

Mass Dissent

Massachusetts Chapter

National Lawyers Guild

14 Beacon St., Boston, MA 02108

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BOARD MEETING

APRIL 21, 6:00 pm

14 Beacon St., 1st Fl.
Boston

The Progressive Response to the Foreclosure/Affordable Housing Crisis

This month *Mass Dissent* focuses on the local response of the National Lawyers Guild and various progressive and activist groups to the unprecedented rate of home foreclosures and loss of affordable housing caused by the unchecked greed of our financial institutions which have cashed in on the predatory lending epidemic and the unregulated securitization of mortgage loans that swept over the country in the last ten years.

Guild attorney **Nadine Cohen** of Greater Boston Legal Services, in her article "Foreclosures - Do Homeowners Have Legal Rights?" provides some background on this crisis and addresses the many different alternatives for stopping or slowing down the foreclosure avalanche.

Lee Goldstein, from the Guild law office of Goldstein and Feuer, in "MAAPL SUGAR," discusses the four major legislative initiatives to protect homeowners and tenants, that were developed by

the statewide Massachusetts Alliance Against Predatory Lending (MAAPL) coalition and are currently pending before the state legislature.

Steve Meacham, long-time tenant organizer/housing activist with City Life/Vida Urbana, in "Organizing Against the Foreclosure Crisis," provides a detailed blueprint for community organizing to fight back against the predatory financial institutions which are unconscionably destroying our neighborhoods.

You will also find two inspirational vignettes, by **Lori Hill** and **Nadine Cohen**, of community residents who, with the assistance of the NLG and legal service lawyers and law students and the unwavering support of community groups like City Life, ACORN and the Jewish Alliance for Law and Social Action (JALSA), have successfully beaten back the foreclosure tidal wave and saved their homes. Together, we CAN make a difference!

- Jeff Feuer -

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Massachusetts Chapter, Inc.**

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Join a Guild Committee

Street Law Clinic Project: The Street Law Clinic project provides workshops for Massachusetts organizations that address legal needs of various communities. Legal education workshops on 4th Amendment Rights (Stop & Search), Landlord/Tenant Disputes, Workers' Rights, Civil Disobedience Defense, Bankruptcy Law, Foreclosure Prevention Law, and Immigration Law are held at community organizations, youth centers, labor unions, shelters, and pre-release centers. If you are a Guild attorney, law student, or legal worker interested in leading a workshop, please contact the project at 617-723-4330 or nlgmass-slc@igc.org.

Lawyer Referral Service Panel (LRS): Members of the panel provide legal services at reasonable rates. Referral Service Administrative/Oversight Committee members: Neil Berman, Neil Burns, Joshua Goldstein, Jeremy Robin, and Azizah Yasin. For more information, contact the Referral Service Coordinator at 617-227-7008 or nlgmass@igc.org.

Foreclosure Prevention Task Force: Created in June 2008, the Task Force's goal is threefold: (1) to draft and introduce policies that address issues that homeowners and tenants of foreclosed on houses face, (2) to provide legal assistance to these homeowners and tenants, and (3) to conduct legal clinics for them. If you are interested in working with the Task Force, please call the office at 617-227-7335.

Independent Civilian Review Board: In coalition with the American Friends Service Committee and Greater Boston Civil Rights Coalition, the NLG has been pushing for the creation of an independent civilian board to review complaints against Boston police officers. To get involved in the campaign, please contact the office at 617-227-7335.

NLG National Immigration Project: Works to defend and extend the human and civil rights of all immigrants, both documented and undocumented. The Committee works in coalition with community groups to organize support for immigrant rights in the face of right-wing political attacks. For more information contact the NLG National Immigration Project at 617-227-9727.

NLG Military Law Task Force: Provides legal advice and assistance to those in the military and to others, especially members of the GIRights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps to find local legal referrals when needed. The MLTF and the Hotline exchange many questions and information through their listserves. For advice and information, GI's can call 800-394-9544 (800-FYI-95GI) or 877-4474487. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).

COALITIONS:

Jobs with Justice, a coalition-based organization addressing workers' rights. The NLG is a member of Jobs with Justice; any interested Guild members can attend meetings & events.

