

# Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 70, Summer 2013

## “Reasonable Cause” Determination Issued

An investigation by the City of Austin Equal Employment/Fair Housing Office found reasonable cause to believe that an Austin landlord violated the Fair Housing Act on the basis of race.

The COA EE/FHO alleges Thomas P. McGill, Jr., owner of a duplex located at 9207 Kempler Drive, Austin, TX, pursued an eviction against his tenant, Ray Gilmore, who is African-American, and subjected him to racial slurs. According to the COA EE/FHO, witnesses verified hearing McGill use racial slurs and McGill failed to provide evidence to support that he had subjected his non-African American tenants to similar eviction proceedings when rent was alleged to be owed.

The federal Fair Housing Act prohibits landlords from discriminating based on race, color, religion, national origin, sex, disability and familial status. Under the Act, it is illegal to make housing unavailable or set different terms, conditions, or privileges for the sale or rental of housing

because of one of the protected classes. The Act also makes it illegal to threaten, coerce, or intimidate anyone exercising a fair housing right.

“As this case demonstrates, discrimination is alive and well,” said Katherine Stark, executive director of the Austin Tenants’ Council. “The Austin Tenants’ Council is committed to combating all violations of the Fair Housing Act.”

The charge will be heard by an administrative law judge unless any party to the charge elects to have the case heard in federal district court. If an administrative law judge finds after a hearing that illegal discrimination has occurred, the judge may award damages and order injunctive relief and other equitable relief to deter further discrimination. In addition, the judge may impose civil penalties in order to vindicate the public interest and award attorney’s fees. If the matter is decided in federal court, the judge may also award punitive damages to aggrieved persons.

## Legislative Update

The 2013 Texas Legislature passed several bills affecting tenants’ rights:

### HB 1086

If agreed to in a written lease, allows a landlord to disconnect a tenant’s electricity for nonpayment of the electric bill as long as advance written notice is given

to the tenant, interruption would not be detrimental to the health of the tenant, and/or repayment options are available. Effective on 9/1/13.

### HB 1772

Requires a landlord to provide written notice to tenants and to the municipality in which an apartment complex is located

**Legislative continued on page 2**

## LGBT Forum

The City of Austin Equal Employment/Fair Housing Office, City of Austin Human Rights Commission, and Austin Tenants’ Council hosted a community forum on June 29 to discuss how housing discrimination affects lesbian, gay, bisexual, and transgender (LGBT) individuals and families in Austin.



Representatives of the Austin Gay & Lesbian Chamber of Commerce; Equality Texas; and AIDS Services of Austin participate in the LGBT community forum.

The forum was funded by the U.S. Department of Housing and Urban Development through a partnership grant awarded to the COA EE/FHO and ATC to increase awareness of LGBT housing discrimination.

Housing discrimination based on sexual orientation, gender identity, or marital status is not protected under federal laws; however, a City of Austin ordinance includes these protected classes. Pending

**LGBT continued on page 2**

### Inside:

- 2 — Tenant Receives \$1,000
- 3 — Artículos en Español

of a pending disconnection in gas or electric service due to the landlord's nonpayment of the utility bill. The law applies to multifamily properties containing at least 10 units that receive electric or gas utility service that is master metered but not submetered. Effective on 1/1/14.

**SB 630**

Establishes a tenant's right to a copy of the lease. A landlord must provide a complete copy of the lease to a tenant within three days of the lease being signed. A landlord's failure to provide a copy of the lease will not invalidate the lease. Effective on 1/1/14.

**SB 946**

Allows a tenant to terminate a lease and avoid liability for future rent if the tenant is a victim of certain sexual offenses or stalking. Effective on 1/1/14.

**SB 1120**

Prohibits a landlord from requiring a tenant displaced by natural disaster to sign a new lease at a term longer than the existing lease term before relocating the tenant to a habitable unit. Effective on 1/1/14.

**SB 1268**

Removes the words "recreational vehicle" and "recreational vehicle park" from Section 94 of the Texas Property Code, which deals with manufactured home communities. Allows operators of recreational vehicle parks to disconnect the electric, water, or wastewater from a person occupying an RV for nonpayment of the utilities. Effective on 9/1/13.

# Tenant Receives \$1,000 Settlement

Alex Porter had to have both of his legs amputated in December 2012. Due to the amputation, Porter lost his job and fell behind paying his rent. A social worker with Seton Total Health contacted Porter's landlord, Richard Borrego, to offer rental assistance. For 13 years, Porter had rented a room in a house owned by Borrego. Borrego declined the money, stating that he did not want to have to renovate the unit to accommodate Porter, who had begun using a wheelchair. Borrego then filed and won an eviction judgment against Porter.

