



Housing Rights ADVOCATE

Issue 7, August 1998

The Austin Tenants' Council

Safe • Affordable • Fair • Housing for All

Worth The Wait Tenants Win Suit Against Hilltop Apartments

The residents at Hilltop Apartments, 1900 Burton Drive, did not believe this day would ever come. But after almost nine months, they were finally rewarded for their persistence.

The Austin Tenants' Council has helped Hilltop tenants protect their rights in many ways over the past several years. ATC mediated with management to gain re-entry for tenants who were locked out, and to get remedy for serious repair problems. Many tenants did not have proper locks on their doors and others had holes in their ceiling, four feet wide, from water leaks. There were also problems with crime and gang activity. The situation was so bad that other organizations were called in to assist.

The City of Austin Building Inspections Department was contacted, and they cited numerous Housing Code violations. The Austin Police Department, the Austin/Travis County Health Department and the Austin Fire Department all became involved, along with the media.

Despite all of the pressure on the management, the problems continued. The residents realized that other action was necessary so they asked attorney Don Taylor to help them pursue legal remedies.

In October 1997, the District Court judge issued an injunction against the owner who was ordered to make repairs and to stop harassing tenants. The landlord did not abide by the order, so the tenants went back to court.

To protect himself, the landlord declared bankruptcy in California. However, Don Taylor filed a motion in California, and the court ruled the owner would not be protected from the tenants' action in Texas.

On May 20, 1998, the landlord finally settled the suit with the tenants. The following are just a few items from the agreement: Each of the five named tenants in the suit were awarded a judgment of \$5000. Other tenants are entitled to a 50 % discount on their rent for three months. The owner, Alan C. Clarke, must sell the property and hire someone else to manage it until sold. There is also a list of repair problems identified by an independent engineering firm that must be completed within 90 days.

The new management must post a copy of the agreement in English and Spanish for all residents to see, and each resident must sign a copy.

Finally, the owner is prohibited from retaliating against tenants based on their participation in this lawsuit.

Subchapter H of the Texas Property Code already protects tenants from retaliation. It states that for six months a landlord may not retaliate against a tenant for exercising or attempting to exercise a legal right or remedy, especially regarding repairs.

If you are having repair or other problems, make sure that you follow the necessary procedures. Contact the Austin Tenants' Council or an attorney for assistance.

HRA

Fair Housing Updates

NEW FILINGS

Pigg v Le Marquee and Monticello Apartments

Gilbert Pigg, an African American male contacted Le Marquee Apartments in August 1997 to view an apartment. When he called back the next day and expressed interest in renting a unit, the manager informed him none was available. Gilbert drove by the apartments regularly and saw "now leasing" signs still posted at the complex. He decided to call the ATC Fair Housing Program and file a discrimination complaint based on his race. Testing by the ATC Fair Housing Program provided evidence to support Mr. Pigg's claim of housing discrimination due to race. The ATC Fair Housing Program assisted Gilbert with filing an administrative complaint with HUD. The complaint was investigated by the Austin Human Rights Commission which issued the charge of discrimination on February 11, 1998. HUD Secretary Andrew Cuomo, after learning of the case, called Gilbert a victim of "discrimination with a smile." On

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SEE INSIDE:

*Renting Together Contracts
Tenant Wins Deposit Suit
Fair Housing Updates
Folleto en Español*

Get It In Writing

If you have ever had a roommate, then you know there is a potential for headaches and miscommunication. For example, deciding who is responsible for paying the utility bill and how to split it. What if your roommate's girlfriend "all of a sudden" moves in without any discussion, or one roommate does not pay part of the rent? Landlords typically will not get involved in these types of disputes. If there are unauthorized occupants or if the rent is not paid in full, the landlord can evict all of the tenants.

Why not avoid some of these problems by picking up a Renting Together Contract at the Austin Tenants' Council. The contract is only one page and has plenty of room for addendums. It addresses issues such as who pays which bills, how much deposit was paid, and what to do if one roommate decides to move out early. And the best part... it's free!

While at our office, you can meet with a counselor and discuss any questions or concerns you may have. Call 474-7006 to schedule an appointment. The hours for in-house counseling are Monday - Thursday, 1:00 - 4:00. Appointments are recommended but you can pick up a Renting Together Contract at any time.

HRA

ATC Welcomes New Staff

Amanda Lee-Plaisance joined ATC's staff in June. She will work as a landlord-tenant counselor, as well as mediating repairs for tenants. She brings with her experience in community organizing and counseling. Besides her work at ATC, Amanda is also in the process of developing a Community Free School Initiative and is the coordinator for Radio Free Women at KOOP.

