At a recent housing clinic held at Community Legal Services in East Palo Alto, one client asked “You mean, I don’t need to leave my apartment in three days?”

The answer was yes. Despite having done nothing wrong, the client had come in thinking that her eviction – from the new owners who had title to the home after the previous owner was foreclosed – was only days away. Instead, the clinic taught her that despite what banks, real estate brokers, or nascent owners often tell tenants, Federal law gives tenants of post-foreclosure eviction a minimum of ninety days to move out and find a new apartment. That timeframe is often crucial helping families avoid homelessness. “I can’t tell you how relieved I am,” she said.

Her one piece of feedback to CLSEPA? “Make sure more people know about this service.”

Vulnerable individuals and families abound even amidst the affluence of Silicon Valley. Tenants on the verge of eviction face an extremely disruptive and burdensome ordeal. Immigrants face cultural, language, and vocational barriers to adjustment to a new setting. Borrowers must be ever vigilant in the face of illegal and predatory loans. And many who lack the resources to hire an attorney might be just a phone call or demand letter away from relief. In the current economic climate, every problem is magnified.

At CLSEPA, we address these problems at a greater rate than ever before. Our Housing Program routinely reviews clients’ leases and advises them of their options, and negotiates with and litigates against landlords where necessary. Our Immigration Program helps clients obtain visas and work authorization, and defends persons facing removal. Our Predatory Lending Program holds bad lenders and brokers accountable in court. And our Volunteer Attorney Program connects clients in need of help with attorneys who can provide it.

However, as the client at our Housing clinic discovered, a new bit of knowledge is sometimes valuable enough. Making a difference in clients’ lives is not a complicated task -- but we still need your help to do it.
* Davis Polk & Wardwell LLP associates Amit Chibber, Jesse Dyer, and Stephanie McCleery represented two Section 8 tenants who were defendants in an unlawful detainer action initiated by their landlord. After the expiration of the lease, but before the unlawful detainer action could be heard, the tenants moved out of the unit on their own. Davis Polk then had the unlawful detainer proceedings converted to a civil action for the collection of rent for the “hold-over” period. The landlord maintained that, for the time after their lease had expired, the tenants owed him not the amount stated in his rental contract with the County’s Housing Authority, but rather a significantly higher amount that the Housing Authority had already been deemed unreasonable. When the landlord failed to return the tenants’ security deposit or to itemize deductions on time, Davis Polk filed a countersuit against the landlord for double damages. The Davis Polk team attended hearings, conducted document discovery and depositions, and obtained a satisfactory settlement for the tenants at the original contracted rental price.

* Davis Polk & Wardwell LLP associates Amit Chibber and Peter Lamb represented a tenant facing eviction from a new landlord that had acquired the client’s residence in a foreclosure sale. By identifying potential weaknesses in the new landlords’ case, and relying on certain provisions of East Palo Alto’s Rent Stabilization Ordinance designed to protect tenants, Messrs. Chibber and Lamb negotiated a settlement under which the client would surrender the premises in exchange for a payment that afforded him time to secure new housing accommodations.

* Dorsey & Whitney LLP attorney Michelle Ting represented the mother of a minor whose father died intestate. Ms. Ting helped the client collect two insurance policies and a small bank account on behalf of the minor, and also assisted with the client’s guardianship and other related matters.

* Scott Maurer, of the Katherine and George Alexander Community Law Center, supervised numerous pro bono consumer intake clinics at Community Legal Services, with assistance from Fenwick & West LLP associate Michael Nguyen and King & Spalding LLP associates Hannah Lee and Michael Lee.

* DLA Piper US LLP partner Eliot Hudson and associate Andrew Saxon represented a tenant who had lost an unlawful detainer lawsuit via a default judgment. Mr. Hudson and Mr. Saxon obtained an emergency order prohibiting the Sheriff from enforcing the eviction that was scheduled to occur one business day later, and staying enforcement of an attorneys’ fees and damages award so that they may negotiate a deal for the tenant. They did so. The landlord agreed to a deal allowing the tenant and her family to stay for an additional nine months without having to pay the landlord’s attorney’s fees.

Through 10 months in 2009, CLSEPA has referred 95 matters to pro bono attorneys.
* DLA Piper US LLP attorney Renee Glover Chantler supervised numerous pro bono intake clinics at CLSEPA’s office, with assistance from attorney Miriam Siekevitz, Fenwick & West LLP associate Bisi Akinola and Aaron Sokoloff, King & Spalding LLP associate Ryan Hopkins, and students Anderson Franco and Charles Ramirez.

* Donna Hill, an attorney at a Bay Area law firm, represented a client and her mother whose vehicle had been repossessed by her lender, and the lender had denied the client the right to reinstate the vehicle contract. Ms. Hill took the position that the dealership’s failure to provide a Spanish-language copy of the contract violated California law and entitled the client to rescind the contract, and was able to obtain a positive settlement on the client’s behalf.

