Substandard and Unaffordable Housing and Homelessness: The Human Right to Adequate Housing

The American Bar Association has policy urging governments to promote the human right to adequate housing for all through increased funding, development and implementation of affordable housing strategies and to prevent infringement of that right. The policy and supporting report provide a framework for progressive realization of that right. While implementing the human right to housing would not require the government to immediately build a home for each person in America or to provide housing for all free of charge overnight, it would require more than some provision for emergency shelter, piecemeal implementation of housing affordability programs, and intermittent enforcement of non-discrimination laws, all of which exist in some form in all local U.S. communities and have failed as a whole to eliminate homelessness or poverty. It requires an affirmative commitment to progressively realize the right to adequate housing, whether through public funding, market regulation, private enforcement, or a combination of all of the above.

The resolution and report call for the implementation of policies promoting the human right to adequate housing for all—including veterans, people with disabilities, older persons, families, single individuals, and unaccompanied youth—which, at minimum, includes:

- Affordability, habitability, and accessibility;
- Provision of security of tenure, access to services, materials, facilities, and infrastructure;
- Location proximate to employment, health care, schools, and other social facilities;
- Provision of housing in areas that do not threaten occupants’ health; and
- Protection of cultural identity or diversity

Even where needy applicants are able to obtain housing assistance or access affordable housing, they often face discrimination in the private housing market on the basis of race, disability, gender, sexual orientation, source of income, criminal background, or other status. More work needs to be done to ensure equal access to housing resources. This includes ensuring availability of various types of home and community based support services that enable individuals and families to live independently as long as possible. Additionally, as was seen following Hurricanes Katrina and Sandy, many traditionally marginalized groups feel a disparate impact during natural disasters, and the right to adequate housing must be ensured appropriately in the post-disaster context as well.

Over the years, the ABA has taken policy positions and sponsored position papers focused on the various issues involved with this topic. These policies and positions are based on the knowledge and
intellectual work product of lawyers who could be in a unique position to strengthen community-based efforts to address structural barriers to standard and affordable housing for low income individuals and families. Lawyers can work shoulder-to-shoulder with stakeholders including community-based entities, providers/advocates, academic communities, foundations/funders, politicians, program users/beneficiaries and the general public to use the law and justice system to tackle systemic barriers and obstacles to realization of the right to adequate housing.

The ABA Commission on Homelessness & Poverty has compiled for informational purposes only—and without any intended endorsement—the following Issues and potential Strategies for consideration as each community develops its own unique local plan of action for eliminating legal and justice system related policies, practices, and procedures that unfairly perpetuate or worsen the harmful effects of poverty, particularly those that serve as unfair obstacles and barriers to the realization of the human right to adequate housing. The Commission is able to offer technical assistance in identifying and convening community stakeholders for roundtable discussions to develop strategic plans for local community action.

Substandard Housing, page 3
Implementing an Effective Housing Continuum, page 4
Fair Housing and Utilization of Vouchers, page 6
Lack of Affordable Housing, page 7
Not In My Backyard/NIMBY, page 10
Removing Legal and Justice System Barriers to Housing, page 11
Preventing Eviction, page 12
Preventing Foreclosure among Homeowners and Renters, page 13
Preventing and Ending Veteran Homelessness, page 14
Preventing and Ending Youth Homelessness, page 16
Concentrated Poverty and the Effects of Exclusionary Zoning, page 18
Emergency Housing in the Case of Natural Disasters, page 19
Displacement, page 20
Heir Property, page 21
ISSUE: SUBSTANDARD HOUSING

Underfunding for public housing leaves many affordable units in disrepair and lack of meaningful enforcement—including lack of access to legal counsel—has rendered housing codes ineffective. Substandard housing is not merely a housing issue; substandard housing is a public health issue. Poor housing conditions are associated with a wide range of health conditions such as respiratory infections, asthma, lead poisoning, injuries, and poor mental health. Substandard housing also presents safety issues such as exposed heating sources and fires, unprotected upper-story windows and poorly designed stairwells with inadequate lighting.

STRATEGIES:

- Collaborate with public health agencies, lawyers and other advocates to mount legislative advocacy initiatives to have housing recognized as a human right and to obtain funding to enforce existing laws and policies protecting the housing rights of individuals and families.

- Collaborate with government agencies and the local Homeless Continuum of Care to set priorities to implement the right to housing—including increased funding, development and implementation of affordable housing.

- Connect residents with state or local advocacy groups and legal service providers who are equipped to secure repairs and prevent unjust rental demands and eviction. The ABA Legal Services Directory, provides state-by-state guides of available legal resources.

- Identify and collaborate with key stakeholders responsible for the development and enforcement of housing codes—typically the responsibility of housing and construction departments, and sometimes the health department which might issue and enforce housing codes that address a limited set of concerns (e.g., plumbing, sanitation, occupancy).

- Modernize housing codes to encompass an expanded set of current concerns (e.g. pest control, lead-based paint, carbon monoxide, mold abatement, internet access).

RESOURCES:

- The Alliance for Healthy Homes and Communities, a national policy and advocacy organization, has developed a model for advocacy that focuses directly on environmental hazards in homes to point the attention of officials and other policy makers toward real prevention. Documenting hazards in specific homes can illustrate the connection between health hazards and substandard housing conditions and lay the foundation for local initiatives to address housing-related hazards before occupants get sick. The Alliance’s Community Environmental Health Resource Center (CEHRC) has trained 200 community members in nine cities and regions across the country as hazard investigators. CEHRC has also provided funding, ongoing technical and strategy assistance, support for project evaluation and mechanisms (meetings, phone conferences, a listserv) to allow peer-to-peer support among these groups. These projects, in turn, have checked more than 2,500 homes for hazards and used
the results to advocate for community-wide solutions for lead poisoning and other healthy housing problems.