HRA

PAVILLION APARTMENTS LOSE:

BAD FAITH DAMAGES IN SECURITY DEPOSIT CASE

Maura Andrade moved out of Pavillion Apartments on Patton Lane in May, 1996. She gave thirty days notice and her new address to the manager before moving out, knowing that it was necessary if she wanted to get her \$150 deposit back. Thirty days passed and she did not receive her deposit from the manager so she came to the Austin Tenants' Council for help.

The counselor advised her to read through The Security Deposit Law brochure and to send a 10 day Security Deposit Demand Letter to the manager. Maura sent it Certified Mail, but forgot to ask for the Return Receipt, so she mailed a second demand letter a few weeks later in order to have proof that the letter was received.

Weeks--and eventually months--passed and Maura had not received her deposit nor an itemized list of deductions. She returned to the Tenants' Council to discuss her options. She decided to file a suit against the landlord and read ATC's brochure How to File in Small Claims Court to understand the process.

After several phone calls to the manager and tax collector's office, Maura was able to locate the apartment complex owner's name and address. She went to Judge Richard Scott's office at Precinct 1 and filed suit. Service was delayed because the only address available for the owner was out of town. Maura had to provide additional information in order for the constable in that precinct to be able to serve the defendant. At first she could only find a post office box address for the owner, but eventually found his physical address. To make matters worse, Maura speaks very little English, and could not find anyone in the out of town precinct who spoke Spanish.

Over a year and half after moving from Pavillion Apartments, the suit was finally served to the defendant. One problem... by the time the owner was going to be served, he had moved and left no forwarding address. After checking with the Tenants' Council one more time, Maura found out that she could serve the manager of the complex with the court papers. Another suit was filed, this time naming the manager as the defendant.

The court informed Maura to call in 30 days to see if the defendant had responded to the suit. When she called, the clerk informed her that the manager never responded - leaving her with a Default Judgement. The last step before winning the case was to meet with the judge and explain why she was due \$100, court costs, and triple damages, as outlined in the Texas Property Code.

After arriving at the court, she was informed that the judge had been delayed out of town and could not make it to the hearing; all Maura had to do was write down how much she thought she deserved and why and the judge would mail her the default judgment. The manager will also receive a copy of the judgement.

Now that Maura has won a default judgment, the next step is waiting for the manager to pay her the amount awarded by the court. If the manager does not pay, then she will employ the legal assistance of attorney Manny Newburger.

Both brochures, The Security Deposit Law and How to File in Small Claims Court, are available at the Austin Tenants' Council. Copies of the 10 day Security Deposit Demand Letter can be picked up as well. Though ATC's form does not have to be used, some type of demand letter is usually required before filing suit.

HRA

Vale la Pena

Inquilinos Ganan un Pleito Contra los Apartamentos Hilltop

Los residentes de los Apartamentos Hilltop, 1900 Burton Drive, no pensaban que llegaría este día. Pero después de casi nueve meses se recompensaron su persistencia.

El Austin Tenants' Council ha asistido a los inquilinos de Hilltop a proteger sus derechos durante los últimos años. ATC intervenía con la gerencia, pidiendo acceso para los inquilinos los cuales estaban afuera y sin llave y medios para los quienes tenían problemas graves de reparaciones. Muchos inquilinos no tenían cerraduras requeridas en sus puertas y otros tenían hoyos en el cielo, cuatro pies de ancho, por una gotera de agua. También había problemas con crimen y actividades de *gangas*. La situación era tan horrible que hablaron con otras agencias para asistencia.

Hablaron con el Departamento de Inspecciones de la Ciudad de Austin y los inspectores encontraron bastante infracciones del Código de Vivienda. La policía, el Departamento de Salud, y el Cuerpo de Bomberos de Austin se metieron, junto con los reporteros de las noticias.

A pesar de toda la presión, los problemas continuaron. Los residentes se dieron cuenta de que necesitaban tomar otro tipo de acción y pidieron la ayuda de abogado Don Taylor con los medios legales.

Para protegerse, el dueño declaró bancarota en

California. Sin embargo, Don Taylor entabló una aplicación en California y la corte decidió de que el dueño no sería protegido de la acción de los inquilinos en Texas.

El 20 de mayo 1998, el dueño finalmente concluyó el asunto con los inquilinos. Lo siguiente son unos detalles de su acuerdo: Cada uno de los inquilinos nombrado en el pleito van a recibir una recompensa de \$5000. Otros inquilinos están titulados a un descuento de 50% en su renta por tres meses. El dueño, Alan C. Clarke, tiene que vender el complejo y emplear otra compañía para manejarlo hasta que esté vendido. También hay una lista de reparaciones, identificada por una compañía independiente de ingenieros, las cuales tiene que estar cumplidos dentro 90 días.

