



# Housing Rights ADVOCATE

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The Austin Tenants' Council

[www.housing-rights.org](http://www.housing-rights.org)

## Childress Wins Again

Austin Tenants' Council cooperating attorney Sidney Childress once again successfully represented an ATC client in a lawsuit for damages resulting from a tenant-landlord case. Mr. Childress has demonstrated not only commitment to helping low-income tenants pursue civil remedies when ATC's attempts at mediation and negotiation fail, but great success in representing the clients in court.

Over the past 10 years, Mr. Childress has won both individual and class action lawsuits on behalf of tenants, some of which have been described in previous editions of this newsletter. In this particular case, the tenant, Ms. Mary Moore, contacted the Austin Tenants' Council because she was having repair problems. There was a recurring water and sewage leak in her bathroom coming from the second floor apartment's faulty toilet.

ATC staff opened a Repair Mediation Case, and only then did Minicozzi Properties, the landlord, respond to the tenant's request. However, after this repair was made, Ms. Moore reported other problems including a rat infestation. Ms. Moore is a Section 8 Voucher holder so she contacted the Housing Authority of the City of Austin (HACA) who sent a Section 8 Inspector out to investigate the complaint.

When a landlord agrees to participate in the Section 8 Program, the apartment must be maintained to certain standards established by the Department of Housing and Urban Development. The Section 8 Inspector found evidence of rodents and notified the landlord that the unit had failed the inspection. HACA gave Minicozzi Properties a deadline to remedy the problems, and then re-inspected after the deadline. The problems had not been resolved so HACA had the right to terminate the landlord's contract for payment, giving the tenant the right to terminate her lease and vacate the unit.

Upon moving out of the apartment in

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## Icenogle Trust: the Gift that Keeps on Giving

The Austin Tenants' Council would like to express its continued appreciation for the generosity shown by Jerry Icenogle, who established a charitable trust on behalf of the Austin Tenants' Council in 2002. The money that it provides on a yearly basis was used last year to create a revolving litigation expense fund for tenant-landlord referrals made through ATC's attorney referral system.

This fund allows attorneys that accept referrals to be reimbursed for actual expenses they incur such as filing fees, depositions, etc. Upon successfully litigating the case, the fund is reimbursed so that the next client can be helped.

Unfortunately, this past year the Austin Tenants' Council lost its funding from the Texas Bar Foundation. The program it funded in 2002-2003 allowed ATC to extend telephone counseling services to encompass the entire state. ATC was hopeful that the Bar Foundation would continue funding this program as the demand for services statewide has risen steadily since program inception.

There are only three tenant advocacy groups in Texas: The Austin Tenants' Council, the Housing Resources Council in Dallas and the Texas Tenants' Union in Fort Worth. ATC is the only one among the three to provide telephone counseling.

Concurrent to the loss of Bar Foundation funding, the City of Austin has reduced funding for the Telephone Counseling and Mediation Program as part of an across-the-board cut in Social Services funding for 2004. The economic downturn over the last few years has resulted in more organizations competing for the increasingly limited funds available from foundations, and reduced tax revenues for government grantors.

The combined impact of these losses necessitates a reevaluation of the services

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## HUD Funds Fair Housing Program

The Austin Tenants' Council's Fair Housing Program is pleased to announce that it was awarded a one-year Fair Housing Private Enforcement Initiatives grant totaling \$195,503, under the HUD Fiscal Year 2003 Fair Housing Initiatives Program SuperNOFA. Budget constraints forced HUD to offer all awardees under the Private Enforcement Initiative approximately 75% of the amount requested in their application. Though the award is less than in past years, ATC remains committed to enforcing the fair housing act, and thanks HUD for its support.

This Private Enforcement Initiative continues funding for testing and legal resources to support victims of housing discrimination in the Austin MSA. The project will also focus on issues surrounding the rights of disabled persons and the rights of recent immigrants to the United States who have traditionally suffered from housing discrimination.

