

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 78, Fall 2015

Tenant / Landlord Update

Marie Cartwright lived in a home owned and occupied by an independent landlord.

Ms. Cartwright's residency in the home seemed to be going relatively well. After some time, Ms. Cartwright began experiencing a variety of problems relating to her tenancy. To deal with these problems, Ms. Cartwright negotiated and obtained an early lease termination agreement that allowed her to move out of the home while securing one month rent free.

Despite having secured the early lease termination agreement, the landlord issued Ms. Cartwright a three-day notice to vacate and unlawfully locked her out. Soon thereafter, the landlord filed an eviction lawsuit against Ms. Cartwright with the local justice of the peace. The eviction suit made the following claims against Ms. Cartwright: (1) non-payment of rent, (2) drug dealing, (3) drug use, and (4) damage to the landlord's property. None of the landlord's allegations was truthful. In addition, the landlord's three-day notice to vacate did not comply with Sec. 24.005 of the Texas Prop-

erty Code, nor did it list any of the false allegations as noted in the eviction filing.

When Ms. Cartwright's hearing was held, she appeared before the court unrepresented (pro se). Representing herself, Ms. Cartwright was armed with the Texas Property Code, a clear outline of all of the landlord's inconsistencies, the terms of the early termination agreement and written proof of the landlord's promise of one month rent free.

During the hearing, Ms. Cartwright noted that the landlord had violated her right to possession having changed the house locks, preventing her from accessing her property. She also produced text messages in which the landlord explicitly agreed to one month rent free, giving lie to the landlord's allegation of non-payment of rent.

Needless to say, the judge ruled in Ms. Cartwright's favor. After the hearing, Ms. Cartwright said, "The whole hearing was like an episode of Judge Judy," and justice was done.

Holly Barentine v. Bell Tech Corridor

Holly Barentine contacted our office in mid-May to inform ATC that she had been a victim of discriminatory actions and comments regarding her tenancy at Bell Tech Corridor. Giovanni Zamora, Fair Housing Specialist, assisted the client in filing a discrimination complaint based on familial status (presence of children

under 18) to the U.S. Department of Housing and Urban Development (HUD). HUD accepted the case and it was turned over to the State of Texas for investigation.

The State negotiated a settlement agreement between Holly Barentine and Bell Tech Corridor with the following terms: (1)

Fall Energy Saving Tips

With the extreme heat of Austin's summer, it can be easy to forget that fall is fast approaching. Now is the time to take proactive measures to ensure that your fall is warm and easy on the budget.

Austin Energy recommends several common-sense measures that every tenant and landlord can take to ensure that everyone is safe and warm in the coming months.

Thermostat > Set it at 69 degrees or lower.

Window Shades > Open them during the daytime to help direct sunlight heat the dwelling. In the evening, draw the shades and curtains to help retain the heat.

Ceiling Fans > Set them to run counter-clockwise. This will help draw down the hot air in a room as it rises.

Weather Stripping > Inquire about the use of it on your doors and windows to help seal them when they are closed.

Gasket Covers > Install covers over all electrical outlets to help keep cold air from penetrating the room.

Water Heaters > All pipes should be insulated to reduce wasting energy.

Fireplaces > If you have one, ensure that the damper is closed tight.

Taking these simple steps can help keep you warm and your energy bill low.

Inside:

- 2 — Important Legislative Changes
- 2 — Remembering Rev. A.R. Evans
- 3 — Artículos en Español

Holly Barentine v. Bell Tech Corridor continued on pg. 2

Holly Barentine was awarded \$1,750.00, (2) Bell Tech Corridor was to report only neutral rental history to any potential housing providers, (3) and they (those involved in the discriminatory actions and comments) would par-

LEGISLATIVE UPDATE: Changes to Texas Property Code

The 84th Legislative Regular Session made several significant changes to certain sections of the Texas Property Code. The following is not exhaustive but provides a brief summary of a just a few changes and their effective dates as of this writing.

Notice to Vacate Prior to Eviction Suit Filing. Under Sec. 24.005, as an alternative to Subsection (f), a landlord may now deliver a notice to vacate by “securely affixing to the outside of the main entry door a sealed envelope” containing the notice. The envelope must contain the tenant’s name, address and in all capital letters, the words “IMPORTANT DOCUMENT” or substantially similar language. The landlord must, not later than 5 PM, mail a copy on the same day. Effective for lease agreements executed on or after January 1, 2016.

