



**Department of Neighborhood Development (DND)
Sheila A. Dillon, Chief & Director**

BOSTON FAIR CHANCE TENANT SELECTION POLICY

Under this policy, housing providers agree to the following:

Housing providers receiving Department of Neighborhood Development (DND) funding and/or land, or that have income restricted units created under the Boston Planning and Development Agency (BPDA) Inclusionary Development Policy will not impose a blanket policy that denies housing to anyone with arrests and or convictions. Housing providers will consider applicants on a case-by-case basis.

1. The Developer/Agent (Agent) agrees to not consider any of the following categories when determining housing eligibility and or considering eviction:
 - a) Arrests that did not result in conviction. This includes dismissed charges, diversion programs, and similar non-convictions.
 - b) Convictions that are subject to a form of judicial relief, such as expungement, sealing, and certificates for relief from disabilities.
 - c) Juvenile records
 - d) A conviction more than 5 years old. Tenant selection policy related to arrests and convictions does not apply in situations where there is:
 - A direct relationship between a conviction and the housing sought and or unreasonable risk of substantial harm to the safety of others.
 - Landlords would consider additional factors such as: evidence of rehabilitation, the time that has elapsed since the conviction occurred, and/or the age of the person at the time the conviction occurred.
 - This guidance does not apply to current criminal behavior.

2. The Agent is strongly encouraged to use the Department of Criminal Justice Information Services (DCJIS), as a method of validating Criminal Offender Records Information (CORI).
3. The Agent is strongly encouraged to assign the same staff to assess if a person's CORI is cause for housing denial to ensure consistency in practice.
4. When feasible, housing providers should provide an appeals process for denial of housing applications due to a conviction. Staffing and size of housing provider should be reviewed when determining feasibility.
5. Where federal or state law imposes a criminal history requirement that conflicts with a requirement of this guidance, the federal or state law preempts this policy.

Factors that a housing provider should consider:

1. The circumstances leading to the conviction, such as:
 - a) Whether the conviction arose from a person's disability, therefore entitling the applicant to civil rights protections for persons with disabilities;
 - b) Whether the conviction arose out of a person's experience as a survivor of domestic abuse, sexual assault, dating violence, and/or stalking, therefore entitling the applicant to protection under the Violence Against Women Act (VAWA);
1. The circumstances of the underlying criminal activity, such as:
 - a) The seriousness of the criminal activity;
 - b) The relationship between the criminal activity and the safety of other residents on the property;
 - c) The frequency of relevant criminal activity;
 - d) The length of time since the criminal activity occurred;
 - e) The age of the household member at the time the criminal activity occurred.
2. The circumstances that have taken place since the criminal activity and conviction:
 - a) Whether the applicant has a satisfactory rental history;
 - b) Whether the applicant successfully completed the terms of his or her sentence;
 - c) If the criminal activity arose from a substance abuse problem, whether the applicant has successfully undergone substance abuse treatment;
 - d) Other factors to consider include:

- Employment
- Education and/ or work training
- Community involvement, such as church or community groups
- Family support network

e) In determining these factors, the housing provider should give the applicant a list of examples of mitigating evidence, such as letters of recommendations, certificates of program completion, applicant statements, and other supporting documents.

4. The effect that a denial of admission will have on the household and the community.

5. Credit.

a) The agent agrees not to use the applicant credit score to approve or deny housing applications.

b) Property Managers may consider an applicant's credit history, but such information may ONLY be used in lieu of rental history to determine an applicant's ability to pay rent when rental history is not available. Where insufficient credit is the basis for rejection, mitigating circumstances may include:

- a representative payer or other reliable third party who would take written responsibility for payment;
- evidence that insufficient credit was the result of a disability;
- evidence that insufficient credit was the result of other circumstances and there is reason to believe that applicant will now pay rent promptly and in full.

c) An applicant's ability and willingness to pay rent must be demonstrated through an identifiable source of sufficient income to pay rent and prior rental history. The lack of credit history, as opposed to poor credit history, is not sufficient justification to reject an applicant. An Agent must also take into account rent burden if an applicant can demonstrate a history of satisfying a higher rent burden than the Agent normally employs.

d) The Agent shall have the right to request information reasonably needed to verify the mitigating circumstances, even if such information is of a confidential nature (e.g. verifications from medical professionals that provide confidential information.). The Agent shall treat all sensitive or confidential information with utmost care and return any and all documents containing such information to the applicant promptly after review. If the applicant refuses to provide or give access to such further information the Agent may choose not to give further consideration to the mitigating circumstance.

This policy will also be applied to the Office of Fair Housing and Equity Affirmative Marketing Program which promotes equal access to publicly funded housing for all persons by establishing standards for public outreach, advertising and tenant/buyer selection criteria.