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Testimony on behalf of Maine Equal Justice in *Support* of LD 847, An Act to Prohibit Housing Discrimination

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Good morning, Senator Carney, Representative Kuhn, distinguished members of the Judiciary Committee. I'm Andrea Steward, (she/her/hers) a policy advocate at Maine Equal Justice nonprofit civil legal aid provider working to increase economic security, opportunity, and equity for people in Maine.

Thank you for the opportunity to offer testimony in support of LD 847.

What This Bill Does

LD 847 explicitly prohibits landlords from relying on administrative and other program requirements as justification for denying voucher holders. This cures the lack of clarity that the Law Court highlighted in *Dussault* and will achieve our State's desired non-discrimination policy.

The Law Court's Holding in *Dussault v. RRE Coach Lantern Holdings* Requires the Legislature's Action to Advance this Non-Discrimination Policy

The Law Court's holding in *Dussault v. RRE Coach Lantern Holdings, LLC* (2014 ME 8, 86 A.3d 52) requires the Legislature to make explicit the policy of non-discrimination against participants in rental assistance programs. Based on the Law Court's interpretation of Maine Human Rights Act's existing public assistance provision (5 M.R.S. § 4581-A(4)) a landlord may legally refuse to rent to a Section 8 Voucher holder by simply asserting their desire not to comply with the administrative components of the program. (*Dussault* 2014 ME 8, 17-18, 86 A.3d 52). The Law Court noted it was "limited by the language that the Legislature has enacted" in the Maine Human Rights Act, and the Legislature has not explicitly "required landlords to accept Section 8 vouchers." (*Id.* 19.)

Why Maine Equal Justice Supports LD 847

Housing is a fundamental human need and a cornerstone of opportunity. It affects employment stability, education, health, and overall well-being. Yet, too many individuals and families in Maine continue to face discrimination when seeking a place to live—based on race, ethnicity, disability, family status, source of income, or other protected characteristics. This not only undermines the values of fairness and equality but also deepens systemic inequalities that harm our communities.

A. Rental Assistance Should Ensure Stability, but Stigma Leads to Instability

Every person and family should have the freedom to choose where they call home.

Unfortunately, in Maine, landlords have more power over where someone can live, work, and send their children to school by denying Section 8 Vouchers. Section 8 Vouchers are intended to provide safe affordable housing options for low income families with the opportunity to move to lower poverty areas if they choose. These vouchers bridge the affordability gap to allow tenants to afford fair market rent homes. They are required to contribute 30% of their monthly income to rent and the rest is subsidized. This program provides stability for tenants and ensures landlords get paid.

But voucher holders face outright discrimination because of their participation in the program. A voucher holder should be able to move into any community in Maine with a market rate unit, but in reality, their housing choices are severely limited by their ability to find a landlord who will participate in the program. Tenants routinely apply to dozens of landlords before finding one who will accept their voucher.

They judged me without getting to know who I really was. Just looked at my background check and mistreated me after looking at it. - Augusta

I very much appreciate the section 8 program, without it we would not have shelter. However, the voucher is extremely hard to use. It is near impossible to find a landlord who will accept Sect. 8. -Livermore falls.

They look at section 8 and figure you're gonna destroy their property and don't rent to you because you're on section 8. -Norway

All I find are landlords who will not do the needed repairs, they don't mow the lawn or fix the broken stove. Then, my building was sold and now they are remodeling apartments and tripling rent. - Farmingdale

Program administrators often put a time stamp on how long a voucher holder has to find and lease a home. This ranges from 30 to 120 days. If they fail to do so they will lose their voucher and likely become or remain homeless. Maine Housing demonstrates these challenges in their

report from 2015 that showed less than half of Section 8 Voucher holders found a place within 30 days.¹ Hundreds of people in Maine who have vouchers can't use them due to the limited number of landlords willing to participate in the program.

