

## Question and Answer Section (Q & A)

### Tenant's Bill of Rights (TBOR)

#### **Q: How long should the signed affirmations for tenants be retained?**

**A:** Section 3(a) of the Ordinance provides that it shall be unlawful for a Person to allow a Tenant (defined as anyone who shall occupy, attempt to occupy, or inquire about occupying) to apply to rent ... without first providing the Tenant with a copy and landlords are to distribute TBORs to all prospective applicants. While it may not violate the Ordinance not to retain the affirmation for prospective tenants who do not rent from the landlord, it provides the landlord with the rebuttable presumption of having complied with the Ordinance to retain the affirmation, so it may be in the landlord's interests to do so (one year is recommended).

#### **Q: What is the timing of the notice of late fee and assessment of a late fee?**

**A:** The Ordinance states that it is "unlawful for any Person to assess a Late Fee against a Tenant without first providing written notice to the Tenant, against whom the Late Fee is assessed, for each Late Fee assessed." The ordinance further states that "written notice, for purposes of this Section, shall include a statement informing the Tenant that: A Late Fee has been incurred . . ." A late fee notice may be delivered on the same day the late fee is first incurred, and that the term "without first" does not imply the notice must be delivered at a point in time prior to initial assessment of the late fee. In cases where a late fee is first assessed on a weekend or recognized holiday, a late fee may only begin to accrue the same day the written notice is delivered.

### Lawful Sources of Income Discrimination – Q & A

#### **Q: What documentation can a landlord request to establish whether the tenant can afford to pay the rent?**

**A:** The Tenant's Bill of Rights Ordinance provides that a landlord cannot refuse to rent to a tenant because of the tenant's lawful source of income. Lawful sources of income are defined as income from:

- (1) a lawful profession, occupation or job;
- (2) any government or private assistance, grant, loan or housing assistance program or subsidy, including but not limited to Housing Choice (Section 8) Vouchers and Veterans Affairs Supportive Housing (VASH) Vouchers, Social Security, and Supplemental Security Income;
- (3) a gift, an inheritance, a pension or other retirement benefits, an annuity, trust income, investment income, alimony, child support, or veteran's benefits; or
- (4) the sale of property or an interest in property.

The Ordinance does not specify the type of documentation that a landlord can request in determining whether the tenant's lawful source of income is sufficient to afford the rent. However, landlords should not use requests for documentation of income as a mechanism to avoid renting to tenants with particular lawful sources of income.

For instance, some landlords may require that all tenants demonstrate that they have income equal to at least 3 times the monthly rent in order to verify the tenant's ability to fulfill his or her monetary conditions under the lease. For tenants utilizing Section 8 vouchers or other governmental assistance, this would mean that the landlord should only require the tenant to demonstrate income equal to at least 3 times the *tenant's portion* of the monthly rent. Where the governmental assistance will pay for the full rent amount for the full rental term, the tenant should not be required to demonstrate the tenant's ability to pay the rent, since

governmental assistance programs are dependable funding sources subsidized by federal, state and/or local governments. Therefore, the tenant's ability to meet monetary conditions under the lease is not an issue.

**Q: What criteria can a landlord use to screen tenants under the Ordinance?**

**A:** The Ordinance does not specify the screening criteria that a landlord may use. However, the screening criteria that a landlord relies upon should be applied in a non-discriminatory manner to all applicants regardless of the tenant's source of income. For instance, a landlord cannot require tenants with Section 8 vouchers to have higher credit scores or to pay a higher security deposit than tenants paying their rent without such vouchers.

**Q: Does the Ordinance require landlords to participate in the Housing Choice (Section 8) Voucher program?**

**A:** It is a violation of the Ordinance to refuse to rent to a tenant because the tenant proposes to pay the rent in part with Section 8 vouchers. A landlord's reluctance to participate in the requirement of the Section 8 program is not a reason to refuse to rent to a Section 8 tenant who otherwise demonstrates a lawful source of income under the Ordinance. Landlords may still apply neutral and non-discriminatory screening criteria to all tenants, including tenants who propose to pay rent using Section 8 vouchers. Landlords should contact the Tampa Housing Authority for answers to questions regarding participation in the Section 8 program, or the agency responsible for administering the applicable rental assistance program.

**Q: Does a landlord have to lower the rent in order to make the unit affordable to a tenant participating in a government rental assistance program or Section 8?**

**A:** The Ordinance does not require a landlord to lower the rent in order to accept a Section 8 tenant or a tenant receiving assistance under another government rental assistance program. Landlords should contact the Tampa Housing Authority for answers to questions regarding participation in the Section 8 program, or the agency responsible for administering the applicable rental assistance program.