GUILD NEWS

NLG HAPPY HOUR

The NLG Massachusetts Chapter's Happy Hour - for Guild members and non-Guild members - takes place on the **2nd Wednesday of every month, 5:30 - 7:30pm, at Kennedy's Mid-Town Pub** (44 Province St., 2nd Fl., Boston, close to Suffolk Law School). We hope you will join us for the next NLG Happy Hour on **March 11** - and bring friends!

VENEZUELAN JUSTICE

The Chapter of the Guild will welcome Justice Fernando Vegas from the Venezuelan Supreme Court. Justice Vegas visits Boston to deliver lectures at local law schools. Justice Vegas is a longtime friend of the Guild, and our Chapter will host a dinner for him at **Judy Somberg's house in Inman Square, in Cambridge, on Saturday, April 18, from 5:00pm**. Guild members are invited. Please RSVP at 617-227-7335.

NORTHEASTERN EVENT

The NLG student chapter at Northeastern will host **Venezuelan Justice Fernando Vegas** who will have a presentation on race and gender equality issues in Venezuela. The presentation will be on **Thursday, April 16, 12:00 noon, at Northeastern School of Law** (400 Huntington Ave., Boston; room TBA). For more information, please call the office at 617-227-7335.

NLG ANNUAL DINNER

We hope you will join us on **Friday, May 15, 2009**, at the **NLG Annual Dinner** (Colonnade Hotel, 120 Huntington Ave., Boston). This year the Guild will celebrate accomplishments of **Barb Dougan, Stephen Hrones, Barbara Rabin, Steve Meacham & City Life/Vida Urbana**, and law student **Lori Hill**. To reserve tickets and for more information, please call 617-227-7335.

Street Law Clinic Report

The following Guild members conducted trainings for law students and/or clinics for members of Boston area community organizations and agencies:

March 16: Immigration Law (Spanish) at Nuestra Comunidad Development Corp. in Roxbury by **Manuel Macias**.

March 19: Immigration Law at St. Ambrose Family Shelter in Dorchester by **Mark Pelosky**.

March 23: Bankruptcy and Consumer Rights clinic at Nuestra Comunidad Development Corp. in Roxbury by **Neil Berman** and **Deborah Roher**.

March 30: Immigration Law at Nuestra Comunidad Development Corp. in Roxbury by **Mark Pelosky**.

WELCOME SARA DeCONDE

The Guild would like to welcome **Sara DeConde** as our new LRS Coordinator and Administrative Assistant. Sara graduated from St. Lawrence University (Canton, NY) in 2008, and has worked with the St. Lawrence County Conflict Public Defender and on the "Get Out the Vote" campaign. She spent summer of 2007 in South Africa working with the Vervet Monkey Foundation.

We are very fortunate to have Sara joining the Guild.

NLG NORTHEAST REGIONAL CONFERENCE

April 4, 2009

**Mount Snow Resort, 39 Mount Snow Road
West Dover, Vermont 05356**

Reservation: 800-451-4211

Info: Jeff Thomson at jeff@iddream.com

ARTICLES FOR MASS DISSENT

The June issue of *Mass Dissent* will look at and evaluate the New Administration.

If you are interested in submitting an article, essay, analysis, or art work (cartoons, pictures) related to the topic, please e-mail the articles to nlgmass-director@igc.org.

The deadline for articles is May 15th, 2009.

NLG ANNUAL MEETING

On March 17, almost 30 Guild members gathered at the Chapter's Annual Meeting to elect new officers and a board of directors and to participate in a discussion led by Steve Schnapp from United for a Fair Economy on "*The Left Take on the Current Economic Crisis*."

We would like to thank **Eleanor Newhoff** for her two years of service as a co-chair, and welcome **Barb Dougan** who was elected as a new co-chair and will join **Neil Berman**, whose term will end next year. Patricia Cantor and Jeff Petrucelly were re-elected to serve as co-treasurers.



Steve Schnapp (l.) addressing the Guild members.

The newly elected Board Members are: **Laura Alfring, Tony Benningfield, Hillary Farber, Jeff Feuer, Ilana Greenstein, Myong Joun, David Kelston, Mary Lu Mendonça, Halim Moris, Eleanor Newhoff, Judy Somberg, Bonnie Tenneriello, and Carl Williams.**

Our thanks go to board members who are stepping down: **Jason Corral, Ben Falkner, Nancy Kelly, David Milton, and John Willshire-Carrera.** Your service and commitment to the Guild are highly appreciated.

