

# Housing Rights **ADVOCATE**

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## Caprice Nyen vs. Monaghan Apartments

In April of 2016, Caprice Nyen called the Fair Housing Program of ATC because she believed she was being discriminated based on familial status (children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18). Nyen and her 16-year-old son were moving from Illinois to Killeen, TX when they encountered discrimination that put a wrinkle in their plans.

Nyen found Monaghan Apartments through an online search and submitted her application online. When the manager reviewed her application and saw that she was interested in a one bedroom all bills paid apartment for her and her son, he called and told her that she had to get a two bedroom. Nyen knew that something wasn't right because while in Illinois she was a volunteer tester at a fair housing agency and she was familiar with the Federal Fair Housing Act. She asked the manager why she and her son couldn't have a one bedroom apartment and he told her that kids over the age of six-years-old were not allowed to sleep in the bedroom with a parent – one bedrooms were for married couples.

Nyen was devastated because this apartment was in the right location and it was the right price, so she decided to look up the U.S. Department of Housing and Urban

Development (HUD) guidelines and called the manager back to try to educate him on occupancy issues and convince him to rent the one bedroom to her family. HUD guidance states that 'an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act'.

In addition, the guidance also suggests that owners and managers implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms, overall size of the dwelling unit, age of children, configuration of unit, other physical limitations of housing, state and local law, and other relevant factors. The manager responded by telling her that she did not know what she was talking about.

At this point, Nyen called ATC and spoke to Fair Housing Specialist Lucia Salinas who agreed that the property had an overly restrictive occupancy policy and referred the case to testing. Testing confirmed what Nyen and ATC believed – management was discriminating against families with children by utilizing an occupancy policy that was overly restrictive. During a test, one tester was told that a child over 6-years-old needs his/her own bedroom – they can't sleep with mama. Ms. Salinas assisted Nyen in filing a housing discrimination complaint.

The complaint was investigated and conciliated by the Texas Workforce Commission Civil Rights Division. Nyen received \$2,900 for damages that she suffered and the staff at Monaghan Apartments agreed to attend fair housing training.

Families have the right to choose where they want to live and to decide who sleeps where in their own homes. If you believe that your family has been discriminated against, please call the Fair Housing Program at 512-474-1961. If you would like to be a neutral fact-finder that that assists with investigating allegations of discrimination, otherwise known as a tester, please call Giovanni Zamora at 512-474-7007, ext. 104 or e-mail her at [Giovanni@housing-rights.org](mailto:Giovanni@housing-rights.org).

## 85th Texas Legislature

The 85th regular session of the Texas Legislature has convened and several proposed bills significant to the tenant-landlord relationship are now under consideration. To track these bills, please visit Texas Housers at: <https://texashousers.net/legislature/>. The 85th Legislature adjourns on May 29, 2017. If you are concerned about a proposed bill, call your representative! See: <http://www.fyi.legis.state.tx.us>

### Inside:

- 2 — Dealing with Mold in Texas
- 3 — Artículos en Español

# Dealing With Mold in Texas

**E**very day Texas residents struggle to deal with the effects of mold in their dwellings. The Centers for Disease Control and Prevention, Institute of Medicine, World Health Organization, Environmental Protection Agency and others all recognize that, under certain conditions, mold may pose serious health problems. Among the commonly acknowledged effects of mold are respiratory problems, allergic reactions, disturbances of the immune system and others.

## What is mold?

Simply put, mold, is a type of fungi that occurs naturally in the environment. Mold usually begins with the presence of standing water or high levels of humidity. In most cases, mold can begin growing within 24 hours of the occurrence of a water-related problem. Although mold grows on physical surfaces it may become airborne if disturbed.

## How do I deal with mold in my dwelling?

Mold is a threat to your health or safety. Texas Property Code gives all tenants the right to request a repair that is a threat to their health or safety. The particular challenge with the issue of mold, specifically in the state of Texas, is that it is frequently not perceived by the landlord as a serious threat to the health or safety of the tenant. As such, it is important that you follow the steps below when dealing with a mold problem in your dwelling.

