



LOW-INCOME HOUSING TAX CREDIT NEWS

Fair Housing Criminal History

- In affordable housing news, HUD last week released Fair Housing Act guidance as it relates to criminal history, and the guidance was released for housing property managers and owners.
- Those with a criminal history are *not* in a protected class under the Fair Housing Act.
- So why is it important to address how criminal history relates to fair housing?
- Addressing the issue is important because adverse housing actions based on criminal backgrounds can violate fair housing—if they have a disparate impact on a protected class.
- HUD said that there are widespread racial and ethnic disparities in the U.S. criminal justice system.
- As such, housing restrictions based on criminal history are more likely to burden certain racial minority groups.
- For example, a housing provider has a policy against renting to people with certain convictions.
- The result could be turning away more people of a certain race or ethnicity.
- I should note that when it comes to housing discrimination, lack of intent is not a defense.
- Housing providers can still violate the Fair Housing Act if their policies or practices have an unjustified discriminatory effect, even when discrimination was not their intention.
- To clarify the matter, the HUD guidance provides a step-by-step framework evaluating whether a criminal history policy or practice has a discriminatory effect.
- You can find the guidance at www.hudresourcecenter.com.
- And you can read a post by my colleague Mark Shelburne about how this guidance has implications for apartment owners.
- You can find it on my Notes from Novogradac blog.