Thank you!



(l.-r.) Tony Benningfield and Margaret Ciborowski (New England first year student).
Photos by Urszula Masny-Latos

STUDENT CORNER

NEW ENGLAND

The New England School of Law NLG Chapter has been busy with two main projects this month. The first is organizing a panel discussion to be co-sponsored with the Immigration Law Association, to be held on **April 10th at 3:00 pm** in the **Cherry Room at 154 Stuart St.** The panel will feature local attorneys and other professionals who will discuss the recent wave of immigration raids, with a special emphasis on the effects that deportation has on children left behind.

We are also organizing a book drive to benefit the Prison Book Program, an organization that collects books to be distributed to prisoners across the country.

Our chapter is also pleased to announce the results of last month's election for our Executive Board positions for the 2009-2010 academic year:

Co-Presidents: Margaret Ciborowski and Bradley St. Pierre (1Ls)

Co-Vice-Presidents: Nicklyn Gaines and Alyssa Kilmurray (1Ls)

Treasurer: Ashley Aubuchon (2L)

Event Planner: Madeline Kerins (1L)

Evening Division Liason: Amber Beaverson (3LE)

NORTHEASTERN

The Northeastern NLG student chapter recently organized the following very successful events:

- "*New Year, New President, What's Next?*" to discuss the implications of the past election on socially marginalized groups. Panelists included Libby Adler (Northeastern Law Professor), Gabriel Camacho (American Friends Service Committee), and Carl Williams (NLG board member and Public Defender).

- *Immigrant Workers Panel* to address the myriad of barriers and challenges faced by immigrant workers in the U.S.

Upcoming Events:

- Venezuelan Justice Fernando Vegas, "*The State of Law and Justice: Gender and Race in Bolivarian Venezuela*": **Thursday, April 16, 12pm.**

- We are also planning a community event to highlight the injustice of the prison system and the fight against it, through personal stories, music, poetry and speakers. **April 23, 2009, 6-10pm** at the Cabral Center. (African-American student center at Northeastern Univ., 400 Huntington Ave., Boston).

Foreclosures - Do Homeowners Have Legal Rights?

by Nadine Cohen

How Bad is It?

One of the major causes of our current unprecedented financial crisis has been the proliferation of high cost sub-prime predatory loans that targeted people of color. These very profitable, high cost, adjustable rate sub-prime loans with 100% financing, coupled with the dramatic drop in property values, have resulted in an absolutely devastating number of foreclosures, jump-starting the crisis in our financial system. One foreclosure occurs every 13 seconds in the U.S.; 3,700 foreclosures a day. There have been over 3.5 million foreclosures in the last two years and 9 million more are predicted over the next four years. In Massachusetts there were over 12,400 foreclosures last year - up 62% from 2007 - and there are close to 6,000 new foreclosure filings in 2009 already. That's over 50,000 homes lost to foreclosure in our state in the last two years. 34% of these properties involve multi-family units, resulting in the displacement of thousands of tenants as well as homeowners.

How Did We Get Here?

Through the greed of the financial services industry and the sub-prime mortgage lending business; inadequate regulation, lax oversight and the utter failure of our regulatory agencies; and the unregulated development of complex financial products and securitization of mortgages to an unprecedented degree. Everyone made money off the backs of working people simply looking to buy a home and fulfill the American Dream. Loans were packaged as securities and sold

on Wall Street. The original lenders and mortgage brokers made millions of dollars in commissions, mortgage fees and interest payments and didn't care if the loans were sustainable. Investors thought they found an easy way to make money by buying mortgage backed securities, as housing prices skyrocketed. However, once the housing bubble burst, everything fell apart, as many people's homes are now worth much less than the amount that lenders gave them for their inflated mortgages.

In addition, there has been widespread systemic racial discrimination in mortgage lending - from redlining to the targeting of communities of color for high cost loans that people could never afford on their real income. People of color are 30% more likely to get a loan with a high interest rate than white borrowers. High cost loans account for 55% of loans to African Americans, but only 17% to whites. Thus, the highest number of foreclosures are in low-income communities of color. In Boston, 75% of all foreclosures are in Roxbury, Dorchester, Mattapan and Hyde Park. Lawrence, Worcester, Brockton and Springfield also face extraordinary numbers of foreclosures. The result has been neighborhoods devastated by the needless eviction of tenants, abandoned and vandalized homes and accelerating decline.

