

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO



Dear Friends, Colleagues, and Supporters:

Now is a time of unprecedented need for legal services. Massive rent increases by a single real estate developer threaten the homes of 17,000 tenants in East Palo Alto. Immigration and Customs Enforcement appears more intent in 2008 than ever to raid and deport undocumented persons, trampling rights guaranteed in the United States Constitution. The sub-prime housing crisis, while universally felt, most strongly impacts low-income families losing their homes. Every week, clients come to our offices with novel problems and nowhere else to turn.

Yet we address these challenges. In the last few months, we trained pro bono attorneys on mortgage foreclosures and recruited five law firms to take predatory lending cases. We networked with other agencies across the Bay Area to take housing and immigration cases. In all, we have assisted more than 1050 clients both in-house and through referral through ten months in 2008, including a woman facing a \$62,000 lawsuit which was dismissed upon

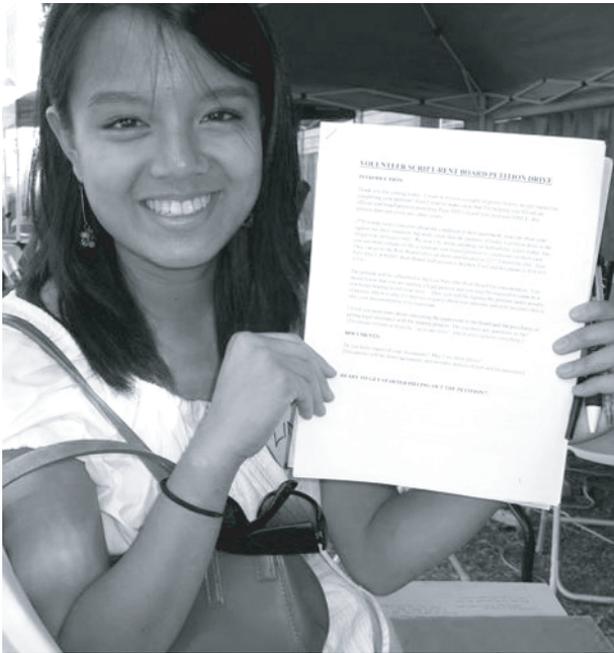
our placing her with pro bono counsel, a man facing eviction whose case was placed four days before trial – and won, and Jose Suarez, who in August became one of the first four recipients in the USA of U-Visas for immigrant victims of crime (see front page of the local section of the San Jose Mercury News, August 8, 2008). Whatever challenges our clients face, we adapt to meet them.

We are proud of our work. Nonetheless, a reality we face every day is this: we cannot continue without your support. This newsletter is an acknowledgment of the success your generosity makes possible. At the same time, we are building a case for your continued help. We care about our work, and hope you will as well.

Warm regards,

Candice Greenberg
Executive Director

Nozipo Wobogo
Board Co-Chair



Ling Lew, student volunteer, presents a petition for the Rent Stabilization Board on behalf of a Page Mill tenant.

CLSEPA Fights to Save Homes

Rent in East Palo Alto

By Jeanne Merino
Supervising Attorney, Housing

The housing practice at CLSEPA has been hard at work to keep rents affordable for East Palo Alto tenants. Last year, East Palo Alto's megalandlord raised rents higher than allowed by the East Palo Alto Rent Stabilization Ordinance. In November 2007, Page Mill Properties, the owner of the largest number of residential rental properties in the city—more than 1630 apartments—increased rents by up to 47% for some of the residents, despite the East Palo Alto Rent Stabilization Ordinance's prohibition of rent increases higher than the Consumer Price Index, which was 3.2% last year.

CLSEPA is working in concert with community activists, our law firm pro bono partners, and the Stanford Community Law Clinic to combat these increases.

In January, CLSEPA coordinated an effort to put an immediate end to the rent increases. The East Palo Alto City Council responded to the pleas of hundreds of tenants facing huge rent increases, Peninsula InterFaith Action and Youth United for Community Action, and passed an Urgency Ordinance imposing a six-month moratorium on rent increases in excess of the 3.2% permitted by the city's Rent Stabilization Ordinance law. The Council met before a standing-room only crowd and voted 5-0 to pass the Urgency Ordinance. PMP immediately sought to overturn the moratorium. CLSEPA, working with pro bono partner Howrey LLP, intervened in the action. Unfortunately, the superior court ruled for PMP.

