

November 5, 2020 - ABLE Testimony - By Reem Subei

Chairperson Dr. Adams, Vice-Chair Gadus, Committee members, Good afternoon.

Reem Subei from Advocates for Basic Legal Equality (“ABLE”). It’s a pleasure to zoom with you this Thursday.

Thank you for this opportunity to speak in support of the proposed changes to Toledo’s Anti-Discrimination Ordinance.

ABLE first drafted and proposed these protections under the leadership of Councilmember Komives in 2018. Thank you to everyone else joining in support of this ordinance.

The ordinance before you has two main changes from the City’s current law:

1. Expanding the protected classes of people to include the bolded groups: race, **ethnicity**, religion, **color**, national origin, ancestry, sex, **familial status**, disability, age, **source of income**, **military status**, **immigration status**, sexual orientation, or gender identity; and the second most important element:
2. Creating a private right of action.

Housing discrimination currently impacts thousands of people in our community, with a disproportionate effect on families with children, people of color, and those with disabilities.

I represent several clients who cannot find housing because they are voucher holders. I have a client right now, a Black mother and grandmother taking care of her children and a grandchild. She is struggling to find housing.

In fact, there is evidence that landlords use voucher discrimination as a proxy for discrimination against other protected classes such as familial status, race, and disability.

Several courts have issued decisions in favor of source of income discrimination. Some affirming that the Section 8 program is “not unduly burdensome.” (*See Montgomery County v. Glenmont Hills Associates Privacy World at Glenmont Metro Centre*, 402 Md. 250, 936 A.2d 325 (2007); *DiLiddo v. Oxford Street Realty, Inc.*, 450 Mass. 66, 876 N.E.2d 421 (2007).) Others explaining that “landlords remain free not to rent to voucher holders provided they do so on other legitimate, non-discriminatory grounds. (*See Bourbeau v. Jonathan Woodner Co.*, 549 F. Supp. 78 (D.D.C. 2008).)

By expanding access to housing options, the ordinance before you would enable vulnerable groups and voucher recipients to live in higher opportunity neighborhoods and connect to vital community assets such as education, employment, transportation, and healthcare, thereby improving housing access and alleviating historical patterns of segregation and concentrations of poverty.

A recent HUD study found that in areas with voucher non-discrimination laws, tenants are rejected 35% of the time, compared to a 77% rejection rate in areas without protections.

Toledo would be joining 17 states, the District of Columbia, and at least 96 other cities that have passed similar legislation.

Here in Ohio, several cities have passed source of income protections, including: South Euclid, University Heights, Warrensville Heights, Linndale, Bexley, Cincinnati, and Wickliffe.

The Fair Housing Act (Title VIII of the Civil Rights Act of 1968) prohibits housing discrimination based on race, color, religion, sex, familial status, national origin, and disability.¹ It requires all federal agencies relating to housing and urban development (and their grantees) to both avoid overt discrimination and to administer their housing programs “in a manner affirmatively to further the policies of the [Fair Housing Act].” Subsequent legislation and the interpretation of the courts has reinforced that both HUD and HUD grantees — the states, localities, and other organizations that receive federal funding — have an obligation to affirmatively further fair housing, including the promotion of “truly integrated and balanced living patterns.”²

As a recipient of federal funding, the City of Toledo has a responsibility to take proactive steps to eliminate barriers to housing choice and promote integrated living patterns.

The City has already taken some steps in the right direction. In 2015, Toledo included SOI protection as part of its five-year comprehensive plan to expand access to housing opportunities.

This ordinance is an extension of that commitment.

The Housing Choice Voucher program serves more than 2.2 million households and can enable low-income families with children to move to safe neighborhoods with high-quality schools. However, the program is only effective if private landlords are willing to accept the subsidies as a “source of income” for rent payments.

Allowing renters to be excluded from housing due to their immigration status or source of income perpetuates inequality and undermines federal and state fair housing laws that prohibit the discrimination of individuals and families based on race, sex, familial status, and disability.

Toledo Municipal Court already has jurisdiction over this type of ordinance. Specifically, the housing division of municipal court has jurisdiction “within the territory of the court in any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to premises used or intended for use as a place of human habitation, buildings, structures, or any other real property subject to any such code, ordinance, or regulation.” R.C. 1901.181. So not only does the Municipal Court already have jurisdiction, but the state law clearly contemplates that municipalities may pass local codes requiring civil enforcement.

Passing this legislation is a critical step in demonstrating the City of Toledo’s commitment to building a diverse, inclusive community with greater access to opportunity for all its residents.

I am happy to answer any questions now or after the meeting.

Thank you.

¹ The Fair Housing Act, Section 808 (e)(5).

² U.S. Department of Housing and Urban Development. 2013. “Affirmatively Furthering Fair Housing,” 43712; Philip D. Tegeler. 2005. “The Persistence of Segregation in Government Housing Programs,” in *The Geography of Opportunity: Race and Housing Choice in Metropolitan America*, ed. Xavier de Sousa Briggs, Washington, DC: Brookings Institution Press, 197; *Otero v. N.Y. City Housing Authority*, 484 F.2d 1122 (2d Cir. 1973); *Shannon v. HUD*, 436 F.2d 809 (3d Cir. 1970); Austin W. King. 2013. “Affirmatively Further: Reviving the Fair Housing Act’s Integrationist Purpose,” *New York University Law Review* 88:6, 2184; *Trafficante v. Metropolitan Life Insurance Company*, 409 U.S. 205, 211 (1972); The decision quotes the bill’s sponsor, Walter Mondale, regarding the aim of integration. Mondale, *Congressional Record*, 90th Cong., 2d sess., 1968, 114: 3422.