

IN THE
SUPREME COURT OF MARYLAND

September Term, 2024

No. 32

KATRINA HARE,

Appellant,

v.

DAVID S. BROWN ENTERPRISES, LTD.,

Appellee.

On Appeal from the Circuit Court for Baltimore County
(Stacy A. Mayer, Judge)

Pursuant to a Writ of Certiorari to the Supreme Court of Maryland

BRIEF OF AMICUS CURIAE ATTORNEY GENERAL OF MARYLAND

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BRIEF OF AMICUS CURIAE ATTORNEY GENERAL OF MARYLAND

INTEREST OF AMICUS CURIAE

More than 50,500 low-income Marylanders use housing choice vouchers issued under the United States Housing Act to subsidize their rent.¹ Approximately 58% of people receiving housing choice voucher assistance are in families with children, approximately

¹ Center on Budget and Policy Priorities, *Maryland Federal Rental Assistance Fact Sheet*, <https://tinyurl.com/wfj7554c> (last updated Jan. 23, 2025).

19% are seniors, and approximately 26% are people with disabilities.² In addition, Maryland agencies have modeled state-funded voucher programs on the federal housing choice voucher program to comply with federal civil rights laws protecting people with disabilities.³ These programs include the rent subsidy program for persons who receive services from the Developmental Disabilities Administration⁴ and permanent supportive housing services for persons who receive behavioral health services through the Behavioral Health Administration.⁵ Similarly, in 2023, the General Assembly created a state-funded voucher program that adopted the housing choice voucher formula to provide housing subsidies to low-income Marylanders, including Marylanders in classes protected under state antidiscrimination laws. Md. Code Ann., Hous. & Cmty. Dev., Title 4, subtitle 29 (LexisNexis Supp. 2024).

Against that background, the Attorney General and the State have an interest in protecting Marylanders from discrimination in housing and in enforcing Maryland's civil rights laws, which prohibit housing discrimination based on source of income. *See* Housing Opportunities Made Equal ("HOME") Act, 2020 Md. Laws ch. 117; State Gov't

² *Id.*

³ Title II of the Americans with Disabilities Act requires the State to provide services to people with disabilities in the most appropriate integrated setting. *See Olmstead v. L.C.*, 527 U.S. 581 (1999).

⁴ Maryland Developmental Disabilities Administration/Maryland Department of Housing and Community Development/Maryland Department of Disabilities Rent Subsidy Program Referral and Tenant Selection Plan, <https://tinyurl.com/4u5ubush> (last visited Feb. 24, 2025).

⁵ Maryland Department of Health, Behavioral Health Administration, Permanent Supportive Housing, <https://tinyurl.com/2cr6sf74> (last visited Feb. 24, 2025).

§ 20-1041(a) (LexisNexis 2021) (authorizing Attorney General to “investigate, prosecute, and remediate . . . any conduct that constitutes a civil rights violation on behalf of the residents of the State”). More specifically, the Attorney General and the State have a substantial interest in ensuring that the HOME Act is interpreted to protect low-income Marylanders from illegal housing discrimination and to protect the vitality of housing voucher programs that support Maryland residents.

QUESTION PRESENTED

Where a tenant’s rent is subsidized by a housing voucher, does a landlord’s imposition of an income requirement that ignores the share of rent guaranteed by the voucher and has the effect of excluding voucher holders from rental housing constitute source-of-income discrimination in violation of § 20-705 of the State Government Article?

SUMMARY OF ARGUMENT

Maryland law prohibits housing discrimination against people who use vouchers. The HOME Act’s plain language and extensive legislative history demonstrate that, for the law to accomplish its purpose, the provision permitting landlords to confirm that tenants have income sufficient to pay their rent should not be read to allow practices like the one challenged here, in which the landlord ignored that the plaintiff’s voucher would have subsidized \$1,464 of the requested \$1,590 monthly rent.

Vouchers are important tools to assist low-income individuals and families to find and keep stable housing, support housing for persons with disabilities, and address racial segregation. Federally funded voucher programs are designed to ensure that tenants can

afford to pay rent by limiting the obligation that a tenant must pay to 30% of income. 42 U.S.C. § 1437f(o)(2)(A)(i). The Maryland General Assembly considered these factors when it enacted the HOME Act to address the pervasive problem of discrimination against voucher holders.