La nueva gerencia tiene que poner una copia del acuerdo en ingles y español para que todos los residentes la ven y cada residente tiene que firmar una copia.

Finalmente, el dueño es prohibido a desquitarse a los inquilinos basado en su participación en este pleito.

Subcapítulo H del Código de la Propiedad de Texas ya protege a inquilinos de ser desquitado. Se dice que por seis meses un dueño no puede desquitarse a un inquilino por tratar de ejercer un derecho o medio legal, especialmente referente a reparaciones.

Si usted tiene problemas de reparaciones u otra cosa, esté seguro que sigue los procedimientos necesarios. Puede ponerse en contacto con el Austin Tenants' Council o un abogado para asistencia.

HRA

PIERDEN LOS APARTAMENTOS PAVILLION: MALA FE EN UN CASO DE DEPÓSITO

Maura Andrade se movió de los Apartamentos Pavillion ubicado en Patton Lane en mayo 1996. Ella dio un aviso de treinta días y su nueva dirección a la manager antes de moverse, sabiendo que era necesario si quería recibir su depósito de \$150. Treinta días pasaron y no recibió su depósito. Ella vino al Austin Tenants' Council para asistencia.

La consejera la aconsejó a leer el folleto La Ley del Depósito y mandar una Demanda del Depósito a la manager. Maura la mandó por Correo Certificado, pero olvidó a pedir el Recibo de Retorno. Entonces ella mandó una segunda demanda unas semanas después para tener comprobante de que la demanda fue recibida.

Semanas--y luego meses--pasaron y Maura todavía no ha recibido su depósito ni una lista detallada de daños.

Ella regresó al Tenants' Council para hablar de sus opciones. Ella decidió entablar un pleito contra el dueño y leyó el folleto Como Demandar en la Corte de Juicios Menores para entender el procedimiento.

Después de unas llamadas con la manager y la oficina del colector de impuestos, Maura podía localizar el nombre y dirección del dueño del apartamento. Ella se fue a recinto 1, la oficina del Juez Richard Scott, y entabló un pleito. Tardaba la entrega porque la única dirección del dueño era en otro pueblo. Maura tenía que proveer más información para que el alguacil en el otro recinto pudiera entregar la demanda. Al principio, la única dirección del dueño que la encontró era de una casilla postal, pero al fin ella halló una dirección física. De mal en peor, Maura habla muy poco ingles, y no podía encontrar a alguien

en el otro recinto lo quien habla español.

Más de un año y medio después de haber movido de los Apartamentos Pavillion, al fin entregaron la demanda al dueño. Un problema... a la hora de ser entregada, el dueño se movió y no dejó otra dirección. Maura habló con el Tenants' Council una vez más. Ella aprendió que también pudiera entregar la demanda a la manager del complejo. Entabló otro pleito, ésta vez con el nombre de la manager como el demandado.

La corte le dijo a Maura que hablara en 30 días para ver si el demandado respondió a la demanda. Cuando ella habló, el escribano le informó de que la manager nunca contestó - dejando a Maura con una Sentencia de Incumplimiento. El último paso, antes de ganar el caso, fue presentarse con el juez explicando porqué le debe a ella \$100, los costos de la corte, y tres veces

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Vivienda Justa

Un Sumario de los Casos

Smith v Windcrest Apartments @ Yager Lane

Ruby Smith tiene una incapacidad y por consecuencia tiene un Certificado de Sección 8. En febrero 1998 ella trataba de rentar un apartamento de Windcrest Apartments @ Yager Lane, una propiedad de bajo-ingreso y que recibe créditos de impuestos. Le dijo a Smith que no calificaría por su sueldo. Después de haber hablado con el Programa de Vivienda Justa, nosotros le asistimos a escribir un "cambio razonable." Ella pedía a Windcrest que renunciara su norma de pedir un sueldo mínimo. Luego, Sra. Smith habló con Ayuda Legal de Central Texas. Ellos también le ayudaron con un "cambio razonable." Windcrest ignoraba ambos pedimentos. Finalmente, el 12 de junio, 1998, Smith entabló un pleito en la Corte Distrito del estado, con el cargo de que le discriminaron por su raza y porqué tiene un certificado de Sección 8.

