



# Housing Rights ADVOCATE

Issue 27

The Austin Tenants' Council

www.housing-rights.org

## Property Manager Clears Her Conscience, Helping Applicants in the Process

Stelly & Arabie v. Sterling Village

In May 1998, ATC Fair Housing Specialist Nekesha Monroe received a telephone call from a woman stating she was a property manager at an area apartment complex. She stated she knew of some racist incidents where minorities looking for apartments were being treated unfairly by her boss. The woman stated she wished to remain anonymous, and asked Ms. Monroe to tell her about fair housing. Ms. Monroe explained fair housing and resources the act provided, but could not convince her to come forward because the woman was afraid of losing her job.

In August 1998, Fair Housing Program Director Mary Daniels Dulan received a call from a woman who said, "Before I go any further, I want to ask if what I say to you will be confidential?" Upon learning about ATC's confidentiality policy, the woman identified herself as Sharron Stelly, the same woman who called anonymously in May. Stelly alleged she knew of several incidents where the owners' representative at Sterling Village Apartments, Jane Stevenson, turned down applications from black renters; approved whites with less credit and rental history; and made racist remarks about blacks, hispanics and other minorities like Vietnamese and Ethiopian immigrants. She also alleged Stevenson kept a separate file of "rejected applications" and those were either blacks or hispanics. She stated she and her daughter were both white and so was Jane Stevenson. Ms. Stelly said she no longer worked for Sterling Village, but her daughter Melissa Arabie was still employed in the office.

Ms. Stelly stated that in June 1998, a black woman named Shirlet Fowler had applied and been approved as a tenant at Sterling Village by her and Melissa, based on her rental, credit and employment history. She stated that on June 29, 1998

Ms. Fowler came to the complex to be assigned an apartment and pick up her key, but when Jane Stevenson saw that Ms. Fowler was black, she swore, made racial epithets and told Arabie and Stelly, "I just got rid of one uppity black bitch, why would I want another? Stelly alleged Stevenson further stated, "There is nothing worse than a minority with any education." Stelly alleged Stevenson instructed Melissa Arabie to tell Ms. Fowler that she did not meet Sterling Village criteria and that her application had been rejected. Ms. Stelly stated Ms. Fowler seemed confused and left the office.

Ms. Stelly stated she and Melissa were the ones forced by Stevenson to deny housing to minorities and that she could not in good conscience keep hurting people who did not even know they had been denied. Therefore, after discussing the situation with her husband and her daughter Melissa, Stelly decided to come forward to ATC. She informed ATC that she and Melissa knew where the rejected applications were kept and on September 1, 1998, Melissa Arabie provided ATC with a copy of Shirlet Fowler's rejected application. Three days later, ATC contacted Shirlet Fowler by mail and telephone to inform her that she may be the victim of housing discrimination due to race. It was explained to her that ATC received an anonymous tip alleging that the manager of Sterling Village Apartments, Ms. Jane Stevenson, denied her rental application because of her race.

ATC provided counseling and advocacy to Ms. Fowler and conducted testing activities from the end of October to the beginning of December 1998. Testing evidence supported Ms. Stelly's allegation that blacks seeking to rent at

## ATC Reaches Beyond Austin

As part of its Southwest Texas Outreach Project funded by the Texas Bar Foundation, the Austin Tenants' Council has been providing a variety of services including telephone and internet counseling services to callers outside of the Austin area. Since the inception of the program in November 2002, ATC has assisted approximately 1000 clients under this program. Clients are given advice about their tenant rights including information on the eviction process, illegal lockouts, recovering security deposits that are wrongfully withheld, and other self-help information.

There is no similar service to ATC's Telephone Counseling line elsewhere in Texas. Only Fort Worth and Dallas have organizations to advise people of their tenant rights, the Texas Tenants' Union and the Housing Crisis Center respectively. People that don't live in Austin, Dallas and Fort Worth do not have the assistance they need to protect their housing rights.

The Southwest Texas Outreach Project is designed to help fill this gap in need. Though the current program is not nearly large enough to meet all of the demand, the Texas Bar Foundation has provided the resources to begin making a difference.