- The emergence of asthma as a major public health issue has led many local jurisdictions (e.g., Boston, Cambridge, Cleveland, Detroit, New York, Philadelphia, San Diego, San Francisco) to develop “Healthy Homes” initiatives. These programs provide education and resources to support the empowerment of families and individuals to improve the quality and safety of their home environments. The Seattle–King County Healthy Homes Project employs community health workers who use a home environmental checklist to assess exposures, awareness and actions related to indoor asthma triggers and indoor chemical hazards. The checklist guides the development of a specific, computer-generated home environmental action plan for each household. The community health worker makes 5 visits over 1 year in which she works with clients to carry out the action plan by offering education and social support, encouraging changes in habits (e.g., household cleaning, tobacco use), providing materials to reduce exposures (e.g., bedding covers, vacuum cleaners, doormats, cleaning kits, integrated pest management supplies), helping repair minor deficiencies (e.g., small holes that allow pests to enter, minor leaks), assisting tenants in working with their landlords or relocating if needed, and providing counseling and referral for other household concerns. The project's scope has been expanded to include injury hazards, and Healthy Homes projects in jurisdictions with higher prevalence of lead exposure have also integrated lead assessment and abatement. For more information, see an overview of the project here.

**ISSUE: IMPLEMENTING AN EFFECTIVE HOUSING CONTINUUM**

Despite limited resources, communities are tasked to ensure the availability of various types of housing assistance and community-based support services that enable individuals and families to remain housed and live independently as well as provide a spectrum of housing options to care for those who cannot live independently. Given priorities set by HUD and those set at the community level, communities struggle to meet the needs given the high demand and scarcity of resources. As such, it is critical to develop a broad housing continuum that includes partners outside of the traditional HUD-funded Continuum of Care to supplement existing resources and to address gaps in the system (such as vulnerable populations that aren’t eligible for HUD-funded housing). Moreover, an effective continuum will have a coordinated entry system as well as a robust system for homelessness prevention and diversion that connects people with other community resources.

**STRATEGIES:**

- Implement a [coordinated entry system](#). Coordinated entry systems improve access to available housing and services and ensure the type and level of assistance provided to households is tailored to meet their specific needs. By screening applicants for eligibility for services using a uniform tool, the needs and strengths of each household can be assessed to determine which interventions are appropriate and have the likelihood of producing success while also prioritizing people for assistance based on the severity of their needs. Communities across the country have begun developing
coordinated entry systems—often starting with targeted programs for Veterans and utilizing this infrastructure for non-Veteran homeless individuals and families.

- Homelessness prevention assistance is a key component to preserve current housing situations. This cost-effective approach stabilizes individuals and families by providing short-term rental assistance and connecting people with other community-based resources. Shelter diversion assists households in sustaining their current housing situation or finding alternate housing outside of the shelter system—often through connections to other community resources or safety net programs available on the state of federal levels. A coordinated entry system with robust prevention and diversion mechanisms often succeed in assisting households with modest interventions, while many households are ultimately able to resolve their current housing crisis with very little support at all. These strategies are critical components of an effective continuum as they reduce the number of people who ultimately enter the homeless assistance system, lessening the demand for shelter and other programmatic housing beds (which should be prioritized for the most vulnerable populations).

- Advocate to ensure your community's adoption and implementation of a Housing First approach—rapid access to housing with minimal preconditions—to serve people experiencing homelessness. Housing First is an approach for ending homelessness that is centered on the belief that everyone can achieve stability in permanent housing directly from homelessness and that stable housing is the foundation for pursuing other health and social services goals. Implementing Housing First involves screening practices that promote the acceptance of applicants regardless of their sobriety or use of substances, completion of treatment, and participation in services; it also entails a homeless crisis response system that is oriented to help people obtain permanent housing as quickly as possible.

- Emergency shelter should only be used as an interim, temporary response to homelessness. Communities should provide a range of temporary and permanent housing options to address the needs of persons experiencing homelessness and help them rapidly exit homelessness.

- Ensure that your Continuum of Care includes Permanent Supportive Housing—a combination of housing and services designed for people with serious mental illnesses or other disabilities who need support to live with stability in their communities. These services can include case management, substance abuse or mental health counseling, advocacy and assistance in locating and maintaining employment.

- Dedicate funds to Rapid Re-Housing efforts to prevent individuals and families from becoming homeless and help those who are experiencing homelessness to be quickly re-housed and stabilized. Rapid Re-Housing targets individuals and families who would be homeless but for this short-term or medium-term rental assistance, housing relocation and stabilization services, including activities such as mediation, credit counseling, security or utility deposits, utility payments, moving cost assistance, and case management. While Housing First uses many of the same philosophies and approaches as Rapid Re-Housing, the main distinction is that Housing First is geared towards chronically homeless persons with high needs (requiring ongoing case management and support services), whereas Rapid Re-Housing
is geared towards episodically homeless persons with more moderate needs (ideally with an income or the potential to generate an income capable of sustaining housing).

• Monitor the federal budget and advocate for the highest possible appropriations for HUD, USDA and VA housing programs. Monitor the state and local budgets and advocate for funding to increase capacity to meet the housing needs of the prioritized vulnerable populations.

• Cultivate new partnerships with community providers who aren’t already connected with the Continuum of Care to increase services for low-income households in an effort to prevent future housing crises. Similarly, engage new partners to address the needs of vulnerable populations who aren’t eligible for services through the Continuum of Care—such as undocumented immigrants—and support their efforts to better serve vulnerable populations who cannot be served due to limited capacity and prioritized populations. As an example, the faith-based community can develop privately funded housing programs and support services that won’t preclude access to undocumented households and/or vulnerable populations that fall outside of the HUD-prioritized “chronically homeless” population.

ISSUE: FAIR HOUSING and UTILIZATION OF VOUCHERS

Even where needy applicants are able to obtain housing assistance (e.g., Section 8 voucher or similar voucher), they often face discrimination in the private housing market on the basis of race, disability, gender, sexual orientation, source of income, criminal background, or other protected status.

STRATEGIES:

• In response to discrimination by some landlords who are unwilling to rent to voucher holders, several states and municipalities have adopted laws prohibiting housing discrimination based on source of income. These legal protections are critical in maximizing a voucher holder’s ability to obtain safe and adequate housing because they prohibit someone from turning away a renter solely because they receive public assistance. See here for the National Housing Law Project’s resource list of articles, cases, statutes and regulations related to this topic.