Can We Stop Foreclosures?

In Massachusetts, we can lose our homes to foreclosure without ever having the opportunity to go to court. There is no judicial oversight process - homes are sold through power of sale provisions in mortgages - with no right to contest the foreclosure in court. If

borrowers find their way to the few attorneys defending against foreclosures, there may be remedies if there were violations of the Truth In Lending Act, the Consumer Protection Act, or the anti-discrimination laws. There may be a right to rescind the loan. Often the entity foreclosing does not have the legal authority to foreclose as the loan and note were not properly assigned, and the foreclosure can be challenged on these grounds.

In 2008, the AG's office was able to get our courts to declare that a loan should be considered "presumptively unfair" if it had the following characteristics: (1) It has an Adjustable Rate Mortgage (ARM) with an introductory period of three years or less; (2) It has a teaser rate for the initial period that is at least 3 percent lower than the fully indexed rate; (3) The borrower has a debt-to-income ratio in excess of 50% under the fully indexed rate; and (4) The loan to value ratio is 100% or the loan has a substantial prepayment penalty or a prepayment penalty that extends beyond the introductory period. *Commonwealth v. Fremont Investment & Loan*, 897 N.E.2d 548 (2008).

However, often the lender that made the unfair loan is either out of business or sold the loan. The mortgage brokers are long gone and borrowers are left with few legal remedies. At Greater Boston Legal Services we have successfully raised legal claims and gotten loans modified. But we need systemic change as well as more individual legal representation for borrowers facing foreclosure.

Bankruptcy reform is a critical tool that will allow bankruptcy

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MAAPL SUGAR

Current Proposed Foreclosure/Predatory Lending Legislation in Massachusetts

by Lee D. Goldstein

Maybe democracy works sometimes. The Massachusetts Alliance Against Predatory Lending (“MAAPL”), a coalition of more than sixty community groups, housing counseling agencies, legal service organizations and activists, of which the Guild, organizationally as well through many individual members, is an active participant, has filed four pieces of legislation to address the current foreclosure crisis. The legislation is but one component of how MAAPL is attempting to address the crisis and provide support for the tens of thousands of residents of our state affected thereby. MAAPL also supports direct action (eviction blocking, public demonstrations at banks, etc.), weekly meetings of tenants and homeowners, self-help clinics, neighborhood forums and door to door canvassing, and legal and political advocacy on behalf of those about to lose their homes due to the actions of predatory lenders. These bills, which need your support, are:

Judicial Foreclosure (H-1729), will enable Massachusetts to join with 25 other states to require the Superior Court to be the exclusive forum by which a lender may foreclose on 1- 4 unit owner-occupied homes. Currently, lenders may foreclose by sale of the property, without any judicial oversight or approval of that sale. Unlike the current law, the new legislation would allow owners to raise defenses, such as Truth in

Lending and Consumer Protection Act violations, in the foreclosure action. In addition, the court would have the power to modify the terms of the mortgage.

Tenant Protection Act (H-1232, formerly the “Just Cause Eviction Bill”), would stabilize communities by preventing the eviction of both tenants and former owners of foreclosed property unless there is “just cause” to do so. “Just cause” includes reasons such as: non-payment of “reasonable” rent, criminal behavior, refusing access to the owner or, in an accommodation to capitalism, a provision in a purchase and sale agreement with a prospective non-institutional buyer that the unit be vacant. The rent is any amount previously paid by a tenant immediately prior to the foreclosure or, in the case of a former owner, that paid for a comparable unit under the “Section 8” housing subsidy program. Not only would failure of “just cause” be a defense to an eviction, but a violation could be punished by a \$10,000 fine for each attempted eviction in violation of the Act.

Moratorium (H-1510) resembles legislation passed during the home improvement scam crisis in the 1990’s. It would require a 180 day period where no predatory lender could foreclose on an owner-occupied 1- 4 unit property during the moratorium period. The moratorium would apply to sub-prime loans which unfairly lure borrowers with low introductory interest rates that dramatically increase, loans at 97% or more

of a house’s value, loans with substantial pre-payment penalties, interest only loans, and loans that have high points, fees or interest in violation of the Predatory Home Loan Practices Act. During such period, no interest or fees would accrue nor could eviction proceedings be initiated against tenants, and lenders and owners would be “encouraged” to modify the terms of their mortgages.