The circuit court's interpretation of the HOME Act is contrary to the statute's plain language and the General Assembly's clear intent. The HOME Act includes a narrow provision allowing a landlord to determine an applicant's ability to pay rent by verifying in a "commercially reasonable and non-discriminatory manner the source and amount of income or creditworthiness of the potential . . . renter." State Gov't § 20-704(d)(1). The landlord's policy, as approved by the circuit court, is neither commercially reasonable nor non-discriminatory. Instead, it has the effect of perpetuating discrimination against voucher participants, contrary to the language and purpose of the HOME Act. If the circuit court's interpretation is allowed to stand, policies such as the one at issue here can be employed as a mechanism to exclude voucher recipients even though they have the income to meet their rental obligation, thus rendering the statutory prohibition a nullity.

ARGUMENT

I. THE CIRCUIT COURT'S INTERPRETATION OF THE HOME ACT IS INCONSISTENT WITH THE ACT'S PLAIN LANGUAGE AND THE GENERAL ASSEMBLY'S INTENT.

The HOME Act is a remedial statute that must be liberally construed to achieve the legislature's intent. *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 424 (2016) (defining remedial statute and analyzing Maryland's landlord-tenant anti-retaliation statute under this framework). Interpretation starts with the plain meaning of the statute, but even a plain

reading “consider[s] the purpose, aim, or policy of the Legislature in enacting the statute.” *Lockshin v. Semsker*, 412 Md. 257, 275-77 (2010). In interpreting a statute, a court must avoid a reading that is “unreasonable, illogical, or inconsistent with common sense,” and may check its “interpretation against the consequences of alternative readings of the text.” *Rowe v. Maryland Comm’n on Civ. Rts.*, 483 Md. 329, 342-43 (2023). Here, this Court should reject the circuit court’s decision as irreconcilable with both the plain language and the intent of the General Assembly.

A. The HOME Act’s Language Demonstrates That It Was Intended to End Housing Discrimination Against People Who Use Vouchers.

The purpose of the prohibition on voucher discrimination could not be clearer: “It is the policy of the State: to provide for fair housing throughout the state to all, regardless of . . . source of income.” State Gov’t § 20-702(a). “Source of income” means “any lawful source of money paid directly or indirectly to or on behalf of a renter or buyer of housing,” including “any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers issued under the United States Housing Act of 1937.” *Id.* § 20-701(j)(1), (2)(ii). This prohibition does not require a showing of intentional discrimination, just a showing that the policy had a discriminatory effect. *See Montgomery County v. Glenmont Hills Assocs. Privacy World at Glenmont Metro Ctr.*, 402 Md. 250, 278-79 (2007) (interpreting county housing discrimination ordinance that is substantially similar to the HOME Act); *see generally* Armen H. Merjian, *Second-Generation Source of Income Housing Discrimination*, 2023 Utah L. Rev. 963

(2023) (analyzing why minimum income screening requirements are housing discrimination against housing choice voucher program participants).

B. The Legislative Intent to Eliminate Voucher Discrimination Is Clear.

The principal evil addressed by the HOME Act was pervasive housing discrimination against participants in voucher programs. Before the HOME Act's passage, Maryland landlords could and frequently did reject voucher participants simply because of their use of vouchers; blatant discrimination greatly limited housing choices for families using vouchers, while contributing to racial segregation and the concentration of poverty over generations. Dep't of Legis. Servs., Fiscal & Policy Note, S.B. 530, 7 2020 Reg. Legis. Sess. ("S.B. 530 Fiscal & Policy Note"). Echoing other forms of housing discrimination, newspaper clippings and rental advertisements before the HOME Act's passage contained overtly discriminatory statements such as "No Sect[ion] 8." Testimony of Baltimore Neighborhood, Inc. in Support of H.B. 1261, 2008 Reg. Legis. Sess.

Expanding housing opportunities for low-income families advances their economic mobility. Where no legislation protects potential renters against source-of-income discrimination, landlords deny as many as 70% of all housing choice voucher participants. United States Dep't of Hous. & Urban Dev., Office of Policy & Dev., *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers* 30 (2018) ("*Pilot Study*"), <https://tinyurl.com/ycx65htd>. Denial of housing based on source of income causes participants to be segregated into areas of high poverty with significant adverse health, educational, employment, and financial consequences. See S.B. 530 Fiscal & Policy Note

7 (citing studies regarding the residential patterns of voucher participants). By contrast, in jurisdictions where potential renters are protected against discrimination based on source of income, denial rates for housing voucher participants drop to 30%. *Pilot Study* 30.