• Promote awareness that owners of Low Income Housing Tax Credit projects and certain types of federally assisted housing are prohibited from discriminating against voucher holders. These protections are invaluable in maximizing a voucher holder’s ability to secure housing. To learn about how to enforce source of income laws on behalf of voucher holders and references to the federal laws preventing discrimination against voucher holders, see the National Housing Law Project.

• Develop an effective educational marketing plan for landlord engagement and recruitment. Without the participation of good landlords, individuals and families will not succeed in leasing up and staying leased. For more information on effective landlord outreach and examples of how to remove existing barriers when working with landlords, see The Landlord Engagement and Recruitment Desk Book (HUD, September 2015).
Consider developing a landlord mitigation fund (also called a landlord guarantee or risk reduction fund) to provide an added protection for landlords who are willing to reduce screening criteria to rent to someone with limited income, a poor rental history, or a criminal history. The fund can be used to reimburse landlords for damages up to a specified amount in the event of excessive damages to the unit, lost rent, or legal fees beyond the security deposit.

**RESOURCES:**

- The Supreme Court has ruled in favor of the use of “disparate impact” claims in fair housing litigation, pointing to a provision of the Fair Housing Act that makes it illegal to “otherwise make unavailable” a dwelling because of race, color, religion, sex, familial status, or national origin. The opinion stated that the phrase “otherwise make unavailable” refers to the consequence of the action, rather than the intent and thus supports disparate impact claims. See here for more information. See here for the opinion.

- HUD has issued a new rule requiring local government and agencies to “affirmatively further fair housing.” The rule responds to recommendations of the Government Accountability Office and stakeholders for HUD to improve its fair housing planning obligations by providing jurisdictions with funding and support. The rule clarifies existing fair housing obligations and requires HUD to provide technical assistance and data for grantees to use to evaluate the status of fair housing within their communities and set priorities and goals for improvement. See here for more information.

- In April 2016, HUD issued guidance on the application of Fair Housing Act Standards to the use of criminal records. See here for more information.

**ISSUE: LACK OF AFFORDABLE HOUSING**

Communities require a range of affordable housing options to accommodate all residents—including those who are low-income or experiencing homelessness. Federal housing assistance provides several million units of housing nationwide but continues to fall short of adequately addressing the country’s affordable housing crisis. Indeed, the US has a strong history of promoting affordable, accessible housing, but programs have been underfunded and under-implemented. Despite innovations such as the Rental Assistance Demonstration and Choice Neighborhood Initiative (which attempt to “do more with less” while preserving important rights and protections for low-income residents), there has been a significant disinvestment in public and subsidized housing at the federal level over the last 30 years.

Another key issue is that naturally-occurring affordable housing units are often used to serve higher-income households, and affordable housing units are increasingly lost or at risk of losing government subsidies.

**STRATEGIES:**

- The National Housing Trust Fund (NHTF) is a dedicated fund intended to provide revenue to build, preserve, and rehabilitate housing for people with the lowest incomes. The NHTF will provide
communities with funds to build, preserve, and rehabilitate rental homes that are affordable for extremely and very low income households. The first NHTF dollars will be available in early 2016. To learn how to secure these funds for your community, visit the National Low Income Housing Coalition’s site at http://nlihc.org/issues/nhtf/implementation.

- Expand the supply of low-income and affordable housing. The Montgomery County, MD Moderately Priced Dwelling Unit (MPDU) program is a nationally recognized model utilizing zoning laws to increase the supply of affordable housing. In the 30 years since its inception, the MPDU program has produced more than 11,000 units dispersed throughout the county—far more than any other community of its size. Moreover, the MPDU program serves households at a lower area median percentage income than other communities. Key provisions of the pertinent law governing the MPDU program requires that between 12.5% and 15% of the houses in new subdivisions of 20 or more units be moderately priced dwelling units (MPDUs). The law requires that 40% of the MPDUs be offered to the Housing Opportunities Commission and other non-profit housing agencies for use by low and moderate income families. See here for more information.

- In its recent report “Preserving Multifamily Workforce and Affordable Housing,” NeighborWorks America highlights sixteen leading efforts and innovative approaches to preserve affordable housing, including below-market debt funds, private equity vehicles, and real estate investment trusts.

- Preserve publicly-assisted affordable housing by lobbying to federal, state and local law makers on the critical need to support affordable housing development as well as housing assistance subsidies.

- Preserve affordable rental units by protecting subsidized housing units with expiring contracts. Strategies can include litigation (if there are restrictions that preclude conversion), incentivizing renewal, or purchase by a third party—typically a nonprofit committed to preserving the affordable units.

- Require affordable housing impact statements. In land use approval processes, some U.S. cities are requiring developers to assess the likely impact on housing affordability. Ordinances in Atlanta, Austin, and San Diego already require affordable housing impact statements, and New Orleans and Pittsburgh may follow suit. In New Orleans, where the poverty rate is nearly 28 percent and rents have risen 50 percent since 2000, members of the city council introduced a bill to ensure that any zoning decisions about new developments consider the impacts on affordability for low-income residents. Click here for more information.

- Encourage nonprofit housing organizations to leverage tax credit and philanthropic dollars for the development of affordable housing projects.

- Incentivize the development of affordable housing through Low Income Housing Tax Credits.

