

CDC Housing Subcommittee:

Supporting Documents for April 8th Meeting

Commissioners,

The following list of documents are provided for your reference in preparation for the April 8th CDC Housing Subcommittee meeting.

Developer Incentive Program updates

1. Draft Council Resolution 20140327-040 on Micro Units
2. Draft Council Resolution proposing changes to the SMART Housing program

Transit Oriented Development and Affordable Housing

1. TOD Site Development Standards: Challenges to Affordability (Christine Freundl, Planner Senior, PDRD)
2. Equitable Transit Oriented Development overview
3. Draft Resolution 20140327-037 directing the City Manager to create a Housing/Transit/Jobs Action Team

Fair Housing

1. Comparative Analysis of Protected Classes with Respect to Housing
2. Fair Housing and housing choice vouchers research summary (Jonathan Tomko, NHCD Senior Research Analyst, NHCD)

Please contact Kathleen Saenz Kathleen.Saenz@austintexas.gov with any questions

RESOLUTION NO.

WHEREAS, the Imagine Austin Comprehensive Plan calls out Austin's limited housing choices and rising housing costs, and recognizes the need for a variety of housing types to meet the financial and lifestyle needs of Austin's diverse population; and

WHEREAS, Imagine Austin also identifies the need to retain the character of older, inner-city neighborhoods by accommodating growth along corridors and major roadways; and

WHEREAS, micro-unit housing is an efficient and cost-effective housing choice developed and utilized in many of Austin's peer cities; and

WHEREAS, micro-unit housing most often appeals to single people, who make up over a third of Austin's population; and

WHEREAS, micro-unit development offers the potential of placing more affordable dwelling units within reach of those who want to live an urban lifestyle, often accompanied by reduced car ownership; and

WHEREAS, Council passed Resolution No. 20140123-059 asking the City Manager to identify best practices and code amendments that would encourage micro-unit development; and

WHEREAS, the March 18, 2014 City staff memo identified the primary zoning code constraints that may be inhibiting micro-unit development in Austin as minimum site area requirements and parking requirements; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates amendments to Title 25 of the City Code and directs the City Manager to develop an ordinance that reduces or eliminates parking requirements and reduces or eliminates site area requirements for dwelling units less than 500 square feet in size and that are located on core transit corridors, future core transit corridors, or within a Transit Oriented Development District.

BE IT FURTHER RESOLVED:

The City Manager is further directed to present the Code amendment to the City Council within 120 days.

ADOPTED: _____, 2014

ATTEST: _____
Jannette S. Goodall
City Clerk

RESOLUTION NO.

WHEREAS, the City of Austin supports affordable housing for low-income persons and provides funding to projects that meet certain requirements; and

WHEREAS, funds available to assist in development of low-income housing projects, including projects hoping to leverage city funds in order to receive tax credits from the Texas Department of Housing and Community Affairs, are awarded based on a variety of factors included in the Rental Housing Development Assistance (RHDA) application for financing; and

WHEREAS, the S.M.A.R.T. (Safe, Mixed-Income, Accessible, Reasonably-priced, Transit-Oriented) Housing Policy Initiative is designed to stimulate the production of housing for low and moderate income residents of Austin; and

WHEREAS, meeting S.M.A.R.T. Housing requirements is one of the threshold requirements for a project to receive funding through the Rental Housing Development Assistance (RHDA) application for financing, and that policy requires a project to be located within ½ mile of a bus route; and

WHEREAS, the current language that states projects should locate within ½ mile of a bus route does not ensure that all projects funded with city dollars provide their residents access to a transit stop within a reasonable distance and through a safe, walkable route; and

WHEREAS, a compact, connected Austin with improved transportation options is a priority program in the City's comprehensive plan, Imagine Austin, and the City's Land Development Code is being revised to reflect those community priorities; and

WHEREAS, the City is also working with the public and various stakeholders to develop the 2014-2019 Consolidated Plan which will detail how the City plans to invest its resources to meet Austin's ongoing needs for affordable housing, community development, economic development, and public services; and

WHEREAS, the Consolidated Plan will be presented to Council for approval in summer 2014; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates a code amendment to amend the "Transit" criteria related to the S.M.A.R.T. Housing Program requirements in City Code Section 25-1-703 (B) (4) to include language in the code requiring a project to be within ½ mile of a transit stop, measured by the actual travel distance, at the time the project is occupied, and requiring the route from the project to the transit stop to be accessible for pedestrians and people with disabilities.

