

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 73, Spring 2014

City of Austin Considers Making “Source of Income” a Protected Housing Class

The right to adequate housing is a universally recognized human right. Of course, this human right also includes the right to be free from discrimination. The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

While federal law sets the minimum protections, states and localities can expand the number of protected classes. In Austin, for instance, a city ordinance includes protections based on student status, marital status, sexual orientation, gender identity, and age.

In an effort to address the affordable housing shortage and achieve the geographic dispersion of affordable housing throughout Austin, the Austin City Council passed a resolution to start a process to add “source of income” as a protected class to the local fair housing ordinance. “Source of income” protection is generally defined

to include any lawful source of income including government assistance (such as Housing Choice Voucher Program (or Section 8) subsidies), alimony, child support, or other compensation or benefit.

Success of the Housing Choice Voucher Program relies in large part on the voluntary participation of landlords. Landlords who participate in the HCVP enjoy rent security in terms of the portion that is paid by the public housing authority. Accepting program participants also helps keep vacancies low while providing landlords with good residents to fill their empty units. However, a July 2012 survey conducted by the Austin Tenants' Council found many private landlords (91%, or 544 of 600, in the Austin MSA) refuse to lease to voucher holders. Protections based on source of income are invaluable in maximizing voucher holders' ability to secure safe and decent housing in the neighborhood of their choice.

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Case Updates

In the 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.

Connie Pineda vs. Bristol Square

As treatment for her disability, Connie Pineda's doctor recommended that she have two support animals in her home. Since then, she has had two Chihuahuas living with her. Recently, her apartment manager notified her that she would have to pay \$750 for the pet deposit plus an extra fee each month for pet rent. Because of

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Civil Rights Groups Resolve Complaints

The National Fair Housing Alliance, Austin Tenants' Council, and National Association of the Deaf announced the settlement of complaints regarding apartment complexes in Savannah, Ga., and Austin, Texas, owned and operated by Bell Partners.

The agreement comes after a nationwide investigation resulting in the filing of nine complaints with the U.S. Department of Housing and Urban Development against several apartment owners and managers, of which Bell Partners was one. In total, the investigation by NFHA and several of its member agencies involved more than 715 complexes with 174,000 units.

This is the first settlement to result from the HUD investigations. Bell Partners was the first company to come to the table and is now entering a collaborative relationship with NFHA and its co-complainants to deter future discrimination. Funds from the settlement will be used for fair housing activities (\$150,000), and a robust anti-discrimination training program (\$15,000) for rental staff and management at Bell Partners, conducted by the National Association for the Deaf. NFHA will also be reimbursed its legal fees (\$25,000).

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this request, Pineda contacted the Austin Tenants' Council to find out what her rights were. A counselor gathered a statement from her doctor and wrote a Reasonable Accommodation request on Pineda's behalf, asking that the apartment manager accommodate her disability. Immediately after receiving this letter, the manager responded to Pineda, stating that she can keep her support animals without incurring any extra fees. Pineda stated that she is relieved that everything worked out and is very grateful for all of our help.

Tenant v. Landlord

A tenant contacted ATC because she was behind in rent \$3,000 and the landlord had given her an eviction notice to pay or move out by May 20. When she was unable to meet this deadline, the landlord turned off her utilities.

An ATC counselor informed the tenant of her rights. In Texas, a landlord may never shut off electricity, water, wastewater, or gas because the tenant is delinquent with a rent or utility payment. The counselor advised the tenant that if the landlord did not agree to restore the utilities, she could request a writ of restoration from the justice of the peace.

The counselor contacted the landlord, who initially refused to restore the utilities. The landlord did not believe he was obligated to restore the utilities since the tenant owed so much in back rent. The counselor explained the eviction process and the right of tenants in Texas to file with the JP court if utilities are shut off illegally.

Before the tenant could go to the JP court to enforce her rights, the landlord had restored the utilities. The tenant thanked the ATC counselor for assisting her in getting her utilities restored.

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Once the proposed ordinance language has been written by the Austin City Manager's office, the Austin Human Rights Commission will take up and consider the resolution prior to the final version going to council for consideration by August 1.