Source-of-income antidiscrimination legislation provides additional opportunities for families to move out of racially segregated high-poverty areas. *Id.* at 32. Children whose families move to low-poverty areas, in turn, experience improved educational, employment, and health outcomes. *See generally* Raj Chetty *et al.*, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from Moving to Opportunity Experiment*, 106 Am. Econ. Rev. 855 (2016).

The legislative history of the HOME Act spans a nearly two-decade-long vigorous public debate over whether to prohibit discrimination against housing voucher choice participants. The law was first introduced during the 2003 General Assembly Session as Senate Bill 683. When introducing the legislation in subsequent sessions, sponsors spoke directly to the discrimination faced by voucher recipients. Hearing on S.B. 643 before S. Jud. Proc. Comm. (Mar. 2, 2011); Hearing on S.B. 277 before S. Jud. Proc. Comm. (Feb. 15, 2012); Hearing on H.B. 168 before H. Env't & Transp. Comm. (Feb. 9, 2012); Hearing on H.B. 603 before H. Env't & Transp. Comm. (Feb. 21, 2013); Hearing on S.B. 728 before S. Jud. Proc. Comm. (Mar. 14, 2017); Hearing on H.B. 172 before H. Env't & Transp. Comm. (Feb. 7, 2017).⁶

⁶ The cited testimony is available on the Maryland General Assembly's website at <https://mgaleg.maryland.gov/mgaweb/Website/Search/Media>. Timestamps for the cited testimony before the various committees are as follows: S.B. 643 (2011) in Judicial Proceedings begins at 3:38; S.B. 277/H.B. 168 (2012) begins at 1:48 in Environment and

Thus, the General Assembly was aware of the consequences of voucher discrimination and the mechanics of voucher programs when it finally passed the Home Act in 2020. It heard testimony related to the administrative and regulatory requirements of the housing choice voucher program from local public housing authorities, from Marylanders who were denied housing because they participated in the housing choice voucher program, and from opponents of the legislation who offered their perspective on why they did not favor the inclusion of source of income, particularly voucher participants, as a protected class. *Id.*

C. The HOME Act Passed Against the Backdrop of Similar Local Ordinances.

The plain language of State Government § 20-704(d)(1) allows for landlords to verify a tenant's income for a very limited purpose: to determine the "ability of a potential . . . renter . . . to pay rent." This provision was not enacted in a vacuum. Rather, the HOME Act was modeled on local ordinances from Montgomery and Howard Counties. *See* Montgomery County Code §§ 27-12 – 27-14; Howard County Code § 12.207. These ordinances were passed in 1991 and 1992, respectively. Like the HOME Act, they prohibited discrimination based on source of income but allowed landlords to verify the source and amount of income of prospective renters. The HOME Act § 20-704(d)(1) provides:

The prohibitions in this subtitle against discrimination based on source of income do not prohibit a person from determining the ability of a potential

Transportation and at 5:10 in Judicial Proceedings; H.B. 603 (2013) begins at 3:22; and S.B. 728/H.B. 172 (2017) begins at 0:30 in Environment and at 1:19:49 in Judicial Proceedings.

... renter ... to pay rent ... in a commercially reasonable and non-discriminatory manner

State Gov't § 20-704(d)(1). Similarly, the Montgomery County ordinance provides:

The prohibitions of this division against discriminating because of source of income do not prohibit...a commercially reasonable verification of a source and amount of income.

Montgomery County Code § 27-14(d)(1)(A). And the Howard County ordinance provides:

It shall not be unlawful discrimination on the basis of income if a decision is based on: The ability to pay rent or pay a purchase price, which is determined by reasonable and non-discriminatory standards such as verification of the source and amount of income or the creditworthiness of the buyer or renter.