ATC is in its eighth year of HUD-funded Private Enforcement Initiatives. During this time, ATC has documented over 2500 allegations of housing discrimination, and filed 227 formal complaints with HUD, Austin Human Rights Commission and/or the Texas Commission on Human Rights. ATC has secured over \$350,000 in relief for these complainants through either lawsuits or the HUD administrative process. The current program will add to these accomplishments, and ATC seeks to replace the reduced funding through governmental contracts, private foundations and other fundraising so that it can continue to meet the fair housing need in Austin.



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## Childress Gana Otra Vez

**E**l abogado Sidney Childress, un participante en el Programa de Referencias de un Abogado de ATC, otra vez representó con éxito un cliente de ATC en un pleito para daños resultados de un caso de inquilino-propietario. El Sr. Childress ha demostrado no solamente un compromiso de ayudar a los inquilinos de bajo ingreso de perseguir sus medios civiles, pero también un gran éxito en la representación de los clientes en corte.

Sobre los últimos 10 años, el Sr. Childress ha ganado varios tipos de pleitos a nombre de los inquilinos, unos los cuales se han descritos en ediciones anteriores de este boletín de noticias. En este caso, la inquilina, La Srta. Mary Moore, se puso en contacto con el Austin Tenants' Council porque ella tenía problemas de reparación. Había un escape de agua y aguas negras en su baño lo cual venía de una taza defectuosa del apartamento del segundo piso.

ATC abrió un caso de reparación para mediar el problema, y fue cuando Minicozzi Properties, el propietario, finalmente respondió. Sin embargo, después de hacer la reparación, la Srta. Moore reportó otros problemas incluyendo una infestación de ratones. La Srta. Moore es un participante del programa de la Sección 8 y ella se puso en contacto con la Autoridad

de Vivienda de la Ciudad de Austin (HACA). HACA mandó un inspector de la Sección 8 para investigar la queja.

Cuando un propietario acuerda participar en el programa de la Sección 8, el apartamento debe ser mantenido a ciertos estándares establecidos por el Departamento de Vivienda y Desarrollo Urbano. El inspector de la Sección 8 encontró evidencia de ratones y notificó al propietario que la unidad no había pasado la inspección. Entonces HACA dio a Minicozzi Properties un plazo para remediar los problemas, y luego hizo otra inspección después del plazo. Los problemas no habían sido resueltos así que HACA tenía el derecho de terminar el contrato con el propietario, dando al inquilino el derecho de terminar su contrato y desocupar la unidad.

Al mudarse del apartamento en diciembre 2002, la Srta. Moore siguió las instrucciones de ATC de limpiar la unidad y proporcionar su nueva dirección. Pero, en vez de recibir el reembolso de su depósito, la Srta. Moore descubrió que el propietario la había reportado a una agencia de crédito demandando que ella había quebrado su contrato. Esta mala historial le previno que alquilara otra propiedad. Con la ayuda de Ayuda Legal de Texas Central (ahora Ayuda Legal de Texas Río Grande), ella pudo convencer a

Minicozzi Properties cesara en reclamar que ella había quebrado su contrato, pero todavía no devolvieron su depósito.

La Srta. Moore se puso en contacto con ATC quien le asistió en escribir una demanda para el reembolso del depósito. Desafortunadamente, Minicozzi Properties todavía rehuzo de devolver el depósito, así que ATC refirió el cliente para representación a través del sistema de referencias de un abogado, y en julio de 2003, el Sr. Childress aceptó el caso.

Dando al propietario una oportunidad para resolver el caso, el Sr. Childress envió una demanda final para el reembolso en septiembre de 2003. El propietario lo rechazó y el Sr. Childress archivó un pleito contra el propietario en la corte de la justicia. Se fijó una fecha de diciembre de 2003 en la nueva localización del recinto 4 en McKinney Falls Road. La juez Elena Diaz gobernó que el propietario había actuado en mala fe por no devolver el depósito y concedió a la Srta. Moore un juicio para más de \$2500. Una lección algo costosa considerando que el depósito era \$306.