In the beginning of January, CLSEPA filed rent board petitions asking the Board to declare illegal the increases for more than a dozen tenants. Pro bono attorney Daniel Harris represented the tenants at the original hearing, and won a hearing examiner's decision. PMP appealed to the full board, and CLSEPA consulting lawyer Jeanne Merino represented the tenants in an August before the Rent Board, and again prevailed.

Yet the controversy is far from over. PMP has dug in its heels. It has hired three law firms to push through rent increases and prosecute evictions of those who cannot pay the increases. They now have changed their position, and are claiming not only that they do not have to abide by the prohibition on increases greater than one year's CPI, but they have suggested that the rent ordinance does not apply to units unless the same tenant has been in the unit for more than the last ten years!

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Tenants have been assisted by CLSEPA and our pro bono partners at Skadden, Arps, Slate, Meagher & Flom LLP, Morrison & Foerster LLP, Cooley Godward Kronish LLP, and others. To date, CLSEPA has helped 7 tenants successfully through the eviction process.



The Sub-Prime Housing Crisis

The headlines are full of stories about the sub-prime loan crisis and CLSEPA is in the forefront of providing legal assistance to homeowners in foreclosure and to tenants in foreclosed properties; we have assisted borrowers with loan modifications, helped to put predatory lenders and brokers out of business and helped tenants who found themselves being evicted, through no fault of their own, because the properties they lived in had been foreclosed. In 2008, we have assisted

over 105 low-income clients through our predatory lending program.

We partner with EPA CAN DO, loan counselors, to make our community outreach even more effective. Together, we provide comprehensive community education and assistance on default and foreclosure, we make referrals to Credit Counselors and distribute "A Guide to Default and Foreclosure in California". Clients seeking legal assistance are aided by CLSEPA. Clients seeking assistance with loan modification are assisted by EPA CAN DO.



The East Palo Alto community is fortunate to have so many lawyers, law firms, community organizations and activists, and committed individuals working together on behalf of low-income residents.

CLSEPA Launches New Website



CLSEPA is proud to announce the launch of its new website, available now at www.clsepa.org. The website is the result of a service grant from the Taproot Foundation, a non-profit organization connecting skilled professionals with other non-profits in need of pro bono assistance. CLSEPA applied for and was awarded a grant in June 2007, and the Taproot team developed the website over the following 16 months. CLSEPA owes a tremendous debt of gratitude to a skilled and dedicated team, consisting of Mary Dateo; Account Director, Yuki Tobinaga; Project Manager, Holly Friedman; Marketing Manager, Neal Eckard; Writer, Martin Douglass; Designer, and Thomas Wilkinson; Web Developer. Special thanks to Daniel Harris for providing photographs for the website.

Pro Bono Attorneys Get Results

Though it is said that justice is blind, when we place cases with pro bono attorneys, justice often comes down on the side of our clients. Those who lack scruples rely on victory by default, by being able to take advantage of those who lack the resources to defend themselves. Pro bono attorneys level the playing field. In doing so, they allow justice to win. We are truly grateful for the assistance our pro bono partners have achieved so far in 2008. Examples include:



- **Cooley Godward Kronish LLP** associates **Brian Wikner** and **Emily Burns** and partner **Linda Callison** represented a client in a \$62,000 negligence lawsuit alleging that the client was responsible for a flood in a downtown office building in Palo Alto. Mr. Wikner, Ms. Burns, and Ms. Callison succeeded in getting the lawsuit dismissed.
- **Dechert LLP** attorneys **Jill Kopeikin** and **Sarah Wager** represented a client seeking to have the headstone for his father's grave installed at the cemetery where the father was laid to rest, after installation had been delayed for several years since the headstone was purchased. Ms. Kopeikin and Ms. Wager successfully obtained the headstone for the client's father.

