

Housing Rights **ADVOCATE**

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Disability Discrimination in the Central Texas Senior Housing Market

By 2030, nearly one out of five Americans — some 72 million people — will be 65 years or older. While age is not a protected class under the federal Fair Housing Act, disability is. And, physical and/or mental limitations often go hand in hand with aging. Nearly 30 percent of people ages 65 to 74 have one or more disabilities; among people age 75 and older, the prevalence rate is 52.9 percent.

Between January 2009 and December 2009, the Austin Tenants' Council conducted fair housing testing at 33 Central Texas senior housing communities to determine whether their admission policies discriminated against persons with physical or mental disabilities. In each case, the tester was helping a relative, who was disabled, look for an apartment. ATC tested a range of senior housing facilities (independent living communities; assisted living facilities; and continuing care retirement centers).

ATC found discriminatory applicant screening policies at 24.2 percent (8 out of 33) of the senior housing communities audited. The type of senior housing facility has a strong correlation to whether discriminatory applicant screening processes were employed. The greater the level of supportive and medical services available (and the testers never requested these services), the more likely the facility employed discriminatory applicant screening processes. For example, none of the independent living communities (0

out of 21) required medical assessments from applicants; however, 55.6 percent (5 out of 9) of the senior housing facilities that offered both independent living and assisted living apartments at one site and 100 percent (3 out of 3) of the continuing care retirement communities used discriminatory applicant screening policies.

These illegal policies included independent living requirements, medical assessment requirements, or other inquiries into an applicant's mental or physical disabilities. Several communities asked the testers to provide a doctor's letter stating that their relative could live independently and required the relative to be evaluated by medical personnel prior to being approved for an apartment.

ATC filed fair housing complaints against the eight senior housing communities where testing showed evidence of discrimination. The Department of Housing and Urban Development negotiated conciliation agreements in three complaints. These communities agreed to change the admissions practices for their independent living apartments. Five complaints are still under investigation.

The information gathered by fair housing testers was instrumental in allowing ATC to pursue these complaints. If you would like to help fight housing discrimination by volunteering as a fair housing tester, contact Morgan Morrison at 474-7007 x 104 or morgan@housing-rights.org.

FH Case Update

In the settled case reported here, the respondent, unless otherwise noted, denies the allegations of discrimination made by the complainant and the parties have agreed to resolve the case prior to a trial on the merits.

Frank Ybarra v. The Heritage Pointe

Every month for almost two years, Frank Ybarra was paying late fees on his rent. Ybarra is disabled and his only source of income is Social Security. His check does not arrive until the second Wednesday of the month. And by that time, his rent was already late.

ATC fair housing specialist Lucia Salinas-Perez helped Ybarra make a request for reasonable accommodation, asking the landlord to change the rent due date. A reasonable accommodation under the Fair Housing Act refers to a change in rules, policies, practices, or services that a housing provider makes to allow a person with a disability equal opportunity to use and enjoy a dwelling.

To show that a requested accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's disability. In this case, Ybarra's disability

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\$500 Million for First Time Homebuyers

After the federal homebuyer tax credit expired at the end of April, the Texas Department of Housing and Community Affairs responded by making \$500 million in funding available to low to moderate income, first time homebuyers.

The funds are for mortgage loans offered through TDHCA's Texas First Time Homebuyer Program. Funds are also available for downpayment and closing cost assistance, helping families overcome what is often the biggest obstacle to buying a home.

Interest rates on these 30-year, fixed-rate mortgage loans is either 4.99 percent or 5.74 percent, depending on which of two types of loans the borrower selects:

- Assisted loans, which feature the higher rate but also offer down payment and closing cost assistance up to 5 percent of the mortgage amount in the form of a 30-year repayable second lien; and
- Unassisted loans, at the lower interest rate but with no additional funds for downpayment and closing cost assistance.

This program ends September 15, 2010. For more information, call 800-792-1119 or visit www.MyFirstTexasHome.com.

ATC produced a Homebuyers Guide that educates prospective homebuyers about the processes of buying a home and obtaining financing. Copies of this guide, which is available in English and Spanish, may be picked up at the ATC office.

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affected when he received his income, which in turn affected when he could pay his monthly rent.

After receiving the request for reasonable accommodation, the landlord quickly agreed to change the rent due date.

C. Simms v. Rosemont at Oak Valley

Near the entrance to Charlotte Simms' apartment, there is a handicapped parking space. Nevertheless, Simms, who is disabled and uses a scooter, encountered ongoing problems getting to and from her unit. Often, a vehicle was parked in the access aisle, blocking Simms' route.

ATC fair housing testing coordinator Morgan Morrison helped Simms make a request for reasonable accommodation, asking the landlord to designate an accessible and reserved parking space for Simms.

The landlord responded that she could not do anything more to help Simms. The space was already handicapped accessible and because parking was first come, first served, she could not provide a reserved space for just one tenant. Nevertheless, the landlord wanted Simms to provide documentation from her doctor

of her disability (even though Simms had previously presented a copy of her disabled parking placard).

A joint statement from HUD and the Department of Justice addresses both of the landlord's issues:

- Although a landlord does not assign parking spaces to residents, providing an exception to this policy is reasonable when it is necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
- A landlord is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information about the requester's disability or the disability-related need for the accommodation.

