

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 50, Summer 2008

Charge Issued in Discrimination Complaint

In June, the City of Austin Equal Employment/Fair Housing Office charged Max Courtney, the manager of Lamar Square Apartments, with violating the Fair Housing Act by denying a request for reasonable accommodation from one of his tenants.

The tenant, Charles Gillia, has a mental disability. Several months earlier, Gillia's physician recommended that Gillia get a support animal as part of his therapy. When Gillia approached Courtney with the request, the manager flatly refused to allow the support animal, stating that the dog exceeded the complex's 25-pound weight limit for pets. While Gillia's dog

Sugar weighs about 38 pounds, he is not a pet; he is a support animal for a person with a disability. The same policies that cover pets at an apartment complex do not necessarily apply to service animals.

To learn more about his rights, Gillia contacted the ATC Fair Housing Program. Fair housing specialist Lucia Salinas Perez helped Gillia write a formal request for reasonable accommodation, asking the manager to allow Gillia to have his support animal at the property and waive any pet deposit. Included with the request was a copy of the doctor's letter. After Courtney

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Rights Protected

After deciding that it would no longer pay for natural gas utilities, trash pick-up, and cable services at its 17 apartment communities in Austin, Rainier Management notified its tenants in mid-December 2007 that "January rental payments will not be accepted unless this addendum is signed and returned." The addendum would have passed the financial responsibility for these services from Rainier to the tenants, many of whom were in the middle of their lease term.

A landlord cannot force tenants to change their lease in the middle of a contract; both sides must voluntarily agree to any changes. The Austin Tenants' Council advised these tenants not to sign the addendum and to write a letter to Rainier, stating that they believed this attempted change was a violation of the Deceptive Trade Practices-Consumer Protection Act. ATC also advised the tenants to file a complaint with the Office of the Texas Attorney General.

The Consumer Protection Division of the Texas AG's Office investigated the complaints. A voluntary compliance agreement between the AG and the management company states that Rainier cannot charge its residents for utilities until their current lease expires and the company must provide full refunds to tenants who paid those services after Jan. 1, 2008.

Double Bogey: Carts Block Accessible Route

Where to park the community golf cart? A common solution by apartment managers is to leave the cart in the designated access aisle (marked by white hatch marks) next to the disabled parking spaces. This practice is discriminatory against people with disabilities because it creates a barrier to entering the property.



The design and construction requirements of the Fair Housing Act state that a covered multifamily dwelling must provide an accessible building entrance on an accessible route.

The purpose of the access aisle is to allow a person with a disability to maneuver a wheelchair or other mobility device when entering or exiting a vehicle. By parking a golf cart in the access aisle, the accessible route is obstructed. The curb cuts have been blocked, and a person with a disability could not get into or out of his or her vehicle.

To ensure equal access, managers must find a parking place for golf carts that does not prohibit people with disabilities from accessing the apartment community.

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denied the request for reasonable accommodation a second time, Gillia filed a fair housing complaint with the COA EE/FHO.

The Fair Housing Act does not require a housing provider to approve every request for reasonable accommodation. For example, a landlord may deny a request for a reasonable accommodation if there is no disability-related need for the accommodation or if providing the accommodation is not reasonable — i.e., if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider’s operations.

The determination of undue financial and administrative burden is made on a case-by-case basis involving factors such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester’s disability-related needs. In Gillia’s case, the need for a support animal was related to his disability and allowing the dog would not impose an undue financial and administrative burden on management.

After the charge of discrimination was issued, Gillia elected to have the City of Austin represent him in a civil suit against the manager. While the lawsuit is pending, so is Gillia’s request for reasonable accommodation. To date, Gillia has been without his support animal for four months. “I feel lonely, cheated, down,” Gillia says. “I just want my dog.”

We thank **Rhonda Turnbough** for her generous contribution in support of ATC’s programs and services.

Get LeadSmart

You may qualify to have your home tested for lead-based paint through the City of Austin’s free LeadSmart Program. Criteria include:

- You must own and/or occupy a home in Austin that was built prior to 1978. Landlords can have their rental property tested as long as the tenants meet the other program criteria;
- Household income is at or below 80 percent of the area’s median family

income. For example, a family of four who is renting the home must make less than \$35,550 annually;

- A child younger than 6 years lives in the home or visits at least six hours every week.

In addition to testing, the LeadSmart Program offers free stabilization of painted surfaces with all work performed by licensed lead abatement contractors.

For more information and an application, call 972-6654 or visit www.ci.austin.tx.us/housing/leadsmart.htm.

Fair Housing Case Updates

In all 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.

Karon Thomas v. English Aire

Karon Thomas has a bipolar disorder and suffers from depression and anxiety. A recent hospitalization and increased family stresses were making her condition worse. Thomas’ medical provider recommended that she move to a more supportive environment. Thomas, who lived alone and was in the middle of an eight-month lease contract, contacted the ATC Fair Housing Program for information on her rights. Fair housing testing coordinator Morgan Morrison helped Thomas write a request for reasonable accommodation, asking the manager to release her from her lease without penalty due to her mental disability. The manager granted Thomas’ request and returned her security deposit within 30 days. “I’m totally thrilled,” Thomas says. “I feel better already.”

