



Housing Rights ADVOCATE

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The Austin Tenants' Council

www.housing-rights.org

Hurricane Evacuees Suffer Discrimination

The City of Austin Department of Neighborhood Housing and Community Development (NHCD) implemented a Disaster Housing Assistance Relief (DHA) Program in 2005, to expedite public assistance to eligible Katrina hurricane evacuees needing housing. The goal of this program is to transition evacuees into quality temporary rental housing, and provide basic services.

In October 2005, letters were sent out by the NHCD to apartment complexes asking them to complete documentation including a DHA Program contract. The packet also included instructions on rent payments and invoicing procedures required for reimbursement.

The DHA Program received approximately 250 signed contracts from Austin area apartment complexes interested in providing housing to eligible evacuees, and these complexes agreed to accept reimbursement payments for rental costs from the City of Austin, through a FEMA Public Assistance Grant. This was intended to minimize the burden on evacuees.

Evacuees looking for housing were simply to utilize the DHA Program list of approved apartment complexes, and upon availability, sign a lease and secure their desired housing. Despite the best efforts of NHCD to make the process simple for evacuees in need of housing and clear for the housing providers who agreed to lease to them, when evacuees contacted apartment complexes, some experienced problems.

Continued on Page 2

Violence Against Women Act Strengthened

The new Texas Law granting victims of domestic violence the right to terminate their lease agreement took effect for all leases signed on or after January 1, 2006 (see §92.016 of the Texas Property Code). As reported previously, the tenant may terminate a lease immediately if either a temporary injunction has been issued

under Subchapter F, Chapter 6 of the Texas Family Code or a protective order is issued under Chapter 85 of the Texas Family Code. The tenant must also vacate the dwelling and deliver a copy of the court order to

the landlord. (Call ATC for more details: 474-1961.)

This Texas statute has been enhanced with changes in federal law, effective January 5, 2006, that apply to public housing residents and Section 8 Voucher holders.

Under amendments to the Violence Against Women Act (VAWA) of 1994 (42 U.S.C. 13701 et seq.), victims of domestic violence, sexual assault, dating violence or stalking cannot be evicted for the criminal activity of a household member who has perpetrated the crime against them. Unfortunately, many landlords simply move to evict the entire household if there are any of these types of criminal activity at the property.

This indiscriminate solution provides another disincentive for the victim to report the problem besides the other well-documented pressures such as financial instability, etc. As a result, the victims must add fear of losing their homes, and/or bad credit and rental history to the list of

Continued on Page 2

ATC Seeks Attorneys for Referral Program

Participating in the Austin Tenants' Council's (ATC's) Cooperating Attorney Referral Program is a rewarding way for lawyers to provide quality legal services for low-income residents in our community and to make a difference in their lives.

Just ask Malcolm Greenstein, an Austin attorney who successfully undertook a discrimination case on behalf of one of ATC's clients against a homeowners' association. The client filed a discrimination complaint claiming that the homeowners' association discriminated against them

Continued on Page 2

Icenogle Annuity and the Future of ATC

Since 2002, a trust created by Jerry Icenogle has contributed more than \$20,000 to the Austin Tenants' Council and its clients. These trust payments have been used to create a revolving litigation expense fund, to expand ATC services into outlying areas, and to fill gaps created by reduced funding at the city, state and national level.

ATC would like to express its gratitude for his invaluable contribution to ATC's fight to protect the housing rights of tenants, and promises to maximize the impact of his generous donation. Such private support is critically important to the Austin Tenants' Council in these days of shrinking grant funding. Those who support our work are encouraged to donate to ATC's valuable programs.



Inside:

- pg. 2 - VAWA details; Evacuees; Attorney Referral program
- pg. 3 - Articulos en español

Violence Against Women Act Continued from page 1

possible problems they may face if they report the violence. These fears make reporting it that much more difficult, and contribute to the continuation of the abuse, which worsens the attendant psychological and social problems for the family and the community at large.