O'Neal v Grant Villa

En noviembre de 1997 Ethan O'Neal, lo cual es ciego, habló con el Programa de Vivienda Justa alegando que la manager de los Apartamentos Grant Villa le discriminó por su incapacidad. Sr. O'Neal habló con la manager y pidió un "cambio razonable" de que ella le mandara una aplicación para que su asistente le ayudaría con el procedimiento. Sr. O'Neal alegó que la manager "gritaba y le voceaba" y le negó su pedimento "diciendo que fue en contraste con su política." Pruebas por el Programa de Vivienda Justa proveía la evidencia para apoyar la alegación del Sr. O'Neal de que negó su pedimento para un "cambio razonable." Sr. O'Neal entabló una queja administrativa con HUD y La Comisión de Derechos Humanos en Austin está investigando el caso.

Simpson v Stongate Mobile Home Park

Stephanie y Rance Simpson, hermanos quienes son morenos, compraron una casa móvil y rentaban

un lote de Stonegate Mobile Home Park. Los Simpsons manejaban un centro licenciado de cuida niños, y dicen que tenían permiso de la manager antes de empezar el procedimiento de obtener su licencia. En los principios de 1996, la manager les dio a los Simpsons un aviso de desalojar por tener un cuida niños en su casa aunque les dejaba a los residentes blancos quedarse con sus negocios de cuida niños. Aunque cerraron su negocio, todavía recibieron un aviso de que la gerencia no iba a renovar su contrato. Simpson habló con Vivienda Justa y le ayudó a documentar la evidencia de su alegación de discriminación basada en su raza. La Comisión de Derechos Humanos verificó la alegación de discriminación y los Simpsons entablaron un pleito en la Corte Distrito de los EE.UU. en marzo 1998.

HRA

Apartamentos Pavillion

(Continuado de la pg 3)

del depósito, como está delineado en el Código de la Propiedad de Texas.

Al llegar a la corte, le informó a ella que el juez se ha demorado en otro pueblo y no podía llegar a tiempo; Maura solamente tenía que escribir que tanto merece y porqué y luego el juez le mandaría la Sentencia de Incumplimiento. La manager también recibirá una copia del juicio.

Ahora que Maura ha ganado la Sentencia de Incumplimiento, el siguiente paso es esperar el dinero adjudicado por la corte. Si la manager no paga, entonces empleará la asistencia legal del abogado Manny Newburger.

Ambos folletos, La Ley del Depósito y Como Demandar en la Corte de Juicios Menores, están disponibles en el Austin Tenants' Council. También puede recoger copias de la Demanda del Depósito. Aunque la demanda de ATC no tiene que ser usada, casi siempre se requiere algún tipo de demanda antes de entablar un pleito.

HRA

PROGRAMAS Y SERVICIOS

INQUILINO-PROPIETARIO

CONSEJOS POR TELEFONO - Los consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejo legal. Llame al 474-1961.

CONSEJOS EN LA OFICINA - Se provee información y materiales a los clientes que necesitan mayor información. Llame al 474-7006 para hacer una cita.

INTERVENCION CRISIS - Los consejeros median en nombre del inquilino a resolver una emergencia que amenezca su vivienda. Llame al 474-1961.

AYUDA CON REPARACIONES DE ALQUILER - El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajos ingresos a valer fuerza sus derechos a tener reparaciones por medio de negociación y mediación. Llame al 474-7006.

CONTRATOS - ATC vende paquetes de contratos y folletos describiendo los derechos y las responsabilidades del propietario y el inquilino por una cuota nominal. Llame al 474-7006 para más información.

VIVIENDA JUSTA

EL PROGRAMA DE VIVIENDA JUSTA - Este programa ayuda a cualquier persona en el area metropolitana de Austin quien se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El Programa de Vivienda Justa investiga las quejas y coordina servicios legales para las víctimas de discriminación cuando sus derechos estan violados bajo las leyes del estado y federal de vivienda justa. Llame al 474-7007.

April 1, 1998 a lawsuit was filed in the U.S. District Court by the City Attorney for the City of Austin.

Simpson v Stonegate Mobile Home Park

Stephanie and Rance Simpson, sister and brother who are African Americans, purchased their mobile home and rented a lot space from Stonegate Mobile Home Park. In 1995, the Simpsons operated a licensed day care center from their home, and claim they had permission from the park manager before starting the license process. In early 1996, the Simpsons were given a notice to vacate by management for operating the home day care though white residents were allowed to keep operating day care businesses. The Simpsons closed their day care business, but on March 1, 1996 park management notified the Simpsons in a 60 day notice that their lease would not be renewed when it expired on April 30, 1996. Rance Simpson contacted the ATC Fair Housing Program in April 1996 which assisted him with documenting evidence to support his allegation of racial discrimination. The administrative complaint was filed with the Austin Human Rights Commission in October 1996, which investigated the complaint and issued a charge of discrimination in February 1998. A lawsuit was filed in U.S. District Court in March 1998 by the City Attorney for City of Austin. The Simpsons are also represented by private counsel.

