

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 71, Fall 2013

Tenants Win \$1,309 in Retaliation Lawsuit

Roaches and bedbugs welcomed Keith and Janie Wiley when they moved into their apartment at Austin Commons (now under new ownership and renamed Villas de Luz) in September 2012. After complaining to management about the conditions, the Wileys received an eviction citation. The manager alleged nonpayment of rent, but the suit was dismissed after the Wileys showed the judge their rent receipts.

The Wileys remained in their apartment as conditions at Austin Commons worsened. A gas leak meant that the entire complex was without heat, hot water, and a means to cook for three weeks last December.

Renters' Rights Assistance Program

After their earlier experience asking for repairs, the Wileys contacted the Austin Tenants' Council for assistance with the

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FH Case Update

In the 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.

Gloria Mendoza v. Travis Park

Gloria Mendoza and her son share an apartment at Travis Park Apartments, a privately owned, federally subsidized complex serving low-income renters. Due to his disabilities, Mendoza's son needed some bathroom modifications. The manager wanted to charge Mendoza \$175 to make the modifications.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development or that receive financial assistance from HUD. Housing that receives federal financial assistance, such as Travis Park Apartments, is covered by the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.

Under the Section 504 regulations, structural changes (reasonable modifications) needed by an applicant or tenant with a disability must be paid for by the housing

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ATC Receives HUD Fair Housing Grant

The Austin Tenants' Council is one of 95 fair housing organizations nationwide to receive a grant from the U.S. Department of Housing and Urban Development to investigate alleged housing discrimination and enforce the Fair Housing Act. ATC received \$324,742 for a three-year contract awarded to grantees with excellent past performance ratings.

In addition to its work documenting and investigating fair housing complaints from individuals, ATC will use the funding to conduct a fair housing testing audit examining whether prospective renters that have housing subsidies are discriminated against based on membership in a federally protected class.

The fair housing testing audit builds on the results of a 2012 study conducted by ATC that found only 6 percent of rental

units surveyed in the Austin-Round Rock-San Marcos metropolitan statistical area (which includes Bastrop, Caldwell, Hays, Travis, and Williamson counties) are open to Section 8 voucher holders.

The Fair Housing Act prohibits discrimination that is intentional ("disparate treatment") and/or that has a disproportionately negative effect on a protected class ("disparate impact"). A refusal to rent to a voucher holder may be a pretext for discrimination based on race, color, national origin, religion, sex, familial status, or disability. Or, because families with children, people of color, and individuals with a disability are disproportionately represented among Section 8 participants, the refusal to accept a voucher may have a disparate impact by limiting housing choice and increasing segregation of members of a protected class.

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Complaint Opens Housing for Families

In April, ATC received a housing discrimination complaint from a woman looking for a one-bedroom apartment for her, her husband, and their 5-month-old daughter. She was interested in renting an apartment at Villas Tech Ridge because of its proximity to her husband's new job. When she visited the apartment complex, the leasing agent told her that the occupancy policy was two people per bedroom with no exceptions for children. The leasing agent stated that the woman would have to rent a two-bedroom apartment if her family of three wanted to live at the property. The two-bedroom apartment was not affordable for the family, so the woman rented an apartment farther away from her husband's workplace.

A landlord may set reasonable occupancy restrictions for residential property as long as the restrictions are applied consistently and do not have a discriminatory effect on families with children. Familial status, meaning the presence of children under the age of 18 or a pregnant female, is one of the protected classes under the Fair Housing Act. Imposing an unreasonable occupancy limit is one way of saying to a couple or single parent with children that

they are not welcome there.

ATC conducted fair housing testing at Villas Tech Ridge after receiving this complaint. The test confirmed the overly restrictive occupancy policy of two people per bedroom at Villas Tech Ridge.

ATC filed a fair housing complaint against Villas Tech Ridge based on the testing evidence. The complaint alleged that Villas Tech Ridge discriminated against families by instituting an occupancy policy that had a harsher effect on families with children and for which there was no legitimate business reason for its purpose. The Texas Workforce Commission Civil Rights Division negotiated a settlement agreement in which Villas Tech Ridge agreed to, among other terms:

1. Take fair housing training; and
2. Change its occupancy policy to allow two people per bedroom plus one additional person per apartment without regard to the age of the persons in the residence.

This more inclusive occupancy policy opens approximately 350 units at Villas Tech Ridge to families with children.

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gas outage and a broken front door lock.

Through advocacy and mediation, the ATC Renters' Rights Assistance Program helps low-income renters enforce their right for repairs of conditions that threaten health or safety. Rental repair assistance is a free service available to Austin residents who do not exceed income guidelines (\$44,940/year for a family of four). Call 512-474-1961 for an initial phone interview and assessment.

On behalf of the Wileys, ATC housing specialist Cruz Garcia sent a certified letter requesting repairs to the manager. For months, the manager insisted that the lock had been repaired, even though the Wileys reported otherwise.

Justice for the Wileys

The Wileys decided to file a lawsuit against Austin Commons, alleging that the manager had retaliated against them for their repair requests. The case was heard on May 28 in the justice of the peace, precinct 2 court, with Keith Wiley representing himself. Judge Elena Diaz ruled in Wileys' favor and awarded the family \$1,309.

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provider unless providing them would be an undue financial and administrative burden or would represent a fundamental alteration of the program.

Lucia Salinas, ATC fair housing specialist, drafted a request for reasonable accommodation on behalf of Mendoza. Management complied with the request to make and pay for the bathroom modifications.

