

COVID-19 & Housing Discrimination

As we all adjust our daily living routines and learn to live with a new normal during the coronavirus (COVID-19) pandemic, new fair housing implications have arisen from this situation. The Federal Fair Housing Act prohibits discrimination based on race, color, national origin, disability (physical and mental), familial status, religion, and sex (harassment and gender).

Fair housing experts have acknowledged that testing positive for COVID-19 triggers protection for disabled persons under the Fair Housing Act. Therefore, a housing provider cannot deny a person that has tested positive for COVID-19 housing or submit them to different terms and conditions that are not being used with other tenants because it would be considered discrimination based on disability. In addition, people who are already disabled and have underlying health conditions that make them at high risk if they contract

the disease are facing additional obstacles. These tenants are concerned about possibly being exposed to the disease by outside persons coming into the rental unit for repairs, inspections, or to view the property because it is advertised for sale or lease. Many management companies and owners recognize the potential danger not only to their tenants, but also to their staff and have limited entry into tenants' units except for major repair issues. Inspections and property viewing can be done in alternative ways such as through video recordings or pictures that are safe for all parties involved and allow business to continue. Next, is the issue of lease contracts expiring during this time and disabled persons not being able or comfortable with moving due to the pandemic. For a person with underlying health conditions, going out to search for housing during a pandemic isn't only scary – it is a gamble that most are not willing to take. Moving involves having to interact with so many people

from visiting properties and completing paperwork to having movers come in your home and move your personal belongings from one location to the other. Another threat that many disabled residents have had to face is trying to stay safe in shared living space situations where other tenants have been exposed to COVID-19 or have tested positive with COVID-19. The Fair Housing Program has been successful in assisting disabled residents with reasonable accommodation requests in order to get leases renewed, request a few extra months before having to move out at the end of a lease, or in some cases to terminate the lease contract.

A very disturbing trend that is being seen across the country is sexual harassment of tenants that are behind on rent due to the loss of work because of the pandemic. In one case, a landlord told his female tenant that if she 'spent the night' with him that he would forgive the rent. This is discrimination based on sex – sexual harassment (quid pro quo – this for that) and is illegal under the Fair Housing Act. No one has to accept this type of behavior and the Fair Housing Program is ready and able to help anyone who has experienced sexual harassment in their housing.

If you believe that you have been a victim of housing discrimination, please call the Fair Housing Program at 512-474-7007.

Tenant Protections during the COVID-19 Outbreak

In the past few months, many tenants have struggled with loss of income due to the COVID-19 crisis. This has led to missed or late rent payments, along with increasing anxiety about housing stability. The economic downturn has exacerbated pre-existing issues of housing affordability and limited protections for tenants in Texas; many tenants were already one economic crisis away from losing housing. The COVID-19 outbreak has also generated new concerns, such as having to move

during the pandemic, as many leases end during late spring and summer months. Fortunately, some measures have been put in place to expand tenant protections during this crisis, both locally and at the federal level.

Notices to Vacate Prohibited

In the City of Austin, local government officials have implemented eviction-prevention measures to help reduce the immediate risk of homelessness that rent-

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ers face when they fall behind on rent. On March 26th, Mayor Adler signed an order prohibiting landlords from issuing Notices to Vacate until May 8th, 2020. On May 8th, this order was extended and will remain in effect until July 25, 2020. In barring landlords from issuing Notices to Vacate, this order essentially halts the eviction process in Austin, as a Notice to Vacate must be issued before a landlord can file for an eviction suit with the Justice of the Peace (JP) Court. This order protects renters regardless of the cause for eviction, although there are exceptions allowing landlords to start the eviction process if the tenant's actions pose an imminent threat of physical harm, or if there is criminal activity, housing discrimination.

Tenants who receive a Notice to Vacate before July 25th can report it to Code Enforcement by calling 3-1-1. We also encourage tenants to respond in writing to the Notice; a template letter is available on our website.

The Mayor's order also prohibits certain "self-help" eviction methods: lock-outs, removal of property, and liens. While many self-help eviction methods, such as lock-outs or utility shut-offs, are already illegal, this order provides additional support to tenants who can now call peace officers, Code, or the Fire Marshal for assistance rather than pursuing relief through the JP Court. Moreover, this order prevents landlords from executing temporary lockouts and liens even when they are authorized by a lease agreement. Tenants who have been locked out or had their property removed can report this violation by calling 3-1-1. Additionally, tenants should document the incident as they may be able to pursue remedies through the JP Court. Outside of the City of Austin, tenants who have been unlawfully locked out can pursue a Writ of Reentry through the JP Court.

