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Testimony of Rep. Cheryl Golek in support of

LD 1036, An Act to Protect Recipients of Public Assistance from Housing Discrimination

Before the Joint Standing Committee on Housing and Economic Development

Senator Curry, Rep. Gere, and members of the Housing and Economic Development Committee, my name is Cheryl Golek, and I represent District 99, which includes Harpswell and parts of Brunswick. I am standing before you all today in support of **LD 1036, An Act to Prohibit Housing Discrimination**.

What is source of income discrimination;

Simply put, it is a type of discrimination in which landlords, owners or real estate brokers refuse to rent to tenants based on their lawful income.

It should go without saying that housing discrimination is discrimination.

It's a stark reality that many Mainers with Housing Choice Vouchers, Social Security Insurance (SSI) or veteran's benefits often face discrimination when trying to find housing solely based on their sources of income. This is an urgent injustice that demands our immediate attention and action.

Why is this bill so important?

We need stronger laws to protect our citizens from this form of discrimination.

In 1975, the Maine Human Rights Act was amended to include a provision prohibiting the refusal to rent or the imposition of different tenancy terms to individuals receiving public assistance. The law was further amended in 1985, making the provisions applicable to any person furnishing public accommodations and making discrimination unlawful where refusal to rent or imposition of different tenancy terms is done primarily because an individual is receiving public assistance.

In 2014, Maine's source of income law was weakened by court interpretation¹. The Maine Human Rights Act protects recipients of both state and federal housing assistance from discrimination based on their status as a recipient. However, in the legal case *Dussault v. RRE Coach Lantern Holdings*, the Maine Supreme Judicial Court (in a 4-3 decision) held that discrimination against a voucher tenant because of the voucher program's required lease form did not constitute discrimination based on the voucher tenant's "status" as a recipient of housing assistance. This decision opened the door to discrimination against families with Housing Choice Vouchers and other sources of income used to pay rent.

To highlight some examples of sources of income discrimination, I am going to share some quotes from those with lived experiences.

A recent community survey asked individuals who utilize or have tried to find housing with a voucher what their experience was, and while they couldn't be here today, they have allowed me to share some of these stories on their behalf. I have removed their names and left the towns they live in.

"After I was given a voucher, I had to apply for two separate extensions because of the difficulty in finding a landlord willing to accept a voucher." - Aroostook County.

"The landlord said they didn't take vouchers without giving a reason why (this was in a high-end 'community' with shared playgrounds, walkways and common area). No one wants 'voucher people,' as low-income people are seen as trashy." - Brunswick.

"Most landlords don't want to rent to me due to the stigma around people who use vouchers, 'are bad and dirty tenants who don't respect their property,' and that is hard when you don't do that, and that isn't the majority of us!" - Sangerville.

"The amount of landlords that accept housing vouchers is slim to none, and the properties for those that do accept are often low in standard or in lesser-desired areas." - Lewiston.

My own story:

As a single parent, Section 8 housing and general assistance were lifesaving resources for my children and I. However, despite these supports, finding housing continued to be very difficult, even though I was working at that time and had full security deposits along with excellent references. At the time, the Section 8 program paid above most of the rents I looked at. I was often bluntly told, "Sorry, we don't rent to you people;" "Give me a call when you stop being lazy;" "I don't rent to people using my tax dollars."

Twenty years later, I dealt with the same blatant discrimination with my disabled brother, who relied on SSI to pay rent, then my aging mother, and finally my son, who had suffered a horrific accident in his youth and needed housing assistance as an adult for a short period. I

¹ <chrome-extension://efaidnbmninnbpcjpcglclefindmkaj/https://www.prrac.org/pdf/AppendixB.pdf>
District 99: Brunswick (Part), Harpswell

share a snapshot of this personal story to show some examples of source of income discrimination in housing.

Being able to pay rent is lifesaving; it should not matter where a person's source of income comes from that they use to pay their rent, and we should not have policies with loopholes that allow for source of income discrimination in housing. Maine must protect people who rent from this type of discrimination. We as a state can only create fair housing once we take steps to remove the discrimination within our housing opportunities. Protection from source of income discrimination protection is one significant act we can apply to protect people.