Pauline Juro v. Terrain

While waiting outside for her daughter to arrive home on the school bus, Pauline Juro received a lease violation for loitering. Due to her daughter's disabilities, Juro must meet her daughter at the bus stop. Juro had previously received lease violations for her children playing outside.

After receiving the latest notice, Juro contacted ATC. Juro believed that the apartment manager was treating her worse

than other tenants. Melinda Carmona, ATC fair housing specialist, helped Juro file a fair housing complaint, alleging discrimination on the bases of disability and familial status.

The City of Austin Equal Employment/Fair Housing Office negotiated a conciliation agreement. Juro decided to settle her fair housing complaint after the apartment complex agreed to clear a disputed balance and pay her \$400.

Inquilinos ganan \$1,309 en juicio por represalias

Cucarachas y chinches recibieron a Keith y Janie Wiley cuando se mudaron en septiembre del 2012 a un departamento del complejo Austin Commons (ahora llamado Villas de Luz, con nuevos propietarios). Después de quejarse ante la administración por las condiciones del lugar, los Wileys recibieron un citatorio de desalojo. El administrador alegó falta de pago de renta, pero el juicio fue desestimado cuando los Wileys mostraron al juez sus recibos de pago de renta.

Los Wileys siguieron viviendo en el apartamento pero las condiciones en Austin Commons empeoraron. Un escape de gas hizo que el complejo entero se quedara sin calefacción ni agua caliente y sin forma de cocinar

durante tres semanas en diciembre pasado.

Después de su previo pedido de reparación, los Wileys se comunicaron con el Consejo de Inquilinos de Austin (Austin Tenants' Council o ATC) buscando asistencia por el corte del gas y la cerradura de la puerta de entrada rota.

Mediante defensa y mediación, el Programa de Asistencia en Derechos de Inquilinos de ATC ayuda a inquilinos de bajos ingresos a hacer cumplir su derecho a la reparación de condiciones que amenazan la salud o seguridad de los ocupantes. La asistencia en reparaciones de rentas es un servicio gratuito para los residentes de Austin que no superan los límites de

ingreso (\$44,940 anual para una familia de cuatro). Llame al (512) 474-1961 para una entrevista telefónica y evaluación inicial.

En representación de los Wileys, la especialista en viviendas de ATC Cruz García envió una carta certificada al administrador pidiendo las reparaciones. Durante meses el administrador insistió en que la cerradura había sido arreglada, aunque los Wileys reportaban lo contrario.

Los Wileys decidieron iniciar juicio a Austin Commons, alegando que el administrador tomó represalias contra ellos por sus pedidos de reparación. El caso fue oído el 28 de mayo en la corte del juez de paz, distrito 2, con Keith Wiley representándose a sí mismo. La Juez Elena Díaz falló a favor de los Wileys y adjudicó a la familia un pago de \$1,309.

Actualización de casos de Vivienda Justa

En los casos resueltos reportados aquí, el demandado, a menos que se indique de otro modo, negó las denuncias de discriminación hechas por el demandante, y las partes acordaron resolver el caso fuera de corte.

Pauline Juro versus Terrain

Mientras esperaba afuera la llegada de su hija en el bus escolar, Pauline Juro recibió una notificación de violación del contrato de alquiler por deambular sin causa. Debido a la discapacidad de su hija, Juro debe esperarla en la parada del bus. Juro ya había recibido previamente notificaciones de violación del contrato porque sus hijos jugaban afuera.

Después de recibir la última notificación, Juro se comunicó con ATC. Juro pensaba que el administrador del apartamento la trataba peor que a otros inquilinos. Melinda Carmona, especialista de ATC en Vivienda

Justa, ayudó a Juro a presentar una queja de Vivienda Justa, alegando discriminación en base a discapacidad y situación familiar.

La Oficina de Igualdad Laboral/Vivienda Justa de la Ciudad de Austin negoció un acuerdo conciliatorio. Juro decidió retirar su denuncia de Vivienda Justa después que el complejo habitacional aceptara anular un saldo disputado y pagarle \$400.

Gloria Mendoza versus Travis Park

Gloria Mendoza y su hijo comparten un apartamento en Travis Park Apartments, un complejo de propiedad privada y subsidiado a nivel federal, que sirve a inquilinos de bajos ingresos. Debido a su discapacidad, el hijo de Mendoza necesitaba ciertas modificaciones en el baño. El administrador quería cobrar \$175 a Mendoza para hacer las modificaciones.

La Sección 504 del Acta de Rehabilitación

de 1973 prohíbe la discriminación por discapacidad en programas y actividades conducidas por el Departamento de Vivienda y Desarrollo Urbano (HUD) de EE.UU. o que reciben asistencia financiera de HUD. Las viviendas que reciben asistencia financiera federal, como los Apartamentos Travis Park, están cubiertas por el Acta de Vivienda Justa y la Sección 504 del Acta de Rehabilitación de 1973.

Bajo regulaciones de la Sección 504, los cambios estructurales (modificación razonable) necesarios para un solicitante o inquilino con discapacidad deben ser pagados por el proveedor de vivienda, a menos que este pago signifique una carga financiera y administrativa excesiva o represente una alteración fundamental del programa.

Lucía Salinas, especialista en Vivienda Justa de ATC, redactó un pedido de modificación razonable a favor de Mendoza. La administración cumplió con el pedido de hacer y pagar por las modificaciones en el baño.

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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 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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