**LGBT continued from page 1**

In Congress, the Housing Opportunities Made Equal (HOME) Act of 2013 would amend the federal Fair Housing Act to prohibit discrimination on the basis of sexual orientation, gender identity, source of income, or marital status in the sale, rental, and financing of housing as well as in brokerage services. It would also clarify that a seller or landlord must continue to avoid discrimination even after the purchase or the lease is signed. Currently, the Fair Housing Act protects against housing discrimination based on race or color, religion, sex, national origin, family status, or disability.

As part of the partnership grant, ATC conducted 25 paired fair housing tests to examine the level of housing discrimination based on sexual orientation in Austin.

Two couples posing as prospective renters visited apartment complexes in Austin and inquired about renting a one-bedroom apartment. The protected testers were a lesbian couple; the comparison testers were a heterosexual couple.

ATC fair housing program specialist Lucia Salinas-Perez helped Porter file a fair housing complaint, alleging discriminatory statements; discriminatory terms and conditions; and discriminatory refusal to rent based on disability.

The City of Austin Equal Employment/Fair Housing Office negotiated a conciliation agreement between Porter and Borrego. Borrego agreed to pay Porter \$1,000 to compensate him for his damages and provide a neutral rental reference.

Of the 22 housing providers tested, two (or 9 percent) showed differences in treatment based on sexual orientation.

At one site, the leasing agent stated that she didn't know if she could offer the "married couple" discount on the application fee to the lesbian couple. The leasing agent failed to offer these testers a move-in special and failed to discuss the application approval process with them. On a follow-up test, the leasing agent told the protected tester that there was no application discount for married couples but told the comparison tester that the application fee was \$50/couple (rather than \$35/person).

At the second site, the application fee was \$35/person or \$50/married couple with the same last name. The leasing agent told the heterosexual couple (who had different last names) that they should bring a copy of their marriage license to get the discounted fee; she did not make the same offer to the lesbian couple.

Based on the testing evidence, ATC filed fair housing complaints with HUD. Investigations are pending with the COA EE/FHO.

## Actualidad Legislativa

La Legislatura 2013 de Texas aprobó varias medidas que afectan los derechos de inquilinos:

**HB 1086** Si se especifica en el contrato escrito, el propietario podrá desconectar la electricidad del inquilino por falta de pago de la factura eléctrica, siempre que se avise al inquilino previamente, y si la interrupción no es perjudicial para la salud del inquilino y/o no hay disponibles opciones de pago moroso. Efectiva: 9/1/13.

**HB 1772** Ordena al propietario dar aviso escrito a inquilinos y a la municipalidad donde está ubicado el edificio de apartamentos sobre una desconexión pendiente en el servicio de gas o electricidad debido a que el propietario no pagó la factura eléctrica. La ley se aplica a complejos de apartamentos de por lo menos 10 unidades que reciben servicios de gas o electricidad con medidor maestro y sin medidores individuales. Efectiva: 1/1/14

**SB 630** Establece el derecho del inquilino a una copia del contrato de renta. El propi-

etario debe entregar una copia completa del contrato al inquilino dentro de los tres días de su firma. El que el propietario no entregue la copia del contrato no invalida el mismo. Efectiva: 1/1/14.

**SB 946** Permite al inquilino cancelar un contrato de renta y evitar responsabilidad por rentas futuras si el inquilino es víctima de ciertos delitos o acoso sexual. Efectiva: 1/1/14.

**SB 1120** Prohíbe al propietario requerir que el inquilino desplazado por desastre natural firme un nuevo contrato de renta por un período mayor al del contrato actual cuando se lo transfiere a una nueva unidad habitable. Efectiva: 1/1/14.

**SB 1268** Quita las palabras “casas rodantes” y “parques de casas rodantes” de la Sección 94 del Código de la Propiedad en Texas, referente a comunidades de viviendas prefabricadas. Permite a los operadores de parques de casas rodantes desconectar los servicios de electricidad, agua o aguas residuales a personas que ocupan casas rodantes o RV si no pagan los servicios. Efectiva: 9/1/13.

