HOUSE DOCKET, NO. 2658 FILED ON: 1/16/2015

HOUSE . . . . . No. 1093

The Commonwealth of Massachusetts

PRESENTED BY:

***Diana DiZoglio*, (BY REQUEST)**

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to public housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Brian J. Coppola	*400 Merrimack Street, Methuen, MA 01844*	*1/16/2015*
Kathleen O'Connor Ives	*First Essex*	*9/11/2019*

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HOUSE . . . . . No. 1093

By Ms. DiZoglio of Methuen (by request), a petition (accompanied by bill, House, No. 1093) of Brian J. Coppola and Kathleen O'Connor Ives relative to mandated preferences on certain public housing waiting lists. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1109* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to public housing.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1 State Assisted Housing either Through the State Housing Voucher Program or Statewide Public Housing Priorities on Housing Waiting Lists through the Housing Authorities in the Commonwealth of Massachusetts

Section 1 Mandated Preferences on State Aided Public Housing Waiting List and Statewide Section 8 Voucher Program

Notwithstanding any policy or procedures of the housing authorities residing in the Commonwealth of Massachusetts, the following categories of Priorities shall be deemed as mandated priorities on any housing waiting list that is state aided and has state aided housing programs, such as state aided section 8 otherwise known as the State Voucher program

A. Physical, or mental disability and, or health conditions, making a current dwelling unsuitable for such humans to dwell in, due to either the person's disability, whether physical or psychological, or health condition that can be improved medically or rehabilitativly by alternative housing options, such as state public low income housing or state aided section 8 voucher housing .

The priority of disability shall be stated in the housing authority's priority to their waiting list for housing so as to insure that no public housing authority is discriminating against a person with a disability who is 18 years of age until the age of 60 years of age when the elderly preference kicks in, or the disability criterion shall also come into effect when it is demonstrated either by a physician, a psychologist or a psychiatrist or a rehabilitation specialist that such disabling condition or health condition's effect can be minimized by placing a person into more suitable housing, to best achieve the practices of independence or autonomy, or self esteem, or the least restrictive living environment, as deemed under the Olmstead Act, or employment opportunities, whether gainful employment or volunteer employment opportunities until a disabled person reaches the goal of gainful employment opportunity to which they can pay full and unsubsidized rent, without interfering with disability work related expenses, such as assistive technology, or special rehabilitative training for the job, special transportation to get to and from the job, or medical expenses, the basic needs, such as food and clothing .

Transportation challenges in connection with a disability shall also be included in this criterion, as the mere fact that a disabled person cannot achieve the ability of retaining a driver's license as deemed under applicable state law does not and shall not be used as a criterion by a physician, or any testamentary document, such as a will or trust, or by any relative to deem a disabled person incompetent based solely on the fact that a driver's license is not readily

achievable, as said driver's license shall be deemed a privilege and not a right and shall remain so to allow for science and technology to advance to a point that would allow for persons with transportation disabilities to achieve such goal of obtaining a driver's license, both by the advancement of technicological advancements and applicable updates in state law to coincide with said advancement in technology, and with safety standards placed into such technology that would allow for a transportation disabled person to reach the goal of achieving a driver's license in an independent and safe manner. An area that has lack of consistent public transportation or lack of transportation services for transportation disabled individuals to achieve travel in a safe and independent manner shall be deemed as the "Most Restricted" environment under the Olmsted Act.

Lack of consistent public or paratransit services for the purposes of this section shall be defined as fixed route services that run on a schedule that is ½ hours or more, and that starts later than 5:30 AM and ends at 10:00 PM or earlier during the work week or weekends, including but not limited to Sundays and holiday services, or paratransit services that start later than 5:30 AM and ends at 10:30 PM or earlier on weekdays and weekends, including but not limited to Sunday and holiday services. Necessity of a person being required to use the services of family members, or those who may have known or had been informed that such family member having such a motor vehicle operator's license of any class as deemed by applicable is going to benefit in any way in a trust or any other testamentary document shall also deem such living situation unsuitable and as a most restrictive environment for a disabled person who has transportation challenges.