- Address barriers to the development of affordable housing by examining existing zoning laws.
RESOURCES:

The following is a directory of affordable housing links compiled by the ABA Forum on Affordable Housing and Community Development Law:

HUD (US Department of Housing and Urban Development)
HUD
HUDCLIPS
HUDUSER

UNITED STATES GOVERNMENT RESOURCES
Code of Federal Regulations
Empowerment Zone and Enterprise Community Home Page
Thomas - Legislative Information on the Internet
House of Representatives
Senate
White House

STATE AND LOCAL RESOURCES
The POGO Report
Washington Affordable Housing

LEGAL RESOURCES
ABA Home Page
DIRT (ABA Real Property Page)
Fried, Frank, Harris, Shriver and Jacobsen Fair lending Guide Page
Law Lists
Lexis Counsel Connect
Westlaw

FINANCIAL
CNN Financial Network
Office of the Comptroller of the Currency
FANNIE MAE
(FDIC) Federal Deposit Insurance Corporation
Federal Financial Institutions Examination Council - Community Reinvestment Act
FREDDIE MAC
Department of the Treasury

NONPROFIT ORGANIZATIONS
Enterprise Community Partners
Habitat for Humanity
Handsnet
Homes for the Homeless
National Coalition for the Homeless
National Low Income Housing Coalition
ISSUE: NOT IN MY BACKYARD ("NIMBY")

People have certain perceptions about their neighborhoods and their neighbors, and they have a vested interest in preserving their home value and neighborhood. Oftentimes the mere suggestion of development—any sort of development—prompts questions and concern from neighbors. Unfortunately, plans to create housing or services for low-income, homeless or other vulnerable populations are often met with resistance from residents, causing delays and sometimes permanently derailing construction of housing and services for people who critically need them. But neighbors’ perceptions can be changed as long as they can be convinced that change is better—or at the very least, the proposed change won’t actually have an adverse impact. While NIMBY situations raise personal emotions, they also raise legal issues (such as land use, zoning and permit issues) and myriad other questions related to the community and potential new neighbors (such as access to appropriate services, transportation, education, and safety). Because community opposition to shelters, affordable housing developments, group homes, and subsidized rentals can be strong, it is incumbent upon lawyers and advocates to understand (and anticipate) NIMBY concerns and work with the community to generate positive outcomes (and to avoid costly, protracted litigation).

STRATEGIES:

• Anticipate potential opposition and develop a plan to combat NIMBY by having a basic understanding of the issues that commonly arise within the community, the zoning process, and the legal arena. In general, the typical NIMBY concerns voiced by the community fall into four categories: economics (property values will decline, and neighborhood businesses will suffer), density (more traffic, overcrowding at schools and other local venues), safety and neighborhood appearance. Be prepared to discuss these concerns at the outset.

• Designate specific individuals to address inquiries from the media, residents and business owners to ensure that information provided to the public is accurate and consistent. Additionally, identify a community liaison who will organize community meetings and develop a relationship with the neighbors. Anticipate community mobilization and proactively reach out to share information and foster positive interaction.

• Engage the community early on to discuss the development, solicit feedback, and answer questions. Identify who will be most affected by the development, analyze the informal and formal power structures within the community, and develop a concrete plan to assure the community that the development won’t adversely impact the community and that it will be well-constructed, well-maintained, and well-managed.

• Engage the providers who will ultimately manage the program to speak with the community about the program in terms of who will be housed, what kinds of services will be provided, and ways in which the community can support the program’s efforts. Studies show that neighbors who previously
opposed projects come to view them with approval after they have been established—particularly when neighbors are invited to support the program. Many projects have succeeded by building a coalition of community leaders and residents who support the development and equipping them to champion the cause. Some providers have relied on their own volunteers or donors in the community to galvanize additional support, while other providers have effectively engaged the local faith community by identifying specific ways they can directly support the project through donations of household goods, tutoring, and other charitable acts.

- Conduct small-scale, intimate community meetings that use a neutral facilitator. Each participant should receive an information packet that discusses the project, its benefits, the provider’s background, and project contacts. Invite neighbors of similar projects to discuss the benefits of the program in their community. Consider inviting a potential project resident to attend the meeting and combat preconceived notions about the residents.

- Convey that robust support services will be provided in addition to housing. Take every opportunity to inform decision-makers about the success stories of individuals and families living in (or transitioning from) similar programs. Arrange tours of similar programs that include meet and greets with residents.

- Since few Continuums of Care, housing providers, and service agencies have the staff resources to dedicate a person to combat NIMBYism full time, the HUD Decision Tree resource was designed to help organizations isolate NIMBY issues and quickly develop strategies to address them. The NIMBY Decision Tree provides an intake and risk assessment questionnaire to determine what types of issues your organization might face in developing housing for homeless individuals as well as what type of risks your organization would be willing to take to address these issues.

**ISSUE: REMOVING LEGAL AND JUSTICE SYSTEM BARRIERS TO HOUSING**

Bad credit and criminal records create very real barriers to housing. Citations for minor infractions such as jaywalking or neglecting to wear a seatbelt can lead to warrants being issued or additional fines being assessed. Unpaid tickets and child support arrearages are flagged on credit reports and can lead to charges being filed. Many landlords simply won’t rent to households with bad credit reports or criminal records. Advocates and providers can implement programs aimed at removing barriers to housing such as credit repair, criminal record expungement and specialty courts.

**STRATEGIES:**

- Collaborate with legal service providers to hold expungement clinics.
  
  
  [http://www.abajournal.com/magazine/article/wipe_out_new_app_helps_people_expunge_their_records/](http://www.abajournal.com/magazine/article/wipe_out_new_app_helps_people_expunge_their_records/)
  
• Raise awareness about credit scores and reports and provide guidance on how to read reports and correct errors. For more information, visit http://www.federalreserve.gov/creditreports/ and https://www.consumer.ftc.gov/articles/0151-disputing-errors-credit-reports

• Utilize housing locators who are equipped to assist households with credit repair and who have established relationships with local landlords.

• Collaborate to establish specialty court programs, problem solving courts, or pre-booking diversion programs aimed at addressing the root cause of a person’s infraction—addiction, mental health issues, PTSD or trauma related to military service, or homelessness. Homeless Courts combine a progressive plea bargain system, an alternative sentencing structure, assurance of “no custody” and proof of program participation prior to the court appearance—which is held onsite at a homeless service provider with the goal being to dismiss or reduce charges. See ABA Principles for Homeless Court Programs. Similarly, Drug Courts and Behavioral/Mental Health Courts connect participants to appropriate treatment and services. Veterans Treatment Courts seek to address the underlying trauma related to military service through robust partnerships with the VA and community-based service providers. Click here for the related ABA policy, and visit Justice for Vets for additional resources.