Howard County Code § 12.207(IV)(i)(1):

In hearings on the legislative proposals prohibiting source-of-income discrimination, the General Assembly heard testimony from the county offices responsible for enforcing these local ordinances. The Montgomery County Office of Human Relations explained, "There is no reason to impose a minimum income qualification on a prospect with a Section 8 or other subsidy if the prospect does not pay any rent. If the subsidy requires the prospective resident to pay a portion of the rent, the prospect's income may be verified to establish the prospective tenant's ability to pay only his or her portion of the rent due." Testimony of Montgomery County Hum. Rel. Comm'n on S.B. 683, 2003 Reg. Legis. Sess. Similarly, written testimony from the Howard County Office of Human Relations restated the same guidance via a form policy made available to Howard County landlords. *See* Testimony of Office of Hum. Rights, Howard County on S.B. 643 2011 Reg. Legis. Sess. ("In the section of the community's policy regarding income requirements for market rate applicants, add the sentence, 'Income requirements will be

adjusted accordingly in the event of a Section 8 voucher or government fund paid directly to the community.”). Opponents’ written testimony similarly expressed concerns that source of income legislation would end the practice of requiring a minimum income-to-rent ratio and cited the interpretation of Montgomery County and Howard County ordinances that prohibited the practice. *See* Testimony of Regional Management on H.B. 932, 2004 Reg. Legis. Sess.; S.B. 934, 2007 Reg. Legis. Sess., H.B. 1261, 2008 Reg. Legis. Sess.; S.B. 243, 2010 Reg. Legis. Sess.; H.B. 902, 2011 Reg. Legis. Sess.; and S.B. 643, 2011 Reg. Legis. Sess.

Further, the General Assembly sought a uniform statewide policy restricting source-of-income discrimination. Prior to the HOME Act, seven counties (including Baltimore City) and the Cities of Annapolis and Frederick had local legislation prohibiting housing discrimination based on source of income. *See* Montgomery County Code §§ 27-12 – 27-14; Howard County Code § 12.207; Frederick County Code art. VII, § 1-2-91 – 1-2-100; City of Annapolis Code § 11.32 – Fair Housing; Anne Arundel County Code art. I, Title 9 – Fair Housing; Baltimore City Code art. 4, § 3-5; Baltimore County Code Title I – General Provision § 29-2-101, Prince George’s County Code, Part II – Title 17, Subdivision 5. This local legislation was similarly designed to combat the practice of denying voucher participants housing by virtue of their participation in the voucher program. When amendments that would allow landlords to cap the number of voucher recipients at any particular property were suggested, bill sponsor Senator William Smith spoke to the need for a uniform statewide approach to source-of-income discrimination and the proposed amendments were never introduced. Hearing on S.B. 530, 2020 Reg. Legis. Sess. before

the S. Jud. Proc. Com. (Feb. 4, 2020), https://mgaleg.maryland.gov/mgaweb/site/Committees/Media/false?cmte=jpr&ys=2020RS&clip=JPR_2_4_2020_meeting_1&billNumber=sb0530.

D. The Circuit Court’s Reasoning Would Contravene Legislative Intent by Allowing Landlords to Refuse to Rent to the Vast Majority of Voucher Recipients.

By federal regulation, three-quarters of all voucher holders are families with income below 30% of the area median. 24 C.F.R. § 982.201(b)(2). For a household of two people in Baltimore County, 30% of the area median income is \$2,445 per month. Maryland Dep’t of Hous. & Cmty. Dev., *2024 Income Limits* (July 1, 2024), <https://tinyurl.com/2n46va5b>. Under the policy challenged in this case, a low-income household could never qualify for the unit at issue. A family making \$2,445 a month receiving Housing Choice Voucher assistance must pay 30% of their income, or \$733.50, toward rent. Of the landlord’s requested rent of \$1,590, the public housing authority would assume responsibility for the remaining \$856.50. Adding the public housing authority’s portion of \$856.50 to the family’s other income of \$2,445 results in a total figure of \$3,301.50, which is still less than 2.5 times the requested rent. Rejecting applicants based on a “lack of income” assessment that is unrelated to the portion of the rent they will have to pay discriminates against the very low-income families the housing choice voucher program is intended to assist.

Additionally, allowing policies such as that challenged here would disproportionately harm people who belong to other classes protected by Maryland’s antidiscrimination laws. Families with children and households with disabilities are

especially susceptible to being disqualified based on the circuit court’s opinion. Center on Budget and Policy Priorities, *Maryland Federal Rental Assistance Fact Sheet* (identifying 116,700 households with children using federal housing choice voucher assistance and 52,400 households with disabilities receiving assistance). The HOME Act itself recognized that “[d]iscrimination in housing based on a person’s source of income primarily affects . . . families with children, people of color, and people with disabilities” and that it reinforces decades of housing segregation. 2020 Md. Laws ch. 117, pmbl. Further, when introducing the HOME Act, Senator William Smith recognized that discrimination against voucher holders could be a proxy for impermissible discrimination because of race, familial status, disability, and other classifications. Hearing on S.B. 530 before S. Jud. Proc. Comm. (Feb. 4, 2020).

