
Organizational Profile

Lone Star Legal Aid: Responding to Legal Needs in the Face of a Disaster

Clarissa Ayala

Houston, Texas is called by many names, including Bayou City, Swamp City, and Swamp Lot. Present-day downtown Houston is located where “[e]arly European settlers to the region found a swampy wilderness that had to be drained before it could be developed.”¹ Nevertheless, the city on a swamp continues to grow at an exponential rate. These are among many factors that have led to significant challenges for Houston. It is overflowing with tenants searching for affordable rentals. Poor and minority neighborhoods have suffered the most from the environmental and health effects of Houston’s expanding industrial sector.² Houston’s rapid growth has eliminated water absorbing vegetation and has failed to incorporate necessary infrastructure changes—making flooding events worse. When floodwaters rise in and around Houston, so do public health and affordable housing concerns. Lone Star Legal Aid provides assistance to meet the immediate legal needs of survivors of a disaster, whether natural or man-made. One of the greatest needs is decent, safe, and affordable housing.

Lone Star Legal Aid

Houston is home to the headquarters of Lone Star Legal Aid (LSLA), a nonprofit law firm that is the fourth largest free legal aid organization in the United States. LSLA has a rich and deeply respected history of advocacy on behalf of low-income and underserved populations. It was established in 2002 by a merger designed to capitalize on the resources of three existing legal aid entities: East Texas Legal Services, a largely rural legal aid program that included the East Texas Fair Housing Center; the pri-

1. See, e.g., Dylan Baddour, *The Trouble with Living in a Swamp: Houston Floods Explained*, HOUSTON CHRON., May 31, 2016, <http://www.houstonchronicle.com/local/explainer/article/The-trouble-with-living-in-a-swamp-Houston-7954514.php>.

2. See, e.g., Jordan Blum, *Harvey Exposed Another Gap Between Rich and Poor*, HOUSTON CHRON., Jan. 5, 2018, <http://www.houstonchronicle.com/business/energy/article/Harvey-exposed-another-gap-between-rich-and-poor-12475880.php>.

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marily urban Gulf Coast Legal Foundation; and a portion of Legal Aid of Central Texas. Its mission is to protect and advance the civil legal rights of the millions of Texans living in poverty by providing free advocacy, legal representation, and community education that ensures equal access to justice.

LSLA serves 72 counties in Texas and four in Arkansas, an area that covers one-third of the State of Texas, including almost 60,000 square miles from Texarkana to the Louisiana-Texas Gulf Coast state line and down to Matagorda Bay, and four counties in southwest Arkansas, which covers an additional 2,500 square miles. In addition to its Houston headquarters, LSLA has 12 offices throughout east, southeast, and northeast Texas in the Piney Woods region, near the Gulf Coast, and in Central Texas Hill Country. From these offices, LSLA provides client-centered legal advocacy. Historically, the firm has had successes that affect not only the client represented, but also groups of low-income people on community, state, and national levels when the firm's actions have resulted in systemic policy and procedural changes, such as public housing desegregation and health care access for children. Legal Services Corporation, Texas Access to Justice Foundation, and multiple grants generously fund LSLA.

Based on recent Census data for the LSLA service area, there are almost 2 million people at 125 percent of federal poverty guidelines eligible for LSLA's services. In Texas, there is only one legal aid attorney for approximately every 17,000 people in LSLA's service area with income at or below 125 percent of the federal poverty limit. LSLA focuses its resources on maintaining, enhancing, and protecting income and economic stability; preserving housing; improving outcomes for children; establishing and sustaining family safety and stability, health, and well-being; and assisting populations with special vulnerabilities, such as those who have disabilities, or are elderly, homeless, or have limited English language skills. LSLA also has targeted units, supported by grants, for specific populations, such as the military, veterans, and their dependents; low-income taxpayers; crime victims; survivors of sexual assault; and now, Hurricane Harvey survivors.