BE IT FURTHER RESOLVED:

The City Manager is directed to gather input on the proposed amendment from stakeholders including the Community Development Commission, affordable housing advocates, and housing developers.

BE IT FURTHER RESOLVED:

The City Manager is directed to consider alignment of the City's capital improvement funding with this strategy and policy.

BE IT FURTHER RESOLVED:

The City Manager is directed to bring the code amendment to City Council in conjunction with the 2014-2019 Consolidated Plan or as soon as possible thereafter.

ADOPTED: _____, 2014 **ATTEST:** _____

Jannette S. Goodall
City Clerk

DRAFT

1. Compatibility:

- a. Compatibility is still active within the TOD district boundaries.
 - i. If the property triggering compatibility is within the TOD district boundary, a development may waive compatibility by providing affordability on site.
 - ii. If the development is located within 100' of the TOD boundary, properties outside of the TOD boundary will trigger compatibility, which cannot be waived through the density bonus unless 66% percent of the triggering properties to agree to a waiver.

2. Height Limit

- a. 60' height limit in all TODs.
 - i. 60' can allow for between a 4 and 5 story building depending on topography of the site. It has been challenged (by the development community) that this height limit does not allow a development to reach a threshold where a 25% affordability requirement would pencil out.

3. Density Bonus Calculation

- a. The 25% requirement of the density bonus is calculated on "the gross square footage of the development", while staff has administratively determined that this does not include structured parking, it still includes corridors, ingress and egress, and other "back of house" spaces, as well as non-residential spaces such as office and commercial.

4. Parking

- a. The TOD allows a development to decrease the parking on site up to 50% of the what the LDC would normally require. The off-site accessory parking lots in Plaza Saltillo are quickly becoming saturated, which makes it difficult or impossible to reach that parking deduction, forcing developers to provide the parking on site, which decreases the affordability of the units.

5. Water Quality Control

- a. The TOD requires 75% innovative water quality controls on site. A 75% on site requirement means that a large portion of the site/building is used for water quality control and reduces the additional space in the development that can be reserved for affordability.
- b. Urban infill land prices are very expensive, so a requirement that uses up a large portion of the site/building only increases the cost of the units or leasing space.
- c. The TODs encourage infill, but the majority of sites are small (previously single-family). The 75% requirement provides a hardship to development on small sites as the area of the site is already limited.
- d. This has been identified as a hardship by the Watershed Department and Environmental Reviewers in LUR.

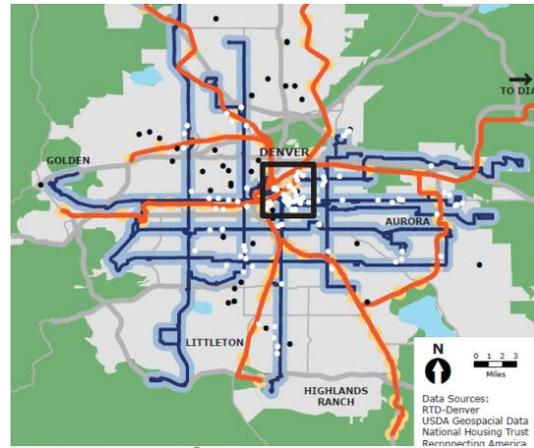
6. Density Bonus Fee-In Lieu

- a. The fee-in lieu process laid out in the TODs requires that the applicant go before Council for approval of a fee-in lieu request. It is a goal of the TODs to encourage the location of jobs in the district as well. Office buildings are often not built with a residential component. If a building like this were to need a density bonus for height or compatibility, it would require Council approval. This can often be an unpredictable process that adds time and cost to the project.
- b. North Burnet/Gateway does not require Council approval for fee-in lieu.

eTODs

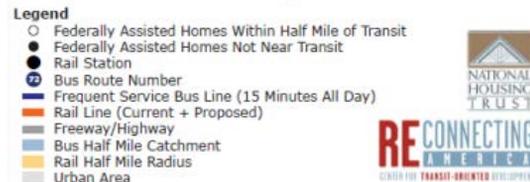
Equitable Transit Oriented Development

- Austin's TOD principles include, "encouraging a variety of housing choices near transit facilities to accommodate a wide range of ages and incomes"
- Equity is a measurable performance outcome
- Connecting lower and higher opportunity areas can improve overall accessibility and addresses fair housing concerns
- Creating housing opportunities located near jobs, transit, schools and other neighborhood amenities for residents of all incomes is key to building a prosperous region
- Failure to address equity undermines the effectiveness of transit investments and TODs



Denver Region

More than 7,200 federally assisted affordable homes are located within a half mile of frequent transit service in the Denver region. This represents 75% of all federally assisted homes.