For the purposes of this section the term disability shall be defined as any physical or mental disability that affects one or more major bodily function of life, such as breathing,

hearing, seeing, standing, walking, developmental, learning, or emotional, or behavioral impairments, so long as the behavioral disabled person has not engaged in any sexual abuse crimes such as rape, statutory rape, rape of any kind, whether forcible, or aggravated, or any kind of unlawful abuse associated with any rape, sexual assault, sexual abuse on a minor under the age of 18, indecent assault, or any other sexual activity deemed unlawful or prohibited under applicable state or federal law, or have a history or had previously engaged in any violent activity, including onto other disabled persons, the elderly or minor children. Addiction of illegal drugs or abuse of illegal drugs, of any class or subclass that is deemed illegal under applicable state or federal law, whether abused or used for recreational purposes shall not qualify as a disability for the purposes of the disability preference, alcoholism or alcohol abuse for the purpose of the disability preference to state aided public housing or state aided voucher programs shall also not be deemed as a qualified disability for the purposes of state public housing or state aided voucher programs, when said addiction to alcohol or alcohol abuse involves the variable of sexual abuse or violent behavior onto another disable person, or an elderly person or that of a minor child, or other forms of behavior deemed unlawful under applicable state and federal laws. Acquired immune deficiency, or HIV, or cancer of any type shall also be deemed as a qualified disability for the purposes of the disability preference to state public housing or state aided housing voucher programs. For the purposes of the above-mentioned alcoholism or alcohol abuse clause, this shall be construed to mean that although the use of alcohol products are deemed legal to a person 21 years of age or older, alcoholism alone shall be deemed a disability as it is deemed so under applicable federal law. Alcoholism shall not be deemed a disability when such abuse attributes to criminal or violent behavior, including the above mentioned sexual offenses, driving under the influence of, disturbing of the peace, due to intoxication thereof, or

any other means of illegal activity or unruly behavior thereto. No housing authority shall associate guilt to anyone else who has a disability, based solely on disability and the fact that a prior disabled tenant had either damaged the premises or had committed a crime. A disabled person's qualifications for this priority criterion shall be deemed based solely on the disabled applicant's application for state aided housing in a manner consistent with that applicant's own criminal records, and credit checks, and references and not any prior record of anyone else having such a disability's records. Said Disciplinary records of another disabled person shall be kept locked up in a safe locked confidential file unless such matter is subject to investigation or subpoena by law enforcement authorities. For the purposes of this act, guilt by association shall be defined as associating criminal activity or behavioral activity of a minor class such as disability, race, creed, gender, sexual orientation for the sole purpose of discrimination of an applicant, just because another person prior to said applicant's application for housing belongs to said minority class and said other person of that minority class had engaged in illegal or destructive behavioral activity in the past. Said decision to accept a tenant of a minority group as a preference to the waiting list shall be deemed only on that particular applicant's merits and standing.

B. Domestic Violence, or Prevention of Domestic Violence, or Prevention of Abuse to that of a child, disabled person or an elder parent or parents or grandparents. The abuse criterion for priority on a housing waiting list for public or state aided housing shall take effect when a person has retained either a restraining order against the perpetrator of abuse, or that there exists probable cause by law enforcement or the courts that abuse may had been perpetrated against a child, or a disabled person, or an elderly person.

C. Veterans of the Armed Forces, including but not limited to the army, or the navy, or, or the coastguard, or the air force, or the National Guard, or the marines.

D. Natural Disasters shall include but not be limited to a storm or weather conditions making a habitat unlivable and unsuitable for human habitat, or a fire, which has not been deliberately set, but caused by either accident or along or in conjunction of another natural disaster, or a manmade disaster, such as a terrorist threat that threatens the life, health or safety of a human or groups of humans living in their current dwelling, but, such dwelling, has been deemed unsuitable by law enforcement or emergency personnel as a direct or indirect result of such manmade disaster.

E. Homelessness shall be deemed a priority statewide housing waiting lists for either state public housing or state aided section 8 vouchers when the homelessness is involuntary due to a natural disaster, or abuse, or unsuitable living conditions based on the assessment of disability, that adversely effects a disabled person's equal chance of growth, personally, autonomously, or professionally, by means of employment, whether volunteer or gainful. Involuntary evictions or involuntary or illegal foreclosures shall also apply to this criterion.

F. A housing authority may still use residency in their particular town where they are located as a criterion on a housing waiting list, but, must also include in that criterion whether or not a person has ever attended a school in that particular town, or area, whether boarding elementary, or middle, or secondary, or the collegiate level, including for a two or four year degree, or a graduate degree, or a post graduate degree, and that such applicant has left the school, or college, or university in good standing. Good standing shall be defined to mean that a student has not been expelled for a serious and violent offense, or has not been suspended for 10

days or more for a serious or violent offense. A diploma, or a certificate, or financial aid statements, or a degree, and a transcript if available shall suffice as proof of residency in that particular town to which a person is applying for state aided public housing or state aided section 8 vouchers. The educational proof of residency in said particular housing authority's town shall also include a day private elementary, or middle, or secondary private or public school or had communicated to a two or four year college in that particular town. The same proof of educational attendance shall apply, and the same said defined good standing requirement shall still be applicable.

