



Housing Rights ADVOCATE

Issue 23, Summer 2002

The Austin Tenants' Council

www.housing-rights.org

New Contract Clause May Decrease Homebuyers' Chance to Settle Disputes

Over the last few years, homebuyers are being asked to sign a mandatory arbitration addendum in addition to the contract to purchase the home. This addendum is also included in contracts to purchase mobile homes. The addendum requires the homeowner to resolve a dispute through arbitration instead of filing a lawsuit. Some homeowners do not need to worry, because a dispute never arises. But for those who have a dispute, warranty claim or discrimination complaint, they will be bound to resolve the matter through arbitration. Only in very few cases does the mandatory arbitration clause allow a lawsuit to be filed to settle a dispute.

Mandatory arbitration clauses are enforceable because of the Federal Arbitration Act (FAA), which passed with the hope that interstate commercial disputes could be settled without litigation. Home purchases are interstate commerce because they include loans and other transactions traceable across state lines. Therefore, homeowners and purchasers must arbitrate any complaint if their contract includes a mandatory arbitration clause. The problem, noted by consumer advocate groups, is that arbitration is more expensive than litigation. There are fees for the arbitrators, the cost of an attorney (assuming one can be afforded), possibly a facility fee, and other incidental costs. The result is that this process favors large corporations and businesses, and discourages the consumer from pursuing their claims, leaving most disputes unaddressed and the builders free of liability. For the average consumer this is a heavy burden, but, for low-income consumers, the opportunity to resolve a dispute is next to impossible.

The arbitration process itself has defects too. Mainly, federal and state case

law in Texas has restricted the scope of appeals for this process, thus allowing many arbitrated decisions to remain untouched. In addition, the courts have held that, under the language of the arbitration addendum, claims of discrimination cannot be presented to the arbitration panel. Not even violations of the Deceptive Trade Practices Act can overcome the enforceability of the addendum. Unfortunately, there is little relief in sight.

The only clear avenue, at this point, is to show fraud in the inducement to sign the arbitration addendum. The courts have held that a narrow exception to the enforceability of the contract rests solely on the arbitration addendum itself. This does not mean that fraud in general will nullify the arbitration provisions. Instead, what must be shown, is some sort of fraud specifically related to the addendum itself. This can be quite difficult considering the consumer must prove that they were deceived or misled in some way regarding the arbitration process.

The other possible option for escaping arbitration is to have legislation that specifically excludes certain claims from the scope of the FAA. Ultimately, consumers would need to contact their representatives to voice concerns about the use of arbitration to escape the Fair Housing Act or fraud. These representatives hold the power to pass laws that could exclude the Fair Housing Act from the FAA. This would allow victims of discrimination to pursue their complaints through the HUD administrative process. This is an important point as the current situation could virtually eliminate fair housing rights for signers of these contracts, and victims may never get to seek redress through the laws meant to protect them.

Moore Victories in Court

Marque Moore and his attorney, Manuel Newburger recently won a fair housing lawsuit filed against co-owners Jared L. Ashberg and Stuart A. Linde. Mr. Moore is a recent graduate of the University of Texas Law School. He has quadriplegia and requested reasonable accommodation under the fair housing act in the rules and policies of the landlord; these requests were denied.

Moore paid a \$1500 security deposit and \$1500 per month to rent a home from Ashberg. The landlord was aware of his disability and agreed to allow Marque to make some minor modifications to make the property wheelchair accessible. These modifications were made at Moore's expense.

After living in the home for several months, the home developed several repair problems including a roof leak directly over Moore's bed. This problem was a threat to his health and safety. In addition, the dryer and the dishwasher broke. Normally the loss of these appliances, though inconvenient, does not represent a serious problem for a tenant. However, Moore's attendants were required to wash dishes by hand and to wash his clothing and bedding at a laundromat, thereby taking up most of the attendant's with these chores rather than caring for Mr. Moore.

