



Housing Rights ADVOCATE

Issue 37, Fall 2005

The Austin Tenants' Council

www.housing-rights.org

Unclear on the Concept

In the summer of 2004, ATC reported that the residents of Austin Hills Mobile Home Park (AHMHP) had received a sixty-day notice to vacate from the owners of the property stating that the park was being closed. The City of Austin and the owner had made an agreement three years earlier to close the park because it is in a dangerous flood zone of Walnut Creek. The City agreed to purchase the property as part of a settlement of a lawsuit filed by the owner. This information, though, was never given to the tenants of Austin Hills. The previous newsletter article also explained the requirement under the relatively new Manufactured Home Law that an owner must give at least 120 days notice to close a mobile home park.

Shortly after the 60-day notice was given, ATC attended a community meeting at Austin Hills by request of the City of Austin. There were hundreds of upset tenants at the meeting who feared the loss of their homes. At the meeting, ATC attempted unsuccessfully to mediate on behalf of the tenants and to get the owner to give a 120-day notice. Because mediation failed, ATC worked with the tenants to organize and to seek legal representation. Attorney Tony Diaz agreed to represent the tenants in a lawsuit for compliance and for damages provided under the law. Texas Rio Grande Legal AID agreed to represent the tenants in any eviction that was filed against them.

Most of the residents of the park were recent immigrants who did not speak English. Unfortunately, when they received the notice in June, many of them moved hastily from the park. The property owner did offer to assist with some of the moving costs, but tenants signed a waiver to not seek any other damages.

After they had moved, ATC heard from several tenants that their home was now in an undesirable location and that others were taken advantage of by unscrupulous people selling land. One tenant purchased land near Onion creek

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2005-2006 FHEI Funds Focused on Evacuees

HUD notified ATC that its Fair Housing Private Enforcement Initiatives Program (FHIP) was selected to receive funding under the HUD Fiscal Year 2005 Fair Housing Initiatives Program SuperNOFA for one year, totaling about \$219,000. The Fair Housing Act bars housing discrimination on the basis of race, color, religion, sex, disability, family status and national origin. The Act covers the sale, rental, financing and advertising of almost all housing in the nation.

The grants funded under HUD's Fair Housing Initiatives Program go to public and private fair housing groups across the country.

These groups use the funds to investigate allegations of housing discrimination, educate the housing industry and

public about housing discrimination laws, and promote fair housing. Under a FHIP Private Enforcement Initiative, fair housing enforcement organizations investigate alleged violations of the Fair Housing Act. HUD investigators, and state and city agencies working with HUD also conduct fair housing investigations under the Fair Housing Assistance Program (FHAP).

ATC's Fair Housing Program will help all protected classes, but will emphasize protecting the rights of Katrina and Rita hurricane evacuees, persons with disabilities, and immigrant populations living in the Austin Metropolitan Statistical Area.

ATC will work to make certain that the victims of hurricanes Katrina and Rita are not also victims of illegal housing

"ATC will work to make certain that the victims of Katrina and Rita are not also victims of illegal housing discrimination."

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ATC Receives Award at Dia de la Raza Celebration

The Austin Tenants' Council is the very proud recipient of the Outstanding Community Service Award presented by United East Austin Coalition (UEAC). ATC received the award on 10/12/05 during the United East Austin Coalition's 20th Annual Dia de la Raza celebration held at Red's Scoot Inn, a neighborhood icon in East Austin.

The celebration was attended by community and political leaders such as Suzanna Almanza with People Organized in the Defense of Earth and her Resources (PODER), U.S. Congressman Lloyd Doggett, State Representative Eddie Rodriguez, State Senator Gonzalo Barrientos, City of Austin Councilmember Raul Alvarez and many others. It was a great time of food, drink, and

celebration of everything that makes East Austin such a great community, as well as a call for the continued support of the Latino Community.

The Austin Tenants' Council would like to thank the UEAC, and in particular, Sabino Renteria and Lori Cervenak-Renteria for their longtime support of the Austin Tenants' Council, and for their hard work in the Austin community.



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Tax Credit Rules Protect Tenants from Termination

As reported last year, the Internal Revenue Service (IRS) issued new policy guidelines in August 2004 clarifying that require a landlord of a property built under the Low-Income Housing Tax Credit (LIHTC) program must have good cause to terminate a tenant's lease at the end of its term or after it has gone month-to-month. The IRS promulgates the rules for LIHTC properties, which require other leasing practices such as accepting Section 8 Vouchers.