- **Dechert LLP** partner **Andrew Thomases** represented a client whose wages were being garnished, but was unable to afford the garnishment amount of \$85.00 per week. Mr. Thomases successfully obtained a court order lowering the garnishment to \$40.00 per week.
- **Dewey & Leboeuf LLP** associate **Vinh Pham** represented a client who purchased and assembled a motorcycle frame for \$3,050, only to discover the vehicle could not be operated in California, despite assurances by the dealer to the contrary. Mr. Pham assisted the client in a small claims action against the dealer, where the client recovered the entire purchase and assembly amounts in addition to \$100.00 for disassembly.
- Associates **Holly Baudler** and **Catherine Shiang**, formerly of **Heller Ehrman LLP** and now **Covington & Burling LLP**, represented a client being sued for over \$1,800 by a collection agency. Ms. Baudler and Ms. Shiang argued that the collection agency had attempted to re-age debt originally exceeding the statute of limitations. The collection agency dismissed its lawsuit against the client.
- **Morrison & Foerster LLP** associate **Matthew Chen** represented a tenant of Page Mill Properties who was being evicted for an alleged nonpayment of rent. Basing a possible defense in both East Palo Alto law and the client's rental agreement, Mr. Chen succeeded in getting Page Mill to dismiss the lawsuit.
- **Morrison & Foerster LLP** associate **Joe Kanada** and partner **Eric Olson** agreed on very short notice to represent a mobile home tenant who was being evicted for alleged nonpayment of rent. At trial, Mr. Kanada used a key admission during cross-examination to build a successful defense, resulting in a win for the client and the right to stay in his home.
- **Skadden, Arps, Slate, Meagher & Flom LLP** associates **Lisa Chen** and **Morgan Lopez** represented a client whose vehicle was repossessed and sold by the lender, with the client being charged an \$18,000 deficiency. Ms. Chen and Mr. Lopez argued that the lender's failure to send a Notice of Intent to Dispose of Vehicle in Spanish, despite the fact that the vehicle negotiations were conducted in Spanish, violated California law. Ms. Chen and Mr. Lopez successfully cleared the entire deficiency and prevented the incident from being reported on the client's credit.

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- **Skadden, Arps, Slate, Meagher & Flom LLP** associate **Carrie LeRoy** represented a client being evicted by Page Mill Properties for failure to pay a 200% rent increase. Ms. LeRoy succeeded in getting the eviction lawsuit dismissed, and has continued to assist the client with subsequent attempts by Page Mill to increase rent.
- **Skadden, Arps, Slate, Meagher & Flom LLP** associate **Sarah Scollard** represented a client in a small claims appeal. The client was being sued for allegedly making libelous comments about a garage door business. Ms. Scollard won the trial, and the client did not have to pay plaintiff any money. This was the third CLSEPA client Ms. Scollard has assisted in the course of one year.
- Solo practitioner **Teri Shugart** represented two clients from CLSEPA since the summer of 2008, both involving debt collection. Ms. Shugart negotiated favorable settlement amounts and payment plans for both clients, and is currently representing a third client from CLSEPA.
- Solo practitioner **Tom Yang** represented a client who lost \$3,000 when a major financial services company did a fund transfer. After the company rebuffed the client's requests for reimbursement, Mr. Yang succeeded in recovering the entire amount. This was the second matter Mr. Yang has taken on behalf of a CLSEPA client and the second successful resolution. Mr. Yang is currently representing a third client from CLSEPA.

Mobilehome Tenant Defeats Landlord

By Joseph Kanada, Morrison & Foerster LLP

Mr. C. and his mother, defendants in an unlawful detainer action, faced eviction and the loss of their mobilehome. Mr. C. lived in a rent-controlled mobilehome park for over twelve years. After being laid off from his job, he was two weeks late paying rent. Because of the difficulty in moving mobilehomes and the unavailability of vacancies in other parks, Mr. C. faced the possibility of losing his mobilehome. Prior to approaching Community Legal Services in East Palo Alto (CLSEPA), Mr. C. fought the eviction action for four months without a lawyer. He was always ready and able to pay his rent after the initial two week late payment. During this time, a default judgment was entered against Mr. C.'s mother who did not live in the park and was unaware of the lawsuit. The landlord also filed two motions in limine to exclude evidence.

Working closely with CLSEPA, Morrison & Foerster LLP (MoFo) took on Mr. C.'s defense four days before trial. MoFo's first priority was to set aside the default judgment, respond to the motions in limine, and to postpone the trial. In order to bring an unlawful detainer action, the defendant must live in the premises. Because Mr. C.'s mother was no longer living in the mobilehome, the landlord agreed to set aside the default judgment and dismiss her from the action. The motions in limine sought to exclude evidence of Mr. C.'s and Mr. C.'s mother's attempts to pay the rent late. The day before trial, the Alameda County court granted one motion in limine and denied the other, effectively limiting Mr. C. to the defense of waiver.