Before PHA's and landlord's despair that they cannot get rid of the perpetrator who may be dangerous to other tenants and to the management staff, the VAWA gives PHA's and Section 8 landlords a new and welcome tool for solving this problem. The VAWA allows the PHA and the Section 8 landlord to bifurcate the lease, i.e. split the lease so as to separate the rights and responsibilities of the perpetrator and the victim in the contract, and then evict the perpetrator without forcing the entire family to move.

The VAWA also does not prohibit a PHA or landlord from evicting a tenant for other lease violations such as failing to pay the rent, etc. However, it is the opinion of ATC's legal counsel that a court should not grant such an eviction for other lease violations if a significant motivating reason for the eviction is one of the types of violence described above.

The combination of the Texas statute and the VAWA now allows victims to make the best decision for them, at least for those in public housing and Section 8 Voucher holders. They may be able to terminate the contract and move without damaging their rental history or credit record, or remain in the unit and have the perpetrator forced to move. Granting the same rights to all lease tenants would be even better, but the amendments to the VAWA are a promising beginning.

For those that have worked with and supported victims of domestic violence, the past year has seen significant improvement in their housing rights. ATC congratulates everyone on the state and national level that have worked so hard to make these changes happen. ATC is also pleased to see that legislators and housing providers are more understanding of the complex issues surrounding housing and victims of domestic violence, sexual assault, dating violence and stalking.



Attorney Referral Program Continued from page 1

based on their national origin by not allowing improvements to their home that had been allowed elsewhere in the neighborhood.

After settling the case, Mr. Greenstein's clients were so grateful for his dedication that they invited him to dinner at their home and to their family Christmas party. Without the help of attorneys like him, many tenants and homeowners who need ATC's help each year could not receive the safe, decent and fair housing they deserve.

Because some of the previous participating attorneys have moved out of town or left for other reasons, the Austin Tenants' Council is in need of attorneys for its attorney referral program. ATC seeks attorneys willing to represent low-income families and individuals in landlord-tenant and fair housing cases.

Upon joining, attorneys are placed on a list to be used by ATC for referring complainants to attorneys. Membership in the program does not commit an attorney to take any particular case that ATC refers. The attorneys have sole discretion in determining whether to take the referred case. In the interest of the clients and the attorneys, ATC attempts to ensure that only appropriate, fee-generating cases are referred to cooperating attorneys.

While the referral list is not pro bono, ATC requires that referred clients not be asked to pay a fee for the initial consultation, and that the attorneys accept either a percentage of the recovery or any statutory attorney's fees provided in the lawsuit as payment for representation.

ATC may be able to pay up to \$2,500 in litigation expenses for a referred fair housing case through the use of the Revolving Litigation Expense Fund (RLEF). The RLEF is designed to cover actual costs the Cooperating Attorneys will face if they take a fair housing case referred from the ATC and is reimbursed upon successful litigation or settlement of a case.

Attorneys who are interested in helping ATC to provide people in our community with the legal services they need should contact Erika Hansen at 474-7007 x114, erika@housing-rights.org or John Michael Raborn at 474-7007 x 104, john@housing-rights.org.

Evacuees Continued from page 1

The Austin Tenants' Council received several complaints from evacuees about apartment complexes on the DHA Program list that denied or refused housing to them, treated them poorly, changed terms and conditions, and/or restricted their activities (i.e. evacuees could not to use common areas including the pool or BBQ areas).

ATC randomly selected 25 apartment complexes and completed telephone testing to investigate these complaints. Testers contacted the apartment complexes and asked about availability and rental rates, and at the end of their conversations asked these apartment complexes if they accepted the DHA Program and FEMA Public Assistance Grant rental payments. ATC found evidence of possible discrimination in 14 cases or 56% of the apartment complexes tested.