Smith v Windcrest Apartments @ Yager Lane

Ruby Smith is an African American female who is disabled and holds a Section 8 Certificate from the City of Austin Housing Authority. In February 1998, Ms. Smith contacted

Windcrest at Yager Lane Apartments, which is a low-income tax-credit property, to apply for an apartment using her Section 8 Certificate. She was told she would not qualify because her income was insufficient to meet Windcrest's minimum income requirements under their "Point System." Ms. Smith contacted the ATC Fair Housing Program, which assisted her in preparing a written request for "reasonable accommodation." She requested that Windcrest waive its minimum income guidelines since she is on a fixed income because of her disability. Windcrest did not respond to Ms. Smith's letter and she was referred to Legal Aid of Central Texas. Ms. Smith's counsel sent a second written request for "reasonable accommodation", but Windcrest did not reply to this request either. On June 12, 1998 a lawsuit was filed in State District Court, stating that "as a tax credit property, Windcrest has promised in restrictive covenants not to refuse to lease to persons with Section 8 Certificates or Vouchers. Windcrest's minimum income policy excludes a disproportionate number of applicants with Section 8 Certificates or Vouchers in violation of the restrictive covenants on the property. The policy also has a disparate impact on minority and disabled applicants and, as such, violates the Texas Fair Housing Act."

CASES IN PROCESS

O'Neal v Grant Villa

In November 1997, Ethan O'Neal, who is blind, contacted the ATC Fair Housing Program alleging that the manager of Grant Villa Apartments discriminated against him because of his disability. Mr. O'Neal telephoned the manager and requested a "reasonable accommodation," that the

manager mail him a rental application so his independent living counselor could assist him with the application process. Mr. O'Neal alleged that the manager "screamed and shouted at him" and refused his request "saying it was against their policy." Testing by the ATC Fair Housing Program provided evidence to support Mr. O'Neal's claim that his request for "reasonable accommodation" was denied. Mr. O'Neal filed an administrative complaint with HUD and the case is currently being investigated by The Austin Human Rights Commission.

CALLING ALL UNDERCOVER AGENTS!

Your mission, should you choose to accept it:

Go undercover as a Fair Housing Tester, and pose as a prospective homeseeker. Record in detail the events of the "test" of a housing provider - what was said, what was offered, what price was quoted for an available apartment, etc. Your objective, fact-finding ability is a top priority. The top secret information you discover on your mission as a Fair Housing Tester can be used to support an administrative housing discrimination complaint with HUD or a private lawsuit.

THIS MESSAGE

WILL SELF-

DESTRUCT IN

TEN SECONDS

10...9...8...7...

The Austin Tenants' Council wants you!

ATC is recruiting undercover agents of all backgrounds to serve as Fair Housing Testers. We especially need people who are available three or four hours during the normal business week.

Call 474-7007 to accept your mission.

Paul Leddy, ATC's Fair Housing Testing Coordinator, will talk with you more about becoming a Fair Housing Tester. Fight Housing Discrimination!

HRA

Programs and Services



TENANT-LANDLORD

- TELEPHONE COUNSELING** - Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Call 474-1961.
- IN-HOUSE COUNSELING** - Counseling information and materials are provided to clients in need of more in-depth information. Call 474-7006 for an appointment.
- CRISIS INTERVENTION** - Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Call 474-1961.
- RENTAL REPAIR ASSISTANCE** - The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. Call 474-7006.
- LEASE FORMS** - ATC provides lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. Call 474-7006 for more information.

FAIR HOUSING

THE FAIR HOUSING PROGRAM - 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. Call 474-7007.



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

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 Organization**
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Austin Tenants Council Staff:	
Mary Daniels Dulan	Fair Housing Activities Coordinator
Cruz Garcia	Housing Specialist
Chris Garza	Program Specialist II
Paul Leddy	Fair Housing Testing Coordinator
Amanda Lee-Plaisance	Program Specialist I
NeKesha Monroe	Fair Housing Specialist
Sam Persley	Program Specialist III
Bruce Rodenborn	Program Development Specialist
Lucy Salinas	Intake Specialist
Jennifer Scott	Housing Specialist
Katherine Stark	Executive Director

Address Correction Requested

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