Mandatory Mediation (H-1649, drafted by the National Consumer Law Center and supported by MAAPL), similar to the provisions of the Moratorium bill, would require that predatory lenders produce a statement that they had engaged in “good faith” attempts to modify the terms of the loan with the borrower prior to being able to proceed with a foreclosure.

Either surprisingly or as a result of rumblings from the grassroots, all of this legislation has broad support in the Massachusetts legislature. For example, the Tenant Protection Bill, whose lead sponsors are Rep. Maila from Boston in the House and Sen. Chandler from Worcester in the Senate, has 86 co-sponsors in the House. Only 76 votes are needed for passage

We’ll see what happens; but, for now, we’re not stopping the demonstrations and blockades.

Lee Goldstein is a Guild member and a law partner at Goldstein & Feuer.

Organizing Against the Foreclosure Crisis by Creating a Bank Tenants Association

by Steve Meacham

Working with volunteers from legal services and the National Lawyers Guild, City Life created the Bank Tenants Association in the summer of 2007 to organize against foreclosure evictions. 60% of the households evicted after foreclosure in Boston are tenants; that percentage is 47% statewide. Since 2007, we have stopped 95% of the evictions that have come to our attention. We have forced banks to back down, stop eviction proceedings and accept rent from tenants in foreclosed properties, and have won large “move-out” settlement payments for some tenants. We have also pressured banks to sell foreclosed properties to occupants at their real appraised value, at often half of the old mortgage loan value.

The City Life Bank Tenants Association (“BTA”) is comprised of occupants of foreclosed buildings, including former owners and tenants and people facing an imminent foreclosure. We emphasize that foreclosure is not the end of the struggle, but rather the beginning of phase two of the battle. There are key features of the City Life Bank Tenants Association that help us maintain this struggle and allow it to be replicated in other cities:

Mass Canvassing

This is the method that we use to identify buildings facing foreclosures or post-foreclosure evictions. It’s crucial to reach those buildings before the actual foreclosure takes place and before the banks can intimidate occupants into moving with threats and/or phony “cash-for-keys” offers. Volunteer canvassers go door-to-door in neighborhoods bringing information to residents that is literally the difference between eviction and being

able to stay in their homes. Canvassers obtain the contact information of people living in foreclosed (or about to be foreclosed) buildings and those people then receive calls that introduces them to our strategy and invites them to the next BTA meeting. People also find us in other ways (referrals, community meetings, press reports, etc.). City Life works with hundreds of volunteers who serve as canvassers in mostly low-income and minority neighborhoods, including law students from the National Lawyers Guild and Greater Boston legal service centers; students connected with community-oriented groups and agencies, such as ACORN; religious institutions, such as the Jewish Alliance for Law & Social Action and Kavod House; radical community activists; and bank tenants themselves. Volunteers also call every involved single household every week.

Regular Mass Meetings

The Boston BTA meets weekly, with an attendance of about 60-70 residents. Each meeting has a vari-

ety of goals, including explaining legal rights; developing solidarity through the sharing of stories and information; building unity between former homeowners and tenants; discussing the political aspects of the foreclosure crisis; planning for and discussing the effects of demonstrations and other public actions; and recruiting volunteers. We focus on The Shield and The Sword strategy: the Shield is our legal defense tactics to fight eviction proceedings, while our Sword is public pressure and protest, to get banks to sell properties back to former homeowners at reasonable prices or to allow tenants to pay reasonable rents and remain in their homes. Weekly meetings (translated into Spanish) take place at City Life in Jamaica Plain and every 2-4 weeks in East Boston.

Eviction Defense and the “Public Letter”

As City Life works with 350+ cases at any time, we handle educating people on their legal and extra-legal options through mass meetings and peer counseling rather than primarily through individual counseling by staff. Residents facing eviction generally follow two different courses of action. One is utilizing the “shield” aspect of the eviction process (legal defense tactics), including

responding to cash for keys offers, notices to quit and filing the appropriate pro se documents in court. Sometimes this is taken over by legal services or Guild attorneys; in other cases, we counsel people how to successfully represent themselves

during the eviction process. The second course of action is the “sword” aspect. We encourage each building occupant to write a “public letter” to the bank or mort-

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Jeff Feuer at a rally against Bank of American in Copley Sq., Boston.

