

# LEGAL ALERT

## March 13, 2026

### **New York Appellate Court Invalidates Section 8 Source-of-Income Requirement**

On March 5, 2026, the New York State Supreme Court, Appellate Division, Third Department, affirmed a lower court ruling finding that New York's prohibition on housing discrimination based on a tenant's "lawful source of income" is facially unconstitutional.

The Court's unanimous decision in *People of the State of New York v. Commons West, LLC* held that requiring landlords to accept Section 8 housing vouchers compels the landlords to allow government inspections of their properties and provide access to records required by the program, in violation of protections against unreasonable searches under the Fourth Amendment to the United States Constitution.

#### **Practical Considerations**

The State of New York is expected to seek review by the state's highest court, the New York Court of Appeals. Landlords and property managers should consult with legal counsel before modifying rental policies. Notably, the *Commons West* case is specific to Section 8 housing vouchers, and does not necessarily apply to New York City-specific voucher programs, laws or regulations. Phillips Nizer will continue to monitor further developments.

For more information about this decision and how it may affect your leasing policies, please contact your Phillips Nizer attorney or one of the attorneys listed below.

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