Landlords Must Give Tenants 60-Day Period to Pay Back Late Rent

The City Council has also taken steps to protect tenants who have lost income during this economic crisis. On March 26, the City Council approved an ordinance which requires landlords to give tenants a Notice of Proposed Eviction before starting the eviction process for nonpayment of rent. This notice must give tenants a minimum of 60 days to respond and cure any delinquent payments before a landlord can issue a Notice to Vacate. While this ordinance does give tenants more time to remain in their homes, renters can still be evicted if they fail to pay back all sums owed during that 60-day period. Additionally, tenants can still be charged late fees allowed by the lease agreement. We always encourage tenants to pay rent in full, if they can, to avoid late charges and eviction proceedings.

This Ordinance initially expired on May 8, but was extended and will remain in effect through August 24, 2020.

CARES Act: Additional Protections to Tenants In Federally Subsidized Housing

The CARES Act, which was signed into law on March 27, 2020, includes a Temporary Eviction Moratorium which applies to tenants living in federally subsidized housing programs, such as Public Housing, the Housing Choice Voucher Program (Section 8), Project-Based Section 8, and the Low Income Housing Tax Credit (LIHTC) Program. These protections also apply to tenants living in properties with federally backed mortgages, such as Fannie Mae and Freddie Mac.

If a tenant is protected by the CARES Act, their landlord cannot issue a Notice to Vacate for nonpayment of rent, or file an eviction for nonpayment of rent, before July

25, 2020. Properties covered by the CARES Act cannot charge late fees during that period. Additionally, if a landlord chooses to start the eviction process, they must issue a 30-day Notice to Vacate, rather than the standard 3-day Notice. This requirement applies to eviction proceedings for any breach of the lease agreement.

Most tenants will know if they live in a federally subsidized housing program, however, tenants may not realize they are covered by the CARES Act if their landlord has a federally backed mortgage. We encourage tenants who are seeking this information to request it, in writing, from their landlord. The Travis County Justices of the Peace are requiring landlords who seek to file an eviction to submit a statement verifying that they are compliant with the CARES Act. Landlords will need to identify the database or other source of information used to confirm that their property is not covered by the CARES Act.

We encourage tenants and landlords to reach out to us if they have any questions about their rights and obligations during this unprecedented time. Individuals can call our telephone counseling line (512-474-1961) or reach out to our online counseling program to discuss their concerns with a Housing Advocate.

Rising Utility Costs

Many tenants face rising utility costs, due to both warmer weather and more time spent working from home. Through September 30, 2020, the City of Austin has suspended all utility disconnects due to nonpayment. Late fees have also been suspended. Tenants who need assistance paying their utility bills may be eligible for support through the Financial Support Plus 1 Program. Tenants seeking financial assistance can call the City of Austin Utilities Customer Care Line: 512-494-9400.

COVID-19 y discriminación en la vivienda

Mientras tratamos de ajustar nuestra rutina diaria y aprendemos a vivir en esta nueva realidad durante la pandemia de coronavirus (COVID-19), la situación ha producido nuevas implicaciones en vivienda justa. El Acta Federal de Vivienda Justa prohíbe la discriminación en base a raza, color, nacionalidad de origen, discapacidad (física o mental), situación familiar, religión, y sexo (acoso y género).

Expertos en vivienda justa han indicado que dar positivo en el test de COVID-19 genera protecciones de personas discapacitadas según el Acta de Vivienda Justa. Por lo tanto, el proveedor de vivienda no puede negar la vivienda a una persona con COVID-19, ni someterla a términos y condiciones diferentes a los de otros inquilinos, porque sería considerado discriminación por discapacidad. Además, las personas ya discapacitadas y con condiciones de salud que las ponen en alto riesgo de contraer la enfermedad enfrentan otros obstáculos. A estos inquilinos les preocupa la posibilidad de exponerse a la enfermedad por personas que entran a su unidad de renta para reparaciones, inspecciones, o para ver la propiedad si

fue publicitada para su venta o alquiler. Muchos propietarios y compañías administradoras reconocen el potencial riesgo no solo para sus inquilinos sino también para el personal, por lo que limitan la entrada a las unidades rentadas, excepto para altas necesidades de reparación. Las inspecciones y otras visitas pueden hacerse de formas alternativas, como con videos o fotos, que son seguras para todas las partes involucradas y permiten la continuación del negocio. Luego está el tema de contratos de renta que vencen en estos meses y personas con discapacidad que no pueden mudarse fácilmente debido a la pandemia. Para personas con condiciones preexistentes de salud, salir a buscar vivienda durante una pandemia no es solo temible sino un riesgo que la mayoría no quiere sufrir. Mudarse significa tener que interactuar con mucha gente, desde visitar propiedades y completar formularios, hasta dejar entrar al personal de mudanzas a la vivienda y acarrear todo artículo personal desde un lugar a otro. Otra amenaza que han tenido que enfrentar muchas personas discapacitadas es tratar de mantenerse seguras en casos de espacios compartidos, donde otros

inquilinos han tenido un examen positivo de COVID-19 o han sido expuestos al virus. El Programa de Vivienda Justa ha logrado asistir a residentes discapacitados con pedidos de adaptación razonable para renovar sus contratos de renta, pedir unos meses más antes de mudarse al fin del mismo, o en algunos casos cancelar el contrato de renta.