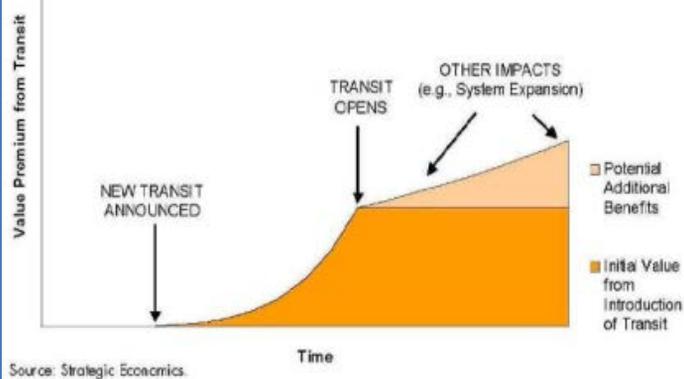
Examples of Collaborative Planning¹

- Corridors of Opportunity (Minneapolis)
- Land Banking Authority (Atlanta)
- Preservation Strategies for Affordable Housing Near Transit (Den.)
- Community Land Trusts (Albuquerque)
- Tax Increment Financing (Numerous)
- Transit Agency Joint Development Policy (Numerous)

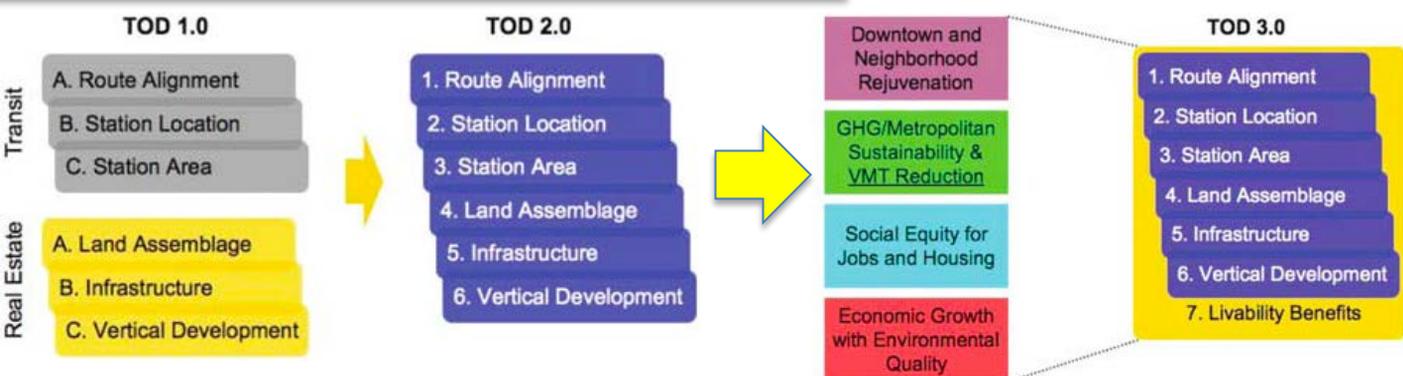
TOD Acquisition Funds

- The value add to property and real estate proximate to transit is undisputable
- There is a missed opportunity to provide affordability if land can be acquired in advance
- **Transit investments must have prospective transit riders located conveniently at each stop, otherwise the transit investment will underperform and the City will have difficulty expanding the system**
- Examples:²
 - Denver TOD Fund (\$15M+)
 - Bay Area TOAH Fund (\$50M+)
 - Charlotte S. Corridor Land Acq. Fund (\$9M+)
 - Atlanta Housing Opportunities Bond (\$75M+)