There is considerable research showing that housing instability often unjustly affects renters from low-income or disadvantaged communities. Source of income discrimination disproportionately hurts people of color, families and people with disabilities. This is not just a statistic but a harsh reality these groups face.

According to a study conducted by the Maine State Housing Authority in 2022², 34% of Maine's homeless population was Black or African American, even though they made up, at that time, less than 2% of Maine's population. Regardless of a landlord's intent, refusing to rent to people based on their source of income disparately impacts non-white tenants, people with disabilities, single women heads of household and families with children.

Over half of the people receiving federal rental assistance are in families with children, and 1/3 have a disability.

Nationally, at least 48% of Section 8 Voucher holders are Black, and at least 18% are Hispanic.

Lack of strong source of income policies can shift low-income tenants into substandard housing in poor neighborhoods and perpetuate segregation, which works against our national fair housing laws that envision communities with truly integrated and balanced living patterns.

Source of income laws work:

We know that source of income protections work.³ They have successfully prevented the concentration of poverty, increased rental assistance acceptance, and created greater freedom for families to choose where they live. LD 847, if enacted, will protect people from source of income discrimination and further strengthen our housing rights.

Dozens of states and municipalities have already filled in the gaps and established their own protections for voucher holders. Over the past several years, California, Colorado, Illinois, Maryland, New York, Rhode Island and Virginia enacted statewide protections for voucher holders between 2019 and 2022. Now, more than 57% of households that use Housing

² <https://www.mainehousing.org/news/news-detail/2022/05/17/homeless-point-in-time-data-released-for-2022>

³ <chrome-extension://efaidnbmninnibpcapjpcgglefndmkaj/https://www.prrac.org/pdf/soi-voucher-data-brief.pdf>

Choice Vouchers live in communities that have banned sources of income discrimination, compared to just over 1/3 of voucher holders in 2018.

These laws have successfully prevented the concentration of poverty, increased rental assistance acceptance and created greater freedom for families to choose where they live. States that have no or weak source of income laws allow for policies that feed discrimination and work against Fair Housing laws.

It is also important to note that in 2017, The American Bar Association's House of Delegates adopted Resolution 119A,⁴⁴ which urged federal, state, local, tribal and territorial governments to enact legislation prohibiting housing discrimination based on lawful income source.

LD 1036 is a crucial step towards creating a strong source of income protection, lowering the rates of housing discrimination and increasing access to safe, affordable housing in our state. This bill is not just about addressing a problem; it's about an urgently needed change. It will ensure that decisions about housing are made based on bona fide qualifications rather than stereotypes or prejudices. The adoption of this bill will provide a powerful tool for the work of housing advocates, lawmakers and litigators who are tirelessly working to end the cycle of poverty and right the long effects of racial and economic housing segregation and discrimination in our state.

I appreciate your time and am happy to take questions.

⁴⁴ [chrome-extension://efaidnbmnnnibpcajpcglclefndmkaj/https://www.prrac.org/pdf/American_Bar_Association_Resolution_119A.pdf](https://www.prrac.org/pdf/American_Bar_Association_Resolution_119A.pdf)



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INVESTIGATOR'S REPORT **MHRC Case Number: H22-0324** January ____, 2023

Jessica Armstrong [REDACTED]

v.

Sun Communities¹ [REDACTED]

I. Summary of Case:

On October 3, 2022, Complainant filed her Complaint with the Maine Human Rights Commission ("Commission") alleging that Respondent discriminated against her on the basis of her receipt of public assistance when it refused to accept General Assistance as payment for her September 2022 lot rent. Respondents denied discriminating against Complainant on the basis of her receipt of public assistance and stated that it is willing to accept public assistance, but it did not want to sign the required agreement with General Assistance due to the additional contractual terms that agreement required.

II. Summary of Investigation:

The Investigation involved reviewing the documents submitted by the parties and holding an Issues and Resolution Conference ("IRC") via video, during which Complainant and Respondent were interviewed.

