

II. Summary of Listening Sessions (continued)

B. Listening Session with Legal Services Housing Attorneys – Increasing the Number of Lawyers Working on Housing-Related Issues

Thinking Point: What is the range of housing-related work that requires increased legal services resources?

Participants agreed that it was critical to continue and expand current housing-related work and to try new strategies. Traditionally, the bulk of legal services efforts have focused on eviction defense and helping clients who are on the verge of losing their housing. The community has long recognized that other strategies, in particular, affirmative cases on behalf of tenants and other preservation efforts, would have a broader impact and more effectively address some of the issues fueling the housing crisis. However, there are simply “not enough bodies” to handle both the urgent cases for individuals and the time-intensive affirmative cases. One participant noted that the housing lawyers’ community has simply had to “prioritize out” the more strategic work. Participants agreed that housing advocacy needs to occur long before cases reach the stage of eviction proceedings. Participants stated that they have good contacts in the community to identify potential pre-eviction cases and the skills to litigate these cases, but they are swamped with the representations of individuals in eviction proceedings. The community is eager to “be more strategic” and “proactive instead of reactive.” but urgently needs more housing attorneys and more resources in order to do so.

In terms of specific types of work, participants identified the following needs. Please note that the group was not asked to prioritize the work listed below and the following items are not necessarily listed in order of priority. As part of the discussion, the group clearly identified affirmative cases and efforts to tackle housing problems before they reach the eviction stage as priorities, and those items are listed first:

Affirmative cases – focusing on tenants as plaintiffs (e.g. housing code violation cases, tenant association cases, tenant right to purchase cases): Participants strongly believe that the housing attorney community must focus more actively on affirmative cases. These cases are preferable to eviction defense for a number of reasons, including:

- 1) they would take housing issues out of landlord-tenant court, which is seen as unfavorable to tenant-defendants;
- 2) they reach clients at an earlier, pre-crisis stage;
- 3) they potentially assist many clients at one time (e.g. advocates can affirmatively litigate a building case instead of defending tenants individually in landlord-tenant court;
- 4) they are a more effective way to achieve systemic changes; and
- 5) broader anti-displacement work is necessary to combat the economic and political forces that control housing resources.

Tenant association cases: Affirmative cases on behalf of tenant associations have the potential to help large groups of clients retain their affordable housing. Participants noted that they can identify, for example, buildings that are at risk for condominium conversion and would like to have the resources to organize those tenant associations. While participants have close relationships with tenant advocacy groups which regularly identify potential affirmative cases, they simply do not have the resources to handle the referrals. Advocates are now placing tenant association cases with law firms but, as explained later in this section, this strategy is sometimes challenging.

Brief services: Because of the crushing amount of housing-related litigation, some organizations have stopped providing brief services, such as letter writing, which can have great impact in housing disputes. A communication from an attorney can often resolve housing issues short of litigation and avoid an eviction proceeding. Participants noted that because of the shortage of housing attorneys, clients who would benefit from brief services are now regularly turned away until the case escalates into an eviction proceeding.

Transactional cases: There are not enough attorneys trained to handle transactional housing matters, such as purchases of buildings by tenant associations. A number of small law firms will handle these matters for a fee, but many are overwhelmed and not able to absorb the volume. Participants noted that these cases are extremely time- and lawyer- intensive. Nonetheless, participants urged that funding be used for such cases, as they represent one of few existing strategies for saving entire buildings, rather than a single unit, for lower-income tenants. Some large law firms will take transactional housing cases pro bono, but often require technical support from providers, which strains existing resources. See the pro bono thinking point, below.

Eviction defense: More attorneys are needed to represent clients in landlord-tenant court.

Administrative procedures: A number of participants believe that there is significant potential recourse in existing public housing and other administrative procedures. but they do not currently have sufficient resources to test these strategies.

Fair housing work: A number of participants identified fair housing work as a significant gap. They reported that the Lawyers' Committee focuses on clients who are denied housing, but it does not regularly represent clients who are denied accommodations in their existing housing. Participants stressed that lawyers must deal with these cases before they become eviction proceedings because clients otherwise lose important remedies, and because it is harder in landlord-tenant court to take advantage of available federal remedies .

Transitional and supportive housing programs: A number of participants noted significant problems in these programs. Clients are regularly evicted without any process and in contravention of existing legal protections. Participants would like to see

someone take on the project of investigating these programs' practices and determining client needs.

Emergency shelter programs: Participants noted that the Washington Legal Clinic for the Homeless is currently the only legal services provider representing clients in emergency shelter programs. If the Clinic has a conflict, the client has no recourse.

Thinking Point: Where could legal services be located for greatest impact?

Participants agreed that the “best location” for services depends on the service provided. Some services are best offered at court; others, in non-traditional neighborhood settings. Participants identified the following potential locations:

Community-based settings: Like the participants in the line attorney listening session, a number of participants strongly believe that attorneys need to be located in the communities they serve. They believe that advocates should go to non-traditional venues – e.g. churches, community based organizations – and take advantage of preexisting gatherings. For a fuller discussion of the importance of being located in the community, see Section A.

One participant noted that presence in the community is particularly important for attorneys serving elderly and disabled clients. To serve those clients most effectively, attorneys need to go to individuals' homes to write letters, provide brief services, and observe and assess housing code violations. For housebound individuals, attorneys must be able and willing to “go to them.”

