



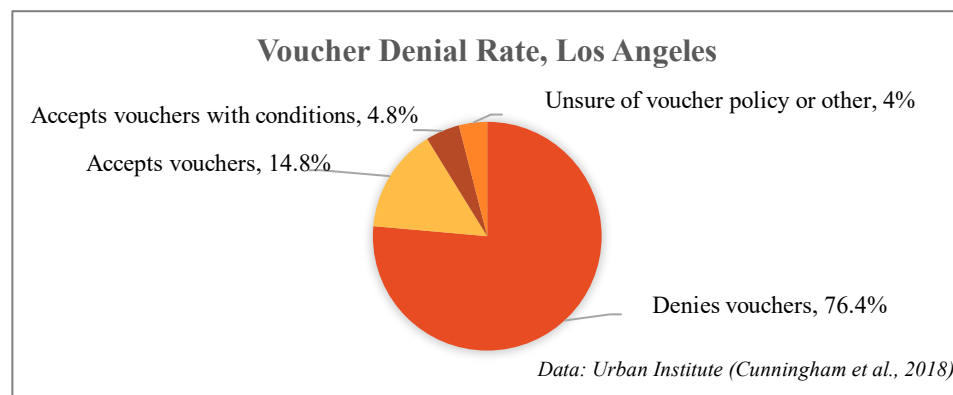
Housing Choice Voucher Discrimination

Background

The Housing Choice Vouchers (HCV) Program, formerly known as Section 8, is the federal government's most extensive housing subsidy program. Across the country, the program subsidizes the cost of housing for over two-million low-income families, individuals with disabilities, and older adults, including more than 45,000 families in Los Angeles (Center on Budget and Policies (CBPP), 2019; Housing Authority of the City of Los Angeles (HACLA), 2019). Through the program, families can apply for a federal subsidy to assist with housing. Voucher holders expect to pay approximately 30% of their income towards their rent, and the federal government subsidizes the rest, directly funding the other approximately 70% of the rent to the landlord.

One of the primary intentions of the Section 8 program was to limit much of the segregation created by public housing projects and other subsidized housing efforts (Turner, 2003). Section 8 represented a movement away from traditional "project" housing in which low-income tenants are clustered together in large, high-rise housing structures. In theory, as their name suggests, housing choice vouchers would present clients with the opportunity to choose where to live, which would then decrease the high levels of segregation associated with housing. However, because the program also gave landlords a choice whether or not to accept vouchers, discrimination still occurs. In a study by the Urban Institute conducted between April 2016 and July 2017, three out of four landlords in Los Angeles would not rent a unit to voucher holders (Figure 1) (Cunningham et al., 2018). Voucher denials can lead to segregation and limited opportunities for beneficiaries.

This literature review will examine how landlords discriminate against voucher holders and the effects that housing choice voucher discrimination, both intentional and systemic, has on voucher holders. Additionally, this review will examine potential reforms at the local, state, and federal level to end discrimination against voucher holders.



Policy Recommendations:

1. State-level and local reforms, such as California's Senate Bill 329, which would prohibit landlords from refusing to accept Housing Choice vouchers.
2. A federal amendment to the Fair Housing Act, which would protect tenants from source-of-income discrimination and mandate that landlords accept housing choice vouchers.
3. "Soft" incentives and outreach programs to strengthen the Housing Choice Voucher Program and education landlords on the benefits of and misconceptions around accepting housing choice vouchers.



Literature Review

Background and Research Motivation

The Housing Choice Voucher program, previously known as Section 8, assumed its modern form in 1983 as an amendment to the Housing Act of 1937. Before this legislation, the federal government focused its efforts on building mostly large-scale public housing projects, in which tenants would pay a small amount of rent, and the local housing authority would subsidize the rest with federal funds (McCarty et al., 2019). Instead, housing choice vouchers would allow low-income families to choose where to live, allowing families to move into higher opportunity areas, limiting the "clustered-poverty" of traditional project housing, and integrating low-income families into the rental market. By allowing landlords to opt-in to the voucher program, the architects of the Section 8 program assumed that the guaranteed rent that landlords would receive from the federal government each month would be enough to convince landlords to accept tenants using vouchers. However, for reasons both intentional and unintentional, the Housing Choice Voucher program has not resulted in the type of desegregation and upward mobility that the program's architects intended and has instead resulted in landlords discriminating against voucher holders (Daniel, 2010). As a result of this discrimination, voucher holders remain confined to areas of clustered-poverty.