Federally funded vouchers are a powerful tool to address de jure housing discrimination and, since the enactment of the federal Fair Housing Act, have often been used to remedy the racially segregating effect of site-based public housing. *See* Philip Tegler & Sam Reece, *Section 8 in the Courts: How Civil Rights Litigation Helped Shape the Housing Choice Voucher Program*, 26 *Cityscape: J. Policy Dev. & Res.* 89 (2024); Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* 17-38 (1st Ed. 2017) (describing the racially segregating effect of federally funded housing projects). For example, as a key component of the settlement of claims that public housing in Baltimore City was unlawfully segregated, the Baltimore Regional Mobility Program was formed to assist public housing tenants to move to

neighborhoods of their choice using vouchers. Settlement Agreement, *Thompson v. United States Dep't of Hous. & Urb. Dev.*, No. MJG 95-309 (D. Md. 2012), at ECF 876.

By permitting the disqualification of most voucher holders, the circuit court's interpretation frustrates the intent of the General Assembly and creates a result that is unreasonable, illogical, and contrary to common sense.

II. A POLICY REQUIRING PROOF OF INCOME THAT FAR EXCEEDS THE TENANT'S PORTION OF THE RENTAL AMOUNT IS NOT COMMERCIALY REASONABLE AND NON-DISCRIMINATORY.

The HOME Act allows a landlord to determine “the ability of a potential . . . renter . . . to pay rent . . . in a commercially reasonable and non-discriminatory manner.” State Gov't § 20-704(d)(1). The purpose of this provision is to enable landlords to evaluate a prospective renter's ability to “pay rent.” *See Westminster Mgmt. LLC v. Smith*, 486 Md. 616, 649 (2024) (defining “rent” as “the fixed, periodic payments a *tenant* owes for use or occupancy of a rented premises” (emphasis added)). For voucher holders, this means determining whether a unit is made affordable by a voucher—a determination typically made by a local housing authority.

The housing choice voucher program subsidizes low-income families' rent through a well-established mechanism. *See generally Glenmont Hills Assocs.*, 402 Md. at 255-59 (describing the federal housing choice voucher program). The program is federally funded and administered by local public housing authorities. 42 U.S.C. § 1437f(b)(1). A public housing authority issues vouchers to eligible low-income families, who then select housing. *Id.* § 1437f(o)(6-7). Families receiving assistance pay 30% of their income toward rent and utilities, with the public housing authority assuming liability for the

remaining rent through housing assistance payment contracts with landlords. *See* 24 C.F.R. § 982.451. Under the standard terms of a contract, landlords agree to receive monthly subsidy payments that are not the responsibility of the tenant.⁷ The result of a subsidy paid directly to the landlord under the separate contract is the reduction of a housing choice voucher participant's overall housing costs, including rent and utilities, to no more than the 30% cap noted above.

Thus, a landlord who rents to a housing choice voucher participant knows two key things: first, that the housing authority will pay the amount of the voucher each month, and second, that the tenant has sufficient income because the tenant's rental obligation is, by definition, no more than 30% of the tenant's income. In other words, the landlord knows that tenants with vouchers have income sufficient to pay their rent because they participate in the housing choice voucher program, which provides direct subsidy payments to the landlord. No other proof of income is required.

In view of all of this, policies such as the landlord's in this case are not commercially reasonable. Black's Law Dictionary defines "commercially reasonable" in relation to property sales as "conducted in good faith and in accordance with commonly accepted commercial practices." Black's Law Dictionary (12th ed. 2024). The term "commercially

⁷ Those terms provide that "[t]he tenant is not responsible for paying the portion of rent to owner covered by the [public housing authority] housing assistance payment under the [Housing Assistance Payment] contract between the owner and the [public housing authority]." United States Dep't of Hous. & Urb. Dev., Office of Public & Indian Hous., Housing Assistance Payment Contracts, <https://tinyurl.com/4p2x6696>.

reasonable” appears in other sections of the Maryland Code and has been described by this Court as requiring “reasonable care and diligence,” *Gardner v. Ally Fin. Inc.*, 430 Md. 515, 527 (2013), with particular attention to the procedures employed, *see Harris v. Bower*, 266 Md. 579, 590-92 (1972). Thus, what is commercially reasonable depends on the purpose to be achieved and whether the methods used to achieve that purpose are reasonably tailored and performed in good faith.

