

Housing Rights **ADVOCATE**

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Ramps Provide Safe, Accessible Route

Cordell Barbour, who uses a wheelchair, did not have a safe, accessible route from his apartment at Elm Ridge to the rental office, mailboxes, or main city street. To get to these areas, he had to drive his wheelchair in the middle of the apartment street. Barriers included: 1. Steps along the sidewalk; 2. A dumpster used by neighboring businesses blocked the sidewalk; and 3. Parked cars prevented Barbour from going around the speed bumps (he could not go over the speed bumps without his wheelchair overturning).

Management offered to transfer Barbour to a handicapped accessible apartment but that unit did not have an accessible route either.

Because Elm Ridge was built in 1970, it is not covered by the Fair Housing Act's design and construction requirements (these accessibility requirements apply to multifamily dwelling built for first occupancy after March 13, 1991).

However, the Fair Housing Act's general requirements of non-discriminatory treatment and reasonable accommodations apply. If a rental office is not accessible, a person with a disability must still be accommodated.

In addition, rental offices that serve the public must comply with the access requirements of the Americans with Disabilities Act, Title III. In buildings constructed for first occupancy before January 26, 1993, architectural barriers must be removed if doing so is "readily achievable."



Cordell Barbour, an 18-year resident of Elm Ridge, had asked management for an accessible route for two years before the ramps were installed.

As a recipient of federal financial assistance (a rent subsidy from the U.S. Department of Housing and Urban Development for its project-based Section 8 program), Elm Ridge is also covered by Section 504 of the 1973 Rehabilitation Act. Section 504 requires that "programs and activities" such as a rental office be accessible.

After two years of asking management to provide a wheelchair accessible route, Barbour made a formal request for reasonable accommodation in September 2011. Management again offered to transfer Barbour to another unit. However, the entrance to this apartment required two 90-degree turns, which was difficult for Barbour to maneuver in his wheelchair.

After advocacy by several ATC Fair Housing Program staff members, management agreed to build the two ramps Barbour requested. The work was completed in November 2011. Barbour is pleased with the ramps and happy he has a safe alternative to driving his wheelchair in the middle of the street.

FH 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.

Angel Scales v. Arrowhead Park

Angel Scales, who is black, contacted the ATC Fair Housing Program after she faced eviction and the loss of homelessness prevention rental assistance provided by the Salvation Army.

Last October, Arrowhead Park management accused Angel Scales's 11-year-old son of throwing a rock at an apartment window. Management asserted that a maintenance man had witnessed the act. After being questioned by the police, the maintenance man admitted that he had simply seen a black male running from the scene and had not seen a face. Management then changed the story, saying that neighbors had complained. Management told Scales that she had to move by the end of the month, even though her lease did not expire until May 2012.

Because of this incident, Salvation Army sent Scales a termination notice. Program participants may not receive a lease viola-

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New Eviction Appeals Process

On Jan. 1, 2012, a law took effect which can speed up how quickly a landlord regains possession of a unit after an eviction judgment.

Previously, justices of the peace did not have the right to issue a writ of possession after an appeal was filed. Instead, landlords had to file a motion in county court (often with the assistance of an attorney).

The new law allows a JP to issue a writ of possession if a tenant appealing a non-payment of rent eviction case using a pauper's affidavit does not deposit rent into the registry of the justice court within five days of appealing and as it becomes due.

When the pauper's affidavit is filed, the justice court must notify the appealing tenant of the following:

1. The amount of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;
2. Whether the initial deposit must be paid in cash, cashier's check, or money order and to whom the cashier's check or money order, if applicable, must be payable;
3. The calendar date by which the initial deposit must be paid into the justice court registry;
4. For a court that closes before 5:00 p.m. on the date specified in the notice, the time the court closes; and
5. A statement that failure to pay the required amount into the court registry by the date prescribed in the notice may result in the justice court issuing a writ of possession without a hearing.

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tion or eviction notice. Scales had 10 days to appeal. Scales sent a letter disputing the allegations to Arrowhead Park but failed to appeal directly to Salvation Army.

Nekesha Phoenix, ATC fair housing program director, contacted Salvation Army to ask for reconsideration of the subsidy termination. Phoenix explained the lack of evidence against Scales's son. After receiving a copy of the dispute letter, Salvation Army agreed to continue paying Scales's rent through May 2012. In addition, Arrowhead Park agreed to allow Scales to remain at the property through the end of her lease.

Barb Evans v. Tramor at Oak Run

After management changed, Barb Evans, whose only source of income is disability benefits, began being charged late fees. Because Evans does not receive her disability benefits until the second Wednesday of the month, she could not pay her rent by the lease due date of the first.

Morgan Morrison, ATC fair housing testing coordinator, contacted John Morris, president of Tramor Properties, to discuss Evans's need for a reasonable accommodation to change the rent due date.

Morris agreed to remove the late fees and accept Evans's rent on the 15th of the month for the remainder of her lease. Morris further offered a one-month rent concession at the beginning of the lease renewal so Evans would be able to pay her rent ahead of when she receives her disability benefits.

We thank Evans for her generous contribution of copier paper and card stock in support of ATC's programs and services.

Lee Green v. Austin Housing Authority

Lee Green has lived in public housing since 2006. However, in June 2011, the Housing Authority of the City of Austin (Green's landlord for the last five years) denied his application for a Housing Choice Voucher, asserting that Green was a direct threat due to a criminal incident that occurred nearly 20 years ago.