Una tendencia muy preocupante que se ha visto en todo el país es el acoso sexual a inquilinos que se atrasan en la renta debido a la pérdida de empleo a causa de la pandemia. En un caso, un administrador le dijo a su inquilina que si 'pasaba la noche' con él, le perdonaría la renta. Esto es discriminación en base a sexo –acoso sexual (quid pro quo o 'esto por aquello'), y es ilegal bajo el Acta de Vivienda Justa. Nadie tiene que aceptar este tipo de comportamiento, y el Programa de Vivienda Justa puede ayudar a cualquier persona que haya sufrido acoso sexual en la vivienda.

Si usted cree haber sido víctima de discriminación en la vivienda, por favor llame al Programa de Vivienda Justa al 512-474-7007.

Avisos de desalojo prohibidos

En la Ciudad de Austin, funcionarios del gobierno local han implementado medidas para prevenir los desalojos, y ayudar así a reducir el riesgo inmediato de hallarse sin techo que enfrentan los inquilinos cuando se atrasan en la renta. El 26 de marzo, el Alcalde Adler firmó una orden prohibiendo que los propietarios envíen avisos de desalojo hasta el 8 de mayo de 2020. El 8 de mayo, la orden fue extendida y seguirá en efecto

hasta el 25 de julio de 2020. Al prohibir que propietarios emitan avisos de desalojo, la orden esencialmente detiene el proceso de desalojos en Austin, ya que debe emitirse un aviso de desalojo antes que el propietario pueda iniciar proceso judicial de desalojo ante una Corte de Juez de Paz (JP). Esta orden protege a los inquilinos del desalojo, independientemente de su causa, aunque hay excepciones que permiten a propietarios iniciar el proceso

de desalojo si las acciones del inquilino presentan una amenaza inminente de daño físico, o si existe actividad criminal.

Los inquilinos que reciban un aviso de desalojo antes del 25 de julio pueden reportarlo a Cumplimiento de Código llamando al 3-1-1. También pedimos a los inquilinos que respondan por escrito al aviso de desalojo; hay un modelo de carta en nuestro sitio electrónico.

If your agency would like to receive additional copies of this newsletter or if you have any changes to the mailing list, contact Rachel at 512-474-7006 Ext. 106 or rachel@housing-rights.org. If you prefer to view our newsletter online, we will gladly remove your name from our mailing list.

This service is certified as a lawyer referral service as required by the State of Texas under Chapter 952, Occupations Code.

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The Austin Tenants Council, as a subrecipient of the City of Austin, is committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance. The City does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs and activities. David Ondich has been designated as the City's Section 504/ADA Coordinator. Her office is located at 505 Barton Springs Road, Suite 600. If you have any questions or complaints regarding your Section 504/ADA rights, please call the Section 504/ADA Coordinator at 974-3256 (voice) or 974-2445 (TTY). This publication is available in alternative formats. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance.

Fair Housing Program / Programa de Vivienda Justa This program helps any person in the Austin metropolitan area who has been discriminated against in the rental, sale, financing, or appraisal of housing. FHP investigates complaints and coordinates legal services to assist victims of discrimination when their rights under state and federal fair housing laws have been violated. Este programa ayuda a cualquier persona en el area metropolitana de Austin que se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El FHP investiga las quejas y coordina servicios legales para las victimas de discriminación cuando sus derechos están violados bajo las leyes estatales y federales de vivienda justa. Call / llame al 474-7006.

Telephone Counseling / Consejos por Telefono Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejos legales. Call / llame al 474-1961.

In-House Counseling / Consejos en la Oficina Counseling information and materials are provided to clients in need of more in-depth assistance. Se provee información y materiales a los clientes que necesitan mayor información. Call for an appointment / llame para una cita al 474-7006.

Crisis Intervention / Intervencion Crisis Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Consejeros median en nombre del inquilino a resolver una emergencia que amenaza su vivienda. Call / llame al 474-1961.

Rental Repair Assistance / Ayuda con Reparaciones en su Vivenda The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajo ingreso da fuerza a sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7006.

Lease Forms / Contratos ATC sells lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. ATC vende paquetes de contratos y folletos, por una cuota nominal, describiendo los derechos y las responsabilidades del propietario y del inquilino. Call for more information / llame para mayor información al 474-7006 .

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