Here, the purpose of the exception is to evaluate a prospective renter’s ability to “pay rent.” State Gov’t § 20-704(d)(1). Policies such as the landlord’s here are not reasonably tailored to that purpose, as the facts of this case demonstrate. Because of the subsidy Ms. Hare received, her calculated monthly rental obligation was \$126. Insisting on a monthly income of \$3,975, purportedly with an eye toward ensuring that Ms. Hare could pay the full amount of \$1590, is not a reasonable business or commercial practice. Rather, because the voucher reduces or eliminates a landlord’s exposure to non-payment of rent, the only common-sense approach to determining ability to pay is to look at the ability of housing choice voucher renters to pay their portion—here, \$126.

Other courts considering this issue have reached this conclusion. In *Commission on Human Relations and Opportunities v. Sullivan*, 250 Conn. 763 (1999), for instance, the Supreme Court of Connecticut rejected a landlord’s requirement that a tenant demonstrate weekly income equal to the full monthly rent, without taking into account voucher assistance. *Id.* at 784-89. The court reasoned that allowing such a practice “would swallow the statute and render it meaningless.” *Id.* at 787. Instead, the court looked to the plain language of the statute’s “insufficient income” exception and concluded that a housing

choice voucher participant's income need only be sufficient "to meeting his or her own financial obligations to the landlord, ordinarily the tenant's own periodic rental obligation." *Id* at 788.

Requiring proof of income from voucher holders many times the total rent allows the narrow statutory exception to swallow the rule and serves no legitimate business purpose. Accepting policies such as the landlord's here would undermine the HOME Act's protections, would harm tens of thousands of Marylanders, and would diminish the effectiveness of state and local housing programs.

CONCLUSION

The judgment of the Circuit Court for Baltimore County should be reversed.

Respectfully submitted,

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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains 3673 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.



David Prater

TEXT OF PERTINENT PROVISIONS
(Rule 8-504(a)(10))

Md. Code Ann., State Government Article (LexisNexis 2021)

§ 20-1041

In general (a) The Attorney General may investigate, prosecute, and remediate, on behalf of the residents of the State, any conduct that constitutes a civil rights violation.

Md. Code Ann., Housing and Community Development Article (LexisNexis 2019)

§ 4-2901

Housing Choice Voucher Program (f) “Housing Choice Voucher Program” means the program established under 24 C.F.R. Part 982.

Anne Arundel County Code, Article I, Title 9 – Fair Housing

§ 1-9-101. Definitions. (8) (i) “Source of income” means any lawful source of money that is paid to or for the benefit of a buyer or renter of housing, including money from: 1. a lawful profession or occupation; 2. a federal, state, or local government assistance, grant, or loan program; 3. a gift or inheritance, otherwise legally considered a source of income, provided that a purchase or lease agreement is executed; 4. a pension or annuity; 5. alimony or child support; 6. financial holdings, such as bank accounts, trusts, investment accounts, stocks, or bonds; and 7. any contract right, sale, or pledge of an interest in property.

Baltimore City Code, Article 4

Housing. (a) In general. It is an unlawful discriminatory housing practice, because of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, physical or mental disability, sexual orientation, gender identity or expression, or source of income, for any person having the right to sell, rent, lease, control, construct, or manage any dwelling constructed or to be constructed, or for any employee of such a person: (1) to refuse to negotiate for the sale or rental or to refuse to sell or rent or otherwise deny to or withhold any dwelling from any person; (2) to discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in the furnishing of facilities or services in connection therewith; (3) to refuse to receive or transmit a bona fide offer to

purchase, rent, or lease any dwelling from any person; (4) to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination, or any intention to make any such preference, limitation, or discrimination; (5) to represent to any person that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; (6) to discriminate in allowing or disallowing a person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership, or participation; (7) to include in any transfer, sale, or rental of housing any restrictive covenant that discriminates; (8) to honor or exercise, or attempt to honor or exercise any discriminatory covenant pertaining to housing; (9) to refuse to consider 2 or more applicants' incomes when they seek to buy or rent a dwelling or dwelling unit; (10) to refuse to consider alimony or child support awarded by a court and received by an applicant as a valid source of income, when that source can be verified as to its amount, length of time received, and regularity of receipt; (11) to request or consider information about birth control practices in evaluating any prospective buyer or lessee of a dwelling; (12) to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a mental or physical disability of: (i) that buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with that buyer or renter; or (13) to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a mental or physical disability of: (i) that person; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (iii) any person associated with that person.