ATC quisiera agradecer al Sr. Childress de nuevo por su compromiso continuado a fomentar nuestra misión, y más importante, proteger a los derechos de la Srta. Moore.



## Cuenta Fiduciaria De Icenogle: el Regalo que Sigue Dando

**A**ustin Tenants' Council quisiera expresar su aprecio para la generosidad demostrada por Jerry Icenogle, quien estableció una cuenta fiduciaria a nombre del Austin Tenants' Council en 2002. El dinero proporcionada anualmente por la cuenta fue utilizado el año pasado para crear un fondo para usar con las referencias hechas por el sistema de referencias de un abogado de ATC.

Por este fondo, los abogados que aceptan casos de ATC pueden recibir un reembolso para los gastos incurridos de un pleito, por ejemplo costos de la corte, las deposiciones, etc. Al litigar un caso con éxito, el abogado reembolsa el préstamo al fondo para poder ayudar al siguiente cliente.

Desafortunadamente, este último año el Austin Tenants' Council perdió el financiamiento por la Fundación de la Barra de Texas. El programa que lo financió en 2002-2003 permitió a ATC que ampliara

servicios de consejos por el teléfono por todo el estado. ATC esperaba que la Fundación de la Barra continuaría financiando a este programa como la demanda para los servicios está creciendo constantemente.

Hay solamente tres grupos en Texas que son defensores de inquilinos: Austin Tenants' Council, Housing Resources Council en Dallas y Texas Tenants Union en Fort Worth. ATC es el único entre los tres que proporciona consejos por teléfono.

A la misma vez de perder financiamiento de la Fundación de la Barra, la Ciudad de Austin ha reducido el financiamiento para el Programa de Consejos por Teléfono y Mediaciones como parte de una reducción global de servicios sociales en 2004. El descenso económico sobre los últimos años ha causado más competición entre las organizaciones, y para fondos más limitados.

La combinación de estas pérdidas hace necesario una nueva evaluación de los servicios que ATC puede proporcionar. A menos que financiamiento adicional pueda ser encontrado, la línea de consejos podría ser restringido solamente a los residentes del condado de Travis. Sin embargo, no se ha tomado ninguna decisión en este tiempo.

La cuenta fiduciaria de Icenogle ayudará a pagar parte de la pérdida financiera de la Ciudad de Austin. ATC tiene esperanza que los servicios estatales pueden continuar con la ayuda de los voluntarios del colegio de abogados de UT y por otras donaciones. Todos los residentes de Texas merecen entender los derechos del inquilino-propietario y ATC, con la ayuda del fondo de Icenogle, sigue dedicado a lograr esta meta.



# Case Updates

*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.*

## **ATC v. Deerfield Luxury Apts.**

In August 2002, ATC filed a complaint with HUD alleging that Deerfield Luxury Apartments in Austin failed to design and construct the property in a manner that affords handicapped persons access to the public and common use areas required by the Fair Housing Act. ATC conducted on-site testing of the design and construction requirements under the Fair Housing Act. An investigation and on-site assessment was conducted in April 2003 by HUD.

ATC announces that a Conciliation Agreement and General Release has been entered into by and between HUD, ATC and Simpson Brodie Lane LP (Deerfield). The parties acknowledge that this agreement is voluntary and full settlement of the complaint.

The Respondents (Deerfield) agree to make the following changes to ensure that the property is accessible to persons with disabilities:

One outlet in Building 914 is 8 inches from the floor. Respondents shall place a notice on the application package indicating that a wheelchair-disabled applicant may request that environmental controls be made accessible. The bathroom in Building 914 has no grab bars. Respondents shall inspect and ensure that reinforced walls allow for later installation of grab bars around the toilet, tub, shower, in any of the covered units, and that any shelf and mirror do not interfere with the installation. The correction will be made at the request of a tenant when an accessible unit is not available. The Respondents shall designate one of the two handicap parking spaces for the leasing office as "Van Accessible" only. Respondents agree to report progress towards making the changes three months after execution of the agreement, and that the time period for completing modifications shall be one year from the date of executing the agreement.