Water and Fire

Hurricane Harvey is estimated to have dumped 27 trillion gallons of water on Texas and Louisiana over just six days in August 2017.³ Other deadly storms like Hurricane Katrina and Hurricane Irene had a maximum of 17 inches,⁴ with Superstorm Sandy generating approximately 7 inches,

3. Brandon Griggs, *Harvey's Devastating Impact by the Numbers*, CNN, Sept. 1, 2017, <http://www.cnn.com/2017/08/27/us/harvey-impact-by-the-numbers-trnd/index.html>.

4. A.J. Wilingham, *12 Years Ago Today, Katrina Hit. Here Is How It Compares to Harvey*, CNN, Aug. 29, 2017, <http://www.cnn.com/2017/08/25/us/hurricane-harvey-compare-storms-trnd/index.html>.

paling in comparison to Harvey's 51 inches. Tens of thousands of Texans, renters and homeowners alike, were forced to evacuate their homes, leaving their life's possessions behind. Homeowners and renters are now facing a marathon recovery process, dealing with insurance companies, the Federal Emergency Management Agency (FEMA), and the Small Business Administration (SBA). FEMA and SBA are the only options for homeowners and renters without insurance. As of June 30, 2017, only 246,000 flood insurance policies were active for residential homes and businesses in Harris County, an area with 1.7 million housing units that includes the City of Houston.⁵ Many renters, from Houston down to Richmond and east to Port Arthur, are finding themselves in limbo: some are being asked to move so that their landlords can make repairs, and some want to move because their landlords have not made any repairs, leaving them living in unsafe conditions. Whatever the case may be, the rental housing market is slim, competitive, and overpriced—an unfortunate situation when so many families are displaced.

In the aftermath of Hurricane Harvey's flooding rain, there was an explosion and fire at LSLA's Houston headquarters that rendered it unusable. Undaunted, LSLA employees worked in shelters and FEMA disaster recovery centers (DRCs) throughout the LSLA affected service area. Despite being dislocated from its headquarters at a key time, LSLA initiated its standard disaster response: preparing documents, flyers, and intake sheets to deliver information and advice to disaster survivors; preparing a staffing schedule for shelters; and establishing a presence at Red Cross mega-shelters. Without an office to return to, shelters, DRCs, coffee shops, and internet cafes became LSLA's impromptu offices. As soon as its leaders could secure space, LSLA's Houston office moved into temporary offices, now occupying one leased space and four donated spaces.⁶

Disaster materials were already printed and ready in kits that miraculously escaped the fire. But more were needed given the scope of Harvey's damage. Since LSLA had no equipment to multiply materials in the Houston area, Baker Botts L.L.P.⁷ immediately pledged the firm's Houston print shop to print tens of thousands of flyers in English, Spanish, and Vietnamese.

In addition to LSLA's presence at local shelters and DRCs, it has hosted pop-up clinics to reach the large number of disaster survivors in neighborhoods and areas not easily accessible to a DRC. Pop-up clinics are a great

5. Leslie Scism & Nicole Friedman, *Houston Residents Return Home to Scary Reality of No Insurance Coverage*, WALL ST. J., Sept. 1, 2017, <https://www.wsj.com/articles/houston-residents-return-home-to-scary-reality-no-insurance-coverage-1504300222>.

6. Donated office space has been provided by Combined Arms (<https://www.combinedarms.us>); Vorys, Sater, Seymour, and Pease LLP (<https://www.vorys.com>); McGuire Woods LLP (<https://www.mcguirewoods.com>); and Latham & Watkins LLP (<https://www.lw.com>).

