

EXHIBIT C – Criminal Criteria References

DRAFT FOR COMMENTS

Criminal Criteria References

Statement

If your application is accepted, we will conduct a criminal background search in compliance with federal, state, and local laws. It is our general policy, wherever possible, to not lease applicants convicted of certain felonies within the past three (3) years, nor any lifetime-registered sex offender.

Federal Guidelines

HUD guidance provides for HUD-affiliated owners to:

- Not automatically deny an applicant housing assistance simply based on the presence of criminal conviction, other than where explicitly prohibited by federal law.
- Disregard criminal history that is unlikely to bear on fitness for tenancy, such as arrest records, sealed or expunged records, older convictions, and convictions not involving violence or harm to persons or property.
- Use individualized assessments to determine whether applicants truly pose a future risk to persons or property, considering other factors such as the applicant's employment, engagement in alcohol or drug treatment, and constructive community involvement.
- Providing applicants with criminal history records with reasonable time and opportunity to provide supporting information regarding mitigating factors before an admission decision is made.

State/Local Guidelines and/or Ordinances

Oakland, California – Oakland Fair Chance Ordinance (OFCO)

OFCO bans (with limited exceptions) the use of criminal background checks in screening applications for most rental housing in Oakland,

effective August 2, 2020. Housing providers are required to include a written notice of applicants' rights under the Ordinance (as published and made available to housing providers by the City) in all application materials, websites, and at any other locations under the providers' control that are frequently visited by applicants.

The ordinance prohibits housing providers from requesting or requiring information about an applicant's criminal history, from basing an adverse action on such, and from posting advertisements or listings discriminating against applicants with criminal histories. There is an exception for certain criminal history, specifically sex-related and methamphetamine-manufacturing offenses, as required to comply with federal or state laws. In addition, a housing provider may screen applicants against the California state registry of lifetime sex offenders operated by the California Department of Justice. The housing provider must first disclose its intent to screen for such criminal history and request the applicant's written consent. If the applicant objects, the housing provider must allow the applicant to withdraw their application.

If a housing provider takes adverse action against an applicant based in whole or in part on the applicant's criminal history, it must provide written notice to the applicant that includes at a minimum, the reason(s) for the adverse action, instructions on how to file a complaint with the City, a list of local legal services providers, a copy of the screening report, and "an opportunity to respond with rebutting or mitigating information" before the application is denied.

San Francisco, California – SF's Fair Chance Ordinance (SFFCO)

SFFCO protects tenants and applicants from discrimination by affordable housing providers based on criminal history information. For Affordable Housing in San Francisco, before checking criminal records, the housing provider must (1) Determine eligibility for affordable housing by reviewing all other qualifications, and (2) Provide a copy of rights before running a background check. Housing providers may not ask about any criminal history information on a rental application form.

Housing Providers must assess records individually and only consider “directly-related” convictions and unresolved arrests in your record. Housing providers may not consider (1) Arrests that did not result in conviction, (2) Participation in a diversion or deferral program, (3) Expunged, judicially dismissed, invalidated or otherwise inoperative convictions, (4) Juvenile records, (5) A conviction more than 7 years old, or (6) an infraction.

If a housing provider denies housing, they must provide a copy of the background report and tell you which conviction or unresolved arrest is the basis for the potential denial. Applicants then have 14 days to respond to show that why they shouldn't be denied housing.

Colorado

Colorado's Rental Application Fair Act requires housing providers to inform tenants they can provide a portable tenant screening report from a consumer reporting agency as part of the application process and a landlord must accept it and cannot charge an application fee. The portable report must contain the tenant's name(s) and contact information, last-known address, income and employment verification, as well as background information regarding credit, rental history, and criminal records, as allowed by state law. Landlords must accept this type of report, but can require that it be current within 30 days and that they can access it directly from the reporting agency at no cost.

Idaho

Housing providers must get consent to run background checks and adhere to HUD recommendations for using criminal background checks, which include avoiding blanket policies for deny applicants with criminal convictions, assessing applicants and their criminal histories on a case-by-case basis, and only denying an applicant when they demonstrate a risk to the safety of other residents.

Missouri

Housing providers must get consent to run background checks and adhere to HUD recommendations for using criminal background checks,

which include avoiding blanket policies for deny applicants with criminal convictions, assessing applicants and their criminal histories on a case-by-case basis, and only denying an applicant when they demonstrate a risk to the safety of other residents.

Oregon

Per Senate Bill 291, beginning January 1, 2022, housing providers must not charge an amount greater than the landlord's average actual costs of screening applicants or the customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening; actual costs may include the cost of using a tenant screening company or a consumer credit reporting agency, and the reasonable value of any time spent by the landlord or landlord's agents in otherwise obtaining information on applicants. Landlords must also provide a written statement of denial within 14 days of the denial criteria being determined or assessed.

Additionally, housing providers are required to provide an individualized assessment related to denials based on criminal history, allowing an opportunity for the applicant to submit supplemental evidence to explain, justify, or negate the relevance of potentially negative information that may result in a criminal denial. Further, landlords must also conduct an individualized assessment of the applicant that includes reviewing any supplemental evidence before denying an applicant based upon their criminal-screening results. The individualized assessment must consider factors, including (1) the nature and severity of the incidents that would lead to a denial; (2) the number and type of incidents, (3) the time that has elapsed since the date of the incidents occurred, and (4) the age of the individual at the time the incidents occurred.

Tennessee

Housing providers must get consent to run background checks and adhere to HUD recommendations for using criminal background checks, which include avoiding blanket policies for deny applicants with criminal convictions, assessing applicants and their criminal histories on a case-

by-case basis, and only denying an applicant when they demonstrate a risk to the safety of other residents.

Texas

Housing providers must get consent to run background checks and adhere to HUD recommendations for using criminal background checks, which include avoiding blanket policies for deny applicants with criminal convictions, assessing applicants and their criminal histories on a case-by-case basis, and only denying an applicant when they demonstrate a risk to the safety of other residents.

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