individual?
- ▶ What length of time has passed following the individual's most recent conviction?
- ▶ What age was the individual at the time of the most recent conviction?
- ▶ Has the applicant offered evidence of rehabilitation?
- ▶ What was the individual's tenant history before and/or after the conviction?
- ▶ Was the criminal conviction(s) related to or a product of the applicant's disability?
- ▶ Are there any other additional relevant factors that I should consider?

# Frequent Questions (cont.)



- Is the landlord required to consider evidence of rehabilitation when completing an individualized assessment?
  - Yes. The following are examples of evidence of rehabilitation:
    - Completion of a returning citizens program.
    - Job readiness training.
    - Supportive services that assist with the transition back to society.
    - Completion of a GED or other education programs.
    - Report from correctional facility.
    - Employment.
    - Personal recommendations.

# What can you do?



- Not only comply with but be an ambassador for Cook County's housing protections.
  - Uphold high standards for not contributing to discriminatory practices.
  - Be thoughtful and considerate in leasing and selling to individuals within protected classes.
  - Share this information with others.
  - Call out or report bad behavior when you see it.



# Where can you find:



- 2022 Source of Income Memo:  
<https://bit.ly/2022SOIMemo>
- Just Housing Amendment Info for Landlords:  
<https://www.cookcountyil.gov/content/just-housing-amendment-information-landlords>
- Commission Procedural Rules:  
<https://www.cookcountyil.gov/agency/commission-human-rights>
- Human Rights Ordinance:  
<https://www.cookcountyil.gov/service/human-rights-ordinance-and-regulations>



# Who can you contact?



- Please email or call the Commission on Human Rights with any questions or concerns.
  - Email: [human.rights@cookcountyil.gov](mailto:human.rights@cookcountyil.gov)
  - Phone: 312-603-1100
- Learn more on our website: <https://bit.ly/HRCCommission>
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