7. Baker Botts, www.bakerbotts.com.

way to meet and assist survivors where they are. For example, pop-up clinics enabled LSLA to reach mobile home communities in Fort Bend and Montgomery County in desperate need of assistance. Families in these rural areas were stuck, their vehicles and homes were flooded, and they had fallen off the power grid. With no power to charge their mobile devices or vehicles to seek out help, they felt forgotten. LSLA employees and volunteers found these neighborhoods and organized pop-up clinics. Most of LSLA's pop-up clinics are also done with partner organizations that offer other forms of disaster assistance. For example, through Twitter posts, Team Rubicon noticed the disaster aid being provided by LSLA and quickly made contact to team up and target areas in need of help.⁸ Team Rubicon is a group of veterans providing disaster relief to those affected by natural disasters. At the clinics, residents are able to apply for FEMA aid and move away from unsafe conditions and into FEMA Transitional Shelter Assistance hotels while they figure out where to go next.

Post-Hurricane Challenges

People living in the areas affected by the storm may face a long recovery and rebuilding process. Shoddy construction or mechanic work can lead to problems arising years later and economic loss can lead to layoffs and disaster-related financial hardship even for those whose homes remained intact. Legal aid can benefit residents before and after a natural disaster with issues such as personal finance, insurance, real estate, and unemployment, as well as applications for government relief, which can be difficult to navigate. Disaster-related legal issues involve areas such as bankruptcy, contract and contractor problems, landlord/tenant issues, environmental and public health issues, wills, insurance disputes, and FEMA appeals. Some examples of LSLA's work in affordable housing and public health in the wake of Hurricane Harvey are described below.

FEMA Claim Volume, Denials, and Appeals

According to an update published by the National Low-Income Housing Coalition on December 4, 2017, there are still as many as 44,551 pending FEMA applications. LSLA provides advice about how to apply for benefits and, as noted below, how to appeal a denial. LSLA has never experienced the volume seen with Hurricane Harvey. In effort to allow more time, the deadline to apply for FEMA benefits was extended to November 30, 2017, and transitional shelter assistance was extended to April 2, 2018, for those still unable to locate affordable housing.

FEMA has denied large numbers of claims on the grounds that the claimant is not the owner of the home. These denials are due to FEMA's failure to understand and recognize the state's unique homeownership

8. *Twelve Feet of Water*, LONE STAR LEGAL AID, https://www.dropbox.com/s/v72j9o0qrjvn4v0/Twelve_Feet_of_Water_720p.mp4?dl=0.

laws. In the State of Texas, if you die without a will, the state draws one up for you—dividing up your property dependent on the heirs. FEMA's rules require a registrant or disaster survivor to prove ownership by having his name on documents such as a Deed or Official Record for the home, Mortgage Payment Book or other mortgage documents, Real Property Insurance Policy, Property Tax Receipts or Tax Bill, and/or a Property Title or Mobile Home Certificate of Title. Many families in Texas live in inherited property that has not gone through a formal probate procedure, meaning their names are not referenced on the approved/required documents and they are being denied assistance. LSLA is accepting all of these types of cases, which can almost always be successfully appealed, with FEMA benefits obtained for the claimant. The role of legal aid is essential as claimants are not likely to secure the benefits they are entitled to without an attorney.

D-SNAP Line Conditions

Applicants for the Disaster Supplemental Nutritional Assistance Program (D-SNAP) joined mile-long lines and stood for over five hours waiting in the Texas heat to apply. D-SNAP funds do not expire and remain available unless untouched for over a year. To be eligible for this assistance, applicants must live in a disaster declared county, have experienced a loss of income or destruction to their home, must not already be recipients of regular SNAP benefits, and meet income limits. With the lines and heat so unbearable, one elderly applicant never made it into the building, going into cardiac arrest and dying before having a chance to apply. Many other applicants suffered heat strokes and some were transported to hospitals. LSLA wrote a letter to Governor Abbot and Texas Department of Health and Human Services requesting that elderly and disabled applicants be accommodated and allowed to apply outside of the in-person, mile-long line situation. Unfortunately, there were no further extensions to the application deadline.

