



Housing Rights ADVOCATE

Issue 29

The Austin Tenants' Council

www.housing-rights.org

New Tenant-Landlord Laws Go into Effect

Every other year the Texas Legislature meets to amend existing laws and pass new ones. Often these changes affect landlord-tenant relationships and this past legislative session was no different. ATC's General Counsel identified six changes of importance to tenants: the right of victims of family violence to summon police, notice to tenants prior to towing vehicles, RV's at manufactured home communities, tenants on housing authority boards, late charges on allocated water bills and leasing personal property from a landlord. Although the changes are small relative to previous legislative sessions, they will have a big impact in certain situations.

Senate Bill 92 adds a new section to Chapter 92 entitled Tenant's Right to Summon Police or Emergency Assistance. Basically, a tenant cannot be prohibited or penalized for summoning the police or other emergency assistance in response to family violence. Although the section refers to "family" violence, it is not restricted to violence between family members. The definition of family violence covers not only people who are related to one another but any member of a particular household. In addition, a tenant cannot waive their right to this protection, and there are remedies if the landlord violates this section.

Changes to the Texas Transportation Code clarify and expand a landlord's duty when towing a tenant's vehicle. As of January 1, 2004, landlords must give tenants ten days written notice either delivered in person to the vehicle owner or sent by certified mail, return receipt requested prior to towing the vehicle for expired inspection or registration stickers. The law takes effect for any lease signed or renewed on or after January 1, 2004. According to ATC's General Counsel, the towing statute has always required a landlord to give advance notice prior to towing a vehicle with expired stickers.

Senate Bill 1238 changed Chapter 94 of the Texas Property Code, which governs tenants who live in a manufactured home

community and lease the lot. The definitions were changed so that a recreational vehicle is covered by the law only if it is "...permanently tied to, affixed, or anchored to the premises as in the case of a park model unit." The changes included a new definition, a park model unit, which is a recreational vehicle that is built on a single chassis, mounted on wheels, and has a gross trailer area not exceeding 400 square feet when set up. The changes mean that Chapter 94 will no longer cover many RV's and travel trailers.

The fourth change, House Bill 2388, alters allocated water bills. A landlord can now charge a tenant a late fee on an allocated water bill, but it can be no more than five percent of the amount of the bill.

The Local Government Code affecting public housing units was amended through House Bill 424, which includes several changes. The most important one states that small municipal housing authorities - meaning one that has fewer than 300 housing units under its jurisdiction - no longer have to include a tenant on the housing authority board. However, they do have to make a reasonable effort to recruit tenants to serve as commissioners of the authority; if none are found then they can appoint someone else.

House Bill 275 amended the Texas Penal Code. Normally the Penal Code does not affect tenants but a recent change regarding theft of service might be of some concern. It states that a theft of service occurs if the actor fails to return property held under a rental agreement after the expiration of the rental agreement within three days after receiving notice demanding return, if the property is valued at more than \$1500, or within five days if valued less than \$1500.

This statute has traditionally been associated with leasing of personal property such as tools, televisions, etc. from rental companies, and still does not pertain specifically to tenant-landlord lease agreements. However, ATC's General

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Austin Energy Improves Apartment Read and Change Program

Austin Energy recently made some improvements to its Multi-family Partnership Program, a service that provides continuous electrical service to participating apartment complexes. The revised program, previously known as the Apartment Read and Change Program, begins January 1, 2004.

The most significant change is that the apartment manager will no longer be responsible for reading the meter and notifying Austin Energy of the residents' move-in and move-out dates. Now, Austin Energy will read the meters and the resident will notify Austin Energy of their move-in and move-out dates. Austin Energy will post this information on a secure web site where the apartment manager can verify the information.

As reported in previous issues, The Austin Tenants' Council has received numerous phone calls and complaints regarding the old program. The most common complaint was that the apartment manager delayed in contacting Austin Energy with the resident's updated information, causing the resident to receive electric bills long after vacating the apartment. ATC is encouraged that Austin Energy has re-evaluated this program and expects that these changes will be an improvement.