Additionally, voucher discrimination has frequently been used as a proxy for racial and economic bias. A 2018 HUD-sponsored study found that landlords deny Section 8 vouchers at significantly higher rates in more expensive neighborhoods, reinforcing patterns of segregation and limiting opportunities for low-income families.² While Maine's 2024 point in time count reflects a decrease of nearly 37%, there has been an 8% increase in homelessness among Black and African Americans in Maine. Despite making up only about 2% of the overall population, 42% of Black or African Americans in Maine are homeless.³ Addressing housing discrimination is essential to advancing racial equity and economic justice in our state.

B. Protections Promote the Goals of Housing Voucher Programs

A common argument against policies prohibiting discrimination on the basis of participation in a rental assistance program is that it violates Congress's intent to make landlord participation in the Section 8 Voucher program "voluntary." But policy makers and courts across the country have agreed that prohibiting discrimination against voucher holders promotes the purposes of the Section 8 Voucher program.

Additionally, courts have rejected the characterization of the Section 8 Voucher program as "voluntary."⁴ In Washington, D.C., courts have affirmed that "landlords remain free not to rent to voucher holders provided they do so on other legitimate, non-discriminatory grounds." This ensures that property owners retain discretion in tenant selection while preventing unjust exclusion based solely on voucher status. Similarly, when Connecticut's law was challenged, the court upheld its protections, stating that "to read such an exception into the statute would undermine the legislature's intent to provide low-income families access to the rental market." These rulings underscore the importance of clear and enforceable protections against discrimination based on source of income. Interpretations have also noted that the text and history of federal law creating the Section 8 Voucher Program does not "indicate, much less establish, that voluntary participation by landlords was an important Congressional objective,"

¹ This was part of Maine Housing's decision to extend their 30 day time limit to 120 days, in part to avoid the need to process extension requests. Maine Housing administers one-third of the State's 12,000 Section 8 Vouchers with the rest being administered by local housing authorities. Callie Ferguson, Homeless with 4 Kids, A Bangor Man Called Nearly 100 Landlords to Find a Place to Live, Bangor Daily News (Nov. 19, 2018), <https://bangordailynews.com/2018/11/19/news/bangor/homeless-with-4-kids-a-bangor-man-called-nearly-100-landlords-to-find-a-place-to-live/>.

² Mary Cunningham, et al., A Pilot Study of Landlord Acceptance of Housing Vouchers: Executive Summary 3, Urban Institute (2018), <https://www.urban.org/research/publication/pilot-study-landlord-acceptance-housing-choice-vouchers>.

³ Maine State Housing Authority, Maine Homelessness Survey:

https://mainehousing.org/docs/default-source/policy-research/research-reports/homeless-reports/2024-point-in-time-report.pdf?sfvrsn=85d69e15_

⁴ Eesha Pendharkar, Unhoused people staying homeless longer, according to Maine Housing report, Maine Morning Star.

⁵ See *Austin Apartments Ass'n v. City of Austin*, 89 F.Supp.3d 886, 895 (W.D. Tex. 2015) (collecting cases).

and “[t]he only declared objective is to assist State and local governments in expanding affordable housing for low-income families.”⁵

C. Maine Human Rights Act and Immutable Characteristics

Moreover, poverty is not a condition that can be changed overnight. As highlighted in the 2015 *The Yale Law Journal*, “immutability may describe those traits that are so central to a person's identity that it would be abhorrent for government to penalize a person for refusing to change them.”⁶ Discriminating against individuals based on their source of income—particularly those who rely on housing vouchers—effectively penalizes them for their economic status, a factor largely beyond their immediate control. Just as race, gender, and disability have been recognized as immutable characteristics warranting legal protections, a person's socioeconomic status and reliance on rental assistance should not be viewed as a choice, but rather the systemic structures limiting equal opportunity and perpetuating systemic biases.