Moore submitted repeated written requests for these items to be repaired, but to no avail. Moore requested assistance from the Austin Tenants' Council's Fair Housing Program, who assisted him making a request for reasonable accommodation under the Fair Housing Act. The landlord refused to grant the accommodation and Fair Housing Program Director Mary Daniels-Dulan attempted to

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Tenant Makes Sure Bad Choices Don't Mar Her Record

Lisa and Larry, ages 17 and 21 respectively, rented their first apartment together with their 16 month old daughter in November, 2001. In order to qualify, the young couple needed a co-signer because they had no credit or rental history. And because Lisa was a minor, the manager would not allow her to sign the lease contract. Instead, she was listed as an occupant. As first time renters, they were looking forward to the freedom of living on their own, away from their parents. Unfortunately, their lack of understanding of the lease contract prematurely ended their first rental experience.

Even though the young couple had a daughter, they still liked to hang out with friends and listen to music. Occasionally, the volume was too high for their neighbors who complained to the management on several occasions about the music and numerous guests. The manager responded by sending the couple three separate notices of a lease violation.

The third notice was different in that it stated the complex would no longer be lenient with the tenants and if they had to send one more lease violation notice, the tenants would be subject to eviction. Shortly thereafter, Larry was involved in a disturbance near the apartment. Remembering the manager's warning, the couple knew that they were probably about to be evicted, so they decided to not pay the \$925 monthly rent and save the money for a new apartment. As expected, the fourth and final notice the couple received from the manager was a 3 day Notice to Vacate for non-payment of rent.

The tenants could not deny that they were in breach of the contract, but Lisa was concerned about how an eviction would affect her ability to rent another apartment. More importantly, would it eliminate her chance of being approved for a Section 8 voucher - for which she was already on a waiting list.

After speaking with ATC, Lisa sought information from Legal Aid of Central Texas. Unfortunately, they were unable to provide legal representation because she and Larry were actually in default under the lease contract. Lisa was determined to prevent the eviction from showing up on her record; her only choice was to represent herself in court. Her argument: She did not sign the lease contract, and she was a minor.

In April 2002, ATC observed the 29th Anniversary of our housing rights organization and the 34th Anniversary of the passage of the Fair Housing Act. For 29 years, ATC has been supported by community volunteers, professionals and organizations who have helped us keep our mission strong to advocate for safe, decent, affordable and fair housing for all.

We thank organizations like ADAPT of Texas, Advocacy, Inc., Texas Low-Income Housing Information Service, Southwest Regional Office of Consumer's Union, PODER of Austin, the Texas Home of Your Own Coalition, the San Antonio Fair Housing Council, the Austin Manor's Committee for People with Disabilities, Disability Assistance of Central Texas, Legal Aid of Central Texas, and many others for working with ATC to advocate for housing rights.

Thanks to the City of Austin for providing financial support to ATC programs and services for the past 29 years. Without this support, ATC would not have been able to serve the thousands of tenants over the years that have tenant-landlord and fair housing problems.

Community-based media organizations like the *Villager News*, *ARRIBA*, *NOKOA the Observer*, *El Mundo*, *La Prensa* and KAZI Radio 88.7 FM continuously donate time and space to ATC. The Texas Commission on Human Rights and the Austin Human Rights Commission are partners with ATC on fair housing education initiatives.

We would also like to thank the more than 30 private attorneys in the Austin area who take referrals of fair housing and tenant/landlord cases and assist our clients in enforcing their housing rights. In the past, Legal Aid of Central Texas and Advocacy, Inc. were the primary legal resources for ATC clients.

A special thanks and congratulations to ATC Director of Litigation and Legal Aid Attorney Fred Fuchs who was recently awarded the National Legal Aid &

The tenants scheduled a hearing in Precinct 4 after receiving an eviction citation, that named both Lisa and Larry as defendants. Once face to face with Judge Diaz, Lisa agreed that she and Larry had violated the contract by not paying rent; they were even prepared to move out. What Lisa did not want, she explained to the judge, was to receive a judgment against her from the court. She was just starting out and an eviction would make it very difficult for her to rent another apartment.

Kudos

Defender Association's 2002 Kutak Dodds Prize. Fred received this national honor from NLADA for being an equal justice advocate who, through the practice of law, contributed significantly to the enhancement of human dignity and quality of life of persons unable to afford legal representation.

