This workshop was held at the 2019 Equal Justice Conference in Louisville, Kentucky.

Title:

Securing Safe Housing in Detroit and Beyond

Presenters:

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Presenters will guide an interactive discussion among advocates about inequity in rental housing in Detroit, tenants rights and recent city enforcement efforts. The information and ideas generated during the panel will encourage participants to think critically about strategies to address housing inequity in their cities and inspire collaborative problem solving.
Stabilizing Neighborhoods in Cincinnati

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Overview

Legal Aid Society of Southwest Ohio, LLC has focused on legal strategies to stabilize neighborhoods in Cincinnati for years, which includes preserving multifamily and single family housing while also trying to expanding housing choice.

We have built this work specifically into our practice group work plans and our individual advocate plans.

Rather than take one approach, we have focused on multiple strategies, including litigation, tenant group representation, research studies, policy advocacy, collaborations with nonprofit community development corporations, and work with the media.
Stabilizing Neighborhoods Through Affordable Housing Preservation

The Alms is a historic 200 unit project-based section 8 building located in the gentrifying Walnut Hills neighborhood of Cincinnati.

Many of the residents are seniors or have a disability. 98% are African American. It has provided affordable housing for more than 30 years.

In 2015, we began to receive calls from tenants about terrible housing conditions, including plumbing and roof leaks, a lack of adequate heat, and an inoperable elevator system. Tenants also reported harassment by management for their reports about conditions.
In 2016, tenants formed a tenant organization and filed in state court to get repairs made and a receiver appointed in state court.

In July 2017, HUD arbitrarily decided to terminate the HAP contract based on the conditions at the building.

HUD refused to back down from this position despite receiver agreeing to make any needed repairs.

Tenants organization filed in federal court seeking a preliminary injunction to stop the termination of the HAP contract.
Housing Preservation - Alms

The federal court granted the preliminary injunction! The remaining repairs were made, and the property sold by the receiver to a preservation purchaser.

at ¶¶ 6-7; Doc. 3-1 at ¶¶ 10-11). The record before the Court reflects that Plaintiffs were not provided *any* process, let alone “due” process, prior to HUD deciding on a course of action that would result in the certain and immediate deprivation of Plaintiffs’ Constitutionally-protected property interests.
Stabilizing Neighborhoods Through Eviction Prevention Study

As with Alms, our individual work inspired us to pursue a study of evictions.

Our office has a firm commitment to eviction defense, and we put a lot of resources into this work.

However, we have not been able to represent everyone, and we recognized how many people were losing homes for avoidable ways.

We clearly recognized how this disproportionately impacted communities of color, although we did not have the data.
Eviction Prevention Study

We connected with The Cincinnati Project (TCP) of University of Cincinnati.

According to its website, “TCP harnesses the expertise and resources from the University of Cincinnati faculty and students, and from Cincinnati community members, non-profits, governments and agencies in order to conduct research that will directly benefit the community.”

We met with an incredible Sociologist and Demographer, Elaina Johns-Wolfe, at the University of Cincinnati and we developed an idea to study and map evictions in Cincinnati.
Eviction Prevention Study

Figure 1: Eviction Filing Rates and Eviction Rates per 100 Renter-Occupied Units, 2002-2016 (Desmond et al. 2018a)

- Eviction Rate, United States
- Eviction Filing Rate, United States
- Eviction Rate, Hamilton County
- Eviction Filing Rate, Hamilton County
Eviction Prevention Study

“Taken together, these findings suggest that households in marginalized communities are those most at risk of experiencing housing dispossession through eviction. When we consider all of these factors (i.e., racial composition, poverty rate, and housing cost burden) together, neighborhood racial composition is the strongest predictor of eviction filing rates in Hamilton County.”
Figure 4: Census Tract Racial Composition by Eviction Filing Rate (% non-Hispanic Black)
Eviction Prevention Study

We knew that we did not want this to sit on the shelf and have no impact. Instead, we immediately started working with a television news reporter through WCPO in Cincinnati.


Prior to the release of the report, we talked with her about findings, she talked with the students, and also talked with a client of ours.
Eviction Prevention Study
Eviction Prevention Study

This report has had significant impact.

It formed the foundation for a continued movement for increased eviction prevention dollars from the City of Cincinnati Council.

Legal Aid also has received support from the Greater Cincinnati Foundation to start an eviction defense clinic in the court.

It has also impacted fair housing analyses and other city planning.
Stabilizing Neighborhoods Through Homeownership Protections

We have focused on foreclosure defense for years as well, including in focus neighborhoods.

