

Tenant Screening

BROKER RESOURCES



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Tenant Screening

Criteria to Avoid



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Employment Verification

- Source of Income is a protected class in Massachusetts
 - Includes Housing vouchers (Section 8), Social Security Income, public assistance, etc.
- Verification of employment would result in a discriminatory impact on individuals who receive income from sources other than employment



Source of Income

- A landlord or their agent may never refuse to rent to an individual due to their source of income
- Landlords may not refuse to rent due to any of the requirements of a program, such as lease provisions, inspections, etc.
- The Office of the Attorney General has been strongly enforcing this using testers, complaints, and significant fines to landlords and brokers



Criminal Background

- Blanket “no criminal history” screening policies have a disparate impact on minority applicants
- A housing provider must be able to demonstrate that such a policy is necessary to achieve a substantial, legitimate, nondiscriminatory interest, such as protecting the safety of property of other tenants
- Any criminal background screening policies should be narrowly tailored and take into consideration the nature, severity, and recency of a conviction
- Screening based on arrests is unlikely to withstand a challenge



Number of Occupants

- Occupancy restrictions should be based on the square footage requirements established in the Sanitary Code:
 - 150 square feet of floor space for the first occupant and at least 100 square feet of floor space for each additional occupant
 - Rooms used for sleeping purposes must have at least 70 square feet for one occupant, or, if there are multiple occupants, there must be at least 50 square feet per occupant
- Occupancy limitations not based on this may run afoul of Fair Housing



Lead Paint

- A landlord may not refuse to rent to an otherwise qualified applicant because a child under the age of 6 will be residing in the property and the property's lead status is unknown or known to have lead hazards
- A tenancy may be delayed for up to 30 days in order to bring a property into lead compliance



MAR LEGALHOTLINE



1-800-370-LEGAL (5342)



- Call 800-370-LEGAL (5342) from 9 am – 4 pm Monday through Friday
- Or email Legalhotline@marealtor.com any time



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