

Legislative Memorandum

Subject: Syracuse Local Law to Amend Fair Practices Law (Local Law No. 17) to include “Source of Income” as an Unlawful Discriminatory Practice

Position: SUPPORT

Of the nation’s 100 largest metropolitan areas, Syracuse has the highest level of poverty concentration amongst blacks and Latinos.¹ This racial and socioeconomic isolation persists because of inequitably distributed housing opportunities and choice within the city of Syracuse. While a number of historical government and private practices have resulted in certain settlement patterns and an uneven distribution of housing opportunities within the city, housing choice is also significantly limited because families that rely on Section 8 vouchers² and other government subsidies to pay rent are discriminated against because there are no local or county laws that prohibit this form of discrimination. In fact, a survey conducted by CNY Fair Housing, a social services provider in Syracuse, revealed that the number one barrier to finding housing for their clients was discrimination against Section 8 and public assistance recipients.³ Though several states have protections prohibiting recipients of public assistance from being discriminated against solely because of this fact, only seven jurisdictions in New York provide such protections: Buffalo, New York City, Hamburg, West Seneca, Nassau County, Suffolk County, and Westchester County.

A 2014 CNY report revealed a dearth of affordable housing opportunities in Syracuse. The report notes that “[w]aiting list[s] for subsidized housing programs are long and the Syracuse Housing Authority has even shut down their waiting list for Section 8 vouchers due to the length of the list.”⁴ Other reports have revealed that the wait period for vouchers can range from one to four years.⁵ During these long wait periods individuals live in substandard housing or live with friends and family, which often times creates financial and emotional burdens on everyone in the residence.⁶ Once a voucher is available, it often becomes a race against time because the

¹ PAUL JARGOWSKY, CENTURY FOUNDATION, ARCHITECTURE OF SEGREGATION: CIVIL UNREST, THE CONCENTRATION OF POVERTY, AND PUBLIC POLICY (2015), <https://tcf.org/content/report/architecture-of-segregation/>.

² The Section 8 Housing Choice Voucher Program is a federal government program that helps low-income families, the elderly, and people with disabilities afford housing in the private market. Section 8 vouchers are transferable financial aid tickets from the government that are redeemable for a portion of a recipient's rent

³ CNY FAIR HOUSING, ANALAYSIS OF IMPEDIMENTS TO FAIR HOUSING: SYRACUSE AND ONONDAGA COUNTY, NY 8 (2014), <http://cnyfairhousing.org/wp-content/uploads/2014/11/CNY-Fair-Housing-sm2.pdf>.

⁴ CNY FAIR HOUSING, ANALAYSIS OF IMPEDIMENTS TO FAIR HOUSING: SYRACUSE AND ONONDAGA COUNTY, NY 51 (2014), <http://cnyfairhousing.org/wp-content/uploads/2014/11/CNY-Fair-Housing-sm2.pdf>.

⁵ See, Marnie Eisenstadt, *In Syracuse, it's legal to discriminate against poor families who want to rent*, SYRACUSE POST-STANDARD, Apr. 14, 2016, http://www.syracuse.com/poverty/2016/04/low_income_families_find_thems.html; Mike Mahardy, *Section 8 waitlist stalls as over 6,800 Syracuse applicants await housing assistance*, MY HOUSING MATTERS, Mar. 25, 2015, <http://myhousingmatters.com/section-8-waitlist-keeps-growing-as-over-6800-syracuse-applicants-await-housing-assistance/>.

⁶ See, e.g., Paul Riede, *A backlog for low-income housing assistance leaves more than 10,000 households struggling*, SYRACUSE POST-STANDARD, Apr. 03, 2012,

recipient has 60 days to find a suitable housing that will accept the voucher. Though most voucher providers offer extensions for up to 120 days, many recipients are forced to forfeit their voucher and reapply because they are unable to find suitable housing that would accept the subsidy. These impediments to affordable housing opportunities are even greater for people with disabilities, who may require residences with special accommodations, which are scarce in Syracuse. For example, the *Syracuse Post-Standard* profiled Monica Johnson, a permanently blind woman, who waited three years for a Section 8 voucher and was forced to forfeit it because she was unable to find a unit during her 120 day search.⁷

The lack of legal protections against source of income discrimination in Syracuse presents a legal quagmire. Those who are protected by federal and state fair housing laws often use affordable housing and other public assistance at disproportionate rates.⁸ While some forms of housing discrimination based on source of income are overt, e.g., advertisements that state “Section 8 need not apply”, source of income can also be used as a proxy for discrimination of otherwise protected statuses, like race and disability. Though the discriminatory effect of certain practices have been successfully challenged under federal fair housing laws, these cases are often hard to pursue, particularly when the challenged practice, i.e., source of income discrimination, is legal within a jurisdiction. Consequently, the lack of source of income protections in Syracuse has resulted in this discriminatory practice perpetuating racial and socioeconomic inequities within the Syracuse metropolitan area, making it the ninth most racially segregated community in the United States.⁹

