

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 68, Winter 2013

“2 Plus 1” Occupancy Standard Opens Housing for Families With Children

In June 2012, after receiving a complaint from a five-person family whose lease for a two-bedroom/two-bathroom apartment was being terminated due to the age of the children (8 years, 5 years, and 2 years), the ATC Fair Housing Program conducted a fair housing testing audit to examine the occupancy policies of Central Texas landlords.

Fair housing testing conducted by ATC revealed overly restrictive occupancy policies in place at several Central Texas apartment complexes. Some properties were allowing only two people per bedroom; others were allowing two people per bedroom with an exception

for children younger than six months or one year.

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.

The Keating Memorandum, HUD's guidance on occupancy standards, states that “an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act.” However, HUD also states that other factors, such as the size of the bedroom and unit; age

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Advocacy Saves Tenant \$164 in Pest Control Fees

Amanda Martinez contacted ATC after her new apartment became infested with bed bugs. Through ATC's Rental Repair Assistance Program (RRAP), housing specialist Linda Aleman counseled Martinez on her rights. Martinez stated that she never signed the bed bug addendum used by many complexes, but the manager wanted to charge her \$164 for extermination.

Many bed bug addenda include an acknowledgment from the tenant that he or she has inspected the unit and found no signs of bed bugs or infestation within 48 hours of moving in. They also allow the

landlord to charge the tenant for all costs of cleaning and pest control incurred for treating a unit for bed bugs.

Martinez provided a letter from her previous residence, verifying that her apartment had been free of bed bugs. On behalf of Martinez, Aleman sent a letter to the manager, requesting professional extermination. At first, the manager insisted that Martinez pay. But after Aleman explained that Martinez never signed the bed bug addendum and had proof showing that she did not bring the bed bugs with her, management scheduled professional extermination at no charge to Martinez.

FH Case Updates

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.

Sarah Louise Waller v. Park Terrace

After signing a lease in April 2012, Sarah Louise Waller's health declined to the point where she could no longer care for herself in her home. She moved to an assisted living facility in mid-December.

Waller's daughter contacted the ATC Fair Housing Program after management wanted to hold Waller to her lease contract, which did not expire until April 2013. Waller had already paid a \$997.90 reletting fee plus full rent in December.

Melinda Carmona, ATC fair housing specialist, drafted a request for reasonable accommodation on behalf of Waller. The request asked management to release Waller from her lease without penalty effective the date she turned in her apartment keys. Carmona provided management with statements from Waller's doctor and the assisted living facility to verify Waller's inability to live on her own.

After receiving the request for reasonable accommodation, management released

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Waller from future rents due and reimbursed the reletting fee, security deposit, pet deposit, and half of the December rent. The accommodation saved Waller more than \$6,600 in rent and fees.

Brenda Jackson v. Housing Authority of the City of Austin

Due to her disabilities, Brenda Jackson needed to rent a two-bedroom apartment to have the necessary space for exercise and therapy equipment. But in an effort to prevent over-housing, the Housing Authority of the City of Austin reduced Jackson’s Housing Choice Voucher payment standard to cover the rent on a one-bedroom unit.

If Jackson rented the larger apartment that she needed due to her disabilities, she would have to pay the difference between the rent on the two-bedroom unit and the subsidy that HACA would pay for a one-bedroom apartment. With her limited and fixed income, Jackson could not afford to rent a two-bedroom apartment.

Federal regulations governing public housing state that a family can occupy a unit with more bedrooms than family members “as a reasonable accommodation to a person with a disability (e.g., a resident with a disability has large and bulky apparatus related to the disability in the apartment and an extra bedroom is the only location where it can reasonably be stored).”

Jackson provided HACA with documentation from her doctor, explaining that the exercise equipment was necessary for Jackson to maintain her health. HACA denied Jackson’s request for reasonable accommodation and refused to increase her voucher payment standard, stating that the equipment could be stored elsewhere in a one-bedroom apartment.

Jackson filed a fair housing complaint with the U.S. Department of Housing and Urban Development, alleging disability discrimination due to the denial of her request for reasonable accommodation.

HUD negotiated a conciliation agreement in which HACA agreed to issue Jackson

a Housing Choice Voucher for a two-bedroom unit.

Sarah Wahrmund v. HSBC Mortgage Services

In October, Sarah Wahrmund lost her home due to foreclosure. The law firm representing HSBC Mortgage Services issued a three-day notice to vacate. Due to her disabilities, Wahrmund could not move in that short time. Wahrmund was recovering from surgery and her doctor prohibited her from lifting anything over 10 pounds for three months. Having to pack and move her belongings was not possible.

Wahrmund provided the law firm with documentation from her doctor, explaining her physical limitations, and requested a reasonable accommodation to extend her stay through Dec. 31, 2012. The law firm granted the request for reasonable accommodation, allowing Wahrmund sufficient time to recover from surgery and find and move to new housing.

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of children; configuration of unit; other physical limitations of housing; and state and local laws affect how restrictive a landlord can be. When these other factors are considered, two people per bedroom may be unreasonably restrictive.

These landlords’ occupancy policies were much more restrictive than local and state codes. Under a City of Austin ordinance (No. 20100408-052), three people (no age limitations) may occupy a bedroom as long as it is 120 square feet. Under state law (Texas Property Code Sec. 92.010), three people (no age limitations) may occupy a bedroom (no size limitations).