Writ of Possession. Under Sec. 24.0061, a landlord who has prevailed in an eviction lawsuit and has been granted a writ of possession may be provided, by a municipality, a “portable, closed container into which [the tenant’s] personal property shall be placed by the officer

Long Serving ATC Board Member Remembered for Dedication to Fair Housing

Reverend A. R. Evans, Sr. joined the Austin Tenants’ Council Board of Directors on June 24, 1997. On June 30, 2015, 18 years later, almost to the day, Rev. Evans passed away. Rev. Evans served on the ATC board of directors throughout the 18 years first as a board member and

ticipate in fair housing training held at the Texas Workforce Commission Civil Rights Division (TWCCRD).

The ATC Fair Housing Department would like to remind you that if you feel that

executing the writ or by the authorized person.” If, after a “reasonable time,” the owner does not recover her/his property, the “municipality may remove the container from the location near the unit and dispose of the content by any lawful means.” Effective September 1, 2015.

Waiver or Expansion of Duties & Remedies. Under Sec. 92.006 “A tenant’s right to a jury trial in an action brought under this chapter [Chapter 92. Residential Tenancies] may not be waived in a lease or other written agreement.” Effective for lease agreements executed on or after January 1, 2016.

Liability for Leasing to Person With Criminal Record. Under Sec. 92.025 a landlord does not incur liability for merely leasing a dwelling “to a tenant convicted of, or arrested or placed on deferred adjudication for, an offense.” Importantly, this new section does not disallow a lawsuit from being filed against a landlord, a landlord’s manager or a landlord’s agent if the tenant “was convicted of an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure” and “the person against

you are the victim of discrimination please contact our office at: 512-474-1961, Mon. - Thurs., 9 AM - 12 PM, 1 PM - 4 PM and Fri. 9 AM - 12 PM.

whom the action is filed knew or should have known of the conviction or adjudication.” Effective for lease agreements executed on or after January 1, 2016.

Liability & Tenant Remedies; Notice & Time For Repair. Under Sec. 92.056 a tenant may submit a notice for a repair to exercise their rights under Secs. 92.052 and 92.054 by using “another form of mail that allows tracking of delivery from the United States Postal Service or a private delivery service.” In short, this provision allows the use of private mail carriers provided that the mail is trackable. Effective for lease agreements executed on or after January 1, 2016.

Cessation of Owner’s Interest. Under Sec. 92.105 “The person who no longer owns an interest in the rental premises is liable for a security deposit received while the person was the owner until the new owner has received the deposit or has assumed the liability for the deposit, unless otherwise specified by the parties in a written contract. Effective for lease agreements executed on or after January 1, 2016.

organization. Rev. Evans will be particularly remembered for his passion for fair housing and nondiscrimination efforts in the greater Austin Area. He is survived by his wife of over 60 years, Vivian Evans, three children and numerous grand and great grandchildren.

ACTUALIZACIÓN LEGISLATIVA Cambios al Código de la Propiedad de Texas

La Sesión Legislativa Regular 84ª hizo algunos cambios importantes a ciertas secciones del Código de la Propiedad de Texas. La siguiente no es una lista exhaustiva sino un breve resumen de algunos cambios y sus fechas de efectividad.

Aviso de desocupación previo a inicio de juicio por desalojo. Bajo la Sección 24.005, como alternativa a la Subsección (f), el propietario podrá ahora cumplir con el aviso de desocupación “colocando de manera segura en el exterior de la puerta de entrada principal el sobre cerrado” conteniendo el aviso. El sobre debe incluir el nombre y domicilio del inquilino, y, en mayúsculas, las palabras ‘DOCUMENTO IMPORTANTE’ o términos muy similares. El propietario debe además enviarle una copia por correo, antes de las 5 PM del mismo día. Efectivo para contratos de renta realizados a partir del 1º de enero de 2016.