Water Quality and Superfund Site

In 2011, an armored cap was constructed over the impoundments at the San Jacinto River Waste Pits, a Superfund site in Baytown, Texas, that previously disposed of pulp and paper mill waste in the mid-1960s. Since its rediscovery in 2005, numerous environmental agencies have attempted to negotiate with the federal Environmental Protection Agency (EPA) for clean up at the site in an effort to prevent any further public health damage to nearby residents. In coordination with the Texas Health and Environmental Alliance, LSLA helped to educate area residents about their rights to participate in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) process to persuade the EPA to choose one alternative solution for the Waste Pits over another. LSLA, representing several residents of Highlands and Baytown, submitted comments to the EPA. The comments offered the following suggestions: lowering the preliminary remediation goal to less than 200 ng/kg because it

would require the full removal of contaminated waste materials above a lower, more protective level; hiring an independent and objective third party to monitor all removal activities; and for the EPA to view with skepticism information put forward by groups advocating for the permanent cap as a viable alternative given the lack of transparency on the part of such groups. On October 11, 2017, after acknowledging that Hurricane Harvey's flooding released the highest levels of dioxin ever measured at the site, the EPA finally issued a press release announcing that dioxin-contaminated material will be removed from the San Jacinto River. Although LSLA attorneys are happy with the decision, they will remain involved throughout the process to ensure the plan is what is best for the residents in the area.

Debris Management Site

Residents of a low-income minority neighborhood in Port Arthur, Texas, reached out to LSLA after the storm because a storm debris management site (DMS) was set up across the street from their homes. These residents thought they had avoided the issues with flooding and mold that so many residents in nearby neighborhoods and counties had experienced. That luck soon faded when they saw—and smelled—mold infested debris arriving in loaded dump trucks. LSLA attorneys wrote letters and met with officials from the city and the Texas Commission on Environmental Quality demanding that existing EPA rules concerning how DMS locations should be located away from residential areas be followed and testing be conducted. Shortly thereafter, the DMS was closed, avoiding any need for litigation and allowing the residents to breathe again.

Landlord Tenant Issues and Shortage of Affordable Housing Options

Hurricane Harvey devoured countless homes in LSLA's service area, leaving many homeless and grasping for housing that is more than substandard. The cost of housing in the affected areas has skyrocketed, making it difficult to find a decent place to live at an affordable price. The disaster-declared counties need more affordable housing opportunities.

Renters are facing a multitude of issues that include 5-day notices to vacate, failure to return security deposits, and self-help evictions. A standard Texas Apartment Association lease contains language in its section regarding rights and responsibilities after a natural disaster or other catastrophic events, specifically stating that if a housing unit has been found to be unusable for residential purposes, a lease can be terminated by giving a 5-day written notice. Although legal, residents often need much more time to move. While self-help evictions are illegal in Texas, landlords will still take measures into their own hands and try to force tenants out by locking them out of their apartments, turning off their utilities, ordering them to leave, and even removing their belongings. Other residents are facing eviction due to non-payment of rent—rent they refused to pay due to the conditions of their flooded residences. LSLA attorneys

have been successful at assisting renters who face these fact patterns, most of whom prevail in seeking retroactive rent reductions or even a release from their lease obligations.

LSLA represents over thirty senior citizens who received a 5-day notice to vacate at their high-rise senior living facility, even though only the first floor of the property flooded and apartments suffered minimal damage. There are no apartments on the first floor as the building, which in its prior life was a Holiday Inn hotel; at that time, the first floor housed only the check-in desk, laundry facilities, a restaurant, and pool area. The building is now owned by the Houston Housing Authority (HHA) and is a public, senior housing tax-credit development that provides affordable housing to low-income seniors. Although the HHA promised to move the tenants to other developments, they were worried about where they would go in a city where so many families were already displaced. Moreover, the tenants of this property are reported to have an informal support network; they help one another. This network will dissipate if they are forced to move. LSLA was tipped off to this situation via social media by a friend of a tenant living at the property. The friend stated that an entire apartment complex of senior citizens was being thrown out of their apartments. The next day, LSLA attorneys arranged a pop-up clinic nearby and left flyers at the property. Tenants showed up, wanting to know their rights, and signed up for intakes shortly after hearing LSLA's Director of Litigation inform them of their rights. LSLA filed a temporary restraining order against the Houston Housing Authority, which was granted and has now become a temporary injunction that will last until trial, which is set for March of 2018.