Organizing Against the Foreclosure Crisis

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gator lender using moral and ethical arguments to explain how the residents would like to resolve the situation in a fair manner that protects their right to continue to live in their home. These letters are also sent to local politicians, community leaders and the media to get publicity for each case. The letters put banks on notice that they will face serious resistance from the community if they attempt to evict people and leave the property empty.

Eviction Blockades

City Life uses blockades only when we are making a demand on which the occupant can actually follow through -- paying rent to the bank or buying back the building at its current appraised value. When a constable comes to evict a family, we organize a mass public demonstration in front of the building to publicize what is happening and make the banks/constables/ movers face up to the moral consequences of their actions. City Life called for eviction blockades 14 times in 2008. In 11 of those cases, the bank backed down and called off the eviction. These protests are very emotional, garner lots of media attention and expose graphically the contradiction between banks getting huge amounts of bailout money and their utter disregard for residents of foreclosed buildings.

Protest Campaigns

In addition to the eviction blockades, City Life also organizes and participates in protest campaigns against banks such as Deutsche Bank and Bank of America. We pressured Deutsche Bank to issue a letter to its mortgage servicing companies urging them to consider choices other than mass evictions after foreclosure. When this letter had no effect on the servicers, we organized a protest of over 100 people at the Deutsche Bank PGA golf tournament near Boston in August,

2008. We have demanded that the Bank of America stop evictions after foreclosure and accept rent from tenants living in foreclosed properties. In a 2009 Valentine's Day protest, done jointly with Rising Tide, an environmental group, some demonstrators marched outside a main Bank of America branch, while others entered to close their accounts, "breaking up" with the bank on Valentine's Day. More protests will follow until the Bank of America agrees to do what Fannie Mae and Freddie Mac have already done -- stop automatic, mindless post-foreclosure evictions.

Coalition Work and Legislation

City Life links its direct action and organizing to several broad coalitions, particularly the Massachusetts Association Against Predatory Lending (MAAPL), in which the Guild is also heavily involved. We strongly support a new "tenant protection" bill, which would require banks to have a legally sufficient reason to evict tenants who are paying rent and living in a building after foreclosure. Such legislation would dramatically change negotiations with banks since they would be unable to automatically evict tenants following foreclosure. This legislation would be a very effective deterrent to creating empty, foreclosed buildings in our neighborhoods and would cost the public nothing. As the foreclosure crisis has deepened, we have been able to garner the support of Governor Patrick, Mayor Menino and a majority of the legislature for this bill.

Radical Analysis and Narrative

The BTA model of organizing raises issues that are at the center of the political debate around housing and financial capitalism. We believe that the financial institutions that created this crisis should pay for it. This means that foreclosing banks should (1) rewrite loans to the current fair market value of the property with a fixed interest rate;

(2) accept rent from occupants, and/or (3) resell foreclosed buildings to occupants or non-profits at the current fair market value. We want the government to act, to provide new regulations for financial institutions in the housing market and money for people facing foreclosure, but we will not rely solely on government action. The financial crisis is directly linked to the growing gap between the rich and everyone else, which creates wealthy investors who speculate for short-term financial gain rather than investing in improving our communities. We also recognize that the communities hurt by this crisis are disproportionately communities of color. Therefore, we believe that we have the right to defend our homes and our communities, regardless of what the judicial system may say is the legal status of our claims to our homes.

When we emphasize the sword and the shield, we understand that we are going into a battle for which we have to prepare accordingly. Predatory loans are not just individual mortgages that were haphazardly given out; rather there was a predatory lending environment fostered by our largest financial institutions. People did not "buy more house than they could afford"; they simply purchased whatever housing was available to them at inflated prices. Our 2008 Summer Institute presented discussion and skill-building workshops, linking the foreclosure crisis to a host of other related issues -- wages, phony "free trade" agreements, health care, racism, etc. Despite the current crisis, City Life is hopeful that our communities will continue to resist the abuses of the past decade and demand that our society become a fairer and more just place to live and work.

