

Housing Rights **ADVOCATE**

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Lawsuit Allows Long-Term Tenants to Stay

Siblings Sandra and Ralph "Smiley" Arias have leased the same property for more than two decades. The duplex is located just blocks from the house where they grew up. About 10 years ago, Richard and Kelly Weiss bought the property. Over the years, the Ariases would ask the Weisses to make repairs but their requests were often ignored.

After enduring several months without a functioning heater, the Ariases contacted the Austin Tenants' Council. Through the ATC Renters' Rights Assistance Program, the Ariases sent their landlord two repair requests via certified mail. In addition to the broken heater, the repairs included safety hazards such as leaking bathroom fixtures; loose handrail; cracked window; and an excessive gap at the front door.

Even after the property failed an inspection by the City of Austin Code Compliance, the Weisses still refused to make repairs. Richard, who owns several rental properties, alleged that he could not afford to make the repairs. He also threatened to raise the Ariases' rent approximately \$400, which would have forced the siblings to move. The Ariases have a Section 8 voucher, and the program requires a unit's rent to fall within the housing authority's voucher payment standards.

Sandra believed that the Weisses were discriminating against her and Smiley based on disability and national origin. She noticed that Richard made repairs for her white neighbors and blamed the Ariases when repairs were needed. In a letter



After living in the same rental house for two decades, Ralph "Smiley" Arias and his sister Sandra were happy to renew their lease for another year after their landlord made needed repairs.

responding to one of Sandra's repair requests, Richard made veiled threats about the siblings' ability to "live independently" and wrote that he would be "happy to work with Adult Protective Services...to determine what is in the best interest of your brother." The Ariases filed a fair housing complaint with the U.S. Department of Housing and Urban Development that was investigated by the City of Austin Equal Employment/Fair Housing Office.

The Ariases risked losing their home after it failed an inspection by the Housing Authority of the City of Austin. If the proper repairs were not made, HACA would discontinue to pay the rent at the property, forcing the Ariases to move—something they did not want to do.

Donna Keith, who participates in the ATC Cooperating Attorney Referral Program, stepped in and filed a repair lawsuit on behalf of the Ariases. Thanks to the efforts of Keith, all the repairs were made on the Ariases' home and they were able to resign their lease for an additional year.

Accommodation Helps 6-Year-Old Boy

On June 1, Michelle Binder and her three children moved to Westheimer Oaks. The apartment had no hot water, had mold growing, and was infested with bed bugs and roaches. Almost immediately after moving in, Binder's 6-year-old son, who has chronic asthma, began to get sick. The child had such difficulty breathing that he had to be hospitalized.

Due to the conditions in the apartment and their effect on her son's disability, Binder wanted to move out as soon as possible. Lucia Perez-Salinas, ATC fair housing specialist, helped Binder make a request for reasonable accommodation to management. Binder asked to be released from her lease without penalty. Management promptly granted the request.

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.

This accommodation allowed Binder to move to an apartment that was safe for her son, receive her security deposit refund, and be released from approximately \$7,500 in rent and fees that would have been due under the lease contract.

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Maintenance Failures Displace Tenants

Initially, 25 residents were displaced from their homes when a balcony collapsed at the Wood Ridge Apartments on Burton Drive in East Austin. That number skyrocketed as inspectors identified more dangerous conditions. The balcony began to buckle on May 16 and collapsed the following day. According to City of Austin Code Compliance, the complex had been hit with 51 complaints over several decades, although not all of the complaints were structural issues.

A few days after the balcony collapsed, Code Compliance issued 30 citations to the Wood Ridge Apartments. The walkways and buildings were not up to code. At least 150 additional residents were ordered to evacuate after engineers deemed 48 units unsafe. Nearly two dozen students from the nearby elementary school missed class because of the evacuation orders at Wood Ridge.