Congratulations to Legal Aid Attorney Heather Way, who recently was named Outstanding Young Lawyer of Texas by the Texas Young Lawyers Association. The Austin Young Lawyers Association also named her the Outstanding Young Lawyer of 2002. Heather founded Texas C-Bar (Texas Community Building with Attorney Resources) as a special project of Legal Aid of Central Texas. Texas C-Bar is a statewide pro bono law project that provides community-based non-profit agencies with legal tools to develop affordable housing and community infrastructures in low-income communities. During her fellowship at Legal Aid, Heather was a valuable resource for ATC clients, especially those with disabilities.

Another congrats to former ATC Law Clerk Ernest Cromartie, III who recently joined the Cromartie Law Firm, L.L.P. in Columbia, South Carolina. After leaving ATC, Ernest was accepted to the U.S. Office of Personnel Management's 2-year Presidential Management Intern Program. As an ATC Law Clerk, Ernest recruited attorneys for ATC's Cooperating Attorney Referral Program.

Finally, we thank Garry L. Sweeney for his years of advice and counseling to ATC. Garry was recently appointed as Regional Director of the HUD Office of Fair Housing and Equal Opportunity for Region VI. Garry joined HUD in 1980 as an investigator, was formerly chief of the Program Operations Branch in Ft. Worth and has been instrumental in establishing Fair Housing enforcement agencies in Oklahoma, Texas and Louisiana, as well as the cities of Dallas, Garland, Ft. Worth, Austin and Corpus Christi, Texas.

The judge ruled in favor of the manager and told the tenants they had to move and pay the rent, but she also heeded Lisa's plea and placed the judgment only under Larry's name. Because of this decision, Lisa was able to rent another apartment.

This 17 year old entered the court unsure of her outcome. Upon hearing the ruling, Lisa knew her perseverance had paid off. She said, "Tenants do have a chance for victory in court."



Nueva Cláusula de Contratos Puede Disminuir la Posibilidad de Compradores de Casas para Determinar Disputas

Durante los últimos años, se está pidiendo que los compradores de casas firmen una cláusula de mediación obligatoria aparte del contrato para comprar la casa. Esta cláusula también está incluido en los contratos para comprar casas móviles. La cláusula requiere al dueño a resolver una disputa por mediación, en vez de entablar una demanda. Algunos dueños no tienen que preocuparse de esta cláusula, porque una disputa nunca surge. Pero para los que tienen una disputa, una reclamación de la garantía o una queja de discriminación, ellos estarán obligados a resolver el asunto por una mediación. Sólo en muy pocos casos la cláusula de mediación obligatoria permite un pleito para determinar una disputa.

Cláusulas de mediación obligatoria son ejecutorias debido al Acto de Mediación Federal (FAA), que pasó con la esperanza que disputas comerciales entre estados podrían ser colocadas sin un pleito. Las compras de casas se consideran como comercios entre estados porque incluyen préstamos y otras transacciones detectables a través de líneas estatales. Por lo tanto, los compradores de casas deben mediar cualquier queja si su contrato incluye una cláusula de mediación obligatoria. El problema, notable por grupos de abogado de consumidor, es que una mediación es más caro que un pleito. Hay honorarios para los intermediarios, el costo de un abogado (asumiendo que uno tiene este dinero), posiblemente los honorarios para una facilidad, y otros gastos secundarios. El resultado es que este proceso favorece corporaciones y negocios grandes, y desalienta al consumidor de perseguir sus reclamaciones, dejando la mayor parte de disputas indirigidas y los constructores sin ninguna responsabilidad. Para el consumidor ordinario esto es una carga pesada, pero para consumidores de bajos ingresos la oportunidad para colocar una disputa es casi imposible.

El proceso de mediación actual tiene defectos también. Principalmente, la jurisprudencia federal y estatal en Texas ha restringido el alcance de apelar este proceso, así permitiendo a muchas decisiones arbitradas de no estar discutido.