Section 2 Questions a Housing Authority's Tenant Selection Director May Ask on an Application or in Person When Helping the Applicant Fill out an Application for State Public Housing or the Statewide Section 8 Voucher Program

A. A tenant selection director, or an application for low income housing whether statewide public housing or the statewide Section 8 Voucher program shall ask questions about monthly or yearly income and where the income has derived from.

B. Previous landlords the applicant applying for housing had rented from within the past five (5) years, amount of rent paid each month, including documentation of said rental bills.

C. A tenant selection director of a housing authority's waiting list may ask about assets, such as real estate, retirement accounts, bonds, bank accounts, savings bonds, and certificates of deposits, and also stock investments.

D. For the purpose of this act, the term parents shall be defined as a child who is joint owners or tenants in common in the ownership of real estate, including, but, not limited to their place of the child's current place of residence, and shall be further defined as having joint

ownership or ownership as tenants in common with their biological mother, biological father, step mother, step father, adoptive mother, adoptive father, mother-in law, father-in law, biological grandmother, biological grandfather, step grandmother, step grandfather, adoptive grandmother, adoptive grandfather, grandmother-in law, grandfather-in law.

E. When the aforementioned parent as defined above turn age fifty-five (55) years old or older, upon proof that the applicant to the statewide public housing or statewide section 8 voucher waiting list, that such applicant jointly owns or owns as tenants in common with their parent, or set of parents, as mentioned in said definition has turned fifty-five (55), years of age or older, no housing authority shall bring up the question of real estate ownership of the current dwelling until either the parent or set of parents, to whom the applicant owns said property with, decides to sell the property and the proceeds are divided from such sale or the parent or set of parents to whom the child owns said real property with is deceased, whichever comes first. In the case of where both parents are still living, till both parents as defined above had unanimously consented to the sale or both parents had deceased. Proof of such ownership and linkage to the said defined parents shall be in the form of the applicant's long form birth certificate and the long form birth certificate of either the surviving parent who is fifty-five (55) years of age or older or both parents who are fifty-five (55) years of age or older, when the name of the applicant who is in current ownership of their current resident with one or both set parents, who are fifty-five (55) years of age or older. such question, upon proof that the parent or both parents are in ownership of the applicant's dwelling may only be brought up once and kept on the applicant's permanent file and kept as confidential matter, and not brought up any more times until either one or both of the child's parents decides to sell the above mentioned dwelling, to which the applicant lives or until both the parents fifty-five (55) years of age or older had

deceased. A deed of ownership of the applicant's ownership of their current resident shall only be produced when one or both of the parents are ready to make the sale final or when both of the parents had deceased. This above mentioned clause shall also be known as the "Stop Watch" provision and that such "stop watch" provision takes immediate effect when the applicant applying for state public housing or statewide section 8 voucher has shown both long form birth certificates of the applicant and of their parent(s) to whom they have joint or tenant in common ownership of their current dwelling with their parents, as such ownership shall be presumptive to mean that the applicant applying for housing is still living with one or both sets of parents.

Section 3 Evictions of Disabled Persons from State Aided Public Housing

No disabled person in need of state aided public housing shall be evicted based on disability alone unless they had either damaged the property or had engaged in illegal activity as deemed illegal by applicable state and federal laws. A disabled person can be evicted from said state aided public housing or state aided housing programs for failure to pay the rent as outlined in their lease. No disabled person or any family member under the age of 18 years of age shall be evicted based solely on association with said disabled family member head of household, or any criminal activity of any other family member, whether under the age of 18 years of age or 18 years of age or above. Clearance of illegal activity by law enforcement of a disabled or elderly person from any criminal activity shall be deemed prima facial evidence of said clearance of an elderly or disabled person who is evicted based solely on the basis of criminal activity of another family member. Said eviction, upon clearance of the tenant from criminal activity or any other acts of unruly behavior shall be deemed as discrimination on the basis of association of guilt by way of association in what so ever manner they associate with a family member who had been deemed by law enforcement to engage in criminal activity shall be deemed grounds for re-

instatement by a housing court as a legal remedy for said discriminatory practices. Fear of liability based solely on account of a family member's illegal or tortuous behavior or that of a disabled person causing more liability to a housing authority is and shall be deemed under law an unfounded fear and barred as a defense in an action brought to bar for discrimination based solely on disability, activity of any other household members either under or over the age of 18 so living with them, so long as the parent or guardian of any minor child living in the public housing authority has not participated in any said illegal activity with the family member or household member they so associate. In all cases, fear of civil liability or criminal liability on the part of the housing authority's administration is and shall be deemed an unfounded fear and shall be barred as a defense in an action brought to bar or an action brought for discrimination of any minority group.