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Las Nuevas Leyes Se Ponen en Efecto

Cada dos años, los representantes de la legislatura de Texas se reúnen para enmendar leyes ya existentes y para aprobar nuevas leyes. Estos cambios a menudo afectan las relaciones entre el propietario y el inquilino y esta última sesión legislativa no fue distinta. El Consultor General del ATC identificó seis cambios de importancia para los inquilinos: el derecho de víctimas de violencia familiar a convocar a la policía; un aviso a los inquilinos antes de remolcar su vehículo; vehículos recreativos (RV) en las comunidades de casas móviles; los inquilinos en juntas directivas de la autoridad de vivienda; los recargos en una cuenta asignada de agua; y el alquiler de propiedad personal de un propietario. Aunque los cambios son pequeños con respecto a las sesiones legislativas anteriores, harán un gran impacto en ciertas situaciones.

El Proyecto de Ley 92 del senado agrega una nueva sección al Capítulo 92 titulado el Derecho de Inquilinos a Convocar a la Policía o a Ayuda de Emergencia. Básicamente, un inquilino no puede ser prohibido o penalizado por convocar a la policía o otra ayuda de emergencia como respuesta a la violencia familiar. Aunque la sección refiere a la violencia "familiar", no se restringe a la violencia entre los miembros de la familia. En adición a la gente relacionada, la definición de la violencia familiar cubre a cualquier miembro de un hogar. Además, un inquilino no puede renunciar su derecho a esta protección, y hay medios si el propietario viola esta sección.

Los cambios al Código del Transporte de Texas clarifican y amplían el deber de los propietarios al remolcar un vehículo de un inquilino. Al partir del 1 de enero de 2004, los propietarios deben proveer un aviso entregado personalmente al dueño del vehículo o enviado por correo certificado, recibo de entrega, por lo menos diez días antes de remolcar el vehículo a causa de una inspección o registración vencida. La ley se pone en efecto para cualquier contrato firmado o renovado el 1 de enero de 2004 o después. Según el Consultor General de ATC, el estatuto sobre el remolque siempre ha requerido al propietario que dara un aviso antes de remolcar un vehículo que tiene las etiquetas vencidas.

El Proyecto de Ley 1238 del senado cambió el Capítulo 94 del Código de Propiedades de Texas, lo que gobierna a

los inquilinos que viven en una comunidad de casas móviles y que alquilan el terreno. Las definiciones fueron cambiadas de modo que un vehículo recreativo sea protegido por la ley solamente si está «...permanentemente amarrado, fijado, o anclado en el terreno así como en el caso de una casa de modelo del parque.» Los cambios incluyeron una nueva definición, una casa demodelo del parque, la que es un vehículo recreativo (RV) que es construido en un sólo chasis, montado en ruedas, y en que el área del *trailer* no sobrepasa 400 pies cuadrados cuando está instalado. Estos cambios en las definiciones significan que el capítulo 94 ya no cubre muchos RVs y *trailers*.

El cuarto cambio, el Proyecto de Ley 2388 de la casa de representativos, altera las cuentas asignadas de agua. Un propietario ahora puede cobrar a un inquilino un recargo en una cuenta asignada de agua, pero no puede sumar a más de cinco porciento de la cantidad de la cuenta.

El Código de Gobierno Local que afecta las unidades de vivienda pública fue enmendado a través del Proyecto de Ley 424 de la casa de representativos, lo que incluye varios cambios. Lo más importante indica que las autoridades municipales pequeñas de vivienda - lo que significa una que tiene menos de 300 unidades de vivienda bajo su jurisdicción - ya no tiene que incluir a un inquilino en la junta directiva de la autoridad de vivienda. Sin embargo, tienen que hacer un esfuerzo razonable de reclutar a inquilinos para encargarse como comisionados de la autoridad. Si entonces no se encuentra a nadie pueden designar a otra persona.