This issue is deeply connected to energy justice. A promising energy justice bill before the Legislature this session seeks to introduce fairness and affordability standards within the Public Utilities Commission rules. Just as we recognize the need to ensure that all Mainers, regardless of income, have access to fair and affordable energy, we must also protect the same vulnerable consumers from housing discrimination. While the Section 8 Housing Choice Voucher Program is the largest federal affordability program, designed to stabilize low-income households, ensuring access to housing without discrimination is a critical component of broader affordability and fairness efforts. If we are taking steps to prevent unjust energy burdens on low-income households, it is only common sense to ensure those same families are not unjustly denied a home due to their reliance on housing assistance and reduce their rental burden.

Maine can meet landlords' concerns over the administrative components of the programs without harming low-income tenants.

I want to emphasize that this legislation does not limit a landlord's ability to screen and choose the best tenant for their unit. It simply ensures that individuals are not denied housing based solely on their participation in a housing voucher program. The Section 8 Housing Choice Voucher Program is the largest federal rental assistance program in the U.S., yet it only serves 1 in every 5 eligible families due to funding limitations. In Maine, there are 15,000 families

⁵ *Montgomery Cnty. v. Glenmont Hills Assocs.*, 936 A.2d 325, 336 (Md. 2007); see also *Franklin Tower One, L.L.C. v. N.M.*, 725 A.2d 1104, 1113 (N.J. 1999) (“[T]he voluntary nature of the Section 8 program is not at the heart of the federal scheme.”); *Comm'n on Human Rights & Opportunities v. Sullivan Assocs.*, 739 A.2d 238, 246 (Conn. 1999) (“Requiring landlords to extend rental opportunities to otherwise eligible section 8 recipients. . . is not an obstacle to the congressional agenda but serves instead to advance its remedial purpose.”).

⁶ Jessica A. Clarke, ‘Against Immutability’. *The Yale Law Journal*. https://www.yalelawjournal.org/pdf/a.2.Clarke.102_soghpowr.pdf

currently on the waitlist, waiting years for assistance. Despite receiving vouchers, many families still struggle to secure housing due to widespread discrimination against voucher holders.⁷

Many voucher programs across the country and in Maine have successfully used landlord incentives and supports to ensure that landlords can easily navigate the program. Those have included landlord bonuses for participating in voucher programs, hotlines to answer technical questions, repair assistance so apartments will meet program standards, and damage mitigation funds in case repairs are needed at the end of a tenancy beyond the security deposit.⁸ Housing programs in Maine have already been successful with these models. For example, the Maine Homeless Veteran Action Committee launched a damage mitigation fund in 2020 which helps to house homeless veterans. FairTide, located in Kittery, launched a pilot program in 2020 which has also shown success. Maine can make voucher programs work for both landlords and tenants while promoting the goals of expanding access to stable homes for low-income tenants.

Conclusion

With so many Mainers living on the edge, we must use every evidence-based solution available to address this housing crisis, and prohibiting voucher discrimination is one of the most straightforward and effective policy tools we have.

By enacting stronger anti-discrimination policies, Maine will join other states in fostering a more inclusive and just housing market. Such policies not only protect tenants but also provide clear guidelines for landlords, fostering a more stable and transparent rental market. Additionally, addressing housing discrimination can lead to economic benefits, including reduced homelessness, increased workforce participation, and stronger, more diverse communities.

I urge this committee to take decisive action in passing legislation that effectively prohibits housing discrimination and ensures that every person in Maine has an equal opportunity to secure housing. I appreciate your time and consideration and welcome any questions you may have.

⁷ Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing Hardship and Health*, Social Forces (2015), https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf.

⁸ For example, Marin County in California has a Landlord Partnership Program where participating landlords who lease 50 percent of their units to voucher holders can have building permit fees waived for repairs or improvements at the rental site. The program also offers a dedicated landlord liaison 24-hour hotline to address immediate concerns, workshops and trainings for landlords, and an online landlord portal in an effort to make participation in the program "attractive and feasible" and "streamlined." Marin Housing Authority, *Landlord Partnership Program*, <https://www.marinhousing.org/landlord-partnership-program> (last visited Apr. 19, 2021).