With this process, the City has an opportunity to address one problem with the current fair housing ordinance. Under the current ordinance, if the City is unable to

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Under the terms of the agreement, Bell Partners will adopt policies and procedures in line with the Fair Housing Act, including training in the use of Internet Protocol (IP) Relay systems for new and current employees and the adoption of a written policy addressing equal access and opportunity to applicants and residents with disabilities.

The settlement comes after an extensive process of fair housing testing undertaken by NFHA and 11 of its member organizations beginning in 2013. The results of this investigation are detailed in a report entitled, "Are You Listening Now? A National Investigation Uncovers Housing Discrimination Against the Deaf and Hard of Hearing." NFHA and its members filed a series of HUD complaints based on the often blatant cases of illegal discrimination discovered in the report. Many of the complaints are still being processed and continue to incur substantial legal fees.

The investigation included "matched-pair testing." This means that one hearing tester and one deaf or hard of hearing tester, who were equally qualified financially and seeking the same size apartment with similar move-in dates, inquired about a

reach an acceptable conciliation agreement, then the Austin Human Rights Commission must, upon a majority vote, refer the case to the City Attorney for prosecution in municipal court. The maximum fine for a violation is \$500. With such minimal penalties, an owner might decide to simply run the risk and pay \$500 each time it is caught.

If this ordinance is enacted, Austin will be the first locale in Texas to provide "source of income" protection in housing.

unit via telephone. The deaf or hard of hearing testers used the Internet Protocol (IP) Relay system, a service that allows deaf or hard of hearing individuals to communicate with hearing persons using text input via the Internet.

"We are happy to see this particular matter resolved and look forward to continuing our work fighting housing discrimination against people with disabilities," said Kathy Stark, executive director of the Austin Tenants' Council. "It's great to see apartment owners and managers like Bell Partners come to the table."

In association with the Disability Independence Group, NFHA recently rolled out a series of 12 videos providing legal and practical information related to fair housing and fair lending rights under the federal Fair Housing Act. The videos are in American Sign Language (ASL) with English captioning and are available at www.nationalfairhousing.org and www.fairhousingdeafvideos.com. This project was made possible through a grant from HUD.

To read NFHA's full report on housing discrimination against the deaf and hard of hearing, please go to www.national-fairhousing.org.

La Ciudad de Austin considera hacer “fuente de ingresos” una categoría protegida para vivienda

El derecho a una vivienda digna es un derecho humano reconocido mundialmente. Por supuesto, este derecho humano incluye el estar libre de discriminación. El Acta de Vivienda Justa prohíbe discriminar en la venta, renta, financiamiento y otras transacciones relativas a vivienda, en base a raza, color, nacionalidad de origen, religión, género, estado familiar o discapacidad.

Aunque la ley federal ordena protecciones mínimas, los estados y municipalidades pueden ampliar el número de categorías protegidas. En Austin, por ejemplo, una ordenanza municipal incluye protección en base a estado de estudiante, estado marital, orientación sexual, identidad de género, y edad.

En un esfuerzo por reducir la escasez de viviendas económicas y lograr la dispersión geográfica de viviendas económicas en Austin, el Concejo Municipal de Austin aprobó una resolución para iniciar el proceso de agregar “fuente de ingresos” como categoría protegida

Actualización de casos

En los casos resueltos reportados aquí, el demandado, a menos que se indique de otro modo, negó las denuncias de discriminación hechas por el demandante, y las partes acordaron resolver el caso fuera de corte.

Connie Pineda v. Bristol Square

Como tratamiento para su discapacidad, el médico de Connie Pineda le recomendó tener dos animales de compañía. Desde entonces, ella ha tenido dos Chihuahuas en su casa. Recientemente, el administrador de su apartamento le notificó que tendría que pagar \$750 de depósito por los animales más un gasto mensual extra por los mismos. Por esta razón, Pineda se comunicó con el Consejo de Inquilinos de Austin para averiguar cuáles eran sus derechos. Un asesor obtuvo una declaración

en la ordenanza local de vivienda justa. La protección “fuente de ingresos” se refiere generalmente a toda fuente legal de ingresos, incluyendo asistencia del gobierno (como subsidios del Programa de Vouchers para Viviendas o Sección 8), pensión alimenticia, manutención de hijos, y otras compensaciones o beneficios.