Baltimore County Code, Title I – General Provisions

§ 29-2-101.

DEFINITIONS. (f) Source of income. (1) "Source of income" means any lawful source of money paid directly or indirectly to, or on behalf of, a renter or buyer of housing. (2) "Source of income" includes income from: (i) A lawful profession, occupation, or job; (ii) Receipt of a federal, state, or local benefit, including: 1. Receipt of federal, state, or local public assistance, including medical assistance or disability benefits, or receipt of federal, state, or local housing subsidies, including rental assistance or rental supplements,

or because a person is such a recipient, or because of any requirement of such public assistance, rental assistance or housing subsidy; 2. Having a history of receiving benefits as provided under subsubparagraph 1 of this subparagraph; or 3. Being regarded as having a history of receiving benefits as provided under subsubparagraph 1 of this subparagraph; (iii) A gift, an inheritance, a pension, annuity, alimony, child support, or other consideration or benefits; or (iv) The sale or pledge of property or an interest in property.

Frederick County Code, Article VII

§ 1-2-93. DISCRIMINATION CONTRARY TO PUBLIC POLICY AND UNLAWFUL. (A) Discrimination based upon race, color, religion, national origin, sex, age, marital status, disability, familial status, gender identity, sexual orientation, or source of income is contrary to the public policy of Frederick County. (B) Discrimination based upon the following is unlawful in Frederick County: (1) Race, color, religion, national origin, sex, age, marital status, gender identity, sexual orientation, or disability in employment, housing, or public accommodations, (2) Familial status in housing or employment, and (3) Source of income in housing. (C) “Discrimination” means any act that is unlawful under Federal or State law based upon race, color, religion, national origin, sex, age, marital status, gender identity, sexual orientation, or disability. “Discrimination” also means acts that are unlawful under Federal or State law based upon familial status in housing or employment or source of income in housing.

Howard County Code

§ 12.207 (IV)(i)(1)

(i) *Source of income.* It shall not be unlawful discrimination on the basis of source of income if a decision is based on: (1) The ability to pay rent or pay a purchase price, which is determined by reasonable and nondiscriminatory standards such as verification of the source and amount of income or the creditworthiness of the buyer or renter.

Montgomery County Code

§ 27-12

Sec. 27-12. Discriminatory housing practices. (a) A person must not, because of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, source of

income, sexual orientation, gender identity, or age: (1) refuse, or refuse to negotiate, to sell, broker, appraise, lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing; (2) represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available; (3) otherwise deny or withhold any housing from any person; (4) include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of that housing; or (5) discriminate in the furnishing of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy of any person.

§ 27-14(d)(1)(A)

(d) The prohibitions in this division against discriminating because of source of income do not prohibit: (1) (A) a commercially reasonable verification of a source and amount of income.

Prince George's County Code, Part II – Title 17, Subdivision 5

Sec. 2-210. Sale or rental of housing; exception. (a) No person, whether acting for monetary gain or not, shall: (1) Refuse to sell, lease, sublease, rent, assign, or otherwise transfer; or refuse to negotiate for the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold, or other interest in any housing; or represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available; or otherwise make housing unavailable, deny, or withhold any housing from any person because of race, religion, color, sex, national origin, age (except as required by State or Federal law), occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, or source of income; (2) Deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing, or to discriminate against any person in the terms or conditions of such access, membership, or participation, or in the selling, brokering, or appraisal of residential real estate on account of race, religion, color, sex, national origin, age (except as required by State or Federal law), occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, or source of income; (3) Include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of such

housing because of race, religion, color, sex, national origin, age (except as required by State or Federal law), occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, or source of income; (4) Discriminate in the furnishings of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy of any person because of race, religion, color, sex, national origin, age (except as required by State or Federal law), occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, or source of income; (5) Make, print or publish, or cause to be made, printed or published, any notice, statement, listing or advertisement, or to announce a policy, or use any form of application for purchase, lease, rental, or financing of any housing indicating any preference, limitation, or specification based upon race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, or source of income; (6) Induce or attempt to induce any person to sell or rent or list for sale, rent, lease, or otherwise dispose of any housing or interest in real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, age (except as required by State or Federal law), occupation, marital status, political opinion, personal appearance, sexual orientation, disability, familial status, gender identity, immigration status, citizenship status, source of income; (7) Discriminate in the sale or rental, or otherwise make unavailable or deny, housing to any buyer or renter because of a disability of: (A) The buyer or renter; (B) A person residing in, or intending to reside in, the housing after it is sold, rented, or made available; or (C) Any person associated with the buyer or renter. (8) Discriminate against any person in terms, conditions, or privileges of sale or rental of housing, or in the provisions of services or facilities in connection with such housing, because of a disability of: (A) The person; or (B) A person residing in, or intending to reside in, the housing after it is so sold, rented, or made available; or (C) Any person associated with the person. (9) For purposes of Subsections (7) and (8), above, discrimination includes: (A) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (B) A refusal to make reasonable accommodations in rules, policies, practices, or services,