As part of the other services of the program, ATC is distributing a statewide press release regarding its new services and distributing brochures to community agencies located along the Texas-Mexico border with special focus on residents of the Colonias. Hopefully, the Southwest Texas Outreach Project will continue to grow and develop using the internet and other efficient means of delivering information to serve the large and diverse state that is Texas.

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# Casos Actualizados

**A**TC agradece a los querellantes, los demandantes, los probadores, los testigos, y los abogados que han trabajado para la vivienda justa por participar en pleitos o perseguir quejas administrativas de la discriminación en la vivienda con el Departamento de HUD. En todos los casos «decididos» en estas noticias, a menos que se indicare en forma diferente, el demandado niega las alegaciones de discriminación hechas por el demandante y los partidos pusieron de acuerdo de resolver el caso antes de ir a un juicio. Las pruebas e investigaciones de vivienda justa conducidas por el Programa de Vivienda Justa de ATC son financiadas por el Departamento de Vivienda y Desarrollo Urbano de los E.E.U.U.

## **Javier Hurtado v. la Asociación de los Dueños de Lakewood**

En julio de 2002, Javier Hurtado se puso en contacto con ATC con una queja de que él fue tratado injustamente por la Asociación de los Dueños de Lakewood (LHOA). La casa del Sr. Hurtado está ubicada en la subdivisión Lakewood, la cual tiene reglas restrictivas que requieren la aprobación del LHOA para cualquier construcción propuesta. La póliza y los procedimientos del LHOA regularizan la construcción de nuevas casas, alteraciones de casas existentes y cualquier otra construcción que afecta la superficie exterior de la casa. En mayo de 2002, el Sr. Hurtado sometió planes al Comité de Control Ambiental (ECC) del LHOA para construir una alberca con una cerca de cedro. LHOA rechazó el primer plan porque «le faltaban detalles, una descripción suficiente y la especificidad de ubicación.» Hurtado sometió un plan revisado el próximo mes que también fue rechazado por la ECC porque «la cerca no sería armonioso con sus alrededores, degradaría la estética natural de este área y lindaría con una área de recreación.» Hurtado observó que permitieron a dueños no hispanos construir cercas que lindaron con una área de recreación. Él alegó que LHOA lo negó el derecho de construir una cerca sobre su propiedad y que las peticiones de dueños no hispanos no han sido negados para construir cercas sobre sus propiedades.

En julio de 2002, ATC asistió al Sr. Hurtado en archivar una queja de discriminación en la vivienda con HUD y

que remitió la queja a la Comisión de Derechos Humanos de Austin (AHRC) para procesar. Charles Gorham, el Administrador de AHRC, publicó una carga de Discriminación contra la Asociación de Dueños de Lakewood el 5 de mayo de 2003 basada en la evidencia juntada por un investigador de AHRC. Encontraron que LHOA participaron en prácticas discriminatorias en violación de la Ley Federal de Vivienda Justa y la Ordenanza de Vivienda Justa de la Ciudad de Austin.

## **Bahmanshaw Wadia v. Los Apartamentos Metropolis**

En junio de 2002, ATC asistió a la guardián de Bahmanshaw Wadia en el sometimiento de una Petición de Acomodación Razonable, debido a su invalidez, al gerente de los Apartamentos Metropolis. El Sr. Wadia sufrió un daño mental en mayo de 2002 que resultó en una orden de tratamiento en un hospital. Este ocurrió en el primer mes de un contrato de seis meses. Un médico del Departamento de Salud Mental y Retraso Mental de Texas solicitó por escrito que el Sr. Wadia sería perdonado de sus obligaciones legales y financieras bajo el contrato como el Sr. Wadia fuera incapaz de seguir viviendo en el apartamento debido a una condición médica. El gerente de Metropolis rechazó la petición del médico.

En julio de 2002, una orden judicial fue publicada exigiendo la hospitalización obligatoria del Sr. Wadia, en cual tiempo el gerente fue proveído con información adicional y otra petición para librarlo de su contrato. Otra vez el gerente negó de proporcionar la acomodación solicitada aunque estuviera claro que el Sr. Wadia no podía vivir en los Apartamentos Metropolis debido a la falta de supervisión. Para prevenir cualquier mancha en su historial, se obligó a la guardián del Sr. Wadia de pagar la renta mensual para el resto del contrato.

