

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 56, Winter 2010

Repair Orders Easier to Come By

Tenants have long held the right to sue if their landlord refused to repair conditions that threatened their health or safety. In reality, the process was lengthy. To get an order directing the landlord to make repairs, a tenant had to retain an attorney and sue in county or district court. When faced with this process, most tenants chose instead to terminate their lease and move.

As of Jan. 1, 2010, tenants can go to justice court without an attorney and obtain a repair order as quickly as landlords can file for eviction. The hearing must occur within six to 10 days of when the landlord is served. In addition to the repair order, a tenant may seek a reduction in the rent from the date of the first repair notice,

civil penalty of one month's rent plus \$500, actual damages, court costs, and attorney's fees if applicable.

The new law applies only to conditions that affect a tenant's health or safety, and the cost of the repair cannot exceed \$10,000 (excluding court costs but including attorney's fees). Before filing suit, tenants must still pay rent, give written repair requests to the landlord, and wait a reasonable amount of time (seven days is presumed to be reasonable for most repairs).

A landlord who fails to comply with a repair order issued by the justice court may be held in contempt and fined up to \$100, confined in the county or city jail for up to three days, or both.

Tenant Rights During Foreclosure

The pace of mortgage foreclosures is not expected to slow in the coming year, and thousands more people will likely be displaced from their home. Renters are just as affected by the foreclosure crisis as homeowners. The National Low Income Housing Coalition estimates that 40 percent of the households who lose their homes because of foreclosure are renters.

The End Is Not Near

Despite misleading notices to vacate that some tenants have received, renters no longer lose their lease when their landlord

falls into foreclosure. However, many tenants remain unaware of the protections offered by the Helping Families Save Their Home Act, which took effect May 20, 2009 and will expire at the end of 2012. The law gives tenants who continue to pay rent the right to stay in the rental home for 90 days after foreclosure or through the term of their lease unless the property is sold to someone who will occupy the home. If the new owner will live in the home, leases can be terminated with 90 days' written notice. The bill provides similar protections to housing voucher holders.

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FH Case Updates

In all settled cases 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.

Alice Poole v. Rollingwood Management

Four months after moving into a rental house in Round Rock, Alice Poole was having difficulty breathing. Poole, who has asthma and severe allergies, believed that something inside the house was aggravating her chronic illnesses and making her children sick as well. Management cleaned the carpets, but Poole continued to have health problems.

Poole is considered disabled under the Fair Housing Act because her medical condition affects a major life activity (i.e., breathing). The FHA defines disability as:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

ATC fair housing specialist Lucia Salinas helped Poole make a request for reason-

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Cash for Keys

Banks aren't interested in being landlords. "Cash for keys" — a payout in exchange for a rapid departure by the tenants and their promise not to damage the property — is a quick and easy solution for many banks that have foreclosed on rental homes.

Tenants are not obligated to accept any cash for keys offer (and may choose to stay in the home for 90 days or through the term of their lease). Tenants who are willing to move should consider the actual costs before accepting a cash for keys deal. Expenses such as application fees, security deposits, utility deposits, and movers quickly add up. Tenants may negotiate the terms and ask the bank for more money and time. Once an agreement is reached, the tenant should get that agreement in writing and signed by an authorized bank representative.

Never Again

Conducting a rudimentary background check on a landlord before signing a lease can help tenants avoid moving into a home headed for foreclosure. First, determine who owns the property. The county appraisal district (834-9317 or traviscad.org) has this information. Once you have verified that the person signing the lease is the actual owner, check with the tax assessor (854-9473 or traviscountytax.org) to see if property taxes are delinquent. Unpaid taxes is one of the first signs of financial trouble. The tax assessor website also lists properties available at the next foreclosure sale — make sure your new home isn't one of them!

We thank **Max Batres** for his generous contribution in support of ATC's programs and services.

able accommodation, asking management to release her from the lease without penalty. Almost immediately after receiving Poole's letter and doctor's statement, management agreed to the request.

Cambridge Villas Senior Apartments

According to some residents, parking spaces at Cambridge Villas Senior Apartments in Pflugerville are so scarce that tenants try not to leave the complex for fear of being unable to park their car when they return. When all the spots are taken, tenants have to park on a busy street and walk at least half a block to their apartment. The unavailability of parking is especially difficult for persons with disabilities who live at the property.

After management refused to add handicapped parking spaces (stating they already offered the required number), eight tenants who have disabilities contacted the ATC Fair Housing Program for assistance. Fair housing specialist Robert Hood helped these tenants make requests for reasonable accommodation. Most asked management to assign them a reserved parking space near their apartment entrance; one tenant requested an accessible path to the parking lot because parked vehicles frequently blocked the curb cuts.

Under the Fair Housing Act, persons with disabilities have the right to reasonable accommodations. Reasonable accommodations include changes 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. At properties that provide parking for residents on a "first come, first served" basis, reserved spaces must be provided if requested by a resident with a disability who may need them.

At Cambridge Villas, management either ignored the tenants' requests or promised to provide reserved parking spaces but never followed through. Hood helped the tenants file fair housing complaints alleging discrimination based on disability. The U.S. Department of Housing and Urban Development negotiated conciliation agreements where the tenants received reserved parking spaces and an access aisle in the parking lot. Two tenants agreed to withdraw their complaints from the Texas Workforce Commission Civil Rights Division after the landlord provided reserved parking spaces. Three complaints are pending.