Además, los tribunales han sostenido que bajo el lenguaje de la cláusula de mediación, reclamaciones de discriminación no pueden ser presentados al panel de mediación. No aún las violaciones del Acto de Prácticas Engañosos Comerciales pueden vencer la capacidad de ejecución de la provisión de contrato. Lamentablemente, hay poco alivio a la vista.

La única opción clara, en este momento, es mostrar el fraude en el estímulo para firmar la cláusula de mediación. Los tribunales han sostenido que una excepción estrecha a la capacidad de ejecución del contrato se queda únicamente sobre la misma cláusula de mediación. Esto no significa que el fraude en general anule las provisiones de arbitraje. En cambio, lo que deben mostrar, es algún tipo del fraude expresamente relacionado con la cláusula a sí mismo. Esto puede ser bastante difícil tomando en cuenta que el consumidor debe demostrar que fue engañado de algún modo referente al proceso de mediación.

Otra opción posible para evitar el arbitraje es tener la legislación que expresamente excluye ciertas reclamaciones del alcance del FAA. En última instancia, los consumidores tendrían que ponerse en contacto con sus representantes a expresar su punto de vista sobre el uso de mediación para evitar el Acto de Vivienda Justa o el fraude. Estos representantes tienen el poder de pasar las leyes que podrían excluir el Acto de Vivienda Justa del FAA. Esto permitiría a las víctimas de discriminación para perseguir sus quejas por el proceso administrativo de HUD. Esto es un punto importante como la situación corriente prácticamente podría eliminar los derechos de vivienda justa para los firmantes de estos contratos, y las víctimas nunca pueden buscar la reparación por las leyes que supuestamente quiso protegerlos.



Las organizaciones de medios de comunicación basado en la comunidad como *Villager News*, *ARRIBA*, *NOKOA the Observer*, *El Mundo*, *La Prensa* y *KAZI Radio 88.7* continuamente donan tiempo y espacio a ATC. ¡Gracias!

Una Inquilina se Asegura que Sus Malas Decisiones No Estropean Su Record

Lisa y Larry, edades 17 y 21 respectivamente, rentaron su primer apartamento juntos con su hija de 16 meses en noviembre de 2001. Para calificar, la pareja joven necesitó a un cosignatario porque ellos no tenían ningún crédito o historial de alquiler. Y porque Lisa era menor de edad, la gerente no le permitió firmar el contrato. En cambio, ella fue puesta en el contrato como ocupante. Como fue la primera vez que rentaron, ellos esperaban con anticipación la libertad de vivir solos, aparte de sus padres. Lamentablemente, su falta de entendimiento del contrato, terminó temprano su primera experiencia de rentar.

Aunque la pareja joven tuviera una hija, todavía les gustaba pasar tiempo con amigos y escuchando música. De vez en cuando, el volumen era demasiado alto para sus vecinos quienes se quejaron a la

Los inquilinos realmente tienen una posibilidad para una victoria en la corte.

- Lisa

gerencia muchas veces sobre la música y numerosos invitados. La gerente respondió enviando a la pareja tres avisos separados de violaciones del contrato.

El tercer aviso fue diferente en el que declaró que el complejo jamás sería flexible con los inquilinos y si tiene que enviar un aviso más de violación del contrato, los inquilinos serían sujetos al desalojo. Poco después de eso, Larry fue implicado en una perturbación cerca del apartamento. Recordando la advertencia de la gerente, la pareja sabía que probablemente iban a estar desalojados, entonces ellos decidieron no pagar la renta de \$925 y ahorrar el dinero para un apartamento nuevo. Como esperado, el cuarto aviso la pareja recibió de la gerente fue un Aviso para Desocupar en 3 días por no pagar la renta.