ISSUE: PREVENTING EVICTION

Rents are increasing, wages are stagnating, and families are forced to choose between paying their rent and paying for childcare, groceries, medicine, transportation and utilities. Twenty-six percent of renter households are paying more than half of their income to keep a roof over their heads. While there are many costs involved with eviction—including the ancillary “costs” children pay due to instability and multiple school placements—the greatest and most direct costs are to the community’s emergency shelter and housing system. Best practices and a growing body of research indicate that it is much more cost effective to prevent individuals and families from entering the homeless system by keeping them stably housed through initiatives aimed at preventing eviction such as rental assistance. Given that most landlords tend to have legal representation in court proceedings, a number of jurisdictions have developed special court programs or embedded legal aid programs in the courthouse in an effort to level the playing field. New York City proposed legislation in 2016 for a right to counsel for low-income tenants in eviction cases based on the significant financial savings the city will enjoy by preventing eviction.

STRATEGIES:

• A report by Stout Risius Ross, an independent financial advisory service commissioned by the New York City Bar Association, concludes that New York City would save $320 million by passing Intro 214-A, a bill that would provide a right to counsel for low-income tenants in eviction cases. The report finds that the entire cost of providing lawyers to tenants up to 200% of the poverty level is more than offset by reductions in shelter expenditures, preservation of affordable housing units, and avoidance of homelessness taxpayer expenses like law enforcement and emergency medical care. Bloomberg covered the release of the report and notes that “In New York City, renters who face eviction usually do so without a lawyer, compared with just 2 percent of landlords who represent themselves.”
Consider using a mediator to negotiate landlord/tenant issues. In Philadelphia’s Landlord-Tenant Court before the actual hearing begins, the tenant may choose to enter into mediation or attempt to negotiate a settlement with the landlord. The Philadelphia Landlord-Tenant Court currently will provide a mediator if both parties agree to mediation. However, a mediator is not required for the parties to negotiate. A landlord and tenant may choose to negotiate without the help of a court provided mediator.

Contact your local Legal Aid programs or other non-LSC funded nonprofit legal services programs about embedding attorneys at the courthouse to conduct outreach and provide assistance to tenants.

ISSUE: PREVENTING FORECLOSURE AMONG HOMEOWNERS AND RENTERS

Homeowners don’t want to lose their homes. Banks don’t want to be landlords. Neighborhoods filled with vacant homes deteriorate rapidly causing damaging effects to the entire community. No one wins when it comes to foreclosure. So what can be done? Plenty. Whether you represent the debtor or the lender, options are available to prevent foreclosure.

While most people think of foreclosure as affecting single family home owners, renters are often impacted by foreclosure. Renters are innocent bystanders who are typically caught off guard by the foreclosure given that they have paid their rent on time and simply aren’t aware of the situation until late in the game—making them vulnerable to homelessness through no fault of their own.

STRATEGIES:

There are a number of federal programs to assist homeowners who are at risk of foreclosure and otherwise struggling with their monthly mortgage payments. The majority of these programs are administered through the U.S. Treasury Department and HUD. Summaries of the key programs and pertinent contact information are available here.

For a list of HUD-approved counseling agencies to assist those who are facing foreclosure, mortgage defaults, and credit issues, click here.

Advocate for the restoration of federal policy to protect the rights of renters affected by foreclosure. The Protecting Tenants at Foreclosure Act, which expired at the end of 2014, enabled renters whose homes were in foreclosure to remain in their homes for at least 90 days or for the term of their lease, whichever was greater. Many national advocacy groups have identified making the PTFA permanent a policy priority—including the National Low Income Housing Coalition.

Advocate for greater protection for tenants on the state and local levels. The National Housing Law Project has compiled information on renter protection laws at foreclosure from 47 states plus the District of Columbia. Nine states and the District of Columbia have renter protection at foreclosure laws equal or surpassing those provided by the PTFA. Two states provide 60 days’ notice of eviction. Three states provide 30 days’ notice of eviction. Three states provide 10 days’ notice of eviction. Two states
provide five days’ notice of eviction. One state provides three days’ notice of eviction. Eight states allow immediate eviction of renters at foreclosure. Nineteen states have no specific protection for renters at foreclosure.

- Combat mortgage rescue scams through advocacy and education. The Federal Trade Commission (FTC), the nation's consumer protection agency, has a Rule in place to protect homeowners from scams. The Mortgage Assistance Relief Services (MARS) Rule makes it illegal for companies to collect any fees until a homeowner has actually received an offer of relief from his or her lender and accepted it. Learn how to recognize a mortgage assistance relief scam and educate your clients and community about their rights. Refer clients to legitimate housing counselors or legal assistance. For more information about mortgage rescue scams, see Loan Modification Scam Alert and the related ABA policy, Resolution 10B.

**ISSUE: PREVENTING AND ENDING VETERAN HOMELESSNESS**

The United States Interagency Council on Homelessness, the Department of Housing and Urban Development, and the Department of Veterans Affairs have adopted a vision of what it means to end all homelessness and specific criteria and benchmarks for ending Veteran homelessness in order to help guide communities as they take action to achieve the goal. These criteria and benchmarks are intended to define the vision of ending Veteran homelessness within communities and to help align local efforts in support of that vision, with a focus on long-term, lasting solutions. See United State Interagency Council on Homelessness for more information.

**STRATEGIES:**

- Develop a data strategy to identify the numbers and characteristics of Veterans experiencing homelessness. Identify all Veterans experiencing homelessness in the community. Employ coordinated outreach through multiple points of access to identify, enumerate, and engage all Veterans experiencing homelessness, including Veterans who are unsheltered, as well as Veterans in shelters, Grant and Per Diem programs and other VA residential programs, other transitional housing programs, etc. This identification of Veterans includes both Veterans that meet the definition of chronic homelessness and Veterans that are experiencing homelessness but do not meet the definition of chronic homelessness. The definition of Veteran used includes all persons who served in the armed forces, regardless of how long they served or the type of discharge they received.

- Develop a capacity strategy to assess current capacity and design a plan to increase capacity to meet the needs identified by the data. The capacity strategy will delineate activities that can begin immediately as well as activities that will require new resources.