A lot of this work has been in the FHA-insured mortgage space.

This is the program specifically created to promote homeownership for low- to moderate-income borrowers.
Homeownership Protections

We have expanded this work recently, however, to address products that have been harmful to communities such as predatory lease options and land contracts.

This has involved litigation. We represented clients and worked closely with the City of Cincinnati regarding nuisance lawsuits that it filed against Harbour and Vision Properties. We also have filed lawsuits on behalf of individual clients against Harbour Properties and other predatory vendors of land contracts.
It has also led to work with City of Cincinnati council for passage of ordinances to address predatory lease options.
Homeownership Protections

We also worked for passage of a City of Cincinnati ordinance in 2018 imposing important requirements on land contracts, including a requirement for an inspection and a certificate of occupancy.

We are currently working to change Ohio state law to provide additional protections for those who purchase homes under land contracts.

All of this legislative work has been done in partnership with community partner allies.
Stabilizing Neighborhoods Through Partnerships with Nonprofit CDCs

We also work with a number of nonprofit community development corporations to create affordable housing opportunities in neighborhoods.

Beginning in 2015, the Legal Aid Society partnered with a nonprofit housing developer (Price Hill Will) to launch a pilot homestead program with dual focus of improving the housing stock and helping low-to-moderate income families become homeowners.

Price Hill Will acquires a house that can be inexpensively brought up to code. Once basic repairs are done, Price Hill Will enters into a land contract with a family, which must complete a list of repairs and general maintenance to the home in addition to making payments. Price Hill Will has the opportunity to regularly inspect the home. After three-five years, the family owns the home free and clear.
Stabilizing Neighborhoods Through Partnerships with Nonprofit CDCs
CHANGING THE STATUS QUO—IMPROVING HABITABILITY IN DETROIT

Efforts to improve the conditions of the City’s rental housing
This presentation focuses on our strategy for addressing one wide-spread problem

- Introduce problem
- Talk about the context
- Introduce “Problem Tree”
- Discuss our strategy; successes, failures, TBDs
- Invite participants to make their own problem trees
The Problem

- Abhorrent conditions; widespread and normalized
- Standing sewage, rodent/insect infestations, no water/heat, insecure foundations, lead paint are the norm
- Despite unlivable conditions, landlords take tenants to court and case results in eviction judgments
- Judges’ attitude “just move,” but to where?
- City Ordinance regulates rental properties, but decades of non-existent enforcement
The Context

• City Demographics:
  • 38% Below poverty level
  • 83% Black or African-American

• Home-ownership
  • Early 2000’s: over half of black residents owned their own homes (highest levels of black home ownership in the country)
  • A long history of housing discrimination: redlining/predatory lending/mortgage crisis/reverse redlining/tax foreclosure crisis
    [an important story for another day]
  • Flipped from majority homeowner to 54% renter

1930’s redlining map
The Context: Consecutive Housing Crises

- Mortgage foreclosure crisis
- Tax foreclosure crisis

Results: Loss of black homeownership; Rampant land speculation; Lots of blight
No Regulation; No Enforcement

- 30-year requirement for rental properties: Register and Obtain Certificate of Compliance (inspection required)
- Landlords violated law with relative impunity
- In 2017, out of 140,000 rental properties, only 3% were registered
- City stepped up enforcement and created escrow program
- Court did not follow suit
Court ignores the law

- Vast majority of tenants unrepresented
- Heavy docket—consent judgments “encouraged”
- Despite severe habitability problems/non-compliance with state and local law, landlords obtain possession judgments
- Despite new ordinance, judges sided with landlords, ruling that City Ordinance was preempted by state law
- Judges allow landlords to break the law with impunity
Backlash to City’s Enforcement Campaign

- Landlords
  - Fear that enforcement “will squeeze mom and pop landlords”
  - Lead to rent increases
  - Sell to speculators
- “Advocates”
- The City itself!
Create a Problem Tree

- **Problem tree**
  - *Identify Core Problem (Trunk)*
  - *Impacts/Consequences/Symptoms (Leaves)*
  - *Conditions/Institutions/Systems that reinforce the problem (Roots)*

- Multiple approaches to attacking root causes, keep an open mind

- Helpful tool to track effectiveness of strategy to address problem
  - *Overwhelming number of issues and possible solutions*
  - *Multi-faceted approach to one problem with seemingly countless causes*
• **Problem:** Poor conditions in rental housing