Los inquilinos no podían negar que no cumplieron con el contrato, pero Lisa estuvo muy preocupada por como un desalojo afectaría su capacidad de rentar

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Casos Actualizados

ATC agradece a los querellantes, los demandantes, los probadores, los testigos, y los abogados que han trabajado para la vivienda justa por participar en pleitos o perseguir quejas administrativas de la discriminación en la vivienda con el Departamento de HUD. En todos los casos "decididos" en estas noticias, a menos que se indicare en forma diferente, el demandado niega las alegaciones de discriminación hechas por el demandante y los partidos pusieron de acuerdo de resolver el caso antes de ir a un juicio. Las pruebas e investigaciones de vivienda justa conducidas por el Programa de Vivienda Justa de ATC son financiadas por el Departamento de Vivienda y Desarrollo Urbano de los E.E.U.U.

Rose L. Squires vs. The Island on Lake Travis

En el final de octubre de 2001, Rose L. Squires se puso en contacto con ATC quejándose de discriminación debido a una incapacidad contra The Island on Lake Travis (La Isla), una comunidad de retiro para gente mayor de 55 años. El dueño y manejador de La Isla es Brookdale Living Communities, una compañía que maneja comunidades de retiro en todo el país. La Sra. Squires, un octogenario, sufre de una incapacidad que requiere una dieta especial. El acuerdo de la Sra. Squires incluyó su vivienda, las utilidades, el uso de las facilidades comunes de La Isla, el almacenaje y comidas para un honorario mensual de \$2,595.

La Sra. Squires alegó que La Isla no quería cumplir con sus necesidades dietéticas requeridas. Ella declaró que había hablado con el personal de La Isla quien le ofreció una reducción de \$100 de su honorario mensual y le dijo a ella que si no estaba satisfecha con su servicio podría preparar comidas en su propia vivienda. Lamentablemente, la incapacidad de la Sra. Squires le hace muy difícil para cumplir sus actividades cotidianas, como comprar mandado y cocinar. Debido a la falta de La Isla para acomodarla, el doctor de la Sra. Squires recomendó firmemente que ella jamás viva en La Isla.

En octubre de 2001, la Sra. Squires presentó una carta de su doctor al personal de La Isla y habló de la posibilidad de moverse temprano. Le aseguró que ella podría terminar su contrato debido a la carta de su doctor por entregar un aviso

de 30 días para terminar el contrato. El 29 de octubre de 2001, la Sra. Squires entregó la documentación solicitada a La Isla, pagó el honorario de servicio mensual de \$2,595 para noviembre, e hizo planes para moverse el 30 de noviembre. Luego ella fue informada por el personal de La Isla que ellos sólo podrían terminar el contrato con un aviso de 60 días, que quiere decir que ella sería cobrado \$2,595 adicionales para el mes de diciembre.

El 9 de noviembre de 2001, el Programa de Vivienda Justa de ATC sometió una Solicitud de Acomodación Razonable a La Isla por parte de la Sra. Squires debido a una incapacidad. Pidió que terminara el contrato por motivos de salud como su doctor aconsejó. El 26 de noviembre, Lisa Meyers, la Ayudante de Dirección para La Isla, respondió en una carta a la Sra. Squires que ella honrara la solicitud de un aviso de 60 días. Ella dijo que La Isla olvidaría las obligaciones financieras desde el 30 de diciembre de 2001 hasta el 19 de enero de 2002 - la fecha de vencimiento del contrato.

Preocupada por su bienestar físico, la Sra. Squires se movió el 29 de noviembre de 2001. No sorprendentemente, La Isla facturó a la Sra. Squires \$2,595 adicionales para diciembre, pero también le facturó \$334.80 para el 1-19 de enero de 2002, y retuvo su depósito de \$2,595.

En enero de 2002, la Sra. Squires intentó resolver el asunto por un proceso de agravio. ATC asistió a la Sra Squires su demanda escrita de intervención a Bob McMinn, Director Ejecutivo de La Isla en Lago Vista; y John Rijos, Presidente, y Mark Schulte, Director de la compañía Brookdale Living Communities, Inc. de Chicago, Illinois. Consecuentemente, Brookdale mandó a la Sra. Squires un cheque de \$140 sin ninguna documentación.