* Fenwick & West LLP associate Abraham Zuckerman assisted a client with a U visa application. The application was subsequently granted, and the client will be eligible to apply for Legal Permanent Residency.

* Mayer Brown associates Jack Fitzgerald and Julie Axelrod represented two roommates on short notice who were being evicted for alleged non-payment of rent. Mr. Fitzgerald and Ms. Axelrod took the position that the landlord’s three-day notice was invalid, and were able to get the eviction lawsuit dismissed.

**Results**

Contact jon@clsepa.org if you are interested in volunteering

CLSEPA extends a heartfelt thanks to our pro bono partnering law firms, including:

* Bingham McCutchen LLP
* Cooley Godward Kronish LLP
* Davis, Polk & Wardwell LLP
* Dechert LLP
* DLA Piper US LLP
* Dorsey & Whitney LLP
* Fenwick & West LLP
* Gibson, Dunn & Crutcher LLP
* Howrey LLP
* Jones Day
* King & Spalding LLP
* Latham & Watkins LLP
* Manatt, Phelps & Phillips LLP
* Mayer Brown LLP
* McDermott, Will & Emery
* Morgan, Lewis & Bockius LLP
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* Orrick, Herrington & Sutcliffe LLP
* Quinn Emanuel LLP
* Ropes & Gray LLP
* Skadden, Arps, Slate, Meagher & Flom LLP
* Simpson, Thacher & Bartlett LLP
* Weil, Gotshal & Manges
* WilmerHale
* Wilson Sonsini Goodrich & Rosati
* White & Case LLP

Spanish-language copy of the Notice of Intent to Dispose of Vehicle, Mr. Anderson obtained full dismissal of the lawsuit, and the client did not have to pay any money.

* Fred Schwinn, an attorney at the Consumer Law Center in San Jose, CA, represented a client who was being sued for more than $9,000 by a lender on a vehicle contract for which the client had co-signed. Taking the position that the client had not received a co-signer notice pursuant to California law, Mr. Schwinn was able to obtain full dismissal of the lawsuit, and the client did not have to pay any money.

* Solo practitioner Tom Yang represented a client who was being billed by a major cell-phone carrier for charges the client had never accrued. Mr. Yang was able to establish that the bills were due to a mistaken identity, and the company dismissed the charges and agreed to correct the client’s credit. This case marked Mr. Yang’s third successful resolution on CLSEPA pro bono cases.
Thank You to the Sponsors of the 20th Annual PAABA Charity Golf Tournament

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U Visas Provide Relief

CLSEPA remains committed to serving the profound needs of immigrant populations. One way is through the U visa, a type of visa established by Congress in 2000. The U visa provides victims of certain crimes who have assisted law enforcement in prosecuting those crimes permission to live - and work - in the United States. After three years, U visa recipients may then apply to adjust status to legal permanent residency. For many families, such as those who have experienced domestic violence, the U visa can be a profoundly positive agent of change and adjustment to life in the United States. CLSEPA is there to help along the way.

In the previous two years, our agency has developed relationships with CORA, Support Network for Battered Women, Next Door Solutions to Domestic Violence, the Immigrant Legal Resource Center, and many other agencies to identify and educate U visa clients. On November 12, 2009, 29 families came to our agency to hear a presentation on the U visa and learn more about whether they might qualify for an application, and we expect to help many. Previously this fall, staff attorneys Erika Rivera and Neil Babra made a series of presentations to the East Palo Alto Police Department regarding the U visa and other pertinent issues to immigrant communities.

To date, more than 50 CLSEPA clients have successfully been granted a U visa. Hundreds of additional applications remain pending. The results are already tangible; yet, our office is humbled by the needs that remain -- and the needs that we are committed to meeting.

“You are cordial and kind. You give good assistance and information. And you give confidence.”
- CLSEPA Immigration Client

Predatory Lending

CLSEPA Wins Major Victories for Clients

On November 14, 2009, CLSEPA’s predatory lending program won one of its biggest victories ever. Now 84, Dessanola Swain has lived in East Palo Alto for more than fifty years. A year ago, she received a notice of foreclosure from Deutsche Bank announcing a legal action that sought to take away her home.

CLSEPA and co-counsel Robert Kane cross-complained, stating that the loan was not taken out by Ms. Swain; rather, that Ms. Swain was a victim of elder financial abuse by her son who had helped in swindling her from the lender and Ticor Title Company.

The first phase of the trial on the foreclosure ended on Friday, November 14, 2009, with the Judge denying Deutsche Bank’s foreclosure bid. In the next few months, CLSEPA will proceed with the elder abuse portion of the trial, and attempt to bring a measure of accountability to lenders and title companies and a measure of justice to low-income people who would otherwise lose their homes because they cannot afford legal help.