The cities of Beaumont and Port Arthur were the settings for Harvey's devastating encore; they were hit with an estimated 26 inches of rain within 24 hours. Large numbers of Port Arthur residents were relocated to Dallas and other cities during the height of the storm. While at shelters, these residents began hearing rumors from other evacuees about evictions being filed or "notices to vacate" being issued back home. LSLA filed for temporary restraining orders (TROs), which were granted, on behalf of three residents of Port Arthur in an effort to halt their landlords from entering their homes and disposing of everything in them. Because of the TROs, these clients were able to return to their homes and salvage what they could of their belongings.

With so many individuals and families displaced in its service area, LSLA and Daniel & Beshara, P.C.⁹ called on HUD to help alleviate the suffering imposed by Hurricane Harvey and the severe housing shortage for low-income Texans. Together, they identified a number of waivers and modifications that would significantly improve housing availability for persons who were affected by Hurricane Harvey. An increase in the number

9. Daniel & Beshara, P.C., <https://www.danielbesharalawfirm.com>.

of affordable housing units in the devastated area would significantly affect the lives of thousands of people. "We are moving beyond the news of the moment and are now in a struggle to recreate a working home. We are simply asking for the opportunity to secure the basic rights of a shelter, a safe, habitable, and secure base that will enable people to go out in their community of work, school, and culture with dignity and confidence . . . a place to belong to," says Helen Malveaux, an attorney with LSLA who specializes in fair and affordable housing.

Affordable housing barriers in the region existed before—but were exacerbated by Hurricane Harvey. For example, there are rules that restrict the movement of housing voucher holders; there is not enough funding to provide the assistance required to help family voucher holders find appropriate housing; fair market rent payments in the affected areas need to be increased to a 150 percent payment standard,¹⁰ allowing voucher families a reasonable selection of modest, decent, safe, and sanitary housing in communities of opportunity;¹¹ there are restrictions that prevent voucher holders from moving to appropriate housing in other areas; and there are required lease provisions that private landlords claim make it too expensive for them to rent to voucher holders.

LSLA and Daniel & Beshara, P.C. sent a letter to the U.S. Secretary of Housing and Urban Development on October 27, 2017, proposing waivers and administrative modifications. They specifically asked HUD to remove the current restrictions on the ability of voucher families to move. The restriction, if left standing, will force many voucher families to remain in dangerous, unhealthy, and unsafe units and neighborhood conditions. They also requested that HUD allow the housing authorities to cover the increased cost of administrative fees; allow the housing authorities to pay for the increased cost of inspections, paperwork processing, and quicker tenant screening; provide financial assistance to encourage and convince landlords to accept vouchers and help tenants obtain much-needed housing by providing incentive payments and payments of security deposits;

10. A public housing authority may set its payment standard amounts from 90 percent to 110 percent of the published EMRs and may set them higher or lower with HUD approval. The level at which the payment standard amount is set directly affects the amount of subsidy a family will receive and the amount of rent paid by program participants. HOUSING CHOICE VOUCHER PROGRAM GUIDEBOOK, DEP'T OF HOUSING AND URBAN DEVELOPMENT, https://www.hud.gov/sites/documents/DOC_11751.pdf.

11. Communities of opportunity are places where jobs are relatively plentiful and access to education, health care, and other amenities is close at hand. Solomon Greene & Erika Poethig, *Creating Places of Opportunity: HUD's New Data and Community-Driven Approach*, URBAN INST. – URBAN WIRE, <https://www.urban.org/urban-wire/creating-places-opportunity-huds-new-data-and-community-driven-approach>.

and require housing search assistance counseling to find available housing and negotiate with landlords.