After reviewing the joint statement, the landlord installed a reserved sign at an accessible parking space for Simms.

Texas Housing Justice League Formed

Texans continue to endure abusive homeowner association rules, oppressive property tax schemes, severe housing conditions, predatory lending practices, improper evictions, illegal foreclosures, lease-to-own scams, defective titles from contracts for deed, and a host of other housing problems.

The Texas Housing Justice League is a charitable nonprofit corporation that was formed to address these problems, with

particular emphasis on addressing the housing issues of low income Texans.

With help from its supporters, volunteers, and others, THJL will take its members' messages to the deciders, judges, and other forums that will listen and take action.

All membership costs is your opinion. If you live in Texas, please consider applying for membership in THJL. For information, visit <http://texashousingjustice.org>.

Actualización de Casos de Vivienda Justa

En los casos resueltos y descritos aquí, el demandado, a menos que se indique diferente, niega la denuncia de discriminación hecha por el demandante, y las partes acuerdan resolver el caso antes de ir a juicio sobre los fundamentos de la causa.

Frank Ybarra versus Heritage Pointe

Todos los meses durante casi dos años, Frank Ybarra pagaba recargos por demora en su renta. Ybarra es discapacitado y su única fuente de ingresos es la Seguridad Social. No recibe el cheque hasta el segundo miércoles del mes, y, para esa fecha, ya está atrasado en la renta.

La especialista en Vivienda Justa de ATC, Lucía Salinas-Pérez, ayudó a Ybarra a hacer una solicitud de adaptación razonable, pidiendo al propietario cambiar la fecha de pago de la renta.

Para demostrar la necesidad de la adaptación pedida, debe haber una relación identificable entre la adaptación solicitada y la discapacidad de la persona. En este caso, la discapacidad de Ybarra afecta cuándo recibe sus ingresos, lo que a la vez afecta cuándo puede pagar su renta mensual.

Después de recibir el pedido de adaptación razonable, el propietario aceptó rápidamente cambiar la fecha de vencimiento de la renta.

C. Simms versus Rosemont at Oak Valley

Cerca de la entrada al apartamento de Charlotte Simms hay un lugar de parqueo para discapacitados. Sin embargo, Simms, que es discapacitada y usa un carrito-silla con motor, tenía constantes problemas para entrar y salir de su unidad. Muchas veces, había un vehículo estacionado en la vía de acceso, bloqueando el camino de Simms.

La coordinadora de verificación de Vivienda Justa de ATC, Morgan Morrison, ayudó a Simms a hacer una solicitud de adaptación razonable, pidiendo a la propietaria que designe un lugar de estacionamiento accesible y reservado para Simms.

La propietaria respondió que no podía hacer nada más para ayudar a Simms. El espacio ya estaba designado para discapacitados, y, como era para el primero que llegara, no podía reservar el espacio para un inquilino específico.

Una declaración conjunta de HUD y el Departamento de Justicia trata estos dos casos de propietarios:

- Aunque el propietario no asigna lugares de parqueo a los residentes, hacer una excepción a esta regla es razonable cuando es necesaria para permitir que una persona discapacitada tenga una oportunidad justa de uso y goce de la vivienda.
- El propietario tiene derecho a obtener información necesaria para evaluar si un pedido de adaptación razonable es justificable debido a discapacidad. Si la discapacidad de la persona es obvia, o de otra manera conocida por el propietario, y si el pedido de adaptación razonable es también inmediatamente aparente o conocido, el propietario podría no solicitar información adicional sobre la discapacidad del inquilino o la necesidad relativa a su discapacidad para hacer la adaptación.

Después de examinar esta declaración conjunta, la propietaria instaló una señal de parqueo reservado en un espacio accesible para Simms.

Compradores de Vivienda Primerizos

Después de vencer el crédito impositivo federal para compradores de viviendas a fines de abril, el Departamento de Viviendas y Asuntos Comunitarios de Texas (TDHCA) respondió con \$500 millones en fondos disponibles para personas que compran vivienda por primera vez y tienen ingresos bajos a moderados.

Los fondos son para préstamos hipotecarios ofrecidos a través del Programa de Propietarios Primerizos de TDHCA. También hay fondos disponibles para asistencia en adelantos y costos de cierre de escritura, ayudando a familias a afrontar lo que suele ser el mayor obstáculo en la compra de vivienda.

La tasa de interés en estos préstamos hipotecarios de 30 años y con tasa fija es de 4.99 por ciento ó 5.74 por ciento, dependiendo del tipo de hipoteca que elija el prestatario:

- Préstamo con asistencia: tiene la tasa más alta pero ofrece asistencia en adelantos y costos de cierre hasta de un 5 por ciento del total de la hipoteca, en forma de segundo gravamen hipotecario a pagar en 30 años.
- Préstamo sin asistencia: tiene una tasa de interés más baja pero no ofrece fondos adicionales para adelanto o costos de cierre.

Este programa termina el 15 de septiembre de 2010. Para mayor información, llamar al 800-792-1119 ó visitar www.MyFirstTexasHome.com.

ATC creó una Guía para el Comprador de Vivienda que informa a posibles compradores sobre el proceso de adquirir una vivienda y obtener financiamiento. Hay copias de esta guía, disponibles en inglés y español, en la oficina de ATC.

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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. Dolores Gonzalez 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 474-7007.

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 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 474-7007.

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.

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