

Do Landlords Have To Accept All Section 8 Certificates For Rent Payment?

A recent U.S. Court of Appeals decision addressed whether two disabled residents could require their landlord to accept Section 8 certificates for payment of their rent.

In *Salute v. Stratford Greens Garden Apartments*, management refused to process applications from prospective renters who received Section 8 assistance. The landlord did not want to be involved with the federal government and its particular rules and regulations.

But management did accept Section 8 housing assistance payments from four residents who became eligible for the federal monies during the course of their tenancy in the 365-unit New York City development.

The first issue considered by the justices was the so-called "take one, take all" provision of the U.S. Housing Act. The court emphasized that Congress repealed this regulation and, therefore, should be reviewed in conjunction with the "voluntary nature of the Section 8 program." Thus, said the court, when a landlord accepts Section 8 payments to accommodate existing residents who became eligible during their tenancy, the take one, take all" provision does not apply.

The plaintiffs then argued that the landlord had to provide reasonable accommodations under fair housing law, which would include participation in the Section 8 payment program. They cited case law that requires a landlord to incur "reasonable costs" to accommodate a resident's handicap "provided such accommodations do not pose an undue hardship or a substantial burden."

Stratford Greens countered that requiring it to accept Section 8 certificates would constitute a fundamental alteration to its rental policies. Also, it continued, this would impose a substantial burden that the Fair Housing Amendments Act did not require.

The court found that the voluntary nature of the Section 8 program reflected the congressional intent that participation cannot be forced on landlords, either as an accommodation to a handicap or in other circumstances.

Concluded the court, the various provisions of Section 8 participation in this case constituted unreasonable costs, undue hardships or substantial burden upon the landlord, which the reasonable accommodations provisions of the Fair Housing Amendments Act do not require.

The bottom line is this: A landlord does not have to accept all applicants who are Section 8 certificate holders.

By Scott M. Clark, Esq.

3008 N. 44th Street, Phoenix, AZ 85018
602.957.7877

sclark@scottclarklaw.com
<http://www.scottclarklaw.com>

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