ATC archivó una queja de discriminación en la vivienda con la Comisión de Texas de Derechos Humanos (TCHR) por el Programa Cooperativa de Texas de Vivienda Justa - una sociedad del Austin Tenants' Council, el Programa de Vivienda Justa de San Antonio y la Comisión de Texas de Derechos Humanos. La queja fue investigada y colocada por un Acuerdo de Conciliación por Nekesha Phoenix de TCHR.

La Isla estuvo de acuerdo con renunciar al cargo de \$2,595 por el mes de diciembre de 2001, el cargo de \$334.80 por el 1-19 de enero de 2002, y estuvo de acuerdo con pagar a la Sra. Squires

\$2,368.90 como un restablecimiento final. Es entendido que los acusados no admiten ninguna violación del Acto de Vivienda Justa estatal o federal.



Gracias a la Ciudad de Austin por proporcionar apoyo financiero a los programas y servicios de ATC durante los últimos 29 años. Sin este apoyo, ATC no habría sido capaz de servir a los miles de inquilinos que tienen problemas de inquilino-proprietario y de vivienda justa.

Lisa y Larry

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otro apartamento. Más importante, eliminaría su posibilidad de aprobación para un cupón de la Sección 8 - para el que ella ya estaba en una lista de espera.

Después de hablar con ATC, Lisa buscó información de Ayuda Legal de Texas Central. Lamentablemente, no podían proporcionar representación legal porque ella y Larry realmente estaban en falta del contrato. Lisa fue determinada para evitar que el desalojo llegara en su record; su única opción era representarse a si misma en la corte. Su argumento: Ella no firmó el contrato, y ella era menor de edad.

Los inquilinos hicieron una cita en el Recinto 4 después de recibir una orden de desalojo, que llamaba a ambos Lisa y Larry como demandados. Al estar cara a cara con la Juez Diaz, Lisa concordó que ella y Larry habían violado el contrato por no pagar la renta; aún fueron preparados para mudarse. Lo que Lisa no quiso, ella explicó a la juez, fue recibir un juicio contra ella de la corte. Ella apenas comenzaba a rentar y un desalojo lo haría muy difícil para que ella rentara otro apartamento.

La juez decidió en favor de la gerente y dijo a los inquilinos que tuvieran que moverse y pagar la renta, pero ella también hizo caso a la súplica de Lisa y puso el juicio sólo en el record de Larry. Por esta decisión, Lisa fue capaz de rentar otro apartamento.

Esta muchacha de 17 años entró a la corte insegura de su resultado. Al escuchar la decisión, Lisa sabía que su perseverancia había dado resultado. Ella dijo, "Los inquilinos realmente tienen una posibilidad para una victoria en la corte."



Case Update

ATC thanks the complainants, plaintiffs, testers, witnesses, and attorneys who have worked for fair housing by participating in litigation or pursuing administrative housing discrimination complaints with the US Dept. of HUD. In all "settled" cases reported in this newsletter the defendant, unless otherwise noted, denies the allegations of discrimination made by the plaintiff and the parties have agreed to resolve the case prior to a trial on the merits. Fair housing testing and investigations conducted by ATC's Fair Housing Program are funded by the US Department of Housing & Urban Development.

Rose L. Squires v. The Island on Lake Travis

At the end of October 2001, Rose L. Squires contacted ATC with a complaint of discrimination due to disability against The Island on Lake Travis, a congregate retirement community for people over the age of 55. The Island is owned and operated by Brookdale Living Communities, Inc. which operates retirement communities throughout the country. Ms. Squires, an octogenarian, suffers from a disability which needs special dietary requirements. Ms. Squire's resident agreement included her dwelling, utilities, use of common facilities on The Island, storage and meals for a monthly fee of \$2,595.

Ms. Squires alleged that The Island would not meet her required dietary needs. She stated that she had met with staff at The Island who offered her a \$100 reduction in her monthly service fee and told her that if she was not pleased with their service she could prepare meals in her own dwelling. Unfortunately, though, Ms. Squires' disability makes it very difficult for her to perform daily activities, such as grocery shopping and preparing meals. Because of The Island's failure to accommodate her, Ms. Squires' physician strongly recommended that she no longer live at The Island.