Good cause is not defined by IRS, but generally would include some type of substantial violation of the lease if courts interpret it in the same manner as they have when dealing with public housing. Substantial violations might include criminal activity, failure to pay rent that is owed, etc. Over the past year, ATC has found that many managers of these properties are still not aware of this requirement when terminating an LIHTC property lease.

For example, in May 2005, Floyd McVade, a tenant at Fort Branch Apartments, received a 30-day notice to terminate his lease on 6/11/05. The notice of lease termination did not state any reason, which is typical in Texas. Most managers will not state the reason why the lease is being terminated because that basis may be challenged, and Texas law does not generally require the landlord to have any reason whatsoever for terminating a lease at the end of term or when month-to-month. Typically, the only way a tenant can fight such termination is if the tenant can prove that it is in retaliation for requesting repairs, for enforcing other rights under the lease, or that it is discriminatory in violation of the Fair Housing Act. Proving that any of these things has occurred is often difficult.

Of course, management always has some reason for terminating a tenant's lease, but not necessarily a good or fair reason. Tenants frequently report that they get in minor disputes with management or complain to a manager's supervisor and the then receive notice to terminate the lease. Tenants shouldn't fear lease termination when they demand good customer service from the management company, but that is often what happens.

In Mr. McVade's case, he had been

complaining about excessive noise from neighbors and was frustrated because nothing had been done. Admittedly the manager faces a difficult situation when a tenant is being noisy. The tenant can be evicted, but such an eviction is much more difficult to win and typically more expensive than one for nonpayment of rent. Mr. McVade may have been curt with the manager, but does that mean he should have to incur the expense of moving as a result? Furthermore, what is in the best interest of a property owner - addressing the noise issues that tend to drive good tenants away or getting rid of paying tenants for complaining about them?

Fortunately, the new Tax Credit rules provided Mr. McVade protection from lease termination unless the owner could show good cause. The Austin Tenants' Council advised Mr. McVade of his rights and then referred him to the Austin office of Texas Rio Grande Legal Aid (TRLA). The manager subsequently threatened to file an eviction for holding over. After being contacted by TRLA, the manager opted not to file the eviction and allowed Mr. McVade to sign a new lease.

The Austin Tenants' Council will continue in its efforts to notify tenants and property managers of LIHTC properties of this requirement for good cause to terminate a lease. Anyone who wants to know whether a particular property in the Austin MSA has received Low-Income Housing Tax Credits can refer to ATC's Guide to Affordable Housing in the Greater Austin Area which is available as a hard-copy in our offices or in digital form on ATC's website: www.housing-rights.org. For properties outside the Austin MSA, the Texas Department of Housing and Community Affairs is charged with monitoring Tax Credit properties and they have a complete statewide listing at www.tdhca.state.tx.us/lihtc.htm. Look for the 2005 Property Inventory.

Any tenants living in an LIHTC property that receive notice of lease termination and do not believe that it is for good cause, should contact the Austin Tenants' Council at 474-1961 for more information or seek legal advice.

Unclear Concept

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that was uninhabitable because it was also in the floodplain, and the City of Austin would not permit them to move their house there. With more time, many of these problems may have been avoided.

For those that stayed, the property owner filed evictions in October 2004 with the Precinct 1 Justice of the Peace, Richard Scott. The tenants won the eviction at the JP Court level and the owner promptly appealed the cases to County Court. The owner also discontinued services at the park so Mr. Diaz filed for an injunction requiring the property owner to continue with exterior lighting and maintenance of the grounds. The injunction also asked that the County Court make a preliminary ruling requiring the owner to give 120-days notice. The County Judge issued a more limited order for the owner to continue normal maintenance of the park. Mr. Diaz also filed a lawsuit against the property owner for damages.

In December 2004, the tenant group, Tony Diaz, ATC, and Nelson Mock from TRLA attended a formal mediation paid for by the City of Austin to resolve the matter, but no agreement was reached after eight hours of negotiation. It appeared that the case would eventually go to trial. The tenants began moving out of the park slowly and there were few left when the City of Austin took ownership of the property in May 2005. The City immediately issued the 120-day notice to the remaining tenants.

Also over this time, Mr. Diaz and the tenants had ongoing discussions with the owner and his attorney. Fortunately, the property owner and the tenants reached an undisclosed settlement of the lawsuit. ATC remains baffled as to why 120-days notice wasn't given to the tenants in April 2004, which would have forced the tenants to move by the deadline stated in the owner's notice given in June. Had that statutory notice been given, the tenants would have been given the time required by the law, and may not have sued the owner.

