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January 14, 2022

Lizzie Goddard
Metro Homeless Impact Division
800 2nd Ave. N #100
Nashville, TN 37201

Dear Lizzie,

The Metro Homeless Impact Division contacted the Tennessee Fair Housing Council in January 2022 requesting our analysis on whether it is appropriate for housing providers to allow for specialized screening criteria when assessing homeless applicants. It is our understanding that some property managers were concerned that allowing people with criminal records to live in their properties could somehow violate the Fair Housing Act (“FHA”), 42 U.S.C. § 3601, *et seq.*

The FHA prohibits discrimination in housing on the basis of seven protected classes: race, color, religion, national origin, sex (which includes gender identity and sexual orientation), familial status, and disability. One’s status as housed or homeless is *not* a protected class contemplated by the FHA.

While the FHA does not specifically protect homeless or non-homeless people, the FHA does protect people with disabilities. In fact, the FHA requires landlords make reasonable accommodations “in rules, policies, practices, or services, when such accommodations may be necessary to afford such [disabled] persons equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B).

According to a 2018 United States Interagency Council on Homelessness report, “people with disabilities are disproportionately represented among all people experiencing homelessness...”¹ While Americans experience disabilities at a rate of 24%, people in permanent supportive housing for individuals who experience chronic homelessness experience disabilities at a rate of 74%.² In some cases, it may be necessary for housing providers, as a reasonable accommodation, to assess the qualifications of a homeless person with a criminal record, as a result of a disability, differently than one might assess someone with a criminal record who does not have a disability.

Please feel free to contact us if you have any further questions.

Sincerely,

A handwritten signature in black ink that reads "Julie Yriart". The signature is written in a cursive, flowing style.

Julie Yriart, Attorney at Law
Interim Executive Director

¹ United States Interagency Council on Homelessness, *Homelessness in America: Focus on Chronic Homelessness Among People with Disabilities*, available at https://www.usich.gov/resources/uploads/asset_library/Homelessness-in-America-Focus-on-chronic.pdf (August 2018)

² *Id.*