El Proyecto de Ley 275 de la casa de representativos enmendó el Código Penal de Texas. El Código Penal normalmente no afecta a los inquilinos pero un reciente cambio con respecto al robo de servicios podría ser preocupante. Indica que un robo de servicios ocurre si el agente falla en la devolución de la propiedad alquilada bajo contrato después de que el contrato se acaba en el plazo de tres días después de recibir un aviso exigiendo la devolución, si la propiedad vale más de \$1500, o en el plazo de cinco días si vale menos de \$1500.

Este estatuto tradicionalmente se asocia al alquiler de propiedad personal tal como herramientas, televisores, etc. de una compañía de alquiler, y todavía no pertenece específicamente a los contratos

Austin Energy Mejora su Programa de Leer y Cambiar los Medidores

El departamento de utilidades, Austin Energy, recientemente llevó a cabo algunos mejoramientos a su Programa de la Sociedad Multi-familiar, un servicio que proporciona servicio eléctrico continuo a los complejos de apartamentos que participan. El revisado programa, conocido previamente como el Programa de Leer y Cambiar los Medidores, comienza el 1 de enero de 2004.

El cambio más significativo es que ahora el encargado ya no tiene la responsabilidad de leer el medidor y de notificar a Austin Energy de las fechas de mudanza de los residentes. Ahora, Austin Energy lee los medidores y el residente notifica a Austin Energy de sus fechas de mudanza. Austin Energy fijará esta información en un sitio seguro del Internet en que el encargado del apartamento puede verificar la información.

Como le reportamos en ediciones anteriores, el Concilio para Inquilinos de Austin ha recibido numerosas llamadas telefónicas y quejas con respecto al programa anterior. La queja más común era que el encargado del apartamento tardaba en ponerse en contacto con Austin Energy para proveer la nueva información del residente, resultando en la llegada de las cuentas eléctricas mucho más después de que el residente había desocupado el apartamento. ATC está animado por la reevaluación de este programa por Austin Energy y esperamos que estos cambios sean un mejoramiento.



entre inquilinos y propietarios. No obstante, el Consultor General del ATC se preocupa por los inquilinos que puedan estar alquilando muebles bajo un acuerdo aparte del contrato. El propietario entonces puede reclamar un robo de servicios si el inquilino no devuelve la propiedad después de recibir el aviso de devolverlo, lo que posiblemente viene como parte de un aviso para desocupar la vivienda. Tal uso no es el intento de la ley, pero los inquilinos deberían darse cuenta de los cambios y buscar ayuda legal si creen que están a riesgo.

Todos los cambios descritos arriba se pusieron en efecto el 1 de septiembre de 2003, excepto los cambios indicados en el estatuto del remolque.



Staff Changes at ATC

ATC announces four new enforcement staff for the Fair Housing Program. Christina Allen, JD, joined ATC in February 2003 as a Law Clerk/Testing Coordinator I. She received a BA in English & Spanish from the University of Texas in 1998 and is a 2001 graduate of the University of Texas School of Law. Christina has public service experience in community legal services, economic and community development, family law, domestic violence and women's advocacy and is bilingual.

Bronson Tucker, JD, joined ATC in March 2003 as Testing Coordinator I. He received a BA in Political Science from the University of Oklahoma in 1999 and is a 2002 graduate of the University of Texas School of Law. Bronson served as a law clerk with a local law firm and has public service experience in the areas of consumer rights, libel, family law, domestic violence and women's advocacy.

Jordan Erdos joined ATC in June 2003 as Fair Housing Specialist I. He received a BA in Politics and Government from the University of Hartford in 1991 and a Master of Public Affairs and a Master of Arts from the University of Texas in 1999. He is fluent in Spanish and proficient in Portuguese. Jordan has public service experience in consumer education, community organization, manufactured homeowners' rights and has coordinated sustainable development projects in Latin America.