Another family, the Cacho Vegas, lost their home to foreclosure almost three years ago and have been struggling to make ends meet in the face of unemployment. CLSEPA recently entered into a partial settlement of their predatory lending claim. The settlement money will help to keep the family in their rental unit and tide them over until the family can get back on their feet.

In a final case, predatory lending volunteer attorney Kathryn Latour represented a family that had purchased a timeshare after negotiating in Spanish. CLSEPA discovered a case showing that the company was permanently enjoined from selling to limited-English proficient buyers; the family, in fact, had not understood the terms of the English-only contract. The company agreed to reimburse all of the client’s expenses.

The Cacho-Vega family, above, gets ready for work and school inside their home in East Palo Alto. Photo courtesy of the Palo Alto Weekly.
The Page Mill

Housing

by Jeanne Merino,
CLSEPA Housing Attorney

The CLSEPA Housing Program continues to battle Page Mill Properties, the company that, starting in 2006, bought nearly 50% of the multi-family housing stock in East Palo Alto. But financial problems at PMP may spell relief for the tenants, and for the City of East Palo Alto, as well.

In 2007, after purchasing units on the west side of Highway 101, Page Mill increased rents of a majority of their 1800+ units, boosting rents of some units by as much as 50%. According to Victor Ramirez, CLSEPA's housing paralegal, "East Palo Alto lost many residents after the rent increases went into affect. People just couldn't keep up with the huge jump in housing costs."

In a number of lawsuits since then, Page Mill has attacked the City's method of calculating rents under its Rent Stabilization Ordinance. The City's Ordinance originally was a vacancy control ordinance, and landlords could not increase rents when they rented a unit to a new tenant. In the mid-1990's, however, the California legislature passed a law requiring cities to adopt vacancy decontrol, which allows a landlord to set the initial rent of a new tenant at whatever level the landlord and tenant agree upon.

The long-standing practice of the City, in accordance with the state law, was to allow the landlord to re-set the Maximum Legal Rent when a tenant moved in, and to cap rent increases after that point to a once-yearly adjustment corresponding to the level of inflation.

Page Mill and its predecessors in interest, however, registered new tenancies with the city when the market rents were high between 1999-2002, but conveniently "forgot" to register new tenancies when the rental housing got soft in 2004. When landlords did not re-register the units with new tenancies, the old high rental prices remained on the paper certificates.

CLSEPA has been working together with community partners like the Youth United for Community Action, the East Palo Alto

Fair Rent Coalition, the Stanford Community Law Clinic, the East Palo Alto Rent Stabilization Board and the City itself, to resolve the conflict between the true Maximum Legal Rents and the erroneous certificates.

But PMP has fought back at every turn. When the City, at CLSEPA's encouragement, passed a moratorium on rent increases in early 2008, PMP sued. When the Rent Board, with CLSEPA's help, amended its Rules and Regulations to conform to state law and long-standing practice, PMP sued. When the City, spurred by lobbying of CLSEPA and its community partners, sought to put a new Ordinance on the ballot, PMP sued to block the citizens from voting on the proposed Ordinance.

A Page Mill tenant speaks to a reporter from Univision. Photo courtesy of epa-tenants.org
The saga continues... PMP has taken other actions to break the spirit of East Palo Alto. To the deep consternation of many in this proud City, PMP applied to a San Mateo County agency to have the entire western part of the city designated as outside the city’s “sphere of influence”—the first step toward unincorporation from the municipality. Happily, the agency rejected this application. Earlier this year, PMP also issued eviction notices to tenants at four apartment complexes, claiming that PMP was forcing tenants to vacate so that they could take the units off the rental market.

Yet the end could be in sight for this years-long debacle. Community activists first became aware of PMP’s financial instability in August, when the company missed a $50 million balloon payment. Wells Fargo Bank, which had acquired the note when it acquired Wachovia, filed notices of default on PMP’s East Palo Alto Properties. Since then, the San Mateo County Superior Court has appointed a receiver for the properties. The receiver has expressed an interest in trying to resolve some of the litigation and conflicts with the city and its residents.

So, what does the future hold for tenants and the city? Perhaps the most immediate question is the status of the Ordinance itself. Right now, there is a lack of clarity about what the Maximum Legal Rents are. The best way to resolve that is to put a new Ordinance on the ballot, and, in the interim, secure an agreement with East Palo Alto’s biggest landlord. In the long run, it is critical to maintain housing affordability, and to keep the units of affordable housing on the west side of the freeway.

89 families have come to CLSEPA for assistance with PMP-related issues since the summer of 2008, after multiple rounds of rent increases went into effect.
Community Legal Services in East Palo Alto
2117-B University Avenue
East Palo Alto, CA 94303

Staff & Volunteers

From Left:

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