To learn more about your rights under fair housing laws, contact ATC at 474-1961.

ATC Tenant-Landlord Service Area Reduced

Due to a \$30,000 decrease in funding from the HUD Housing Counseling Program, ATC's service area for tenant-landlord programs has been reduced. As of January 1, 2010, ATC can only take telephone counseling calls, in-house counseling appointments, and emergency mediations from Travis County residents. Tenants and landlords

from outside the service area may contact HUD at 800-569-4287 to find a housing counseling agency near them.

The ATC Fair Housing Program continues to serve victims of housing discrimination from across Texas. If you believe you have been illegally denied housing, call 512-474-7007 for an initial phone interview and/or to schedule an appointment.

Se Agilizan las Órdenes de Reparaciones

Los inquilinos han tenido por mucho tiempo el derecho a entablar demanda si el propietario se niega a reparar condiciones peligrosas para la salud o seguridad. Sin embargo, en la práctica, el proceso era muy largo. Para obtener una orden que obligara al propietario a hacer las reparaciones, el inquilino tenía que contratar un abogado y hacer la demanda en una corte de condado o distrito. Ante este proceso, la mayoría de los inquilinos optaba por cancelar el contrato y mudarse.

Desde el 1° de enero de 2010, los inquilinos pueden ir al juzgado sin necesidad

de abogado y obtener una orden de reparación tan rápidamente como el propietario puede introducir un desalojo. La audiencia debe darse entre seis a diez días desde el momento en que el propietario es notificado. Además de la orden de reparación, el inquilino puede solicitar una reducción en la renta desde la fecha del primer aviso de reparación, multa de un mes de renta más \$500, daños efectivos, gastos judiciales y honorarios de abogado de ser aplicable.

La nueva ley se aplica solo por condiciones que afectan la salud o seguridad del

inquilino, y el costo de las reparaciones no puede exceder los \$10,000 (excluyendo gastos judiciales pero incluyendo honorarios de abogado). Antes de hacer la demanda, el inquilino debe seguir pagando la renta, solicitar la reparación al propietario por escrito y esperar una cantidad de tiempo razonable (siete días se considera razonable para la mayoría de las reparaciones).

El propietario que no cumpla con una orden de reparación extendida por el juzgado puede ser considerado en rebeldía y multado con hasta \$100 y/o confinado en prisión de condado o ciudad por hasta tres días.

Derechos de Inquilinos Durante Ejecución de Hipoteca

El ritmo de la ejecuciones de hipoteca por falta de pago no se espera disminuya este año, y probablemente miles de personas más perderán sus viviendas. Los inquilinos están igual de afectados que los propietarios por la crisis en ejecuciones de hipotecas. La Coalición Nacional de Viviendas para Bajos Ingresos estima que el 40 por ciento de las familias que pierden su hogar por ejecución de hipotecas son inquilinos.

El fin no está cerca

A pesar de los engañosos avisos que han recibido algunos inquilinos para que desocupen la vivienda, el inquilino ya no pierde su contrato si el propietario va a ejecución de hipoteca. Sin embargo, muchos inquilinos desconocen las protecciones ofrecidas por el Acta Ayudando a Familias a Salvar su Hogar, que entró en vigor el 20 de mayo de 2009 y vencerá a fines del 2012. La ley da a los inquilinos que siguen pagando la renta el derecho a permanecer en la vivienda por 90 días después de la ejecución o durante el término de su contrato de renta, a menos

que la propiedad sea vendida a alguien que ocupará la casa. Si el nuevo propietario desea ocupar la vivienda, el contrato puede cancelarse con preaviso escrito de 90 días. La medida contiene protecciones similares para los que tienen vouchers de vivienda.

Efectivo por llaves

A los bancos no les interesa convertirse en propietarios. “Efectivo por llaves” –un pago a cambio de la rápida desocupación de la vivienda y la promesa de no dañar la propiedad—es una solución fácil y rápida para muchos bancos con ejecuciones de hipoteca de viviendas rentadas.

Los inquilinos no están obligados a aceptar ninguna oferta de efectivo por las llaves (y podrían optar por permanecer en la vivienda por 90 días o hasta el fin de su contrato). Los inquilinos que aceptan mudarse deberían considerar el costo real antes de aceptar el trato de efectivo por llaves, sumando gastos como los de solicitud, depósito de seguridad, depósito por servicios y camión de mudanza. Los inquilinos

podrían negociar los términos y pedir al banco más tiempo y dinero. Una vez que se llega a un arreglo, el inquilino debe obtener el acuerdo por escrito y firmado por un representante autorizado del banco.

Nunca más

Conducir una simple averiguación de antecedentes sobre un propietario antes de firmar el contrato de renta puede ayudar a los inquilinos a evitar mudarse a una vivienda que va a ser ejecutada. Primero, determine quién es el dueño de la propiedad. El distrito de tasación del condado (834-9317 - trviscad.org) tiene esta información. Una vez que verifique que la persona que firma el contrato es el dueño, consulte con la oficina de impuestos (854-9473 - traviscountytax.org) a ver si hay impuestos de propiedad adeudados. El no pagar impuestos es uno de los primeros indicios de problemas financieros. La página de la oficina de impuestos también lista las propiedades disponibles en la próxima venta por ejecución de hipotecas –¡asegúrese de que su nueva vivienda no sea una de ellas!

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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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