In the end, the property owner paid his own attorney for many billable hours, paid for maintenance of the park at a loss because so few tenants were there, was delayed in finalizing his deal with the City of Austin, spent a lot of time dealing with the matter, and eventually settled with the tenants, presumably including some type of monetary compensation. Giving 120-days notice sure seems a lot easier.



Austin Hills: “El Concepto No Esta Claro”

En el verano del 2004, el Austin Tenants' Council (ATC) reportó que los residentes del Austin Hills Mobile Home Park (AHMHP) habían recibido una noticia avisando que en 60 días tenía que desocupar la propiedad porque el parque lo iban a cerrar. La ciudad de Austin y el dueño habían hecho un contrato tres años anterior para cerrar el parque porque estaba en peligro de inundación de Walnut Creek. La ciudad decidió comprar la propiedad. Esta información nunca fue dada a las inquilinas de Austin Hills. En un artículo anterior, el Housing Rights Advocate, explicó en detalle bajo la nueva ley de Manufactured Home Law, el dueño debe que dar el mínimo de 120 días noticia que el o ella van a cerrar el mobile home park.

Poco después de la noticia de 60 días, el Austin Tenants Council atendió una junta de la comunidad en Austin Hills por mandato de la ciudad de Austin. Hubo cientos de inquilinas preocupadas por el medio de perder sus casa. En la junta, ATC atentó para un acuerdo en favor de los inquilinas que los dueños les dieron 120 días, pero la proposición falló. Porque la proposición falló, ATC trabajó con los inquilinas para organizarse y buscar representación legal. El abogado Tony Díaz estuvo de acuerdo a representar los inquilinas en un pleito para daños bajo la ley. El Texas Rio Grande Legal AID (TRLA) estuvo de acuerdo en representar los inquilinas en cualquier desalojamiento.

Muchos de los residentes eran inmigrantes que no hablan inglés. Cuando recibieron la noticia en junio, muchos se mudaron. Los dueños de la propiedad no les ofrecieron asistencia de mudarse. Muchos de los inquilinas firmaron un documento de renuncia para no pedir asistencia de daños en este asunto.

Después que se mudaron, ATC recibieron noticias que sus casas habían puesto en lugares que no fueron apropiados. Otros habían tomado la venta de gente sin escrúpulos vendiendo tierras. Un inquilino compró tierra cerca de Onion Creek pero no podría poner sus casa porque estaba en una zona de inundación y la ciudad de Austin no permitieron poner sus casas allí. Con mas tiempo, muchos de estos problemas podrían ver sido evitados.

Para que los que se quedaron, los dueños de la propiedad les dieron noticias de desalojo en octubre 2004 en el corte del Precinct 1 Justice of the Peace Richard Scott. Los inquilinas ganaron la noticia de desalojo en la nivel del corte de Justice of the Peace y los dueños inmediatamente apelaron la causa a el corte del condado. Los dueños discontinuaron servicios en el parque y Díaz apeló para que los dueños continuaron con luz y mantenimiento del parquet. Sr. Díaz también hizo un pleito contra los dueños por daños y perjuicios.

En diciembre de 2004, los inquilinas, Sr. Díaz, ATC y Sr. Nelson Mock from TRLA atendieron una junta de intervención pagado por la ciudad de Austin para resolver este asunto pero después de ocho horas, no llegaron a un acuerdo. Parece que esta causa va a ir al juicio. Los inquilinas empesaron a mudarse y había muy pocos cuando la ciudad de Austin tomó la propiedad en mayo de 2005. La ciudad inmediatamente mandó la noticia de 120 días a los inquilinas que todavía vivía en el parque.

Durante todo este tiempo el abogado Díaz y los inquilinas tuvieron discusiones con el dueño y su abogado. Afortunadamente el dueño y los inquilinas llegaron a un acuerdo. ATC queda confundido porque el dueño no se les dio la noticia de 120 días a los inquilinas en abril de 2004.

Finalmente, el dueño tuvo que pagar mucho dinero a su abogado por su trabajo, pagó el mantenimiento del parque cuando muy pocos inquilinas estuvieron allí, perdió tiempo en finalizar su contrato con la ciudad de Austin, pasó mucho tiempo en pláticas y por fin, tuvo que pagar una cantidad de dinero a los inquilinas. Si hubiera dado la noticia de 120 días requerido por ley, hubiera sido mucho mas fácil.

El Austin Tenants' Council Recibió un Premio al Celebración de Dia de la Raza

El Austin Tenants' Council está muy orgulloso de ser el recipiente del 20th Annual Raza premio para Sobrasaliente Servicio a la comunidad presentado por el United East Austin Coalition. ATC recibió esta recompensa el día 12 de octubre 2005 a la celebración del Dia de la Raza que fue en la Red Scott's Inn, un lugar muy famoso por más que 50 años en East Austin.