when such accommodations may be necessary to afford such person equal opportunity to use and enjoy housing; (C) A failure to design and construct a covered multifamily dwelling in accordance with the Building Code with regard to accessibility by a person with a disability pursuant to the most current revision of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped people (commonly cited as ANSI A117.1). (10) Discriminate by inquiring about immigration status or citizenship status in connection with the sale, lease, sublease, assignment, or other transfer of a housing unit, unless to comply with a federal or state law or a court order. (11) Discriminate by requiring documentation, information, or other proof of immigration status or citizenship status, unless to comply with a federal or state law or a court order. (12) Discriminate in the sale, lease, sublease, assignment, or other transfer of a housing unit by requiring proof of immigration status or citizenship status, such as a social security number, without providing an alternative that does not reveal immigration status or citizenship status, such as an individual taxpayer identification number. (13) Discriminate by disclosing, reporting, or threatening to disclose or report immigration status or citizenship status to anyone, including an immigration authority, law enforcement agency, or local, state, or federal agency, for the purpose of inducing a person to vacate the housing unit or for the purpose of retaliating against a person for the filing of a claim or complaint. (14) Discriminate by evicting a person from a housing unit or by otherwise attempting to obtain possession of a housing unit because of the person's immigration status or citizenship status unless the remedy is sought to comply with a federal or state law or a court order. (15) Nothing in this Subsection requires that housing be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

City of Annapolis Code of Ordinances

11.32 – Fair Housing

11.32.020 Definitions. D. "Source of income" means any lawful verifiable source of money paid directly or indirectly to a renter or buyer of a housing unit, including: 1. Income received through any lawful profession or occupation; 2. Federal, state, or local government assistance, including Section 8 housing choice vouchers, medical assistance subsidies, rental assistance, and rent supplements; 3. Any inheritance, pension, annuity, alimony, child support, trust, or investment accounts; 4. Any gift verified by a letter or other means but, unless it is recurring throughout a tenancy, the gift may support one-time expenses only, such as a security deposit or pet

fee; and 5. Any sale or pledge of property if the sale or pledge will result in proceeds inuring to the recipient's benefit within sixty days of the application to rent a housing unit, purchase a housing unit, or purchase an interest in a housing unit.

City of Frederick Housing Discrimination Ordinance

§ 2 (b) – Definitions

(19) Source of income. "Source of income" means any lawful, verifiable source of money paid directly or indirectly to a renter or buyer of housing, including but not limited to: (A) a lawful profession or occupation; (B) the condition of being a recipient of federal, state, or local government assistance, including medical assistance, subsidies, rental assistance, or rent supplements; (C) a gift, inheritance, pension, annuity, alimony, child support, trust or investment accounts, or other consideration or benefit; and (D) a sale or pledge of property or interest in property.

KATRINA HARE,

Appellant,

v.

DAVID S. BROWN ENTERPRISES,
LTD.,

Appellee.

* IN THE

* SUPREME COURT

* OF MARYLAND

* September Term, 2024

* No. 32

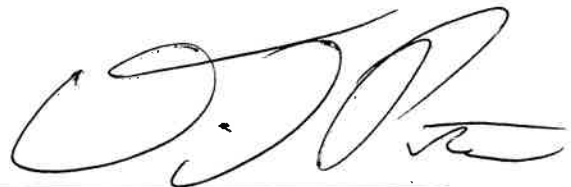
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CERTIFICATE OF SERVICE

I certify that, on this 5th day of March, 2025, the Brief of Amicus Curiae Attorney General of Maryland in the captioned case was filed electronically and served electronically by the MDEC system on all persons entitled to service, and that on the next business day two copies will be served by first class mail on all parties entitled to service:

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