- Develop a prevention strategy to identify homeless Veterans as well as those at risk of homelessness and create early intervention mechanisms that are culturally competent. Collaborate with Veterans Service Organizations, housing providers, the justice system, drop-in centers and street outreach programs, the behavioral health system and hospitals, and other community programs to identify homeless and at-risk Veterans and provide services aimed at preventing homelessness.
• Develop a coordinated entry and assessment tool to connect homeless Veterans with appropriate assistance—which can vary from shallow, temporary subsidies to permanent supportive housing.

• Lower barriers to entry, reduce lengths of stay, and improve exits to permanent housing. While ending Veteran homelessness is primarily about the community's capacity to connect Veterans to permanent housing, the community also has the capacity to immediately offer some form of shelter (i.e., emergency shelter, bridge or transitional housing, other temporary settings) to any Veteran experiencing unsheltered homelessness in the community who wants it, while assisting the Veteran to swiftly achieve permanent housing. Access to shelter should not be contingent on sobriety, minimum income requirements, criminal records, or other unnecessary conditions.

• Collaborate to establish specialty court programs or pre-bookign diversion programs aimed at addressing the root cause of homelessness based on ABA Principles for Homeless Courts. See ABA Principles for Homeless Court Programs.

• Collaborate to establish a Behavioral and Mental Health Court based on ABA Principles for Veterans Treatment Courts and related policies. Click here for the related ABA policy.

• Collaborate to establish a Veterans Treatment Court based on ABA Principles for Veterans Treatment Courts. Click here for the related ABA policy.

• Advocate for treatment options for minor substance abuse offenses in lieu of incarceration.

RESOURCES:

Homeless Courts Initiative: The ABA Commission on Homelessness & Poverty has had a hand in creating or enhancing over 70 Homeless Courts across the nation. Since 2001 when the ABA Commission first began its initiative to foster the replication of homeless courts, it has provided technical assistance to more than 100 communities across the nation and abroad (including Australia, Canada, Japan and Mexico). The Commission provides technical assistance and educational resources to communities via conference call and in-person trainings, participation in regional and national conferences.

Veterans Justice Initiative: Nearly 60,000 veterans experience homelessness on any given night, and roughly 1.4 million other veterans are considered at risk of homelessness. In support of the U.S. Department of Veterans Affairs’ Five Year Plan to End Homelessness among Veterans, the Commission is fostering the development of Veterans Treatment Courts and pro bono legal services programs aimed at removing barriers to benefits, employment, housing, treatment and services for veterans. Through this initiative, the Commission provides technical assistance to judges, lawyers and providers across the country on how to launch a Veterans Treatment Court and other model programs, including a national pilot program launched in collaboration with the VA and HHS on child support issues for non-custodial homeless veterans.
Coordinating Committee on Veterans Benefits and Services: The Commission staffs and facilitates the Coordinating Committee with leadership and active participation by Commission members and liaisons. The Coordinating Committee consists of 200+ members from nearly 20 ABA entities.

ISSUE: PREVENTING AND ENDING YOUTH HOMELESSNESS

Youth homelessness is a complex issue often prompted by family conflict, poverty and trauma, and often perpetuated by a lack of interventions to prevent or resolve the issue. To effectively prevent and end youth homelessness, communities must collaborate to develop the necessary resources and infrastructure to deliver services that are comprehensive, coordinated and effective.

STRATEGIES:

• The Federal Framework to End Youth Homelessness guides federal action to end youth homelessness by unifying efforts across agencies to ensure measureable progress on four core outcomes for youth: housing stability, permanent connections, education and employment, and well-being. The framework serves as an excellent starting point for communities that aren’t presently serving homeless youth as well as those jurisdictions that have a more robust system by setting forth a roadmap for programs and agencies to engage new partners and align with a larger, unified response to ending youth homelessness.

• Collaborate on implementation of the United States Interagency Council on Homelessness report Preventing and Ending Youth Homelessness, a Coordinated Community Response. Drawing upon effective practices to end homelessness for other populations coupled with strategies that support the unique needs of unaccompanied youth and young adults under 25, the report provides a framework to advance discussions in your community and build upon existing resources to prevent and end youth homelessness.

• Develop a data strategy to secure the numbers and characteristics of youth experiencing homelessness. If your community doesn’t currently have an organization that serves this population, then connect with new partners—including the homeless education liaison, the child welfare and juvenile justice systems—to begin compiling data. Collaborate to advocate for local and state governments to consider legislation requiring counts and reports on the numbers of homeless youth in their communities and services being provided. Based on 2013 findings by a Maryland Task Force on homeless youth, only three Maryland counties were then counting homeless youth and only two of those counties were providing services to homeless youth. This data spurred new Maryland legislation aimed at providing the state with better information about the numbers of homeless youth in Maryland to allow for the possibility to draw down federal funds to better serve this population.

• Develop a capacity strategy to assess current capacity and design a plan to increase capacity to meet the needs identified by the data. The capacity strategy will delineate activities that can begin immediately as well as activities that will require new resources or legislative authority.
• Develop a prevention strategy to identify homeless youth as well as those at risk of homelessness and create early intervention mechanisms that are culturally competent. Collaborate with the child welfare and juvenile justice systems, schools, drop-in centers and street outreach programs, the behavioral health system, and other community programs to identify at-risk families and unaccompanied youth and provide services to keep the family intact or to work towards reunification (when appropriate)—including diversion and transition planning from the child welfare and juvenile justice systems.

• Develop a coordinated entry and assessment system to connect youth with appropriate assistance—prioritizing resources for the most vulnerable youth.

• Create a spectrum of appropriate housing options and individualized services—including safe shelter and emergency services, host homes, and transitional housing.

• Foster permanent connections to family or other appropriate caregivers.

• Facilitate academic success and remove barriers to education including proof of residency requirements, records requirements, guardianship requirements, and lack of transportation. Visit the National Association for the Education of Homeless Children and Youth (NAECHY) for innovative models and best practices aimed at improving outcomes for homeless youth.