La celebración fue atendida por líderes políticos y activistas de la comunidad como Susana Almanza de PODER, U.S. Congressman Lloyd Doggett, State Rep. Eddie Rodríguez, St. Sen. Gonzalo Barrientos, el miembro del concilio de Austin

Raúl Alvarez y muchos más. Fue un gran tiempo para comer, beber y celebración de East Austin, un gran comunidad.

El Austin Tenants' Council les gustaría dar gracias a Sabino Rentería y Lori Cervenak-Rentería por su gran apoyo del Austin Tenants' Council y todo el trabajo que hacen en la comunidad de Austin.

“...el dueño tuvo que pagar mucho dinero a su abogado..., pagó el mantenimiento del parque ... tuvo que pagar una cantidad de dinero a los inquilinas. Si hubiera dado la noticia de 120 días requerido por ley, hubiera sido mucho mas fácil.”



Discriminación contra Personas con Ínhabilidades: Barreras a Cada Paso

Recientemente el Departamento de Vivienda y Desarrollo Urbano (HUD) completó el documento Discriminación contra Persons con ínhabilidades: Barreras a Cada Paso, un estudio contra persons con ínhabilidades. Este estudio fue conducido en viviendas de renta en Chicago. Un parte del estudio fue como trata personas en sillas de ruedas quien fueron a ver propiedades de renta. El estudio describió de este grupo es más discriminado que los Africano Americanos y Hispanos en viviendas de renta. El reporte descubrió también que personas con ínhabilidades les niega apartamentos de renta y les niega modificar los apartamentos. Gente con silla de ruedas no les ofrece una aplicación de renta. El 20% de los dueños de los apartamentos refusan designar espacios

para estacionar y 33% de propiedades de renta no son accesible para gente que usa silla de ruedas.

Recientemente en un reviso de accesibilidad, el Austin Tenants' Council (ATC) descubrió que discriminación en contra de gente ínhabilidad continua hacer un problema muy grande en Austin, Tx. Un grupo de apartamentos ni tenía apartamentos accesible para gente ínhabilidadada y dos otros edificios no estaban en acuerdo con el diseño y construccion de la Ordenanza de Vivienda Justa porque las areas comunas no estaba accesibles para los ínhabilidades.

Gente ínhabilidadada que busque apartamentos de renta están preocupadas que la propiedad está accesible. Tiene que tener cuidado como les trata durante el proceso de aplicación y después cuando

se muda a un apartamento. Por ejemplo, el Programa de Vivienda Justa del ATC recibió una queja de una persona ínhabilidadada que estaba buscando un apartamento. Los gerentes del apartamentos le preguntaron si podría vivir sin asistencia antes que rentara un apartamento. La vivienda de apartamentos negó la aplicación de la persona ínhabilidadada después que supieron el tenía personas que le ayudaba. Este ejemplo y estudio que hizo HUD prueba que falta entrenamiento para los dueños de propiedades.



INQUILINOS

El Programa de Asistencia con Reparaciones de ATC puede ayudar si usted tiene problemas que afectan su salud o seguridad. Ponerse en contacto con ATC al 474-1961 para más información.

PROPIETARIOS

Protéjase y su inversión. Compre un contrato de ATC y hacerse un propietario más confidente y informado. Llame 474-7007 o ven a la oficina para más información.

Caso de Morris Llegó a un Acuerdo

El día 2 de febrero 2003, John Morris (Querellante) una persona ínhabilidadado, que usa una silla de ruedas, puso una queja de discriminación contra Hogue & Associates, Inc. y Campbell-Hogue Construction, LLC companies (Respóndedor), dueños de Fort Branch at Truman's Landing Apartamentos por violar la sección de la Ordenanza de Vivienda Justa y el Acto de Rehabilitación por su ínhabilidad. El día 1 de abril 2003, el Departamento de Vivienda y Desarrollo Urbano (HUD) completó una investigación independiente de la vivienda

y descubrió varias violaciones por el diseño y construcción requerida por estos Actos.

Por ver descubrido evidencia por esta investigación, el Respóndedor y el Querellante llegaron a un acuerdo después de varios negociaciones. El Querellante fue compensado en la suma de \$2,885 como compensación por su inconveniencia que sufrió por el Respóndedor no ver cumplido con el diseño y construcción requeridas por ley. El Respóndedor estuvo de acuerdo de hacer todo lo necesario para componer los pisos y areas de comun de estas viviendas. También lo atenderá juntas para aprender

las leyes de la vivienda con énfasis en diseño y construcción requeridas por ley.