During Mr. C.'s jury trial, MoFo argued that Mr. C. was entitled to an affirmative defense of waiver. Under this defense, because the landlord had retained Mr. C.'s late payment for two weeks, the landlord had waived the right to evict Mr. C. The parties disagreed as to whether retaining the payment for a brief period of time constituted "acceptance" of the payment. The undisputed facts were that Mr. C. dropped off the late rent at the rental office and that the office returned the rent to him two weeks later. Mr. C. testified that he personally handed the rent to an office assistant. According to the assistant, Mr. C. insisted on leaving the check on the office desk after being told his rent would not be accepted. On cross-examination, the assistant admitted she would have been disciplined if she had accepted the rent, a possible motivation to lie. Ultimately, after deliberating for an hour the eight person jury found the rent had been accepted and not rejected. As a result, Mr. C. was allowed to pay all the rent he owes and remain in the park.

Joseph Kanada and Erik Olson of Morrison & Foerster LLP and Susan Solomon and Victor Ramirez of Community Legal Services in East Palo Alto worked on the case. At trial, Mr. C. was represented by Joseph Kanada.

Pictured right: Joe Kanada



CLSEPA Teams Up to Chill ICE

By Jon Frohnmayer
Volunteer Attorney Program Coordinator

Immigration and Customs Enforcement (ICE), the \$5 billion branch of the United States Department of Homeland Security, has, in its brief seven-year history, presented not only a challenge to low income and immigrant communities trying to adjust to life in America, but threatened the constitutional rights all Americans cherish. In the process of conducting raids in neighborhoods and workplaces suspected of harboring undocumented persons, ICE has on numerous occasions entered homes without warrants or consent, brandished weapons on unarmed civilians, and coerced victims into admitting alienage by denying water and bathroom breaks during interrogations. Such activities damage our country's reputation for fairness, justice, and equitable treatment.

Agents outnumbered workers at every location, blocking the doors and intimidating them--in some cases even brandishing guns--to hold and question them without probable cause.

In response to ICE's increased activity in 2007, in which more than 584 individuals were arrested in the Bay Area alone, CLSEPA, the Immigrant Legal Resource Center (ILRC), and a number of other organizations stepped forward in concert to challenge the legality of ICE's activities. The backbone of the effort is the recruitment and training of major law firms to bring motions to suppress, which attorneys use in immigration court to exclude evidence ICE obtains unlawfully and thereby terminate removal proceedings. Since October of 2007, CLSEPA and ILRC have trained over 80 attorneys from 20 different law firms to bring such motions. The effort has been crucial: so far in 2008, CLSEPA has placed ten different clients from five different ICE raids with attorneys at Fenwick & West LLP, Orrick, Herrington & Sutcliffe LLP, and other firms.



Photo by Thomas Hawk via Creative Commons

In addition, the law firm of Morrison & Foerster LLP agreed to represent victims in the most egregious ICE activity in the Bay Area of this year. On Friday, May 2, 2008, ICE detained over sixty people following simultaneous raids of eleven El Balazo Mexican restaurants in San Francisco and the East Bay. ICE entered the restaurants pursuant to a search warrant which authorized agents to search for and seize certain business records and related property; however, the search warrant did not name individual workers and did not authorize arrests. Agents outnumbered workers at every location, blocking the doors and intimidating them--in some cases even brandishing guns--to hold and question them without probable cause.

CLSEPA, the Northern California chapter of the ACLU, and others approached Morrison & Foerster LLP in July 2008, which previously had hosted a training on motions to suppress conducted by attorneys from ILRC, and the firm readily agreed to devote 12 attorneys to the effort. "The El Balazo raid was an injustice," says Marcelo Guerra, a senior associate at Morrison & Foerster who is one of the attorneys involved. "Everyone within the United States deserves basic protections against egregious government intrusion. I am honored to have the opportunity to fight on behalf of this cause."

Back in November of 2007, prior to the case referrals, an ICE spokesperson said in an NBC11 report that ICE "welcomed the challenge from the pro bono attorneys." It is our sincere hope that ICE will no longer welcome this challenge, and rather than fight it, will choose instead to abide by the United States Constitution.

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Community Legal Services
in East Palo Alto
2117-B University Avenue
East Palo Alto, CA 94303

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Contact CLSEPA

Community Legal Services
in East Palo Alto
2117-B University Avenue
East Palo Alto, CA 94303

Office hours: Monday through Friday
9:00 a.m. to 5:00 p.m.

Telephone: (650) 326-6440
Fax: (650) 326-9722
Email: info@clsepa.org
Web: www.clsepa.org

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