Organizations including Caritas of Austin, Texas RioGrande Legal Aid, and the Austin Tenants' Council worked together to assist the Wood Ridge tenants. Caritas provided financial assistance to the displaced families by covering deposits, first month's rent, and essential furniture. TRLA attorneys advised tenants on their rights and legal options concerning the various issues that arose from the poor housing conditions at Wood Ridge. Some tenants have retained private attorneys to represent them.

ATC offered tenant-landlord counseling on-site at Wood Ridge. ATC drafted termination letters for tenants whose units had been deemed inhabitable and wanted to terminate their lease legally. ATC helped other tenants draft repair request letters and currently is working with several tenants who have repair cases open under the Renters' Rights Assistance Program.

Nearly a month after the balcony collapsed, an inspection of 84 of the 134 units at the property yielded 760 code violations. The residents of the remaining 50 units were either not home or did not grant Code Compliance officers access to their units. Violations included plumbing deficiencies, exposed wiring, holes in the walls, non-functioning smoke detectors, and bed bug and roach infestations.

On June 4, the City's Building and Standards Commission gave the property 75 days to make the repairs necessary to bring the buildings up to code. If the complex does not meet the city's standards in the 75-day time period, the owners will be fined \$1,000 per day until the deficiencies are corrected.

Tenants' Right to Repairs

Tenants have the right to have any condition that threatens their health or safety repaired.

The Texas Property Code (§92.051–§92.061) describes the process a tenant must follow to enforce repair rights and provides specific remedies for a tenant if the landlord refuses to make the repairs. By giving the proper notices, a tenant can obtain repair remedies as soon as legally possible.

If a tenant is behind on rent or withholds rent because of the lack of repairs, the tenant is subject to eviction and forfeits the rights to have repairs made. If a landlord does not respond to a verbal or telephone repair request, the tenant needs to send a letter via certified mail describing the needed repairs. Seven days is presumed to be a reasonable amount of time for most repairs. If a landlord still refuses to make the repairs, the tenant may file suit in justice court without an attorney and seek an order for the repair, reduction in the rent, civil penalty of \$500 plus one month's rent, actual damages, and attorney's fees if an attorney is hired. The tenant may also have the right to terminate the lease and move.

ATC Receives HUD Partnership Project Grant

The U.S. Department of Housing and Urban Development awarded an \$89,500 partnership grant to the Austin Tenants' Council and the City of Austin Equal Employment/Fair Housing Office to increase awareness of lesbian, gay, bisexual, and transgender (LGBT) housing discrimination through a media campaign and six public meetings.

In addition, ATC will conduct 25 paired fair housing tests ("secret shopping") to assess the degree of discrimination against LGBT individuals and families in Austin. Violations of the federal Fair Housing Act and the City of Austin Housing Ordinance will be reported and referred to HUD and the

COA EE/FHO for enforcement.

ATC needs your help in gathering information about housing practices in Austin. Fair housing testers ("secret shoppers") are community members who undergo training to pose as a potential tenant or home-buyer. Testers meet with a rental or sales agent and record the details of their interaction and the information provided on a special report form. Testers receive training and are paid a stipend for completed tests along with mileage reimbursement.

For more information about becoming a fair housing tester, contact Morgan Morrison at 512.474.7007 x 104 or morgan@housing-rights.org.

Demanda Permite Permanencia a Inquilinos

Los hermanos Sandra y Ralph “Smiley” Arias han rentado la misma propiedad por más de dos décadas. El duplex está ubicado a solo dos cuadras de la casa donde se criaron. Alrededor de 10 años atrás, Richard y Kelly Weiss compraron la propiedad. A través de los años, los Arias le pedían a los Weiss que hicieran reparaciones pero sus pedidos solían ser ignorados.

Después de sufrir varios meses con un calefactor que no funcionaba, los Arias se comunicaron con el Austin Tenants’ Council. Por medio del Programa de Asistencia en Derechos de Inquilinos de ATC, los Arias enviaron a los propietarios dos pedidos de reparación por correo certificado. Además del calefactor averiado, la falta de reparaciones incluía riesgos de seguridad como pérdidas en enseres del baño, pasamanos flojo, ventana rajada y un espacio excesivo debajo de la puerta de entrada.