• Collaborate to advocate for state legislatures to consider providing free tuition to homeless youth enrolling in state colleges, universities, and trade schools and allowing scholarship and grant funds awarded to youth to be used for housing while in school—similar to laws providing such opportunities for foster youth. Maryland passed such legislation in 2014; see the language here.

• To provide homeless youth and youth transitioning to adulthood from the child welfare and the juvenile justice systems with job training, employment, and career-related resources and assistance through the Youth2Work program established by the ABA Commission on Youth at Risk.

• Raise awareness in the private bar about the complex legal needs of homeless youth and the legal barriers to receiving public benefits, education, employment, housing, treatment and services, as well as to raise awareness of the important ways attorneys can assist this vulnerable population, including greater pro bono legal services to homeless youth. For technical assistance on launching a pro bono program or to learn how to get involved with existing efforts, please contact the ABA Commission on Homelessness & Poverty at homeless@americanbar.org or (202) 662-1693.

RESOURCES:

“Educating Children Without Housing: A Primer on Legal Requirements and Implementation Strategies for Educators, Advocates and Policymakers” Fourth Edition (2014), addresses the federal educational mandates related to homeless students under the McKinney-Vento Homeless Assistance Act. The manual provides innovative strategies for educators and school administrators, state coordinators and policymakers, and advocates and attorneys to play a role in ensuring the education rights of children and youth experiencing homelessness. The revised edition includes 25 pages of new content including new sections on redetermining homeless status, best practices for serving students displaced by natural
disasters, early childhood education, relevant federal guidance, and case summaries. Additional content was also added to the foster care section, making the book an excellent resource for child welfare caseworkers and advocates. Click here for more information on the book.

“Runaway and Homeless Youth and the Law: Model State Statutes,” encompasses model laws in 11 areas, drafted by experts from a variety of backgrounds—lawyers, service providers, federal and state policymakers, advocates, formerly homeless youth, and others. Click here to view the e-book for free.

Report and Recommendations from Maryland State-wide Task Force to study the need for housing and services for homeless youth (November 2013). Click here to view the report.

Through its Homeless Youth and the Law Initiative, the ABA Commission on Homelessness & Poverty offers training on Model State Statutes and legislative strategy to support homeless youth, technical assistance to local organizations, assistance with start-up dialogues—including co-hosting and facilitating community planning meetings. For more information, contact the Commission at (202) 662-1693 or homeless@americanbar.org.

The ABA Youth Engagement Project improves outcomes for youth in foster care and young people who have aged out of care. It promotes youth involvement in court cases, permanency and transition planning for older youth, and extending foster care after age 18. Resources include national data, best practices, legislative updates and technical assistance.

**ISSUE: CONCENTRATED POVERTY AND THE EFFECTS OF EXCLUSIONARY ZONING**

Suburban and exurban development and the sometimes attendant exclusionary zoning and housing market discrimination have resulted in the creation of high-poverty neighborhoods not only in cities, but also in decaying close-in suburbs. While the upper-middle class and affluent could move to the suburbs, the poor were left behind. Historically, public and assisted housing units—as well as affordable housing developments—were often constructed in areas of concentrated poverty. As gentrification has driven up property values, rents, and taxes in many cities, some of the poor are leaving the city and moving to decaying suburbs—where the oftentimes neglected housing stock is more affordable. Ferguson is an example of such poverty migration from the inner-city to the suburbs. The poverty rate in Ferguson increased from 7 percent to 22 percent between 1990 and 2010, with three out of ten neighborhoods in Ferguson now having poverty rates of more than 40 percent. At the same time, there are hundreds of suburbs in the St. Louis metropolitan area that have zero high-poverty neighborhoods due to exclusionary zoning aimed at preventing the development of affordable housing—leaving low-income people with few options for affordable housing outside of the inner city and decaying inner-ring suburbs.

**STRATEGIES:**

- Utilize zoning laws and tax credits to ensure that new housing developments reflect the income distribution of the metropolitan area as a whole—including low-income residents.
• Promote higher density in-fill development for a broad spectrum of incomes in tandem with more efficient public transportation and corporate development—yielding truly mixed-income communities with desirable features including central location, access to employment, and good schools.

• Examine community revitalization efforts that adopted the “Purpose Built Communities” approach that combines quality mixed-income housing, a cradle-to-college education pipeline and community wellness programs driven by a committed local lead organization called the “community quarterback.” The following communities have successfully implemented the model: Atlanta / East Lake, Birmingham / Woodlawn United, Charlotte / Renaissance West, Columbus / PACT, Fort Worth/Renaissance Heights, Houston / Connect Community, Indianapolis / Avondale Meadows, New Orleans / Bayou District, Oakland / Castlemont, Omaha / Seventy Five North, Orlando/LIFT Orlando, Rome / South Rome Redevelopment, and Spartanburg / Northside Initiative.

ISSUE: EMERGENCY HOUSING IN THE CASE OF NATURAL DISASTERS

While no one knows exactly how many people were displaced by hurricanes Katrina and Rita, most estimates are in the 1-1.5 million range. The slow response to the disaster coupled with the high number of people who were still in need of housing two and half years after the national disaster resulted in a number of “lessons learned” that should inform communities as they develop and implement proper planning for effective responses in the future. While rebuilding and repairing homes (and businesses) that were destroyed or damaged due to a natural disaster is a key component of any recovery effort, communities must also implement both short-term and long-term housing strategies for individuals and families who have no home to return to—perhaps because the home was completely destroyed, or perhaps because they were renters or staying with friends or family without a formal rental agreement.

STRATEGIES:

• Develop plans to provide immediate emergency shelter and temporary housing in the event of a natural disaster.

• Ensure coordination between government agencies (federal, state and local) and nonprofits to deliver services.

• According to FEMA’s National Disaster Housing Strategy, there are six key components to meeting the basic needs of those affected by a national disaster:

  (1.) Support individuals, households, and communities in returning to self-sufficiency as quickly as possible.

  (2.) Affirm and fulfill fundamental disaster housing responsibilities and roles.