ATC filed fair housing complaints, alleging

that the properties discriminated against families with children by instituting occupancy policies that had a harsher effect on families with children and for which there was no legitimate business reason for their purpose. Through Census data, ATC showed that these occupancy policies had a disparate impact on families with children by excluding a larger proportion of families with children from renting certain units based on the number of people in their family than households without children.

The City of Austin Equal Employment/ Fair Housing Office negotiated conciliation agreements in which Rainier Management (The Willows); Henry S. Miller Realty Management (Sterling Springs);

Concierge Management Services (Elan Apartment Homes); and River Bend Apartments agreed, along with other terms, to change their occupancy standard for families with children to allow two people per bedroom plus one additional person in an apartment home (“2 plus 1”). These more inclusive occupancy policies open approximately 2,500 units in Austin to families with children.

The information gathered by testers is instrumental in allowing ATC to pursue fair housing complaints like these. If you would like to help fight housing discrimination by volunteering as a fair housing tester, contact Morgan Morrison at 512-474-7007 x 104 or morgan@housing-rights.org.

Novedades Sobre 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 antes de llevarlo a juicio.

Sarah Louise Waller versus Park Terrace

Después de firmar contrato de renta en abril 2012, la salud de Sarah Louise Waller declinó al punto de no poder cuidarse por sí misma. Tuvo que mudarse a un centro de vida asistida a mitad de diciembre.

La hija de Waller se comunicó con el Programa Vivienda Justa de ATC, después que la administración tratara de obligarla a cumplir el contrato, que no vencía hasta abril 2013. Waller ya había pagado \$997.90 por cargo de rearendamiento, más la renta completa de diciembre.

Melinda Carmona, especialista en Vivienda Justa de ATC, hizo un pedido de adaptación razonable a favor de Waller. Se pedía a la administración liberar a Waller de su contrato sin penalidades, a partir de la fecha en que entregó la llave. Carmona presentó a la administración declaraciones del doctor de Waller y el centro de vida asistida para verificar la incapacidad de Waller para vivir por sí sola.

Después de recibir el pedido de adaptación razonable, la administración liberó a Waller de rentas futuras y le reembolsó la cuota de rearendamiento, más el depósito de seguridad, el depósito por animal y la mitad de la renta de diciembre. La adaptación ahorró a Waller más de \$6,600 en renta y gastos.

Brenda Jackson versus Autoridad de Viviendas de la Ciudad de Austin

Debido a su discapacidad, Brenda Jackson necesitaba rentar un apartamento de dos

dormitorios para tener espacio suficiente para ejercicios y equipo terapéutico. Pero tratando de evitar el sobre-espacio, la Autoridad de Viviendas de la Ciudad de Austin (HACA) redujo el pago del Voucher para Opción en Vivienda de Jackson, cubriendo la renta de una unidad de un solo dormitorio.

Si Jackson rentaba el apartamento más grande que necesita debido a su discapacidad, ella tendría que pagar la diferencia entre la renta de la unidad de dos dormitorios y el subsidio que HACA le pagaba por la de un dormitorio. Con su ingreso fijo y limitado, Jackson no podía pagar por el apartamento de dos dormitorios.

Las regulaciones federales que rigen la vivienda pública disponen que una familia puede ocupar una unidad con más dormitorios que miembros familiares solo como "adaptación razonable a una persona con discapacidad (ej.: un residente con discapacidad tiene en el apartamento un

aparato grande y voluminoso necesario a su discapacidad, y un dormitorio extra es el único lugar donde puede ponerse razonablemente)."

Jackson entregó a HACA documentación de su médico, explicando que el equipo para ejercicios era necesario para que Jackson mantuviera su salud. HACA rechazó el pedido de Jackson a una adaptación razonable y se negó a aumentar su voucher estándar de pago, declarando que el equipo podía ponerse en algún lugar de su apartamento de un dormitorio.

Jackson presentó una queja de Vivienda Justa ante el Departamento de Vivienda y Desarrollo Urbano (HUD) de EE.UU., alegando discriminación por discapacidad, debido al rechazo de su pedido de adaptación razonable.

HUD negoció un acuerdo conciliatorio por el que HACA aceptó extender a Jackson un Voucher de Opción en Vivienda para una unidad de dos dormitorios.

Defensa a Inquilino le Ahorra \$164

Amanda Martínez se comunicó con ATC después de hallar que su nuevo apartamento estaba infectado con chinches. A través de ATC y su Programa de Asistencia en Reparaciones de Renta (RRAP), la especialista en viviendas Linda Alemán asesoró a Martínez sobre sus derechos. Martínez declaró que nunca había firmado el anexo sobre chinches usado por muchos complejos de viviendas, pero el administrador quería cobrarle \$164 por exterminarlas.

Muchos anexos sobre chinches incluidos en un contrato incluyen el reconocimiento del inquilino de que ha inspeccionado la unidad y no halla señales de chinches u otra plaga dentro de las primeras 48 horas.

También autoriza al propietario a cobrar al inquilino el costo total de limpieza y control de plagas incurrido por fumigar una unidad contra las chinches.

Martínez presentó una carta de su previa residencia, verificando que ese apartamento estaba libre de chinches. En nombre de Martínez, Alemán envió una carta al administrador, pidiendo una fumigación profesional. Al principio, el administrador insistió en que Martínez pagara. Pero después de que Alemán explicara que Martínez nunca firmó el anexo sobre chinches y tenía prueba de que no había traído las chinches con ella, el administrador encargó una exterminación profesional libre de cargo para Martínez.

RETURN SERVICE REQUESTED

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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.

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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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