El éxito del Programa de Vouchers para Viviendas (HCVP por sus siglas en inglés) se debe en gran parte a la participación voluntaria de los propietarios. Estos arrendatarios que participan en el HCVP tienen seguridad en la renta en cuanto a la porción pagada por la autoridad de viviendas públicas. Aceptar a participantes del programa también ayuda a mantener bajas las unidades vacantes y da a los propietarios buenos residentes para ocuparlas. Sin embargo, una encuesta de julio 2012 conducida por el Consejo de Inquilinos de Austin (ATC) halló que muchos propietarios privados (el 91% ó 544 de 600 en el área metropolitana de Austin) se niegan a rentar a portadores de vouchers. Las protecciones basadas en fuente de ingresos

de su médico e hizo un pedido de ‘Adaptación Razonable’ a favor de Pineda, pidiendo al administrador del apartamento considerar su discapacidad. Inmediatamente después de recibir la carta, el administrador respondió a Pineda, diciéndole que podía quedarse con sus mascotas sin gasto extra alguno. Pineda dice que es un alivio cómo se solucionó todo, y está muy agradecida por toda nuestra ayuda.

Inquilino v. Propietario

Una inquilina se comunicó con ATC porque estaba atrasada \$3,000 en la renta, y el propietario le había dado aviso de desalojo para que pague o se mude antes del 20 de mayo. Cuando no pudo cumplir con este plazo, el propietario le cortó los servicios básicos.

Un asesor de ATC informó a la inquilina de sus derechos. En Texas, el propietario no puede cor-

son invaluable para aumentar al máximo la capacidad del beneficiario a obtener una vivienda digna y segura en el barrio de su elección.

Una vez que la oficina del Gerente Municipal de Austin escriba el texto de la propuesta ordenanza, la Comisión de Derechos Humanos de Austin considerará esta resolución previo a que el Consejo considere la versión final antes del 1 de agosto.

Con este proceso, la Ciudad tendría la oportunidad de resolver un problema de la actual ordenanza de vivienda justa. Bajo la ordenanza actual, si la Ciudad no logra llegar a un acuerdo aceptable, la Comisión de Derechos Humanos de Austin debe, con un voto mayoritario, referir el caso al fiscal municipal para su procesamiento en corte municipal. La multa máxima por infracción es de \$500. Con una multa tan baja, los propietarios pueden fácilmente correr el riesgo y pagar \$500 cada vez que son descubiertos.

Si se promulga esta ordenanza, Austin sería la primer municipalidad en Texas en brindar la protección “fuente de ingresos” en la vivienda.

tar nunca la electricidad, agua, aguas residuales o gas porque el inquilino esté atrasado en la renta o pago de servicios. El asesor le aconsejó a la inquilina que si el propietario no aceptaba restituir los servicios, ella podía solicitar una orden judicial de restitución al juez de paz.

El asesor se comunicó con el propietario, quien inicialmente se negó a restituir los servicios. El propietario no creía estar obligado a restituir los servicios, ya que el inquilino le debía mucho en renta atrasada. El asesor le explicó el proceso de desalojo y el derecho de inquilinos en Texas para solicitar la restitución de servicios al juez de paz si se han cortado ilegalmente.

Antes de que la inquilina pudiera ir al juez de paz para confirmar sus derechos, el propietario le restituyó los servicios. La inquilina agradeció al asesor de ATC por ayudarla a recuperar los servicios.

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

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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. Dolores Gonzalez has been designated as the City's Section 504/ADA Coordinator. Her 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 Section 504/ADA Coordinator at 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 474-7007.

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 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 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.

Austin Tenants' Council Staff

- Linda AlemanHousing Specialist
- Jose Calderon.....Housing Specialist
- Christine Castilleja Intake Specialist
- Cruz GarciaHousing Specialist
- Tai James Fair Housing Program Specialist
- Andrew JonesHousing Specialist
- Morgan Morrison Fair Housing Program Specialist
- Lucia Perez-Salinas..... Fair Housing Program Specialist
- Nekesha PhoenixFair Housing Program Director
- Nathan Plummer Technical Support
- Erika Reed.....Fair Housing Testing Coordinator
- Katherine StarkExecutive Director
- Christopher SuarezHousing Specialist