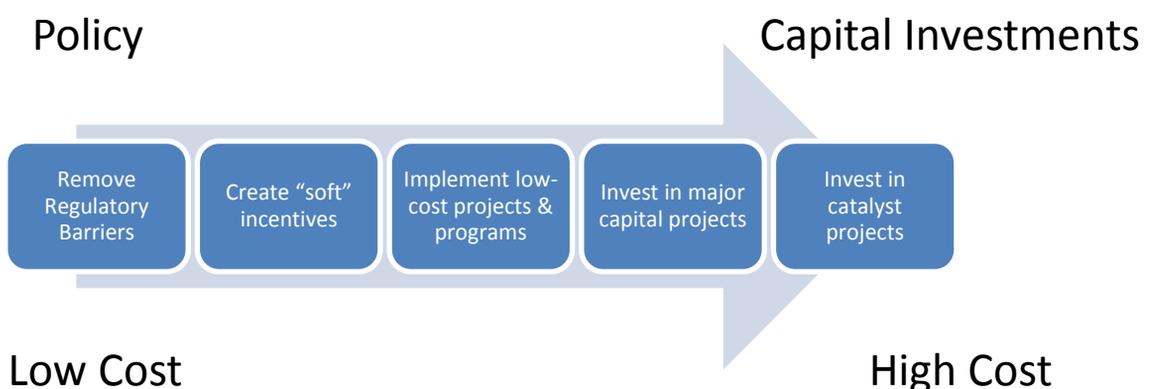
Value of TODs over Time



Develop Plans around TOD 3.0 – with Equity³



From Policies to Capital Improvements



Sources: ¹ A Toolkit for Equitable Transit Oriented Development, Stephanie Pollack 7/23/12 <http://www.livingcities.org/knowledge/media/?action=download&id=87>

² Transit Oriented Development Acquisition Funds <http://www.dukakiscenter.org/acquisition-funds>

³ Fostering Equitable and Sustainable Transit Oriented Development, 2009 http://www.hud.gov/offices/cpd/about/conplan/pdf/Fostering_Equitable_and_Sustainable_TOD.pdf

RESOLUTION NO.

WHEREAS, the Imagine Austin Comprehensive Plan envisions a nexus of housing, transportation and jobs through several of its six core principles for action, “to grow as a compact and connected city”, “develop as an affordable and healthy community”, and “sustainably manage water, energy and other environmental resources”; and

WHEREAS, Imagine Austin identifies ways to “expand the growth-shaping toolkit” which include utilization of both zoning and incentives in the form of “grants, loans, infrastructure investments, or innovative regulatory approaches” and to identify, cultivate and create partners from government, institutions, businesses, and community groups to achieve its comprehensive vision; and

WHEREAS, Austin continues to experience expansive population growth and development that can be designed and directed to better provide solutions that connect housing, transportation and jobs while also providing opportunities to address issues of affordability; and

WHEREAS, Council has adopted programs and policies to address housing challenges such as Resolution 20130509-031 that directed the City Manager to establish baseline information, goals, opportunities, and sustainable strategies for preserving affordable housing stock; and

WHEREAS, in Resolution 20140213-044, Council directed the City Manager to develop a program plan, financing, and funding strategy for viable districts in the context of an overall affordable housing financing strategy and includes recommendations on using other funding tools to accomplish the Council’s priorities; and

WHEREAS, City Council, Capital Metro and Lone Star Rail District's Board of Directors endorsed the Project Connect High-Capacity Transit System Plan in resolutions on June 21, 2013, August 29, 2013 and October 4, 2013; and

WHEREAS, City Council in Resolution 20131212-067 endorsed the City Manager's Phase 1 recommendation for Project Connect and further evaluation and analysis of multiple corridor opportunities along with recommendations for future phases of the Project effort for Council to consider; and

WHEREAS, City Council further indicated tentative plans to include a transit bond on the November 2014 election ballot for consideration; and

WHEREAS, a Transit Project will be dependent on federal funding under the U.S. Department of Transportation Federal Transit Administration (FTA) New Starts Program; and

WHEREAS, the statutory project justification criteria set forth by the FTA New Starts Program include mobility improvements, environmental benefits, congestion relief, economic development effects, land-use and cost effectiveness; and