As a result, ATC is currently investigating these 14 apartment complexes by conducting additional testing that will involve site visits by pairs of testers using the exact same methodology as the telephone testers, and focused on the protected classes of national origin and race. If ATC finds evidence of discrimination as a result of this additional testing, ATC is required to file federal fair housing complaints with HUD. Find out the results of this additional rental site testing project, in our next newsletter.

ATC would like to thank the Department of Neighborhood Housing and Community Development, both for their assistance in ATC's investigation of the claims made by our clients and the high-quality work they have done on behalf of the evacuees.



TENANTS

ATC's Rental Repair Assistance Program can help if you have repair problems that threaten health or safety and the landlord won't fix them. Call ATC at 512-474-1961 for more information.



Evacuados del Huracán Afectado por la Discriminación

La agencia de el Vecindario de Envoltura y desarrollo de la Comunidad de la Ciudad de Austin aplicó el programa de Albergue para la Ayuda de víctimas del Desastre (DHA) en 2005, diseñado para facilitar ayuda estatal a evacuados elegibles del huracán Katrina que necesitan envoltura. La meta de este programa es ayudar en la transición de los evacuados a envolturas temporarias de renta de buena calidad, y proporcionar los servicios básicos.

En octubre de 2005, la Ciudad de Austin mandó cartas a apartamentos que piden que ellos completen la documentación inclusive un contrato del Programa de DHA. El paquete también incluyó instrucciones para pagos de alquiler y los procedimientos de invoicing requeridos para un reembolso. El Programa de DHA recibió aproximadamente 250 contratos firmados por apartamentos de el área de Austin interesados en proporcionar envoltura a evacuados elegibles, y estos apartamentos concordaron en aceptar los pagos de reembolso para costos de renta de la Ciudad de Austin, por una Beca de Ayuda Estatal de FEMA. Esto fue para aminorar los problemas de los evacuados.

Evacuados que buscan albergar debían utilizar la lista del Programa de DHA de apartamentos aprobados, y sobre la disponibilidad, firmar un arrendamiento y asegur su envoltura deseada. Sin embargo, cuándo evacuados contactaron a ciertos apartamentos tuvieron problemas. El Concilio de Arrendatarios de Austin recibió varias quejas de evacuados acerca de apartamentos en la lista del Programa de DHA que les negaron envoltura, los trataron mal, cambiaron los términos y las condiciones del arrendamiento, y/o restringieron sus actividades (yo.E. evacuados no eran capaces de utilizar áreas comunes inclusive la piscina o áreas para hacer barbacoa).

ATC escogió 25 apartamentos y les hablo para investigar estas quejas. Los probadores contactaron a los apartamentos y preguntaron por la disponibilidad de los apartamentos y la renta, y a fines de la conversacion preguntaron si los apartamentos aceptaban el Programa de DHA y pagos de renta de la Beca de Ayuda Estatal de FEMA. ATC encontró la evidencia de discriminación posible en 14 casos o 56% de los apartamentos.

Como resultado, ATC esta investigando estos 14 apartamentos y realizando pruebas adicionales que van a incluir visitas al sitio por pares de probadores que utilizaran la misma metodología como los probadores telefónicos, y se enfocaran en las clases protegidas de origen y raza nacional. Si ATC encuentra evidencia de discriminación como resultado de esta investigación, ATC es requerido archivar las quejas federales de envoltura con HUD. Averigüe los resultados de esta investigación adicional en nuestra siguiente artículo.



La Atcúa de Violencia Contra Mujeres Reforzada

La Ley nueva de Tejas que otorga a víctimas de la violencia doméstica el derecho de terminar su acuerdo de arrendamiento surtió efecto para todos que firmaron en o después de el 1 de enero de 2006 (vea §92.016 de el Código de la Propiedad de Tejas). Como ya hemos reportado, el arrendatario puede terminar un arrendamiento inmediatamente si un mandato se ha publicado bajo el Capítulo 6 del Código de Familia de Tejas o una orden preventiva se ha publicado bajo el Capítulo 85 del Código de Familia de Tejas. El arrendatario también debe desocupar su hogar y entregar una copia del mandato judicial al propietario. (Llame a ATC para más detalles: 474-1961.)