ATC asistió a la guardián de Bahmanshaw Wadia en archivar una queja de discriminación en la vivienda con HUD en agosto de 2002, quién remitió la queja a la Comisión de Derechos Humanos de Austin (AHRC) para procesar.

Pruebas juntadas por el investigador de AHRC apoyaron la determinación que una causa razonable existió para creer que una práctica discriminatoria ocurrió.

El Administrador de AHRC, Charles Gorham, publicó una carga de Discriminación contra los Apartamentos Metropolis el 5 de mayo de 2003, encontrando que ellos participaron en prácticas discriminatorias en violación de la Ley Federal de Vivienda Justa y la Ordenanza de Vivienda Justa de la Ciudad de Austin.



## **ATC Alcanza Fuera de Austin**

Como parte del Proyecto de Texas Sudoeste, el Concilio para Inquilinos de Austin ha estado proporcionando una variedad de servicios incluyendo servicios de asesoramiento por el teléfono y el Internet a llamadores fuera del área de Austin. Desde el inicio del programa en noviembre de 2002, ATC ha asistido a más de 1000 clientes conforme a este programa. Clientes reciben consejos sobre sus derechos como inquilinos incluyendo información sobre el proceso del desalojo, cierres ilegales, recuperando depósitos, y otra información.

No hay ningún servicio en Texas que compare a la línea de Asesoramiento Telefónica del ATC. Sólo Fort Worth y Dallas tienen organizaciones para informar a la gente de sus derechos como inquilinos, Texas Tenants Unión y Housing Crisis Center respectivamente. La gente que no vive en Austin, Dallas y Fort Worth no tiene

la asistencia para proteger a sus derechos de vivienda. El Proyecto de Texas Sudoeste es diseñado para llenar esa necesidad en Texas. Aunque el programa corriente no sea casi bastante grande para satisfacer toda la demanda, la Fundación de Barra de Texas ha proporcionado a ATC con los recursos necesarios para comenzar a hacer una diferencia.

Como parte de los otros servicios del programa, ATC va a distribuir un boletín de prensa por todo el estado describiendo sus servicios y distribuir folletos a agencias de comunidad localizadas por la frontera de Texas-México enfocándose especialmente en los residentes de las Colonias. Esperamos que el Proyecto de Texas Sudoeste seguirá creciendo y desarrollando con el uso del Internet y otros medios eficientes de entregar la información al gran estado de Texas.

Sterling Village were treated differently. In October 1998, the black tester was told there were no vacancies and to try back around the 9th of December; the white tester was told of two or more vacancies. The black tester was not given an application but only a brochure, whereas the white tester was given an application with Resident Qualifying Criteria, was shown a model and asked by the agent to submit the application as they had a one day turn-around. Testing conducted during the first week of December 1998 also showed differences in treatment between the white and black testers.

In February 1999, Shirlet Fowler chose ATC Cooperating Attorney Malcolm Greenstein to represent her. Greenstein filed suit in State District Court in March 1999 against Jane Stevenson, owners' representative of Sterling Village, and the owners, Robert and Shirley Harris and Joseph and Donna Payne. Arabie was terminated by Sterling Village when it was disclosed that she provided the "rejected file" to ATC. In April 2001, attorney Greenstein announced the settlement of the lawsuit brought by Shirlet Fowler for an undisclosed amount.

Sharron Stelly and Melissa Arabie chose ATC Cooperating Attorney Jimmie L.J. Brown, Jr. to represent them. Brown chose the HUD Administrative process and ATC assisted Stelly and Arabie in filing complaints with HUD in August 1999. Stelly and Arabie's complaints were investigated by the Austin Human Rights Commission, who issued a determination of no reasonable cause in September 2000. In June 2000, however, attorney Brown filed suit in State District Court against the owners and owners' representative of Sterling Village. The case was set for a jury trial on May 12, 2003. On that date, both parties announced in open court that a settlement had been reached. Terms of the settlement were not disclosed. The parties filed an Agreed Motion to Dismiss with Prejudice, which was granted.