Steve Meacham is an organizer with City Life/Vida Urbana.

The Sword and the Shield: The Story of One Community Resident's Struggle to Save his Family's Home

by Lori Hill

An array of tenants, homeowners, community activists, law students and other concerned citizens fills the room on Tuesday evenings at the weekly meetings of City Life/Vida Urbana's Bank Tenants Association. Participants work with a skill set of tools in classic sword and shield dynamic in the struggle to protect their homes during this nationwide foreclosure crisis. The shield is provided through legal information concerning people's rights when faced with foreclosure or eviction and, in some cases, through individualized legal counsel offered by volunteer lawyers and law students.

The sword consists of these empowered community residents organizing and participating in protests against banks and other mortgage holders, letter writing campaigns to politicians and corporate executives, eviction blockades and other events. These collective activities build a strong sense of community, help people to realize that they do not face the terribly destructive foreclosure and eviction process alone, and give us weapons to fight this crisis in a variety of arenas. It was through my participation as a Guild law student in these activities that I first met Tim (the name has been changed to protect his privacy).

In the beginning of the summer of 2008, I attended my first City Life Bank Tenants Association meeting. Tim had been attending the meetings for

several months after falling behind on his mortgage payments. Tim, his wife and his two young daughters were the victims of a predatory loan from Wells Fargo – an adjustable rate mortgage had been given to them when they refinanced their original mortgage, even though the mortgage broker was aware that Tim's wife had cancer. The bank had included in its income calculation the money that Tim received from his wife's disability check, while promising Tim that he could refinance his mortgage at a later date, should his wife die. Instead, after Tim's wife died, Wells Fargo refused to renegotiate the loan, because it said that Tim no longer had enough family income to support the mortgage that he sought! Wells Fargo then foreclosed on the property.

When I first met him, Tim was waiting to receive a Notice to Quit that would begin the process of evicting him and his children from his home. However, shortly after our first meeting, Tim received a notice of eviction from a constable, giving him only 48 hours to leave his home, as a result of Tim's failure to appear in court for his eviction case. The problem was, Tim had never received a summary process (eviction) complaint or any other notice that he had to appear in court. The next morning I accompanied Tim to the Roxbury District Court to support him. Tim had been provided with a Motion to Vacate the Default Judgment and information about his legal rights from volunteer lawyers working with City Life. Armed with this knowl-

edge, Tim was able to get the district court to vacate the default judgment and get the case transferred to the Boston Housing Court. As the case progressed, Tim worked with legal service and Guild attorneys and law students, City Life and other community agencies to delay his eviction, get an appraisal of the true market value of his home, conduct negotiations with mortgage brokers, Wells Fargo and the law firm pursuing the eviction action and assist him with the court process. Continuing to work with City Life's Bank Tenant Association, he made countless telephone calls and sent dozens of letters and emails, most of which fell on deaf ears, although Tim was able to remain in his home during this struggle.

However, as the summer drew to a close, the Boston Housing Court ruled in favor of Wells Fargo and set a date for Tim's eviction to finally take place. By early fall, when the date of eviction arrived, Tim was still living in his home with two daughters, and he had gotten Wells Fargo to begin negotiations to sell his home to a non-profit community agency, which would act as an intermediary for Tim. The eviction was once again delayed. In February, 2009, some eight months after I first met him, the community agency was able to purchase Tim's home from Wells Fargo at its real current market value (which was much less than the amount of the mortgage loan that Wells Fargo had given to Tim) and sold it back to him with a 30-year fixed rate

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The Faces Behind the Loans

by Nadine Cohen

Ms. “Amos” is a Latina factory worker who does not speak English and had only an 8th grade education in her home country. She was approached by a Latino mortgage broker who told her she could help her buy a house, even though Ms. “Amos” said she couldn’t afford one. Ms. “Amos” was making only \$25,000 so the broker told her to put her brother and son on the mortgage application so their incomes could be included. They did not know that they too were buying a house. They were sold a \$500,000 two-family house and got a mortgage for close to the full purchase price. There were two mortgages - one for 80% and a smaller mortgage for 20%. The first mortgage was an ARM with a two-year teaser rate of 7.6%, which then increased every six months to 14.6 %; the second mortgage was an option ARM (meaning they could pay only interest) and had an 11.75% interest rate. Total monthly payments were over \$3,400 without taxes. The mortgage broker got a \$7,800 origination fee from the borrower, a \$4,000 premium from the lender, and some of the real estate com-

mission. The terms of the loan were never clearly explained to Ms. “Amos”, and given that she could not speak or read English there was no way she was able to understand all of the complex mortgage terms. Ms. “Amos” later refinanced with yet another Latino mortgage broker who got her into another high cost abusive loan.