Fair Housing Act

The Fair Housing Act, signed into law in 1968 as an amendment to the Civil Rights Act, protects tenants from discrimination based on race, national origin, religion, sex, familial status, or disability. However, there is nothing in the Fair Housing Act to protect tenants from discrimination based on income, allowing landlords to choose whether or not to accept housing choice vouchers. The lack of protection of low-income renters and the systemic inequalities produced as unintentional consequences from the Housing Choice Voucher Program lead to further discrimination and segregation of voucher holders (Daniel, 2010). Furthermore, housing choice vouchers are limited, and there are far more people on the waiting lists to receive vouchers than those that receive one.

Availability of Housing Choice Vouchers

Despite being the most extensive federal housing subsidy program, the demand for housing choice vouchers far exceeds the supply. Only about 1 in 4 families nationally eligible for federal assistance receive a voucher (Ellen, 2020). In 2017, the Housing Authority of the city of Los Angeles (HACLA) opened the housing choice voucher waiting list for just the first time in 13 years. After briefly re-opening in 2017, the waiting list for housing choice vouchers in LA was once again closed to new applicants. There are still over 40,000 families on the waitlist to receive a voucher (Wick, 2017). There are nearly as many families currently on the waiting list than families who receive vouchers in Los Angeles. Nationally, only about one in four families eligible for a housing choice voucher receive any federal rental assistance (Ellen, 2018).

Receiving a voucher is not enough as it does not guarantee that a family will find housing and be able to use the voucher. Many barriers prevent families from freely choosing where they will use their housing vouchers, both in terms of intentional discrimination and systemic discrimination.



Systemic Discrimination:

Housing choice vouchers are intended to decrease segregation and clustered poverty caused by programs like traditional housing projects. Yet, studies find that families who qualify for a voucher are no more likely to live in an integrated neighborhood than non-voucher holders (Tighe et al., 2017). One theory behind this lack of movement is that low-income people prefer to stay in the same neighborhoods, even after receiving a voucher, to be closer to family and community, to have a shorter commute, or to live among a community with greater racial and ethnic diversity. However, researchers more recently have theorized that societal barriers such as lack of credit, lack of information, or a reluctance of landlords to rent to voucher holders better explains this lack of upward mobility (Bergman et al., 2020). The Creating Moves to Opportunity (CMTO) program in Seattle, Washington, tested this theory. Utilizing a randomized control model, the program provided support in the form of search assistance, landlord engagement services, and short-term financial assistance to a randomly selected group of voucher holders. In their study, the treated group who received all of the support moved to higher up-ward mobility areas at a rate of 53%, compared to a rate of 15% in the control group (Bergman et al., 2020). If vouchers alone are not allowing families to move into neighborhoods with lower levels of poverty, then the program is not living up to its purpose of decreasing the levels of segregation caused by traditional public housing.

The way that voucher subsidies are calculated accounts for a significant degree of segregation for voucher holders. The subsidy rates for housing choice vouchers are determined by combining the family's combined income and the "Fair Market Rent" (FMR). The calculation of FMR in dense urban areas such as Los Angeles incorporates suburban and less dense areas surrounding the city. However, research shows that most voucher holders tend to live in denser areas (Reina et al., 2018). Because of the incorporation of these cheaper, less dense suburbs in the FMR calculation, voucher holders who choose to remain in denser and often more expensive areas are excluded from the higher-opportunity zones. In response, HUD has created Small Area Fair Market Rent (SAFMR), which they've piloted in a small number of cities. SAFMR calculates Fair Market Rent at the zip code level, instead of the metropolitan area, to account for rising housing costs in dense urban areas. The effects of SAFMR on upward mobility are still being studied, but initial findings are promising (Dastrup et al., 2019; Palm et al., 2018; Reina et al., 2018).

Intentional Discrimination:

One of the key provisions of the Housing Choice Vouchers Program is that landlords are not required to accept vouchers. Legislators hoped that landlords would choose to opt-in to this program, rather than requiring them to participate. Many landlords appreciate the stability of having the majority of their rent come automatically from a government subsidy. Landlords in low-income areas often seek out voucher holders since they are more of a guaranteed payment than other low-income renters (Semuels, 2015). However, many landlords outright refuse to accept housing choice vouchers, particularly in middle or high-income neighborhoods. Landlords cite many reasons for refusing to accept vouchers, including inconsistent rent payments (from both the tenant and the federal government). Other landlords have more outwardly classist and racist reasons for not accepting vouchers, such as higher risks of illicit activity or noise complaints (Bell et al., 2018).



Another barrier that potentially prevents landlords from renting to voucher holders are the administrative hurdles of the Housing Choice Voucher Program. Extensive paperwork, wait times for unit inspections, and potentially months of back and forth with housing authorities make it more difficult and less attractive for landlords to rent to voucher holders than non-voucher holders (Cunningham et al., 2018).