  (3.) Increase our collective understanding and ability to meet the needs of disaster victims and affected communities.
(4.) Build capabilities to provide a broad range of flexible housing options, including sheltering, interim housing, and permanent housing.

(5.) Better integrate disaster housing assistance with related community support services and long-term recovery efforts.

(6.) Improve disaster housing planning to better recover from disasters, including catastrophic events.

- Through the Disaster Legal Services Program, the American Bar Association Young Lawyers Division and the Federal Emergency Management Agency (FEMA) provide immediate temporary legal assistance to disaster survivors at no charge. Please visit our current list of disaster legal hotlines that are available here.

- The Disaster Distress Helpline (DDH) is the first national hotline dedicated to providing year-round disaster crisis counseling. This toll-free, multilingual, crisis support service is available 24/7 via telephone (1-800-985-5990) and SMS (text 'TalkWithUs' to 66746) to residents in the U.S. and its territories who are experiencing emotional distress related to natural or man-made disasters.

RESOURCES:
- Ready.Gov
- The American Red Cross
- FEMA Disaster Planning

ISSUE: DISPLACEMENT

As communities evolve and change, both residents and developers struggle to balance revitalization efforts with the needs of current residents. Low-income communities are vulnerable and at risk of displacement as dilapidated buildings are sold or renovated. Even the most well-intentioned revitalization efforts can lead to unintended consequences such as increased rents, eviction, lost units, or increased property taxes for homeowners.

STRATEGIES:
- Prevent displacement by providing landlords with incentives to keep their tenants in place.
- Encourage developers to include affordable housing in market-rate developments.
- Mobilize community-based and community-led campaigns to promote equitable development and combat gentrification. New York’s Fifth Avenue Committee’s Displacement Free Zone is a model for community education and mobilization. Other effective community-led efforts include San Francisco’s Mission Anti-Displacement Coalition, Los Angeles’ Figueroa Corridor Coalition for Economic Justice, and Portland’s Interstate Alliance to End Displacement.
• Consider pursuing legislative advocacy efforts to secure housing trust funds, inclusionary zoning, and real estate transfer taxes that dedicate resources to new affordable housing development.

• Consider balancing new commercial districts with the interests of current residents by explicitly requiring new commercial developments to meet the needs of current residents with regards to housing, employment, services and contracts.

• PolicyLink’s web-based Equitable Development Toolkit: Beyond Gentrification provides a roadmap to effective policies and best practices emerging from revitalization efforts and community campaigns across the country.

ISSUE: HEIR PROPERTY

Hurricane Katrina exposed the fact that a large amount of land is “heir property,” land conveyed without a will from one generation to the next. Alabama residents whose homes were destroyed could not qualify for FEMA or other federal home rebuilding grants because they could not prove clear title to their land. Most of these property owners are low-income, often minority households, a large number of which have disabled family members and often are headed by an elderly, single mother.

Heir property is problematic because it can become impossible for the person who is living on property to enjoy the benefits of land ownership as every single family member with legal rights to the ownership of a piece of property has to sign off before anything can be done with that property. This includes selling it, taking out loans for fixing it, negotiating with a mortgage holder or city about to foreclose, obtaining some kinds of insurance, or getting assistance after disasters like Hurricane Katrina.

STRATEGIES:

• Consider launching a program similar to Alabama Appleseed, a project to determine the number of low-wealth families living on “heir property” (land without clear title), conduct state-wide public education sessions about how to protect from the loss of such land, and fashion appropriate law reforms. For more information about how to address heir property issues in your community, please visit http://www.alabamaappleseed.org/heir-property.html.

ABA Policy Positions

• Implementation of the Human Right to Adequate Housing (Resolution 117, August 2013) Urges governments to promote the human right to adequate housing for all through increased funding, development and implementation of affordable housing strategies and to prevent infringement of that right.

• Affordable Housing Trust Fund (Resolution 111, February 2005) urges Congress and the President to support the establishment of a federal affordable housing trust fund to increase the availability of affordable housing consistent with the following principles: (1.) the fund should be adequately
capitalized to carry out its mission of increasing available affordable housing; (2.) the majority of housing made available under this program should be targeted towards households at or below 30% of the median income; and, (3.) the trust fund should not serve as a substitute for or diminish other major federal housing programs.

• **Comprehensive measures to address homelessness** (Resolution 111, August 1995) – This policy supports the adoption of creative and comprehensive measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional and permanent housing and improving the accessibility of such housing to employment, schools, transportation, and human services, with such efforts to include: (1) stronger enforcement of existing laws designed to eradicate discrimination in housing; (2) affirmative plans to increase and preserve the supply of adequate affordable housing; (3) regional initiatives to provide affordable housing that is accessible to employment, schools, transportation and human services; (4) programs to integrate communities by race and income; (5) provision of incentives and rewards to encourage the planning and development of affordable housing in integrated communities; and (6) enactment of specific affordable housing laws.

• **Emergency relief and increase supply of habitable low-cost housing.** (Resolution 115, August 1986) This policy supports legislation to (1) prohibit discrimination on the basis of transient or homeless status; (2) address the need for emergency relief to individuals and families without permanent shelter; (3) encourage public and private initiatives to increase the supply of habitable low-cost housing in the United States; and (4) adopt public policies and programs that will contribute to the ability of homeless people to become productive citizens.

• **Foster Care to Homelessness** (Resolution 109A, February 2014) – This policy urges governments to enact and implement legislation and policies which prohibit youth from transitioning from foster care to a status of homelessness, or where a former foster youth will lack a permanent connection to a supportive adult.

• **Runaway and Homeless Youth Act** (Resolution 105B, February 2010) – This policy encourages local communities to establish plans to end youth homelessness, which include specific recommendations for the role of federal and state governments in abating youth homelessness, including implementation of model laws developed to address issues related to youth homelessness.

• **Expanding the Federal Definition of Homelessness** (Resolution 108B, August 2006) – This policy urges federal agencies to include in the definition of homeless person individuals who lack a fixed, regular, and adequate nighttime residence, including those who, due to loss of housing, economic hardship, or similar reasons, are sharing the housing of others or living in motels, hotels or camping grounds.