## Determinación de “Causa Razonable”

Una investigación de la Oficina de Empleo Equitativo/Vivienda Justa de la Ciudad de Austin (COA EE/FHO) halló causa razonable para creer que un propietario de Austin violó el Acta de Vivienda Justa en base a la raza del inquilino.

COA EE/FHO alega que Thomas P. McGill Jr., dueño de un dúplex ubicado en 9207 Kempler Drive, Austin, Tx, buscó desalojar a su inquilino Ray Gilmore, un afroamericano, y lo sometió a insultos racistas. Según COA EE/FHO, testigos verificaron que McGill usó insultos racistas, y McGill no logró presentar evidencia de que había iniciado desalojos similares al de McGill con otros inquilinos no afroamericanos cuando debían renta.

El acta federal de Vivienda Justa prohíbe a propietarios discriminar en base a raza, color, religión, nacionalidad de origen, sexo, discapacidad o estado familiar. Bajo el Acta, es ilegal negarse a rentar o imponer diferentes términos, condiciones o privilegios en la venta o renta de una vivienda en base a una de las clases protegidas. El Acta también hace ilegal amenazar, forzar o intimidar a alguien que ejerce su derecho a vivienda justa.

“Como demuestra este caso, la discriminación sigue existiendo”, dijo Katherine Stark, directora ejecutiva de Austin Tenants’ Council (Consejo de Inquilinos de Austin). “Austin Tenants’ Council está comprometido a combatir toda violación del Acta de Vivienda Justa”.

La denuncia será oída por un juez de ley administrativa, a menos que una de las partes decida que el caso se lleve a una corte de distrito federal.

## Inquilino Recibe Indemnización de \$1,000

Alex Porter sufrió la amputación de ambas piernas en diciembre 2012. Debido a la amputación, Porter perdió su trabajo y se atrasó en la renta. Un trabajador social de Seton Total Health se comunicó con el arrendador de Porter, Richard Borrego, para ofrecer asistencia en el pago de la renta. Durante 13 años Porter rentó un cuarto en una propiedad de Borrego. Borrego rechazó el dinero, diciendo que no quería renovar y acondicionar la unidad de Porter, que había empezado a usar una silla de ruedas. Luego, Borrego inició y ganó un juicio de desalojo contra Porter.

Lucia Salinas-Perez, especialista del programa de vivienda justa en ATC, ayudó a Porter a presentar una denuncia por vivienda justa, alegando declaraciones discriminatorias, términos y condiciones discriminatorias, y el rechazo discriminatorio a la renta en base a discapacidad.

La Oficina de Empleo Equitativo/Vivienda Justa de la Ciudad de Austin negoció un acuerdo entre Porter y Borrego. Borrego aceptó pagar \$1,000 a Porter para compensarlo por daños, y entregar una referencia neutral de renta.

Austin Tenants' Council  
1640-B East 2nd Street, Suite 150  
Austin, TX 78702

Nonprofit Organization  
U.S. Postage Paid  
Austin, Texas  
Permit No. 1138

RETURN SERVICE REQUESTED

If your agency would like to receive additional copies of this newsletter or if you have any changes to the mailing list, contact Morgan at 512-474-7007 or morgan@housing-rights.org. If you prefer to view our newsletter online, we will gladly remove your name from our mailing list.

This service is certified as a lawyer referral service as required by the State of Texas under Chapter 952, Occupations Code.

*Housing Rights Advocate* is published quarterly by the Austin Tenants' Council, 1640-B East 2nd Street, Suite 150, Austin, TX 78702. The publication is supported by grants from the City of Austin (CDBG) and the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The publisher is solely responsible for the accuracy of the statements and interpretations contained herein. Such interpretations do not necessarily reflect the views of the government.

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.

### Austin Tenants' Council Staff

- Linda Aleman .....Housing Specialist
- Jose Calderon.....Housing Specialist
- Melinda Carmona ..... Fair Housing Program Specialist
- Christine Castilleja ..... Intake Specialist
- Cruz Garcia .....Housing Specialist
- Ian Groetsch ..... Law Clerk
- Andrew Jones .....Housing Specialist
- Morgan Morrison .....Fair Housing Testing Coordinator
- Lucia Perez-Salinas..... Fair Housing Program Specialist
- Nekesha Phoenix .....Fair Housing Program Director
- Nathan Plummer ..... Intake Specialist
- Bruce Rodenborn ..... Technical Support
- Katherine Stark ..... Executive Director
- Christopher Suarez .....Housing Specialist
- Matthew Wackerle ..... Law Clerk