In addition to bureaucratic failings, many landlords refuse to accept vouchers because of the standards their property must meet to be eligible to accept housing choice vouchers. Landlords with voucher holders as tenants are mandated to keep the apartment at specific basic rules like having non-lead based paint and meeting other housing quality standards (HUD, n.d). The Tenants Union advises that tenants keep impeccable records of any changes to the quality of the apartment because if a landlord fails to keep the apartment at the standards laid out in the housing agreement, the housing authority can withhold their portion of the rent until the landlord brings the unit up to code (Tenants Union, 2019). However, because of the power divide between voucher holders and landlords, it can be tough to prove any malfeasance and therefore hard for tenants to ensure that their apartments remain up to the standards laid out in the law.

Housing Choice Voucher Discrimination in Los Angeles:

A study conducted by the Urban Institute found that 76% of landlords in Los Angeles refused to rent to voucher holders, and "an additional 9% placed restrictions on voucher holders or were unclear" of their policies when contacted for the study (Cunningham et al., 2018). The same study found a much higher rate of discrimination against voucher holders by landlords in low-poverty areas (82%) than landlords in high-poverty areas (66%). This discrimination pattern furthers the patterns of segregation previously mentioned, with voucher recipients clustered densely in neighborhoods with higher rates of poverty and lower levels of opportunity.

The legal code for the Housing Choice Voucher program states that recipients have at minimum 60 days to find housing before the voucher expires. However, this period can be extended at the discretion of the city's housing authority (24 CFR Part 982). Though there is little national data on how many people do not find housing before the voucher expires, individual studies such as the CMTO study in Seattle indicated that voucher recipients find housing around 86% of the time, and slightly higher (around 88% of the time) when they are provided support through the CMTO program (Bergman, 2020). Though these numbers seem promising, particularly with the CMTO support, it still means in that best-case scenario, 12% of voucher holders will not be able to use their housing vouchers because they do not find housing in the allotted time.

Los Angeles's housing crisis makes finding housing even more difficult for voucher holders. Researchers from the Urban Institute conducted 998 voucher acceptance tests, where testers contacted landlords to see if they accepted vouchers. Landlords in Los Angeles deny voucher holders so often that of the 998 tests conducted by phone, only 40 of the tests (4%) resulted in the testers viewing a unit in person (Cunningham et al., 2018).

Another barrier voucher holders confront when searching for housing in Los Angeles is the low supply of housing compared to the demand. Though the exact number depends on how it is measured, L.A. has one



of the lowest rental vacancy rates in the country (Barragan, 2020). The low vacancy rate and high density of housing make renting expensive, making it even more difficult for voucher holders to find an apartment that fits into the Fair Market Rate standards of the program.

Of the five cities in the Urban Institute's study, Los Angeles had the second-highest rate of denial (76.4%) behind Fort Worth, Texas (78%) (Cunningham et al., 2018). Cities such as Washington, DC, and Newark, New Jersey, had much lower denial rates (30.9 % and 14.8%, respectively). However, both cities have either city or state laws that protect "source of income" as a protected status.

Impacts of Voucher Holder Discrimination:

When low-income people are clustered together in areas of high poverty and low-opportunity, they are denied many resources that would give them a fair chance at increasing their income in the long term. Living in so-called "high opportunity areas" presents families with invaluable resources, particularly for children. High opportunity areas are defined as census tracts that are in the top-third of census tracts in terms of upward income mobility. One study found that people who grew up in low-income households (bottom 25% of income earners) but lived in high opportunity areas earned about 13.9% more as adults than adults who grew up in low opportunity areas (Bergman et al., 2020). What explains this growth, and why is so-called "clustered poverty" bad?

The most obvious answer for this gap in outcomes is education. Quality of education is tied explicitly to adult outcomes, specifically earnings (Briggs, 2005). Higher opportunity areas have better-resourced schools, often with smaller class sizes and lower student-to-teacher ratios, newer materials, and more options for students in terms of AP classes that lead to more opportunities and higher college-going rates. However, numerous other factors contribute to this opportunity gap. Low opportunity areas have worse environmental outcomes, health care access, job opportunities, and levels of social capital (Chetty & Hendron, 2018). When families live in "low opportunity areas" generation after generation, the lack of opportunity prevents families from building intergenerational wealth. When families can't build wealth, the income and opportunity gaps deepen.