In October 2001, Ms. Squires presented a letter from her physician to The Island staff and discussed the possibility of moving early. They assured her that she could terminate her contract based on her physician's letter by turning in a 30 day written termination notice. On October 29, 2001, Ms. Squires turned in the requested

documentation to The Island, paid a monthly service fee of \$2,595 for November, and made plans to move by November 30th. She was then informed by The Island staff that they could only release her with a 60 day notice, which meant she would be charged an additional \$2,595 for the month of December.

On November 9, 2001, The ATC Fair Housing Program submitted a Request for Reasonable Accommodation due to disability to The Island on behalf of Ms. Squires that she be released for health reasons as her physician advised. On November 26, Lisa Meyers, Executive Assistant for The Island, responded in a letter to Ms. Squires asking that she honor the request for a 60 day notice. She stated The Island would release Ms. Squires of her financial obligations from December 30, 2001 through January 19, 2002 - the lease termination date.

Concerned for her physical well-being, Ms. Squires moved on November 30, 2001. Not surprisingly, The Island billed Ms. Squires an additional \$2,595 for December, but they also billed her \$334.80 for January 1-19, 2002, and kept her \$2,595 security deposit.

In January 2002, Ms. Squires attempted to resolve the matter through a grievance process. ATC assisted Ms. Squires with her written request for intervention to Bob McMinn, Executive Director of The Island in Lago Vista; and John Rijos, President, and Mark Schulte, Chair, of the parent company Brookdale Living Communities, Inc. of Chicago, Illinois. Consequently, Ms. Squires was sent a refund check of \$140.00 with no other documentation enclosed from Brookdale.

ATC filed a housing discrimination complaint with the Texas Commission on Human Rights through the Texas Cooperative Fair Housing Program, a partnership of the Austin Tenants' Council, San Antonio Fair Housing Council and the Texas Commission on Human Rights. The complaint was investigated and settled through a Conciliation Agreement by Nekesha Phoenix of TCHR.

The Island agreed to waive the \$2,595 charge for December 2001, the \$334.80 charge for January 1-19, 2002, and agreed to pay Ms. Squires \$ 2,368.90 as a full and final settlement. It is understood that the respondents do not admit to any violations of the Texas Fair Housing Act or the Federal Fair Housing Act.

Moore Victories

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resolve the matter through mediation. Again, Ashberg refused to resolve these problems.

Instead, he began complaining that Moore should have his attendants listed on the lease contract. Moore responded by pointing out that the attendants are employees of a third-party company, and that this company could change his attendants at any time. By putting them on the lease, they would have the legal right to live in the property, something that would not be appropriate.

Continued negotiation and requests could not get the landlord to agree to resolve these repair problems so Daniels-Dulan referred Moore to ATC cooperating attorney Manuel Newburger. Moore filed a HUD 903 Administrative complaint and a lawsuit in Travis County court at law. The landlord initially even failed to respond to the lawsuit. Newburger submitted a motion for summary judgment of \$49,673. At the hearing on the motion for summary judgment, the landlord's attorney requested more time which was denied by Judge Orlinda Naranjo. She pointed to the extensive efforts made by Moore to resolve this matter prior to filing the lawsuit and saw no reason to allow the landlord additional time. Therefore, the motion was granted and Moore was awarded the full amount of \$49,673. The judge did allow Ashberg to reduce the judgment to \$31,673 if the case was not appealed.

Moore subsequently agreed to a mediation to resolve payment of the judgment. Because the matter had dragged on so long and taken so much of Moore's time, he agreed to settle the case for \$11,500 to be paid to Lonestar Paralysis Foundation and Newburger agreed to accept \$4,000 of the original \$24,000 judgment for attorney's fees. The agreement was then adopted as a court order.

The entire process described above took approximately two years. It is unfortunate that the repeated attempts to resolve the matter by the landlord simply complying with the lease and the law were ignored. The Austin Tenants' Council would like to commend Mr. Moore for his perseverance and Mr. Newburger for his excellent representation in the case. Furthermore, ATC commends Judge Orlinda Naranjo for the fair and impartial decision she made on behalf of Mr. Moore.