The consequences of this unbounded discrimination extend beyond housing. Research has long shown that where a family lives directly effects access to economic opportunities and the quality of educational opportunities.¹⁰ This is because public school funding is overly reliant on local

http://www.syracuse.com/news/index.ssf/2012/04/a_backlog_for_low-income_house_assistance_leaves_more_than_10000_households_struggling.html.

⁷ Chris Baker, *Landlords refuse to rent to blind woman because she gets Section 8*, SYRACUSE POST-STANDARD, May 10, 2016,

http://www.syracuse.com/news/index.ssf/2016/05/landlords_refuse_to_rent_to_a_blind_woman_because_she_gets_section_8.html.

⁸ U.S. Housing and Urban Development data on its programs, in Onondaga County showed that in 2009, 59 percent of the Section 8 voucher recipients were minority residents, although racial minorities only make up 19 percent of the total county population. U.S. Dep’t of Housing & Urban Development, *Picture of Subsidized Households, ACS1 Year Estimates (2009)*,

<http://www.huduser.org/portal/datasets/picture/yearlydata.html>.

⁹ CNY FAIR HOUSING, ANALAYSIS OF IMPEDIMENTS TO FAIR HOUSING: SYRACUSE AND ONONDAGA COUNTY, NY 17 (2014), <http://cnyfairhousing.org/wp-content/uploads/2014/11/CNY-Fair-Housing-sm2.pdf>.

¹⁰ See HEATHER SCHWARTZ, THE CENTURY FOUNDATION, HOUSING POLICY IS SCHOOL POLICY: ECONOMICALLY INTEGRATIVE HOUSING PROMOTES ACADEMIC SUCCESS IN MONTGOMERY COUNTY, MARYLAND (2010), <https://tcf.org/assets/downloads/tcf-Schwartz.pdf>; U.S. DEP’T OF HOUS. & URBAN DEV., OFFICE OF POLICY DEV. & RESEARCH, HOW HOUSING MOBILITY AFFECTS EDUCATION OUTCOMES FOR LOW-INCOME CHILDREN (2014), <https://www.huduser.gov/portal/periodicals/em/fall14/highlight2.html>; GARY ORFIELD, SEGREGATED HOUSING AND SCHOOL RESEGREGATION in DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF *BROWN V. BOARD OF EDUCATION* (Gary Orfield & Susan Eaton, eds. 1997); RICHARD ROTHSTEIN, THE RACIAL ACHIEVEMENT GAP, SEGREGATED SCHOOLS, AND SEGREGATED NEIGHBORHOODS – A CONSTITUTIONAL INSULT, RACE AND SOCIAL

property taxes, which creates a system where school districts reflect their racially and socioeconomically homogenous surrounding communities. Hence, wealthier communities can restrict their resources and students to school district boundaries, and high poverty, high need communities are relegated to under-resourced schools. Over time, Syracuse has experienced the largest increase in majority-minority schools, compared to other upstate New York metropolitan areas.¹¹ A UCLA Civil Rights Project study found that “[i]n Syracuse, black students attended school in 1989 with a third of students from their own race; twenty years later, the typical black student attended schools with nearly half black students.”¹² In contrast, enrollment in districts in suburban areas have remained predominately white and middle class, with only 21 percent of students eligible for free and reduced-price lunch, compared to Syracuse, where 80 percent of students are eligible for free and reduced-price lunch.¹³ This chasm between school districts is further reinforced by settlement patterns because many families with resources make housing choices based on the actual or perceived quality of the local school system.

Unfortunately, the residual effects of source of income housing discrimination on the educational opportunities of families that receive public assistance have the greatest consequences for children. For instance, Paul Jargowsky of the Century Foundation found that high poverty neighborhoods produce high poverty schools, and both the school and neighborhood contexts affect student achievement and often produce adults of lower socioeconomic status.¹⁴ Experts like Richard Rothstein of the Education Policy Institute suggest that avoiding these negative outcomes and narrowing the achievement gap requires housing desegregation reforms, including prohibiting landlords from discriminating against housing voucher recipients.¹⁵

PROBLEMS 6(4) (2014), <http://www.epi.org/publication/the-racial-achievement-gap-segregated-schools-and-segregated-neighborhoods-a-constitutional-insult/>.

