



432 N. Superior Street
Toledo, OH 43604-1416
Phone: 419/243-6163
Fax: 419/243-3536
toledofhc.org

Officers

Louis P. Escobar
Chairperson

Cherie Sears
Vice Chairperson

Keith Jordan
Treasurer

Denise Alvarado
Secretary

Directors

Alan Bannister
Diane Friedman
Ken Mackowiak
Alan Sattler
Kellie Schlachter
Cheryl Slack
Ernest Walker, Jr.
Mary-Thom Williams
Patricia Wise



Creating Inclusive
Communities
Of Opportunity

Financial Institutions, Housing, and Urban Development Committee
The Ohio House of Representatives
77 South High Street
Columbus, Ohio 43215

To: Ohio House of Representatives Financial Institutions, Housing & Urban Development Committee.

From: The Ohio Association of Local Reentry Coalitions, Advocates for Basic Legal Equality, The Fair Housing Center

Date: November 27, 2017

Chairman Dever, Ranking Member Smith, and members of the Financial Institutions, Housing & Urban Development Committee:

The undersigned organizations write to express our opposition to House Bill 282, "Prohibit Criminal Mischief against Residential Real Property." We oppose the bill as it interferes with the discretion of public housing authorities to consider underlying facts and mitigating circumstances as it screens applicants for housing assistance. As agencies serving low-income individuals, including ex-offenders, we believe the provisions of the bill requiring denial of certain applicants to public housing will be extremely harmful. Moreover, we believe the bill would disparately impact African-American and Latino Ohioans and violate the Fair Housing Act, as explained further below.

1. The bill would disparately impact African-Americans and Latinos, and violate the Fair Housing Act.

We are concerned that H.B. 282 will violate the federal Fair Housing Act. On April 4, 2016, the Department of Housing and Urban Development released guidance entitled, "Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate – Related Transactions."¹ HUD's guidance recognizes that African Americans and Latinos are arrested, convicted, and incarcerated at rates disproportionate to their share of the general population. "[C]riminal-record barriers to housing are likely to have a disproportionate impact on minority home-seekers." *Id.* This disparate impact would also extend to offenses like "criminal mischief," as identified in H.B. 282.

HUD's guidance further provides that any policy screening applicants based on criminal history must accurately distinguish between criminal conduct that indicates a "demonstrable risk to resident safety and/or property" and criminal conduct that does not. Specifically, "a policy or practice that fails to consider the nature, severity, and recency of criminal conduct is unlikely to be proven necessary" and would therefore violate the Fair Housing Act. *Id.*

Not every person convicted of criminal mischief involving destruction of real property should be categorically denied housing. In many instances conviction of such a crime would have no relevance at all to the individual's qualification to be a tenant in low-income housing.

H.B. 282 violates the Fair Housing Act as it prevents public housing authorities from considering the nature and severity of the underlying offense and any mitigating factors.

¹ Available here:

https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF



432 N. Superior Street
Toledo, OH 43604-1416
Phone: 419/243-6163
Fax: 419/243-3536
toledofhc.org

Officers

Louis P. Escobar
Chairperson

Cherie Sears
Vice Chairperson

Keith Jordan
Treasurer

Denise Alvarado
Secretary

Directors

Alan Bannister
Diane Friedman
Ken Mackowiak
Alan Sattler
Kellie Schlachter
Cheryl Slack
Ernest Walker, Jr.
Mary-Thom Williams
Patricia Wise



*Creating Inclusive
Communities
Of Opportunity*

Instead, it institutes an absolute blanket ban against anyone convicted of criminal mischief involving real property, regardless of any mitigating factors, or whether the offense actually demonstrates a risk to safety. As explained in HUD's April 4, 2016, guidance such a policy would disparately impact African-Americans and Latinos and violate the Fair Housing Act.

2. The provisions of the bill that would *require* denial of housing applicants are unnecessary and harmful to ex-offenders seeking affordable housing.

The undersigned frequently work with low-income persons, including ex-offenders and persons re-entering society from prison. Finding and securing decent affordable housing is a critical concern for this population. Unfortunately, persons with a criminal history of any kind—even if such history has nothing to do with their qualifications as tenants—are targeted for discrimination in the application process. Sadly, many individuals simply cannot find housing—a setback that makes recidivism more likely.

Many agencies across the state have been working with local housing authorities to improve their policies to improve access to affordable housing for otherwise qualified ex-offenders. In Northwest Ohio, for example, several organizations, including some of the undersigned, have been working together to improve the policies of the local public housing authority, Lucas Metro Housing Authority. The intention of this process is to help reduce unnecessary barriers to housing in the screening process. Similar efforts are occurring at other housing authorities across the state. The proposed bill would throw a wrench into the progress made on this front by removing the discretion of local communities to set their own standards to improve access to housing.

To be clear, housing authorities already have discretion to deny applicants for certain criminal offenses, as long as those offenses actually demonstrate a risk to resident safety and/or property. The bill implies that the state does not trust public housing authorities to exercise their discretion to screen residents. Quite to the contrary, many housing authorities unfortunately already invoke unnecessarily restrictive policies that prevent many ex-offenders from securing affordable housing. Eliminating the discretion that some progressive housing authorities use to consider mitigating factors and accept ex-offenders is unnecessary, and would interfere with our work in assisting low-income persons find housing. Moreover, removing discretion from public housing authorities would actually create more administrative complexity for an industry already regulated by the federal government. *See e.g.* 24 C.F.R. 960.203 (standards for PHA tenant selection criteria).

We, therefore, ask that you please remove the language from the bill that would mandate denial of applicants for public housing assistance, as such a requirement is not only unnecessary, but harmful, and would disparately impact African-Americans and Latinos.

Sincerely,

/s/ Michael P. Marsh, CFRE
President/CEO, The Fair Housing Center

/s/ Tom Luettker
President, Ohio Association of Local Reentry Coalitions

/s/ George Thomas
Senior Attorney, Advocates for Basic Legal Equality