### Step 1

If you are able to schedule a visit with a medical doctor, do so as soon as possible. To support your claims take pictures of the mold and take them with you to the appointment. Request that the doctor

write a letter on your behalf explicitly stating that the mold in your dwelling is a threat to your health and safety and that it must be remedied by a professional or you should be given the opportunity to move out. This letter will be important in your efforts to establish that the landlord has a legal obligation to fix the problem.

### Step 2

Read our fact sheet titled: Repairs: The Tenant's Right and the Landlord's Duty, available online at: <http://housing-rights.org/brochures.html>.

### Step 3

Use our Self-Help Repair Packet as a template to drafting your repair request. Be sure to attach your doctor's letter to your repair request and mail it to the landlord via US Postal Service certified mail and signature return request. Always keep a copy of the letter.

## Texas Law and Regulation

Mold issues under Texas law can be complicated. Texas law requires that mold professionals be licensed by the state. You should know, however, that there are many common circumstances in which the law *does not* require a licensed mold professional to repair the problem. For example, generally speaking, a landlord is not required to hire a licensed mold professional to address mold in routine cleaning, the repair or cleaning, or replacement of plumbing, heating, ventilation, air conditioning, electrical, or air duct systems or appliances or a licensed pest control inspection, among others.

## Important Exemptions

Finally, there are two important exemptions that commonly apply to residential

tenants in Texas. They are:

1. A person need not be licensed to perform mold remediation in an area in which the mold contamination for the project affects a total surface area of less than 25 contiguous square feet.
2. If your dwelling is part of a complex with fewer than 10 residential units, the owner or agent of the owner, is not required to be licensed by the state of Texas to perform mold assessment or mold remediation on the property. This exemption applies regardless of the total affected surface area within the residential property.

NOTE: Other important exemptions may apply to your circumstances! If you have any concerns about who should or should not be performing mold remediation in your dwelling, call the Texas Department of State Health Services (DSHS): (512) 834-6600.

## Practical Tips to Treating Mold

- NEVER mix ammonia with bleach or other cleaning products! Mixing cleaning products may create gases that are fatal if inhaled;
- For small amounts of mold you may try to clean it yourself using a cleaning product designed for mold removal;
- Always wear protective coverings such as gloves, goggles and masks;
- Caulk window seals and other areas where water may infiltrate;
- Throw away any items that can't be cleaned completely within 24-48 hours.

Tenants or landlords may call ATC's counseling line with questions about their rights and responsibilities: 512-474-1961.

# Caprice Nyen versus Apartamentos Monaghan

**E**n abril de 2016, Caprice Nyen llamó al Programa Vivienda Justa de ATC porque sintió que estaba siendo discriminada por su situación familiar (menores de 18 años viviendo con padres o custodios legales, mujeres embarazadas, y personas asegurando custodia de menores de 18 años). Nyen y su hijo de 16 años se estaban mudando de Illinois a Killeen, TX, cuando sufrieron una discriminación que empañó sus planes.

Nyen encontró los Apartamentos Monaghan buscando en internet y envió la solicitud electrónicamente. Cuando el administrador examinó la solicitud y vio que ella estaba interesada en un apartamento de un dormitorio con gastos incluidos para ella y su hijo, la llamó y le dijo que necesitaba uno de dos dormitorios. Nyen se percató de que algo estaba mal porque en Illinois ella fue investigadora voluntaria en una agencia de vivienda justa y estaba familiarizada con el Acta Federal de Vivienda Justa. Le preguntó al administrador por qué ella y su hijo no podían tener un apartamento de un dormitorio, y él le respondió que los hijos mayores de seis años no podían dormir en el mismo dormitorio de los padres –que los de un dormitorio

eran para parejas casadas.