¹¹ GARY ORGIELD & JOHN KUCSERA, THE CIVIL RIGHTS PROJECT at UCLA, NEW YORK STATE’S EXTREME SCHOOL SEGREGATION: INEQUALITY, INACTION AND A DAMAGED FUTURE 98-99 (2014), <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norfler-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>.

¹² GARY ORGIELD & JOHN KUCSERA, THE CIVIL RIGHTS PROJECT at UCLA, NEW YORK STATE’S EXTREME SCHOOL SEGREGATION: INEQUALITY, INACTION AND A DAMAGED FUTURE 123 (2014), <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norfler-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>.

¹³ GARY ORGIELD & JOHN KUCSERA, THE CIVIL RIGHTS PROJECT at UCLA, NEW YORK STATE’S EXTREME SCHOOL SEGREGATION: INEQUALITY, INACTION AND A DAMAGED FUTURE 123 (2014), <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norfler-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>.

¹⁴ PAUL JARGOWSKY, CENTURY FOUNDATION, ARCHITECTURE OF SEGREGATION: CIVIL UNREST, THE CONCENTRATION OF POVERTY, AND PUBLIC POLICY (2015), <https://tcf.org/content/report/architecture-of-segregation/> citing PAUL A. JARGOWSKY AND MOHAMED EL KOMI, BEFORE OR AFTER THE BELL? SCHOOL CONTEXT AND NEIGHBORHOOD EFFECTS ON STUDENT ACHIEVEMENT *in* NEIGHBORHOOD AND LIFE CHANCES: HOW PLACE MATTERS IN MODERN AMERICA (HARRIET B. NEWBURGER, EUGENIE L. BIRCH, AND SUSAN M. WACHTER eds. 2011), 50–72; Ann Owens, *Neighborhoods and Schools as Competing and Reinforcing Contexts for Educational Attainment*, *Sociology of Education* 83, no. 4 (2010).

¹⁵ “narrowing the achievement gap will also require housing desegregation, which history also shows is not a voluntary matter but a constitutional necessity – involving policies like voiding exclusionary zoning, placing scattered low and moderate income housing in predominantly white suburbs, prohibiting landlord discrimination against housing voucher holders, and ending federal subsidies for communities that fail to reverse policies that led to racial exclusion.” RICHARD ROTHSTEIN, THE RACIAL ACHIEVEMENT GAP, SEGREGATED SCHOOLS, AND SEGREGATED NEIGHBORHOODS – A CONSTITUTIONAL INSULT, *RACE AND SOCIAL PROBLEMS* 6(4) (2014), *available at*

Syracuse introduced legislation to address some of these problems. This legislation amends a local Fair Practices Law to prohibit housing discrimination based on source of income for housing. The purpose of this legislation is to prevent and reduce source of income housing discrimination, and therefore increase housing, economic, and educational opportunities in Syracuse. Similar to federal fair housing laws, these protections apply to all housing related transactions including rentals, real estate sales, mortgage lending, and homeowners insurance. It also includes an enforcement provision that allows any aggrieved party to seek damages, as well as comparable property exemptions from federal fair housing laws.¹⁶ The legislation also extends state and local protections against discrimination based on actual or perceived sex, gender identity or expression for employment, housing, and public accommodations.

The potential impact of this legislation is significant. The U.S. Department of Housing and Urban Development conducted a national survey and found that in jurisdictions with laws prohibiting discrimination based on source of income, the “success rate” for Section 8 voucher holders finding suitable housing increased by 12 percent.¹⁷ Thus, if this law was in effect it could reduce the number of Section 8 voucher recipients in Syracuse that are forced to forfeit their vouchers for failure to find suitable housing. While we commend this legislation for its ability to expand housing choice within Syracuse, we also urge local legislators to take additional steps to ensure that affordable housing is available to residents who rely on public assistance to pay their rent.

The NYCLU strongly supports the Syracuse Local Law to Amend Fair Practices Law (Local Law No. 17) to include “Source of Income” as an Unlawful Discriminatory Practice.

<http://www.epi.org/publication/the-racial-achievement-gap-segregated-schools-and-segregated-neighborhoods-a-constitutional-insult/>.

¹⁶ The bill exempts housing operated by religious organizations and small owner occupied housing accommodations.

¹⁷ U.S. Dep’t of Housing & Urban Development, Office of Policy Dev. & Research, Study on Section 8 Voucher Success Rates, Vol. 1 Quantitative Study of Success Rates in Metropolitan Areas (Nov. 2001), <https://www.huduser.gov/publications/pdf/sec8success.pdf>.