The Respondents deny violating the Fair Housing Act or any other federal, state or local law or regulation relating to

disability accessibility design or construction, and that this agreement shall not constitute evidence of a violation of the Act. In consideration of this Agreement, the Respondents agree to pay to the Complainant the sum of \$1500.

## **Rebecca Currey & Family v. Honeycomb Mobile Home Park**

In November of 2003, Rebecca Currey contacted ATC with an allegation that her landlord, Honeycomb Mobile Home Park, charged an additional \$50 a month for each person in excess of two living on a mobile home lot. The Currey family rents a lot space for their mobile home. There are two adults and three children, ages 6, 2 and 1 year old. The Curreys allege that there was no legitimate reason for the additional charge, especially since they do not use the septic tank system at the park.

Mrs. Currey provided ATC with a copy of the park rules with a written policy that supported her allegation. The Curreys claimed the \$50 per occupant over two persons in the household discriminates against families with children.

ATC assisted Mrs. Currey in filing a housing discrimination complaint with HUD, who deferred the complaint to the City of Austin Human Rights Commission on January 13, 2004 for investigation.

On February 13, 2004, Charles H. Gorham, Administrator of the Austin Human Rights Commission, issued a Charge of Discrimination against Thomas E. & Martha Mitchell of Payson, Arizona, owners of Honeycomb Mobile Home Park; and Avolt L. and Jo Nell Behrens, of Austin, Texas, Managers of the park.

Evidence gathered by the Austin Human Rights Commission investigator included written rules of the park which contained the statement: "The basic monthly rent is for a maximum of two people (2) per unit and is due and payable on the first day (1<sup>st</sup>) of each month. Each additional person occupying unit will be charged and additional fifty dollars (\$50) per month."

As a result of the Commission's investigation of the allegations, the Administrator had reasonable cause to believe that the owners and managers of Honeycomb Mobile Home Park discriminated against the Curreys based on familial status, in violation of the City of Austin Fair Housing Ordinance and the Federal Fair Housing Act. The Curreys have elected to have their claims decided in a civil action in district court.

## **Childress**

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December 2002, Ms. Moore followed ATC instructions by cleaning the unit and providing her forwarding address, but rather than receiving the refund of her deposit, Ms. Moore discovered the landlord had reported her to a credit bureau claiming she had broken her lease. This bad rental history prevented her from leasing other properties. With the assistance of Legal Aid of Central Texas (now Texas Rio Grande Legal Aid), she was able to get Minicozzi Properties to cease in claiming that she had broken her lease, but she was still without her deposit.

Ms. Moore contacted ATC, who assisted her in drafting a demand for reimbursement of the deposit. Unfortunately, Minicozzi Properties still refused to return the deposit, so the client was referred for representation through ATC's Attorney Referral System, and in July 2003, Mr. Childress accepted the case.

Giving the landlord an opportunity to settle the matter, Mr. Childress sent a final demand for reimbursement in September 2003. The landlord refused so Mr. Childress filed suit in Justice Court. A trial date was set in December 2003 in Precinct 4's new location on McKinney Falls Road. Judge Elena Diaz ruled that the landlord had in bad faith failed to refund the security deposit and awarded Ms. Moore a judgment for over \$2500. A rather expensive lesson considering the deposit was \$306.

Once again ATC would like to thank Mr. Childress for his continued commitment to furthering our mission, and more importantly, helping protect the rights of Ms. Moore.



## **Icenogle**

*Continued from Page 1*

ATC can provide. Unless additional funding can be found, the Telephone Counseling Line may have to be restricted to Travis County residents only. However, no decision has been made at this time.

The Icenogle fund will help defray part of the loss of the funding from the City of Austin. ATC is hopeful that statewide services can continue with the support of UT Law School volunteers and other foundation grants. All residents of Texas deserve to understand tenant-landlord rights and ATC, with the assistance of the Icenogle fund, remains committed to reaching this goal.