Fair Housing News

Discrimination Against Persons with Disabilities: Barriers at Every Step

Recently the U.S. Department of Housing and Urban Development (HUD) completed Discrimination Against Persons with Disabilities: Barriers at Every Step, a study of discrimination against persons with disabilities. The study was conducted in the rental housing market in Chicago using matched pair testers. One focus was on the treatment of people in wheelchairs who visited rental properties in person to inquire about housing. The report found that this group faced higher than the adverse treatment encountered by African-American and Hispanic renters in this housing market. The study also found that disabled applicants are frequently denied requests for reasonable modifications and reasonable accommodations, wheelchair users were less likely to be offered a rental

application than non-disabled customers, almost 20 percent of housing providers refused to provide designated accessible parking spaces for wheelchair users, and at least a third of advertised rental properties were not even accessible to wheelchair users.

A recent accessibility audit conducted by the Austin Tenants' Council found evidence that discrimination against persons with disabilities continues to be a significant problem for the Austin, TX metropolitan service area too. One apartment complex didn't have any accessible units at all, and at least two others were not in compliance with the design and construction requirements of the Fair Housing Act because public and common areas were not accessible.

Disabled home seekers not only have to be concerned with whether or not the property is accessible, but also how they will be treated during the application process and after they move



HUD Funds FHEI Program

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discrimination. ATC will conduct an education and outreach campaign targeted at these individuals and assist them file discrimination complaints with HUD when appropriate.

During the grant period, ATC will continue its other programs and provide investigative services, testing and legal

continues

TENANTS

ATC's Rental Repair Assistance Program can help if you have repair problems that threaten your health or safety. Call ATC at 474-1961 for more information.

LANDLORDS

Protect your investment. Purchase an ATC Lease Packet and be a better informed and more confident landlord. Call 474-4007 or come by our office for more information.

Disability Case Reaches Conciliation Agreement

On February 2, 2003, John Morris (Complainant) a disabled person using a wheelchair filed a discrimination complaint against Hogue and Associates, Inc. and the Campbell-Hogue Construction, LLC companies (Respondents), owners of Fort Branch at Truman's Landing Apartments for violating sections of the Fair Housing Act and the Rehabilitation Act on the basis of his disability. On April 11, 2003, HUD completed an independent investigation of the facilities and discovered numerous violations of the design and construction requirements of these Acts.

Due to the overwhelming evidence from this investigation, the Respondent and the Complainant were able to reach a conciliation agreement after some negotiation. The complainant was awarded a total of \$2,885.00 as compensation for the inconveniences he suffered because of the Respondents' alleged non-compliance with these design and construction requirements, the Respondents' agreed to take all necessary actions to retrofit all ground floor covered units and all common areas at this complex to bring them into compliance, and to attend fair housing training with an emphasis on design and construction requirements.

HUD Funds FHEI Program

cont.

resources to support victims of housing discrimination in the Austin MSA. ATC will process fair housing complaints and assist clients make requests for reasonable accommodation and/or modification.

ATC has been successful with similar FHIP grants and in advancing fair housing in Texas. ATC is pleased to have received this HUD funding and to continue as an integral part of the continuum of social services in Texas.





Housing Rights Advocate
Austin Tenants' Council
1619 E. Cesar Chavez St.
Austin, Texas 78702

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The Austin Tenants' Council, as a sub-recipient 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 modification 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.

Programs and Services/Programas y Servicios

**FAIR HOUSING
 VIVIENDA JUSTA**

THE FAIR HOUSING PROGRAM / EL 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 474-7007.

**TENANT-LANDLORD
 INQUILINO-PROPIETARIO**

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 474-7007.

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 amenass su vivienda. Call / llame al 474-1961.

RENTAL REPAIR ASSISTANCE / AYUDA CON REPARACIONES EN SU VIVIENDA - 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 474-7007.

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 474-7007.

Austin Tenants' Council Staff

Jim Currier Fair Housing Testing Coordinator
Nathan Fish Housing Specialist
Cindi Garcia Fair Housing Specialist II
Cruz Garcia Housing Specialist
Veronica Garcia Program Specialist I
Chris Garza Program Specialist II
Lucia Peres-Salinas Intake Specialist
Sam Persley Program Specialist III
Nekesha Phoenix Fair Housing Program Director
Bruce Rodenborn Program Development Specialist
Katherine Stark Executive Director