Aún cuando la propiedad no logró pasar una inspección del Código de Cumplimiento de la Ciudad de Austin, los Weiss seguían negándose a hacer las reparaciones. Richard, dueño de varias propiedades de renta, alegaba que no podía costear los arreglos. También amenazó con aumentar la renta de los Arias en aproximadamente \$400, lo que hubiera forzado a los hermanos a mudarse. Los Arias tienen un voucher de Sección 8, y este programa requiere que la renta de una unidad cumpla con las reglas de pago de voucher de la autoridad de viviendas.

Sandra pensaba que los Weiss la estaban discriminando a ella y Smiley en base a discapacidad y nacionalidad de origen. Ella notaba que Richard hacía reparaciones en las unidades de sus vecinos blancos pero culpaban a los Arias cuando éstos necesitaban reparaciones. En una carta en respuesta a un pedido de reparaciones

enviado por Sandra, Richard hizo una velada amenaza sobre la capacidad de los hermanos de “vivir independientemente” y agregó que estaría “feliz de trabajar con los Servicios de Protección a Adultos... para determinar qué sería mejor para su hermano”. Los Arias presentaron una queja de Vivienda Justa ante el Departamento de Viviendas y Desarrollo Urbano de EE.UU. que fue investigada por la Oficina de Igualdad en Empleo/Vivienda Justa de la Ciudad de Austin.

Los Arias arriesgaron perder su hogar después de que no pasara la inspección de la Autoridad de Viviendas de la Ciudad de Austin. Si no se hacían las reparaciones adecuadas, HACA dejaría de pagar la renta de la propiedad, forzando a los Arias a mudarse—algo que no querían hacer.

Donna Keith, que participa en el Programa de Referencias a Abogados Cooperantes de ATC, introdujo una demanda por reparaciones a favor de los Arias. Gracias al trabajo de Keith, se hicieron todas las reparaciones en el hogar de los Arias y lograron renovar el contrato de renta por otro año.

Adaptación en Vivienda Ayuda a Niño de 6 Años

El 1 de junio, Michelle Bindery sus tres hijos fueron a vivir a Westheimer Oaks. El apartamento no tenía agua caliente, tenía moho, y estaba plagado de chinches de cama y cucarachas. Casi inmediatamente después de mudarse, el hijo de 6 años de Binder, que sufre de asma crónica, comenzó a enfermar. El niño tenía tanta dificultad para respirar que lo tuvieron que hospitalizar.

Debido a las condiciones del apartamento y su efecto en la discapacidad de su hijo, Binder quería mudarse lo antes posible. Lucía Pérez-Salinas, especialista en vivienda justa de ATC, ayudó a Binder a hacer una solicitud de adaptación razonable a la administración. Binder pidió la

cancelación de su contrato de renta sin penalidades. La administración le otorgó el pedido inmediatamente.

Una adaptación razonable bajo el Acta de Vivienda Justa implica un cambio en las reglas, normas, prácticas o servicios que hace el proveedor de vivienda, para permitir a una persona con discapacidad igualdad de oportunidades en el uso y disfrute de su vivienda.

Esta adaptación permitió a Binder mudarse a un apartamento seguro para su hijo, recibir el reembolso del depósito de seguridad, y ser liberada de un contrato de aproximadamente \$7,500 de renta y cargos que hubiera debido pagar bajo el contrato de renta.

ATC Recibe Subsidio HUD

El Departamento de Viviendas y Desarrollo Urbano de Estados Unidos otorgó un subsidio de asociaciones por \$89,500 al Austin Tenants’ Council y la Oficina de Igualdad en Empleo/Vivienda Justa

de la Ciudad de Austin, para difundir el tema de la discriminación en vivienda a homosexuales, bisexuales, y transexuales (LGBT por sus siglas en inglés), mediante una campaña en los medios y seis reuniones públicas.

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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 amenaza 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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