ATC v. Villages of Bella Vista

The ATC Fair Housing Program conducted an accessibility audit of the Villages of Bella Vista, a newly built apartment complex in South Austin. While touring the property, the volunteer tester, who uses a wheelchair, found several features not compliant with the design and construction requirements of the Fair Housing Act. Inside a unit, the tester was able to enter the bathroom, but could not turn her wheelchair around. Outside, the tester noticed that entrances to first floor units had steps; the sidewalk to the pool was too narrow for some wheelchairs; the pool entry gate was heavy and difficult to open; garbage and recycling facilities were inaccessible to people using wheelchairs; and the entrance to the fitness room was too narrow for wheelchairs.

Upon notice of these violations, the apartment complex quickly corrected the design deficiencies to make the property accessible for all.

If you need information about your rights under fair housing laws, contact the ATC Fair Housing Program at 474-7007.

Se Emite Acusación en Queja por Discriminación

En junio, la Oficina de Igualdad en Empleo/Vivienda Justa de la Ciudad de Austin (COA EE/FHO) acusó a Max Courtney, administrador de los Apartamentos Lamar Square, de violar el Acta Vivienda Justa al negar un pedido de 'adaptación razonable' de uno de sus inquilinos.

El inquilino, Charles Gillia, tiene una discapacidad mental. Varios meses antes, su médico le había recomendado obtener un animal de apoyo como parte de su terapia. Cuando Gillia se dirigió a Courtney con el pedido, el administrador se negó rotundamente a aceptar el animal de apoyo, aduciendo que el perro excedía el límite de 25 libras de peso que tiene el complejo para las mascotas. Aunque Sugar, el perro de Gillia, pesa alrededor de 38 libras, no es una mascota sino un animal de apoyo para persona discapacitada. Las medidas que rigen a las mascotas en un complejo de apartamentos no se aplican necesariamente a los animales de servicio.

Para informarse más sobre sus derechos, Gillia se dirigió al Programa Vivienda Justa de ATC. La especialista Lucia Salinas Perez

de Vivienda Justa ayudó a Gillia a escribir un pedido formal de adaptación razonable, solicitando al administrador que permita a Gillia tener su animal de apoyo en la propiedad y eximir todo depósito por animal. Con el pedido se incluyó una copia de la carta del médico. Después que Courtney negara el pedido de adaptación razonable una segunda vez, Gillia presentó una queja de vivienda justa en COA EE/FHO.

El Acta de Vivienda Justa no requiere a proveedores de viviendas aprobar todo pedido de adaptación razonable. Por ejemplo, un propietario puede negar un pedido de adaptación razonable si no existe una necesidad relativa a la discapacidad para la adaptación o si proporcionar la adaptación no es razonable –por ejemplo, si impone una carga financiera y administrativa excesiva en el proveedor de viviendas o si altera fundamentalmente la naturaleza del negocio del proveedor.

La determinación de carga financiera y administrativa excesiva se hace caso por

caso, considerando factores como costo de la adaptación requerida, recursos financieros del proveedor, beneficios que la adaptación brindaría al solicitante, y posibilidad de adaptaciones alternati-

Gillia sigue sin su animal de apoyo durante cuatro meses. "Me siento solo, engañado, angustiado," dice Gillia. "Yo solo quiero a mi perro."

vas que cubrirían efectivamente las necesidades relativas a discapacidad del solicitante. En el caso de Gillia, la

necesidad de un animal de apoyo es producto de su discapacidad, y permitir la presencia del animal no impondría una excesiva carga financiera y administrativa en la administración.

Después de que se emitiera la acusación de discriminación, Gillia eligió que la Ciudad de Austin lo represente en un juicio civil contra el administrador. Mientras el juicio está pendiente, también lo está el pedido de Gillia para una adaptación razonable. Hasta el momento, Gillia sigue sin su animal de apoyo durante cuatro meses. "Me siento solo, engañado, angustiado," dice Gillia. "Yo solo quiero a mi perro."

Derechos Protegidos

Después de decidir que ya no pagaría los gastos de gas natural, recogida de basura y servicio de cable en sus comunidades de 17 apartamentos en Austin, la firma Rainier Management notificó a sus inquilinos a mediados de diciembre de 2007 que "los pagos de renta de enero no se aceptarán a menos se firme y regrese este agregado". El agregado pasaría la responsabilidad financiera de Rainier por estos servicios a los inquilinos, muchos de los cuales estaban en la mitad de su contrato de alquiler.

Un propietario no puede forzar a los inquilinos a cambiar el contrato en la mitad del período de arrendamiento; ambas partes deben aceptar cualquier cambio de forma voluntaria. El Consejo de Inquilinos de Austin (Austin Tenants' Council o ATC) aconsejó a estos inquilinos no firmar el agregado y escribir una carta a Rainier, declarando que ellos creen que este intento de cambio es una violación al Acta de Prácticas Comerciales Engañosas/Protección al Consumidor. ATC también aconsejó a los inquilinos presentar una queja ante la Oficina del Fiscal General de Texas.

La División de Protección al Consumidor de la Oficina del Fiscal investigó las denuncias. Un acuerdo de cumplimiento voluntario entre la Oficina del Fiscal y la compañía administradora dispuso que Rainier no puede cobrar a sus residentes por servicios hasta que venza el actual contrato, y la compañía debe rembolsar totalmente a los inquilinos que pagaron esos servicios después del 1º de enero de 2008.

Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Llame al 474-1961.

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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.

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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 amenass 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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