Este estatuto de Tejas ha tenido cambios bajo la ley federal que son efectivos el 5 de enero de 2006 y aplican a residentes de viviendas públicas y poseedores del documento justificado bajo la Sección 8. Bajo enmiendas a la Actúa de Violencia Contra Mujeres (VAWA) de 1994 (42 U. S. C. 13701 et seq.), las víctimas de la violencia doméstica o asalto sexual no pueden ser desahuciados por causa de la actividad criminal contra ellos de un miembro de la casa. Desgraciadamente, muchos propietarios prefieren desahuciar a todos los que viven en la casa si hay cualquiera de estos tipos de actividad criminal en la propiedad.

Esta solución causa que las víctimas no reporten el problema además de las otras presiones que ya tienen de inestabilidad financiera. Como resultado, entre otros problemas, las víctimas viven en temor

de perder sus hogares y/o de obtener mal crédito y no reportan la violencia. Estos temores hacen reportar la violencia mucho más difícil, y contribuyen a la continuación del abuso que empeora los problemas psicológicos y sociales para la familia y toda la comunidad.

Ante la desesperación de PHA y el propietario de no poder deshacerse del perpetrador que les puede resultar peligroso a otros arrendatarios y a los encargados de la propiedad, el VAWA le da a PHA y propietarios bajo la Sección 8 una solución nueva para resolver este problema. El VAWA permite que el PHA y propietarios bajo la Sección 8 que partan el arrendamiento para separar los derechos y responsabilidades del perpetrador y la víctima en el contrato, y entonces desahuciar al perpetrador sin forzar a la familia entera que se mueva.

El VAWA no le prohíbe al PHA o a un propietario desahuciar a un arrendatario por otras infracciones de arrendamiento como no pagar la renta, etc. Sin embargo, es la opinión de la asesoría legal del ATC que un tribunal no debe otorgar tal desahucio si es motivado por los tipos de violencia ya mencionados.

La combinación del estatuto de Tejas y el VAWA ahora permite que víctimas hagan la mejor decisión para ellos, por lo menos para éstos que son residentes de viviendas públicas y esos bajo la Sección 8. Ellos pueden terminar el contrato y moverse sin dañar su historia crédito, o se pueden quedar en la propiedad y hacer que se mueva el perpetrador. Otorgarles los mismos derechos a todos los arrendatarios sería aún mejor, pero las enmiendas al VAWA es un buen principio.

Para los que han trabajado y ayudado a víctimas de la violencia doméstica, el año pasado ha visto cambios muy importantes sobre sus derechos. ATC felicita a todos en el estado y al nivel nacional que han trabajado tanto para hacer que estos cambios sucedan. ATC se complace también ver que legisladores y propietarios son más sensibles a los asuntos de estas víctimas de la violencia doméstica y el asalto sexual.

Si tiene cualquier pregunta acerca de sus derechos con respecto a estas leyes nuevas, por favor hable al Teléfono del Concilio de Arrendatarios de Austin al 474-1961 o contacta a un abogado para el asesoramiento jurídico.





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If your agency would like to receive additional copies of this newsletter or if you have any changes to the mailing list, contact Chris at 512-474-7007 or chris@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 Bar of Texas under Article 320d, Revised Statutes.

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The Austin Tenants' Council, as a sub-recipient 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 modification 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.

Programs and Services/Programas y Servicios

**FAIR HOUSING
 VIVIENDA JUSTA**

THE FAIR HOUSING PROGRAM / EL 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.

**TENANT-LANDLORD
 INQUILINO-PROPIETARIO**

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 VIVIENDA - 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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