When contacted after the settlement, Sharron Stelly said, "Melissa and I both feel that we did the right thing by coming forward to let someone know what was happening at Sterling Village. We appreciate the work that Jimmie Brown and ATC did on behalf of myself and Melissa and are happy Ms. Fowler was helped by Mr. Greenstein. Though it took a great toll on our family - both emotionally and

financially - we both feel we have clear consciences and that justice was served."



## Case Updates

ATC thanks the complainants, plaintiffs, testers, witnesses, and attorneys who have worked for fair housing by participating in litigation or pursuing administrative housing discrimination complaints with the US Dept. of HUD. In all "settled" cases reported in this newsletter the defendant, unless otherwise noted, denies the allegations of discrimination made by the plaintiff and the parties have agreed to resolve the case prior to a trial on the merits. Fair housing testing and investigations conducted by ATC's Fair Housing Program are funded by the US Department of Housing & Urban Development.

### **Javier Hurtado v. Lakewood Homeowner's Association**

In July of 2002, Javier Hurtado contacted ATC with a complaint that he was being treated unfairly by the Lakewood Homeowner's Association (LHOA). Mr. Hurtado's home is located in the Lakewood subdivision, that has restrictive covenants which require LHOA's approval of any proposed building project. LHOA has policies and procedures titled "Architectural Guidelines and Standards for Construction in Lakewood Subdivision" for construction of new homes, alterations of existing homes and any other construction which affects the exterior surface of the house. Mr. Hurtado submitted plans to LHOA's Environmental Control Committee (ECC) for building a pool surrounded by a cedar fence in May 2002. LHOA rejected the first plan citing "it lacked detail, sufficient description and location specificity." Hurtado submitted a revised plan in June 2002 which was rejected by LHOA's ECC citing the fence "would not be harmonious with it's surroundings, would degrade the natural aesthetics of this area and would abut a greenbelt." Hurtado observed that non-Hispanic homeowners were allowed to construct fences which abutted greenbelts. He alleged that LHOA denied him the right to build a fence on his property and that non-Hispanic homeowners have not been denied requests to build fences on their properties.

In July 2002, ATC assisted Mr. Hurtado in filing a housing discrimination complaint with HUD who deferred the complaint to the Austin Human Rights Commission

(AHRC) for processing. Charles Gorham, AHRC's Administrator, issued a Charge of Discrimination against the Lakewood Homeowner's Association on May 5, 2003. Based on the evidence gathered by an AHRC Investigator, AHRC found that LHOA engaged in discriminatory housing practices in violation of the Federal Fair Housing Act and the City of Austin Fair Housing Ordinance.

### **Bahmanshaw Wadia v Metropolis Apartments**

In June 2002, ATC assisted the guardian of Bahmanshaw Wadia in submitting a written Request for Reasonable Accommodation due to disability on his behalf to the property manager of Metropolis Apartments. Mr. Wadia suffered a mental impairment in May 2002 that resulted in his being hospitalized for inpatient treatment. This occurred one month into a six month lease contract. A physician from the Texas Department of Mental Health and Mental Retardation requested in writing that Mr. Wadia be excused from his legal and financial obligations under the lease as Mr. Wadia was unable to continue living in the apartment due to a medical condition. The management of Metropolis refused the request and the physician's letter.

In July 2002, a court order was issued calling for mandatory hospitalization of Mr. Wadia, at which time the management was provided with additional information and another request to release him from the lease. The management again refused to provide the requested accommodation even though it was clear Mr. Wadia could not live at the Metropolis due to lack of supervision. To prevent any mark on his record, Mr. Wadia's guardian was forced to pay the monthly rent for the remainder of the lease.

ATC assisted Bahmanshaw Wadia's guardian in filing a housing discrimination complaint with HUD in August 2002, who deferred the complaint to the Austin Human Rights Commission (AHRC) for processing.

Evidence gathered by the AHRC investigator supported a determination that reasonable cause existed to believe that a discriminatory housing practice occurred.

AHRC Administrator Charles Gorham issued the Charge of Discrimination against the Metropolis Apartments on May 5, 2003, finding they engaged in discriminatory housing practices in violation of the federal Fair Housing Act and the City of Austin Fair Housing Ordinance.