A Nyen le causó mucho pesar porque ese apartamento estaba en el lugar apropiado y por un precio justo, así que decidió buscar las disposiciones del Departamento de Vivienda y Desarrollo Urbano (HUD) de EE.UU. y volvió a llamar al administrador para informarle sobre las normas de ocupación y tratar de convencerlo de que les rentara el apartamento de un dormitorio. Las normas de HUD disponen: ‘una ocupación de dos personas por dormitorio, como regla general, es razonable bajo el Acta de Vivienda Justa’. Además, las normas también sugieren que los propietarios o administradores implementen requisitos razonables de ocupación, basados en factores como número y tamaño de lugares para dormir o dormitorios, tamaño total de la unidad de vivienda, edad de los menores, configuración de la unidad, otras limitaciones físicas de la vivienda, leyes estatales y locales, y otros factores relevantes. El administrador le respondió que ella no sabía de qué estaba hablando.

Entonces, Nyen llamó a ATC y habló con Lucia Salinas, especialista en Vivienda Justa, quien coincidió en que la propie-

dad tenía una norma de ocupación demasiado restrictiva y envió el caso a inspección. Ésta confirmó lo que Nyen y ATC pensaban –la administración discriminaba a familias con menores, utilizando una norma de ocupación demasiado restrictiva. Durante una visita, se le dijo al investigador que los niños mayores de 6 años necesitan su propio dormitorio –que no pueden dormir con la madre. La Srta. Salinas ayudó a Nyen a presentar una denuncia por discriminación en la vivienda. La denuncia fue investigada y conciliada por la Comisión Laboral de Texas-División de Derechos Civiles. Nyen recibió \$2,900 por daños sufridos, y el personal de Apartamentos Monaghan tuvo que asistir a entrenamiento de vivienda justa.

Las familias tienen derecho a elegir dónde desean vivir y quién duerme en qué habitación en sus propias viviendas. Si usted cree que su familia ha sido discriminada, llame por favor al Programa Vivienda Justa al (512) 474-1961. Si le gustaría ser un investigador neutral que ayude en la investigación de denuncias por discriminación, llamados ‘tester’ en inglés, comuníquese con Giovanni Zamora al un email a [Giovanni@housing-rights.org](mailto:Giovanni@housing-rights.org).

## El problema del moho en Texas

**M**uchos residentes de Texas batallan a diario para controlar la propagación del moho en sus apartamentos, casas rodantes, dúplex y otro tipo de viviendas. ¿Qué es el moho? Simplemente, el moho es un tipo de hongo que ocurre naturalmente en el ambiente. El moho suele ser causado por una presencia prolongada de agua estancada o un alto nivel de humedad.

¿Cómo elimino el moho en mi vivienda? Recuerde, el moho es una amenaza para su salud y seguridad. El Código de Propie-

dades de Texas otorga a todo inquilino el derecho a solicitar reparación de algo que pone en peligro su salud o seguridad. Por lo tanto, es importante seguir los pasos abajo indicados cuando encuentre un problema de moho en su vivienda: Puede concertar una cita con un médico, hágalo cuanto antes. Pida al doctor que le extienda una carta que diga explícitamente que el moho en su vivienda es una amenaza a su salud y seguridad, y que debe ser eliminado por un profesional o recibir usted la oportunidad de mudarse.

Use nuestro Paquete de Autoayuda para Reparaciones como patrón para hacer su solicitud de reparación. Es importante adjuntar la carta del médico a la solicitud, y enviarlas al propietario por carta certificada del Correo Postal de EE.UU. y pedido de recibo con firma. Siempre guarde una copia de la carta.

NUNCA mezcle amonio con cloro u otros productos de limpieza. La mezcla de productos de limpieza puede crear gases fatales al inhalarlos.

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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 512-474-7006.

**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 512-474-1961.

**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 512-474-7006.

**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 512-474-1961.

**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 512-474-7006.

**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 512-474-7006.

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