• **Consequences:**
  - Health
  - Loss of educational opportunities
  - Child custody
  - Money
  - Stress
  - Large portion of the population has eviction judgments and cannot find new housing

• **Root causes:**
  - Eviction Court/Judges
  - Landlords/land speculators
  - Predatory lending/land contracts
  - Racism/segregation/historic red-lining
  - Public perception/media/narrative
  - Mortgage and foreclosure crises
  - Tax foreclosure auction
  - City and BSEED (Building Dep’t)
  - Banks
Root causes: Narrative

- Narrative colors many of the other systems that contribute to the problem
- *Slum Tenants; No-pay, low-pay; Why don’t they just pay their rent? If it’s so bad, why don’t they move? They know how to “work the system”*
- The myth of the ‘mom and pop’ landlord
- Distinguish from preservation efforts
Detroit Free Press: Land speculation creates chaos in neighborhoods.

**The evolution of 17529 Kentfield St.**

**2012** Benjigates Estates (Lathrup Village) buys house on Kentfield Street at auction for $1,307.

**2015** Asset Management (Chico, California) buys the house as part of a bundle of 21 homes for $5,000. The individual house sells for $238.

**2016** In January, Elite Value Properties (Los Angeles, California) buys the house as part of a bundle of eight homes for $4,000. The individual house sells for $500. In February, Harold Fortner Jr. and Kathleen Kiska (Buffalo Grove, Illinois) buy the house for an undisclosed sum. Because nobody paid property taxes over the last three years, the house ended up back in the auction. Arie Dining Group buys it for $701.

**2017** The house is sold to an individual buyer in a quit claim deed for $1.

**2018** An unnamed person buys the house for $1,000.

Persistent evictions threaten Detroit families, neighborhoods

In Detroit, 140,000 rental units have been threatened with eviction, according to a new report from the Detroit Eviction Project. The report highlights the impact of evictions on residents and the city's overall economy.

Online: Videos, photo galleries and more available at detroitnews.com

How do we change the narrative?

- **Self-awareness**
  - Not normalizing bad conditions (unsurprising v. shocking)
  - Not accepting status quo
  - Examine regional differences in treatment

- **Media**
  - Be part of the conversation
    - *Opinion: A pathway for Detroit tenants to enforce their rights*
  - Work with Local Reporters
  - Highlight clients’ individual stories

- Partnership with local professor and students to track homeownership and land speculators
Tools to Change Narrative: Relationships with Community groups and Academics

- Variety of Community Groups involved in direct advocacy
- **URBAN PRAXIS** (propertypraxis.org)
  - Project from University of Michigan, Dearborn led by Joshua Akers, an Assistant Professor of Geography and Urban and Regional Studies
  - Tracks land speculators
  - *Instrumental Exploitation: Predatory property relations at city’s end* (2018) [paper on predatory land contracts]
The City and the Building Department

- Lack of enforcement for decades
- Stepped up enforcement and created escrow program
- Inspections and Reports
- At first we thought they were an ally
- Set up meetings w/City and other legal aid orgs
- In response to negative media and the resistance from the courts, began undermining their own program/turning people away/turnover in staff
- Mismanagement of the program
- Converting client’s money
- Communication challenges
- Friend or Foe? Both?
Root Cause: Challenge the Behavior of the Courts

- **Judgment Mill**
  - Only three judges; high-volume dockets; force settlements, i.e. consent judgments
  - Enter judgments despite abhorrent conditions
  - Escrow orders sua sponte
  - Costs/late fees/attorneys fees

- Tenants unrepresented; unaware of legal rights and often believe landlord attorney is court attorney

- **landlord attorneys coordinate tactics**

- **Less obvious strategies**
  - Change the form!
  - Determine who *really* are the decision makers? Chief judge v individual judges v in-house counsel
Root Cause:
Courts/Judges/Landlords

Developing a Litigation Strategy

- Strategically choose which cases to fully litigate (dependent on client’s goals/situation) and appeal
  - Based on zip code
  - Appeal pending: Rodgers v Rosman
- Communication with supervisors/mgmt./litigation director about priorities and time/resource allocation (costs for appeals)
- Brainstorm test cases
- Office work plan
- Board involvement/buy-in
- Regular communication with other organizations who practice in landlord-tenant court
Create your own Problem Tree

1. Select core problem your work or project is addressing

2. Discuss impacts and consequences of the problem. These are the symptoms. Write them in the leaves.

3. Discuss the conditions, institutions and systems that reinforce this problem. Write these in the roots.

4. Look at the roots and determine which causes/systems each part of your strategy addresses.