Ms. “Amos” situation is all too common. Many people of color were targeted by mortgage brokers from their own communities for abusive loans. Too often borrowers did not speak English and relied on people who spoke their language who were making money and taking advantage of their lack of sophistication. In many cases borrowers’ incomes were inflated without the borrowers knowing it. They were asked to sign reams of documents at closing and never understood what they were signing.

All of the loans were oppressive and unconscionable and violated consumer protection laws as they were clearly unfair and deceptive. They also violated the Massachusetts Predatory Home Loan Practices Act which prohibits lenders from making high cost loans without a reasonable belief that the borrower had the ability to repay the loans. The broker mis-

represented to the borrower that she would be able to refinance to a better rate loan before the introductory rate ended. The borrowers did not receive accurate and complete copies of their closing documents in violation of TILA and other state laws. In addition the loans had the characteristics which our courts have called “pre-emptively unfair”.

GBLS was able to rescind the loans under various legal claims and negotiate with the lender to reduce the principal by \$100,000 and reduce the interest rate to a fixed 3% for 30 years - thus making the client’s monthly mortgage payments affordable and allowing her and her family to remain in the home. Unfortunately this is a very rare success story. Most borrowers are not able to mount legal challenges to their loans and obtain such a successful resolution.

Nadine Cohen would like to thank Eloise Lawrence of GBLS for her contribution to this article.

The Sword and the Shield

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mortgage that was actually affordable for him. His eviction case was dismissed with an Agreement for Judgment.

A copy of that Agreement for Judgment sits framed on a wall in my apartment. It serves as a reminder to me that we should believe in and use the power of community and collective action

and never give up without a fight. During my time working with Tim, on countless occasions I asked him what he wanted from this struggle. He stated that he simply wanted the bank to admit that they were wrong and allow him and his daughters to keep their family home and to show others that they too were not alone and could fight the system. In the end, Tim, with the assistance and

support of the large community which shares his struggle, got what he wanted

Lori Hill is a third year student at Suffolk Law School. She has been involved with the NLG Foreclosure Prevention Task Force since its inception.

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Foreclosures - Do Homeowners Have Legal Rights?

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judges to modify inflated mortgage loans on people's principal residence. That will hopefully persuade lenders to offer real loan modifications prior to bankruptcy. Unless the principal on mortgage loans can be reduced, as well as the interest rate, people will still lose their homes and the financial crisis will continue. The recent Obama loan modification program is a good start, but does not go far enough as it is still voluntary and does not require reductions in principal. The Massachusetts Alliance Against Predatory Lending is sponsoring two bills that would enable communities to fight back by allowing homeowners to challenge foreclosures in state court and prohibiting lenders

from evicting tenants and former homeowners after foreclosure until the property is sold.

Working with City Life/Vida Urbana and other community organizations to organize and mobilize people in the community to stop foreclosures and evictions in another important tool. On June 11, the National Community Reinvestment Coalition (NCRC) is sponsoring a National Day of Action and calling for public protests for Jobs and Homes Now! The theme for the action is "No home, no job, no peace, no rest" (The Ghost of Tom Joad, by Bruce Springsteen).

Foreclosures can be stopped - by creative legal action, by getting more lawyers to take on foreclosure cases, by organizing homeowners and tenants, by lob-

bying for changes to the bankruptcy laws, by supporting legislation for judicial foreclosure and tenant protection, and by coming out on June 11th for the National Day of Action to create jobs, stop foreclosures and rebuild communities. The proliferation of unfair and unsustainable predatory loans has been a major cause of the financial crisis - stopping foreclosures and modifying loans to keep people in their homes is the key to stabilizing our communities and addressing the financial crisis.

Nadine Cohen is a longtime Guild member and a consumer protection attorney with Greater Boston Legal Services.

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