Trina Barrett joined ATC as Fair Housing Specialist I in July 2003. She received a BA in Psychology from Huston-Tillotson College in 2002 and will graduate with a Masters in Education from Concordia University in 2004. Trina taught elementary school in Houston and has public service experience in youth development, counseling, MHMR resources and HIV/AIDS education.

New Laws

Continued from Page 1

Counsel is concerned for tenants that may be leasing furniture or appliances in an agreement separate from the lease. The landlord may then claim a theft of service if the tenant does not return the property after getting notice to return it, possibly as part of a notice to vacate. Such application is not the intent of the law, but tenants should be aware of the changes and seek legal assistance if they believe they are at risk.

All of the changes described above took affect September 1, 2003, except as indicated in the towing statute.

Fair Housing Conference

The ATC Fair Housing Program and the Compliance Division of the City of Austin HRD (formerly Austin Human Rights Commission) recently sponsored a fair housing seminar in association with Kelli Dunn Howard, Equal Justice Works Fellow and Nelson Mock, Staff Attorney at Texas Rural Legal Aid (TRLA). The free seminar, titled "Housing Rights of Persons with Disabilities" was conducted for social service agencies and public and private organizations needing fair housing training. Topics included



Left to right: Presenters Kelli Dunn, John Benavides, Nelson Mock, Bronson Tucker and Christina Allen.

federal, state and local fair housing laws; private fair housing enforcement including advocacy, testing and lawsuits; and public enforcement including the HUD administrative process. Topics also included accessibility requirements in new construction, requests for reasonable accommodations or modifications, the City of Austin Visitability Ordinance, first time home ownership for people with disabilities and domestic violence as a barrier to housing.

Presenters included Kelli Dunn Howard and Nelson Mock, Staff attorneys and Lourdes Flores, Paralegal with TRLA; Stephanie Thomas of ADAPT; Charles Gorham and John Benavides of COA/HRD; Kathy Stark, Christina Allen and Bronson Tucker of ATC; Attorney Jimmie L.J. Brown, Jr.; Jean Langendorf and John Morris of UCP Texas Home of Your Own Coalition; and Andrea Edgerson and Heather Kamper of Disability Services ASAP of Safeplace.

Case Updates

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 HUD.

Morales, Caldera & ATC v. Alpine Apts

The ATC Fair Housing Program recently filed a housing discrimination complaint based on familial status discrimination with HUD on behalf of Amanda Morales and Ricardo Caldera, and Amanda Morales as next friend of Ricardo Caldera, Jr. Ms. Morales, who is pregnant, and Mr. Caldera were looking for an apartment for themselves and their son, Ricardo, Jr. In October 2003, they responded to an ad they found in the *Williamson County Sun*.

Morales and Caldera stated that they met with Chuck Williams of the Alpine Apartments in Georgetown to view the apartment. They allege that Mr. Williams saw Ms. Morales was pregnant and asked when Ms. Morales was due. Upon hearing the due date, Mr. Williams refused to rent the apartment to them. They claim he stated, "I don't think this is going to work out because of the baby being so young and all they do is cry. I don't want to have any problems with the upstairs neighbors and the ones that would be living beside you." Later, Mr. Caldera returned and asked Mr. Williams if there was anyone else he could speak with. Mr. Williams allegedly told him no, that he was the owner and could rent to who he wanted. Mr. Caldera then asked, "What if someone was already living here and then got pregnant?" Caldera alleges Mr. Williams replied that they would have to move out.

ATC filed a familial status discrimination complaint with HUD after gathering evidence through tests conducted at the Alpine Apartments. HUD deferred both complaints for investigation to the Texas Commission on Human Rights, which is a substantially equivalent Fair Housing Assistance Program.



Housing Rights Advocate

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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 víctimas 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.*

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