Orden de posesión. Bajo la Sección 24.0061, un propietario que ha ganado un juicio de desalojo y obtenido una orden de posesión debe recibir, de una municipalidad, “un recipiente portátil y cerrado donde el oficial que ejecuta la

orden u otra persona autorizada guardará la propiedad personal [del inquilino]”. Si después de un “tiempo razonable” el dueño no recoge sus artículos personales, la “municipalidad puede quitar el recipiente ubicado cerca de la unidad y deshacerse de su contenido mediante método legal”. Efectivo el 1º de septiembre de 2015.

Exención o expansión de deberes y recursos. Bajo la Sección 92.006, “el derecho de un inquilino a un juicio de jurado por acción bajo este capítulo (Capítulo 92. Rentas Residenciales) no puede ser eximido en contrato de renta u otro acuerdo escrito”. Efectivo para contratos de renta realizados a partir del 1º de enero de 2016.

Responsabilidad legal por rentar a personas con antecedentes criminales. Bajo la Sección 92.025 un propietario no es responsable legalmente solo por rentar una vivienda “a un inquilino condenado o arrestado o en sentencia diferida por un delito”. Es de importancia que esta nueva sección no impide iniciar juicio contra un propietario, gerente de propietario o agente de propietario, si el inquilino fue condenado por un delito incluido en Sección 3g, Artículo 42.12 del Código de

Procedimientos Criminales” y “la persona contra la que se inicia el juicio sabía o debería haber sabido de la condena o adjudicación”. Efectivo para contratos de renta realizados a partir del 1º de enero de 2016.

Responsabilidad legal y recursos de inquilinos; aviso y tiempos para reparaciones. Bajo la Sección 92.056 un inquilino puede presentar aviso de reparación para ejercer sus derechos bajo Secciones 92.052 y 92.054, usando “otra forma de correspondencia que contenga aviso de entrega, sea del Correo Postal de Estados Unidos o compañías de correo privadas, siempre que la entrega sea documentada. Efectivo para contratos de renta realizados a partir del 1 de enero de 2016.

Cese de interés del propietario. Bajo la Sección 92.105, “la persona que ya no es dueña de un lugar de renta es responsable legal por el depósito de seguridad recibido cuando era dueña y hasta que el nuevo dueño haya recibido el depósito o haya asumido la responsabilidad legal por el depósito, a menos que sea de otro modo especificado por las partes en el contrato escrito. Efectivo para contratos de renta a partir del 1º de enero de 2016.

Miembro por largo tiempo de la junta directiva de ATC es recordado por su dedicación a Vivienda Justa

El Reverendo A.R. Evans Sr. se integró a la junta directiva de Austin Tenants’ Council el 24 de junio de 1997. Evans falleció el 30 de junio de 2015, casi exactamente 18 años después.

El reverendo sirvió en la junta directiva de ATC durante esos 18 años: primero como miembro directivo y finalmente

como vicepresidente. El Rev. Evans fue muy querido en Austin por su servicio como pastor de la New Lincoln Missionary Baptist Church, donde atendió las necesidades de su congregación y comunidad durante 43 años.

Durante su cargo en la junta directiva de ATC, el Rev. Evans trabajó para

reforzar los servicios diarios brindados por la organización. El Rev.

Evans será recordado especialmente por su pasión por la vivienda justa y esfuerzos anti discriminatorios en el área del Gran Austin. Lo sobrevive su esposa de más de 60 años, Vivian Evans, sus tres hijos y numerosos nietos y bisnietos.

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

RETURN SERVICE REQUESTED

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

If your agency would like to receive additional copies of this newsletter or if you have any changes to the mailing list, contact Daniel at 512-474-7006 Ext. 102 or Daniel@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. David Ondich has been designated as the City's Section 504/ADA Program Manager. His 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 504/ADA Program Manager at 512-974-3256 (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 474-7006.

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 474-7006.

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 a hacer valer sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7006.

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 474-7006.

Austin Tenants' Council Staff

Linda AlemanHousing Specialist
Daniel ArmendarizHousing Specialist
Christine CastillejaOffice Manager
Cruz GarciaHousing Specialist
Andrew JonesHousing Specialist
Morgan Morrison Fair Housing Program Specialist
Lucia Perez-Salinas Fair Housing Program Specialist
Nekesha Phoenix Fair Housing Program Director
Nathan Plummer Technical Support
Melissa OrrenFair Housing Testing Coordinator
Katherine StarkExecutive Director
Giovanni Zamora Fair Housing Program Specialist