WHEREAS, the measure of economic development effects considered in the criteria is the extent to which a proposed project is likely to induce additional, transit-supportive development in the future based on a qualitative examination of the demonstrated performance and existing local plans or policies that support economic development proximate to the project; and

WHEREAS, the evaluation criteria also involves a quantitative examination of estimated changes in vehicle miles traveled attributable to the estimated changes in development patterns; and

WHEREAS, Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, dated February 11, 1994, and U.S. DOT Order 5610.2(a), *Actions to address Environmental Justice in Minority Populations and Low Income Populations*, dated May 10, 2012, require that the U.S. Department of Transportation and the FTA make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of programs, policies and activities on minority or low-income populations; and

WHEREAS, FTA New Starts incorporates goals that include affordable housing “...to ensure that service is improved over time there is a mix of housing options for existing and future residents” and further seeks to “avoid significant gentrification”; and

WHEREAS, FTA New Starts goals align with Imagine Austin and City Council goals; and

WHEREAS, FTA New Starts funding is competitive with evaluation of proposals addressing affordability under three of the individual criteria ratings including mobility improvements, economic development effects and land use, accounting for a significant portion of an application’s Project Justification;

- The mobility improvements criteria rating includes a calculation of estimated number of transit trips and multiplies by a factor of two transit trips taken by transit dependent persons.

- The economic development effects criteria rating includes evaluation of the “policies and tools in place to preserve or increase the amount of affordable housing in the project corridor”.
- The land use criteria rating utilizes as a measure “the proportion of existing “legally binding affordability restricted” housing within ½ mile of station areas to the proportion of “legally binding affordability restricted” housing in the counties through which the project travels.”; and

WHEREAS, FTA New Starts Final Policy Guidance of August 2013, sets forth specific breakpoints and details for achieving highest rankings in their evaluations; and

WHEREAS, the FTA New Starts proposal submission after NEPA is anticipated within the next few years, the City Council is afforded some time to establish policies, strategy and timeline that will be beneficial in maximizing the City’s success by the submission date; and

WHEREAS, this is best achieved by ensuring related policies and programs are designed and implemented to enhance application success and will require some analysis of existing conditions applicable to the FTA New Starts requirements and criteria; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council reaffirms its commitment to the Imagine Austin Comprehensive Plan by recognizing the opportunity presented through the nexus of housing affordability, economic development and transit; and

BE IT FURTHER RESOLVED:

The City Manager is directed to create a “Housing/Transit/Jobs Action Team” with perspectives from Directors of NHCD, PDR, ATD, and EDD and include Capital Metropolitan Transportation Authority. The team should initially consider FTA New Starts Policy Guidance Criteria that address affordable housing, and shall incorporate stakeholders and partnerships with organizations that bring expertise in relevant research, program development and financial considerations as needed and to:

- Capture additional analysis called for;
- Identify current programs and policies that address FTA New Starts criteria related to affordable housing;
- Identify gaps and deficiencies to achieve highest rankings for criteria that involve affordable housing;
- Identify current programs and policies that address FTA New Starts criteria related to job preservation or economic development;
- Identify all options and recommend strategies, programs and policies to fill the gaps along with a timeline; and
- Present to the Comprehensive Planning and Transportation Council committee by June 15, 2014 before reporting to Council by with status, including information on the Homestead Preservation District study and Preservation programs in anticipation of informing budget discussions and recommendations for a work plan outline anticipating continuing efforts by the Housing/Transit/Jobs Action Team.

ADOPTED: _____, 2014

ATTEST: _____
Jannette S. Goodall
City Clerk

Comparative Analysis of Protected Classes with Respect to Housing

	Protected Classes with Respect to Housing	Madison	San Francisco	Seattle	Washington D.C	Philadelphia	Los Angeles	Portland	Chicago	New York	Boston	Denver	Austin	San Antonio	Dallas		
																14	
Federal	Race or Color															14	
	National Origin															14	
	Religion															14	
	Sex															14	
	Familial Status															14	
	Disability															14	
Additional Protected Classes	Sexual Orientation															12	
	Marital Status															10	
	Age															9	
	Gender Identity															8	
	Source of Income															8	
	Less than Honorable Discharge (Military Status)															6	
	Ancestry															5	
	Creed															4	
	Handicapped/Physical or Mental Disability															3	
	Family Responsibilities															3	
	Political Affiliation															3	
	Status as a Student															2	
	Domestic Partnership															2	
	Medical Condition															2	
	Personal Appearance															2	
	Use of Guide or Support Animal															2	
	Victim of Domestic Abuse, Sexual Assault, or Stalking															2	
	Height															1	
	Weight															1	
	AIDS/HIV Status															1	
	Place of Birth															1	
	Matriculation															1	
	Retaliation															1	
	Social Security Number															1	
	Citizenship Status															1	
	Genetic Identity															1	
	Arrest Record															1	
	Conviction Record															1	
		Total	23	19	16	14	14	13	12	12	11	11	10	9	7	7	178