Although present before the storm, the geographic disconnect between communities of low-income and minority residents and communities of high opportunity will become an even greater handicap to social and economic advancement. "The letter requests HUD to take several actions to improve the chances for voucher families to obtain adequate and affordable housing in decent and safe neighborhoods. Increasing the rents that can be paid is critical to keeping the shortage of adequate housing from sending voucher families to substandard housing and neighborhoods. Expanding the areas in which families can use their vouchers will prevent overcrowding and the attendant high rents for low quality that occur when vouchers are confined to limited areas. HUD must take these actions or Harvey affected voucher families will continue to suffer the effects of the hurricane for a long time," says housing lawyer Michael Daniel of Daniel & Beshara, P.C.

All Systems Up

Due to the fire at its headquarters, LSLA's computer and telephone systems went down. LSLA employees immediately switched over to secondary communication methods, using personal cellphones and personal email accounts to coordinate meetings and DRC or shelter schedules. Meanwhile, its IT department worked around the clock to secure servers from the building's data center, calculate the damage, and begin the process of restoring all services. Within one week, with the support of the Vinson & Elkins, LLP¹² IT department, a redundant site was up and running, allowing access to LSLA's case management system, shared drive, and internal email.

While systems were down, LSLA's website, which was previously housed on an internal server, was inaccessible to both LSLA and the public. This meant that the hurricane survivors could not access LSLA's resources on disaster recovery. Luckily, LSLA had a new site already in the works. Within three days of the disaster, LSLA launched a new website a month ahead of schedule. The launch, originally planned for October 1, was accelerated in order to provide an improved platform from which to disseminate information, especially disaster recovery information. LSLA's social media accounts and website blog had a tremendous increase in traffic in the aftermath of Hurricane Harvey as these mediums were and continue to be used to announce available benefits, shelter and DRC openings, and press about disaster recovery.

Volunteers and Community Collaborations

Another integral part of LSLA's disaster response is the training of volunteers. This enables many more survivors to receive assistance than could

12. Vinson & Elkins LLP, <https://www.velaw.com>.

be served by LSLA alone. LSLA has collaborated with several organizations and entities to further its disaster recovery efforts. It has partnered with the City of Houston to provide “Tenant’s Legal Rights” clinics at affected apartment complexes as well as staffing a permanent legal aid help desk at the City’s Tidwell Multi-Service Center; worked together with Pepperdine’s Disaster Relief clinic to refer survivors with FEMA claims to the law school’s clinic; and joined with the Galveston County Bar Association, Asian American Bar Association, Mexican American Bar Association, Houston Lawyers Association, Houston Bar Association, and Houston Volunteer Lawyers to provide Disaster Legal Services training to volunteer attorneys who will then accept disaster related cases for pro bono representation. LSLA has trained over 285 law students and over 825 attorneys to deliver disaster legal information and advice. Texas Bar CLE credit was provided for attorneys who attended the training and it has been loaded into the SBOT CLE portal for attorneys to view at their convenience.

In an effort to ensure they are fully equipped, LSLA created a web page portal available exclusively to pro bono attorneys, which provides them with access to training materials and templates for FEMA appeals. This allows attorneys with no background in disaster law to easily and seamlessly represent disaster survivors.

Conclusion

LSLA is working with Texas Low Income Housing Information Service and Rice University’s Kinder Institute for Urban Research to identify and exchange data that can be used to develop maps that accurately and precisely depict the low income neighborhoods whose populations were most impacted by flooding. This will allow LSLA to target low-income populations and service individuals and families in need of assistance through outreach clinics and other efforts to deliver disaster legal services.

In the immediate aftermath of a major disaster and for the years that follow, as the definition of a disaster-related legal issue evolves, legal aid lawyers will play an important role in the delivery of disaster legal services to survivors who cannot afford a lawyer.