Attorney Kelli Howard of Texas RioGrande Legal Aid helped Green make a request for reasonable accommodation. Howard presented evidence that Green has received regular counseling and complied with medication and other recommended treatment since his arrest. Green fulfilled the terms of his probation in 2011.

After HACA denied Green's request for reasonable accommodation, Green filed a fair housing complaint with the U.S. Department of Housing and Urban Development. Green alleged that HACA discriminated against him by failing to consider the mitigating circumstances related to his disability when reviewing his voucher application.

HUD negotiated a conciliation agreement in which HACA agreed to reinstate Green's application.

HACA issued a voucher to Green in December. "It's a blessing to get the Section 8," Green says. "[ATC] really stuck with it and helped me out." Green moved to his new home on February 1.

ATC Thanks Lola Wright Foundation

The Lola Wright Foundation generously granted \$8,079.09 to the Austin Tenants' Council to upgrade computer equipment and software. The increased response time of ATC's network due to this upgrade has made staff much more efficient.

Las Rampas Permiten Trayecto Accesible y Seguro

Cordell Barbour, quien usa silla de ruedas, no tenía un trayecto seguro y accesible desde su apartamento en Elm Ridge hasta la oficina del edificio, el buzón de correo o la calle principal. Para llegar a estos lugares, tenía que maniobrar su silla de ruedas por el medio de la calle del complejo de apartamentos. Los obstáculos incluían: 1. Escalones en la vereda; 2. Un contenedor de basura usado por negocios vecinos bloqueaba el camino; y 3. Carros parqueados impedían a Barbour evitar los topes (no podía pasar sobre los topes sin que se le diera vuelta la silla de ruedas).

La administración ofreció a Barbour trasladarlo a un apartamento accesible a discapacitados, pero esa unidad tampoco brindaba un trayecto accesible.

Como Elm Ridge fue construido en 1970, no se le aplicaron los requisitos de diseño y construcción del Acta de Vivienda Justa

(estos requisitos de acceso se aplican a edificios de apartamentos construidos después del 13 de marzo de 1991).

Sin embargo, los requisitos generales del Acta de Vivienda Justa en cuanto a tratamiento no-discriminatorio y ajustes razonables son aplicables. Si una oficina de administración no es accesible, la persona con discapacidad debe ser acomodada.

Además, las oficinas administradoras que sirven al público deben cumplir con los requisitos de acceso del Acta Americanos con Discapacidad, Título III. En los edificios construidos antes del 26 de enero de 1993, deben quitarse barreras arquitectónicas si es "fácil de lograr".

Al recibir asistencia económica federal (un subsidio de renta del Departamento de Viviendas y Desarrollo Urbano de EE.UU. para su programa Sección 8), Elm Ridge también está cubierto por la Sección

504 del Acta de Rehabilitación 1973. La Sección 504 requiere que "programas y actividades" como una oficina de renta sean accesibles.

Después de dos años de pedirle a la administración una vía accesible en silla de ruedas, Barbour hizo una solicitud formal de 'ajuste razonable' en septiembre de 2011. La administración volvió a ofrecerle un traslado a otra unidad. Sin embargo, la entrada a ese apartamento requería doblar dos veces en 90 grados, algo difícil para Barbour en su silla de ruedas.

Después de que varios miembros del personal del Programa Vivienda Justa en ATC abogaran por él, la administración aceptó construir las dos rampas que Barbour pedía. El trabajo se terminó en noviembre de 2011. Barbour está satisfecho con las rampas y feliz de tener una alternativa segura a maniobrar su silla de ruedas por el medio de la calle.

Novedades Sobre Casos de Vivienda Justa

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 antes de llevarlo a juicio.

Lee Green v. Autoridad de Viviendas de la Ciudad de Austin

Lee Green vivía en viviendas públicas desde el año 2006. Sin embargo, la Autoridad de Viviendas de la Ciudad de Austin o HACA (el arrendador de Green los últimos cinco años) le negó su solicitud de un Voucher de Elección de Vivienda, aduciendo que Green significaba una amenaza directa debido a un incidente

criminal ocurrido hacía casi 20 años. En 1992, Green estaba teniendo problemas con una medicina que tomaba para su discapacidad mental, lo que propició relaciones personales malsanas y toma de decisiones equivocadas.

La abogada Kelli Howard de RioGrande Legal Aid ayudó a Green a hacer una solicitud de 'ajuste razonable' y lo representó en una audiencia de HACA. Howard presentó evidencia de que Green había recibido una consejería regular y cumplido con su medicación y otro tratamiento recomendado desde su arresto. Green completó con éxito los términos de su libertad condicional en 2011.

Después que HACA negara la solicitud de Green para un ajuste razonable, ATC ayudó a Green a presentar una queja de Vivienda Justa ante el Departamento de Viviendas y Desarrollo Urbano de EE.UU (HUD). Green alegó que HACA lo discriminó al no considerar las circunstancias mitigantes relativas a su discapacidad cuando estudió su solicitud de voucher.

HUD negoció un acuerdo de conciliación en el que HACA aceptó readmitir la solicitud de Green.

HACA emitió un voucher a Green en diciembre. "Es una bendición obtener la Sección 8", dice Green, "[ATC] de veras apoyó y me ayudó mucho". Green se mudó a su nuevo hogar el 1 de febrero.

RETURN SERVICE REQUESTED

If your agency would like to receive additional copies of this newsletter or if you have any changes to the mailing list, contact Morgan at 512-474-7007 or morgan@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.

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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.

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