There are clear benefits for families moving from low opportunity to high opportunity areas. Still, people living in the high opportunity areas often express concerns about this integration. However, research shows that the benefits of integration are dual-sided; integration benefits both the families who move into the higher opportunity neighborhoods and the current residents, who benefit from having a more diverse community (Turner & Rawlings, 2009). Studies have shown that people who live in diverse neighborhoods express less racial prejudice (Ihlanfeldt and Scafidi, 2002). Students who attend diverse, desegregated schools are more culturally sensitive and more likely to report feeling comfortable working in diverse workplaces (Wells et al., 2005). Though research on the effects of integration on the residents living in the areas before the occurred is limited, available research shows only positive results on both movers and current residents. Expanding protections for housing choice voucher holders can help increase levels of integration in neighborhoods and improve outcomes for both people moving from low-opportunity areas to high-opportunity areas as well as current residents.



Policy Proposals:

Many legal scholars argue that because voucher holders are disproportionately members of groups with protected status (race, gender, disability), source of income discrimination should be illegal because of the disparate impact it would have on members of protected classes (Tighe et al., 2017). Rotem (2010) argues that landlords who choose not to accept vouchers could be held accountable under the Fair Housing Act and taken to court. Landlords would then have to show a legitimate "business-related" reason for not accepting vouchers. However, these claims are especially difficult to prove in court, especially for low-income voucher holders who lack the legal resources that many landlords might have.

To better protect voucher holders, Oklahoma, Utah, North Dakota, and eight other states, plus the District of Columbia, have now passed their own form of anti-income discrimination laws, including, most recently, California. In 2019, California passed Senate Bill 329, which would prevent landlords from rejecting tenants if they are voucher holders. In the same legislative session, California passed AB 1482, which institutes a "Just Cause" restriction on lease terminations, non-renewals, and evictions. Additionally, AB1482 places a cap on the number of times a landlord can increase the rent per year. Additionally, about 50 cities and counties, including Newark, NJ, and Washington, D.C., have similar tenant protection laws in place. However, many constitutional scholars worry about the validity of these laws if challenged in court (Bernstein, 2010). Because of the Supremacy Clause in Article VI of the US Constitution, federal law preempts state law and city policies. These anti-discrimination laws would directly contradict the provisions of the voucher program laid out in federal law and may not hold up if challenged in court.

Federal Reform:

If a federal court deems these state and local laws unconstitutional, Congress has the authority to amend the Fair Housing Act to include protections for voucher holders as a protected class. An amendment to the FHA could make source of income a protected identity class in addition to race, gender, and nationality. However, an amendment to the Fair Housing Act would be a lengthy process with a low likelihood of success. Even if Congress passes an amendment, enforcing the protection for source of income would be costly and challenging. Enforcing the law would either require tenants (who often lack legal resources) or local housing authorities to sue landlords who don't accept housing vouchers with little guarantee of judicial enforcement. Tenants would face similar legal hurdles as they currently do with challenging landlords who do not abide by apartment upkeep guidelines, but with even less incentive to follow through on the cumbersome process of taking the landlords to court.

Incentivizing Landlords:

Sterken (2009) argues that rather than mandating landlord participation, it is better to incentivize participation through small reforms to the Housing Choice Voucher Program. We could start by eliminating many of the inefficiencies and "red tape" that disincentivize landlords from involvement, to cut down wait times and increase communication between housing authorities, landlords, and tenants. Sterken also argues that cities could spend more time doing outreach to landlords to clear up



misconceptions about the program and to highlight incentives to participation. Lastly, Sterken contends that the Housing Choice Voucher Program should receive more tax revenue, which would help decrease inefficiencies and potentially increase the number of vouchers that landlords would be able to give out. While these reforms would certainly reduce source of income discrimination, there is no reason why these suggestions could not be combined with a mandate that landlords must accept vouchers. The combination of the two would have a positive impact on limiting discrimination.

Voucher Recipient Support:

Seattle's Creating Moves to Opportunity (CMTO) program and the subsequent evaluation laid out a framework for a voucher recipient support program that could dramatically improve outcomes for voucher recipients. The CMTO program supported voucher recipients through "customized search assistance, landlord engagement, and short-term financial assistance" (Bergman, 2020). The program costs about \$2,660 per family, including around \$1000 per family spent in cash on things like application fees and security deposits. In total, counselors spent about 6 hours working with each family and an unspecified amount of time working with landlords to expedite the application process. This relatively low-cost intervention was quite successful, increasing the rate that families moved to high opportunity areas from 15% in the control group to 53% in the treatment group. Standardizing similar supports for voucher holders could increase the number of families moving to high opportunity areas, thus working to break the income gap that occurs across race and socioeconomic status.

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