III. Analysis:

A. Findings of Fact

Complainant resides at [REDACTED] ("The Premises"). Complainant owns her mobile home and Respondent owns the lot. On August 23, 2022, Complainant lost her job and was unable to pay her lot rent for September 2022. On September 14, 2022, Complainant was approved for General Assistance. However, in order for Complainant to pay her rent with General Assistance, Respondent was required to sign an agreement with the General Assistance

¹ Complainant named Sun Communities as the Respondent in her complaint; Respondent provided that its legal name is Sun Communities, Inc. Because Complainant has not amended her complaint, the name she used has been retained.

program. On September 15, 2022, Respondent informed Complainant that it was unable to sign this agreement, preventing Complainant from using General Assistance funds to pay her lot rent. Respondent stated that it has a policy not to sign agreements with public assistance programs because those programs require Respondent to abide by stricter terms than otherwise required by its lease agreements or by law. Respondent further explained that this General Assistance agreement included terms that prohibited Respondent from raising rent and from evicting Complainant for past due rent, which concerned Respondent because Complainant has a history of late rent payments.

B. Legal Analysis

The Maine Human Rights Act ("MHRA") provides that the Commission or its delegated investigator "shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred." Title 5 Maine Revised Statutes ("M.R.S.") § 4612(1)(B). The Commission interprets the "reasonable grounds" standard to mean that there is at least an even chance of Complainant prevailing in a civil action.

The MHRA provides that it is unlawful "[f]or any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily bc of the individual's status as recipient. 5 M.R.S. § 4581-A(4). In *Dussault v. RRE Coach Lantern Holdings, Inc.*, 2014 ME 8, the Maine Supreme Judicial Court, sitting as the Law Court, construed this section in conjunction with 5 M.R.S. § 4583, which provides that landlords retain the right to impose conditions of rental which are consistent with business necessity and are not based on protected-class status. The Law Court explained that "[t]ogether these sections establish that a landlord may not refuse to rent to, or impose different terms of tenancy on, a recipient of public assistance who is an otherwise-eligible tenant primarily on the basis of that person's status as a recipient unless the landlord can demonstrate a business necessity that justifies the refusal." *Dussault*, 2014 ME at ¶ 14.

In considering a landlord's refusal to accept a federal Section 8 housing voucher, the *Dussault* Court stated that the landlord was not imposing different conditions on tenants because of their status as voucher recipients, but rather was holding all tenants to the same conditions by refusing to accept the lower rent amount provided by Section 8 and requiring all tenants to pay the same rental rate. *Id.* At ¶ 16. The Court also held that the landlord was not refusing to rent the unit because of the tenant's status as a recipient of public assistance, but because the landlord did not want to agree to the additional contractual terms required by the voucher program. *Id.* at ¶ 17. In sum, the Court explained: "[a] landlord does not violate the MHRA by offering apartments to recipients of public assistance on the same terms as it offers apartments to other potential tenants." *Id.* at ¶ 16.

Dussault directly applies to this case. In order for Complainant to use General Assistance to pay her rent, Respondent was required to sign an agreement with terms that prohibited it from raising rent or evicting Complainant for past due rent while it was accepting funds from General Assistance. Respondent explained that given Complainant's history of late rent payments and the fact that the terms in this agreement required Respondent to abide by stricter terms of the tenancy

that what was currently in place, Respondent was not willing to sign the agreement.² Respondent also explained during the IRC that it has accepted rent payments from Complainant in the past using funds from other public assistance programs, which administered the funds directly to Complainant without requiring Respondent to sign an agreement with the program. Therefore, Respondent did not refuse Complainant's rent payment because of her status as a recipient of public assistance, but because it did not want to agree to the additional contractual terms that the General Assistance agreement required. Discrimination on the basis of receipt of public assistance is not found.

IV Recommendation:

For the reasons stated above, it is recommended that the Maine Human Rights Commission issue the following finding:

1. There are **No Reasonable Grounds** to believe that Sun Communities discriminated against Jessica Armstrong on the basis of receipt of public assistance; and
2. The complaint should be dismissed in accordance with 5 M.R.S. § 4612(2).

Courtney Burne, Investigator

² Respondent also claimed that participation in this General Assistance program would create an administrative burden. In contrast to the substantial paperwork associated with the Section 8 voucher program, this General Assistance agreement was two pages.