Sources:

- <http://www.cityofmadison.com/dcr/documents/HousingDiscrimination.pdf>
- <http://sf-hrc.org/index.aspx?page=85>
- <http://www.seattle.gov/civilrights/discrimination.htm>
- <http://apartments.about.com/od/districtofcolumbia/a/District-Of-Columbia-Fair-Housing-Law-Protected-Classes-Under-Local-Law.htm>
- <http://apartments.about.com/od/pennsylvania/a/Philadelphia-Fair-Housing-Law-Protected-Classes.htm>
- <http://lahd.lacity.org/lahdinternet/Portals/0/Bids/RFPsRFOs/Analysis%20of%20Impediments%20to%20Fair%20Housing%20Choice.pdf>
- <http://www.thco.org/>
- <http://nsbar.org/content/protected-classes>
- <http://apartments.about.com/od/newyork/a/New-York-Fair-Housing-Law-Protected-Classes-Under-State-Law.htm>
- <http://bostonfairhousing.org/Housing-Rights.html>
- <https://dmfnc.org/protected-classes/>
- <http://austintexas.gov/department/housing-discrimination>
- <http://www.myfairhousing.org/yourrights.html>
- http://www.dallascityhall.com/fair_housing/fair_housing_disabilities.html

Research Summary: Fair Housing and Housing Choice Vouchers

The Seventh Circuit Court of Appeals held in [Knapp v. Eagle Property Management Corp., 54 F.3d 1272, 63 USLW 2750 \(1995\)](#), that rent assistance vouchers “do not equate” to other sources of income and are not equivalent with other sources. Depending on the jurisdiction some landlords have found ways to legally refuse to rent to prospective tenants that are on “rental assistance,” because it is not a source of income.¹

To fix this confusion some jurisdictions have gone so far as to create a protected class for section 8 voucher holders separate from “source of income.” This includes Chicago, six other municipalities in IL, 10 states, DC, and 10 counties across the country have. Cook County amended its Human Rights Ordinance effective August 8, 2013, to delete an exception to the source of income provisions in the Cook County Human Rights Ordinance.² The effect of the amendment will be to make it a violation of the Cook County Human Rights Ordinance to discriminate in real estate transactions based upon an individual participating in a housing choice voucher program (Section 8). **Source of Income has been a protected class under the Cook County Human Rights Ordinance for a number of years but there has been an exception which excluded housing choice voucher programs from that protected class.** Effective August 8, 2013 that exception will no longer apply and the taking of action in a real estate transaction based on a person’s participation in a housing choice voucher program will be a violation of the Cook County Human Rights Ordinance.³

In my analysis, (conducted with a somewhat random selection of cities) protection of source of income is much more common than protection of status as a student. The City of Austin added students as a protected class under their [Housing Discrimination Code 1992 Code Section 7-1-1; Ord. 031106-12](#) with no legal qualms in 2003. **So we may want to recommend enacting both a “source of income” protected class and a “section 8” protected class.** Based on data from our forthcoming Housing Market Study and Analysis of Impediments to Fair Housing there may be additional categories recommended.

Austin ranks #6 in the country with Fair Housing Act Complaints in the Country.⁴

¹ <http://petriestocking.com/blog/2009/08/13/housing-choice-vouchers-section-8-rent-assistance-are-not-a-lawful-source-of-income-in-wisconsin/#comments>

² <http://fairhousingnews.blogspot.com/2013/05/section-8-is-now-protected-in-cook.html>

³ <http://www.illinoisrealtor.org/legal/issues/section8>

⁴ <http://www.multifamilyexecutive.com/fair-housing/top-10-cities-for-filed-fair-housing-act-complaints-042913.aspx>