In existing organizations: Participants agreed that they need additional attorneys in their own organizations to work on the spectrum of housing-related work, particularly the time-intensive cases involving tenant associations. Participants who currently work on such cases view it as critical that attorneys from a variety of different organizations be available for these cases, both because of potential conflicts and because the cases regularly require multiple advocates. For example, one attorney or organization may represent the association, but individual tenants need their own counsel.

Court: A number of participants stated that more attorneys are needed at landlord-tenant court both to represent individual clients and to maintain pressure for broader reforms. They noted that while the Landlord-Tenant Resource Center is a great resource, sometimes “things fall apart” when the client has to face the landlord's attorney or the judge without an advocate. Participants agreed that it was crucial to have more attorneys to “stand up” with clients in court – for example, on an “attorney of the day” model. However, a change in court rules may be necessary to permit limited representation of clients at same-day eviction proceedings. Advocates recently persuaded the court to permit, by administrative order, limited representation for the purpose of mediation, but it appears that further authority would be needed to allow attorneys to represent clients at landlord-tenant hearings without taking on full representation.

Some participants also stated that experienced attorneys are needed at court to perform this function. Although DC Law Students in Court is doing important, effective work, the participants agreed that experienced attorneys could assist more clients and handle more complex matters.

While participants recognized the need for more attorneys at court, many also worried that this alone would not address the causes of the city's housing crisis. Increasing the number of attorneys handling eviction cases, in their view, must be part of a broader strategy that includes initiating lawsuits and reaching clients much earlier in the process.

Thinking Point: What kind of services – representation, brief advice, education and outreach, mediation, etc. – would be needed?

Participants stressed that, above all, they need “more bodies” to increase and augment the work they are currently doing. In addition to the specific substantive area and representational gaps identified earlier, participants identified the following services as priorities:

Community education: Participants are concerned about individual clients who never connect with a legal services organization. They see community education and outreach as critical. The participants recommend non-traditional community education in non-traditional places, where community members already gather.

Mobile brief services: A number of participants would like to see a mobile lawyer and investigator unit, equipped with appropriate technology, which could make the rounds of community gathering places and provide brief services such as writing letters, interpreting court papers, and making referrals.

Investigation: A number of participants identified investigative capacity as a serious gap in current organizations. Attorneys could work more effectively if they had access to good investigators.

A number of participants cautioned the Bar Foundation against proposals that promise to “do it all.” They noted that attorneys who try to provide a full range of services inevitably give affirmative cases and other strategic initiatives low priority and focus instead on eviction defense work for clients in crisis. Participants strongly suggested that proposals should identify very specifically the work on which the grantee will focus. At the same time, participants stressed that housing attorneys need the agility to provide the full range of services, the vision to conceive of interrelated strategies in multiple forums, and the skill to implement those strategies.. Projects that operate in a vacuum are not effective.

Thinking Point: Who should provide these services?

Participants agreed that new attorneys would have difficulty providing these services because of the steep learning curve involved in housing advocacy. They echoed many of the concerns voiced by the line attorneys. For a fuller discussion, see Section A.

Thinking Point: What would attorneys need (e.g. technology, resources, access to supervision, administrative support) to be effective?

Participants identified the following needs:

Technology: Participants would like to see attorneys equipped with a “tool kit” that would enable them to provide on-site information and services. This would include a fully loaded laptop and, in particular, a digital camera to record housing code violations. Attorneys currently use their own cameras or their organizations’ Polaroid cameras. It would also be very helpful for attorneys to have access to photo printers. Some participants also stated that Blackberries would be extremely helpful.

Trainings: Participants agreed that housing attorneys need additional skills training and community training (*e.g.* what resources are available, who-is-who, how agencies and organizations interact). Some participants also stated that it would be helpful to train attorneys to work with challenging populations (for example mentally ill clients, illiterate and/or marginally educated clients; clients with substance abuse problems). Some participants urged that attorneys receive funding to attend the NLADA substantive law conference.

Participants agreed that for training to be effective, participants had to commit several days away from the office. Trainings that occur for part of the work day or after work are not optimal because attorneys often skip them because of the client crisis of the moment.. Participants like the model used by the Children’s Law Center. Each year the new “class” of attorneys is required to attend a multi-week training as a group. One participant stressed that advocates need “take-away resources” from trainings such as manuals and resource lists.

Supervision: Participants agreed that supervision is critical. Current housing advocates have widely sought supervision both within their offices and in the housing advocacy community generally. In areas where they are “breaking new ground,” experienced supervision has sometimes been unavailable. While they believe new housing attorneys should have access to good supervision, the participants understand that this burden will likely fall on them. This is a concern as we increase the number of attorneys. Given their other duties, the participants may not have the time to do this training. It is important to free resources for this function.

A number of participants urged that managers be trained on how to most effectively provide supervision.

Language resources: Participants noted that there is a serious shortage of Spanish speakers in the legal services community. They believe the interpreter bank will

help, but cautioned that there must be standards for interpreters and that even the most qualified interpreter isn't a good substitute for a bilingual attorney.

Investigators: As is stated above, participants agreed that additional investigative resources are needed.

State support center: Participants agreed that they need state support - type activities for housing (e.g., centralized substantive training, strategic advocacy, and District-wide coordination on critical issues) to help advocates formulate broader strategies, to incorporate lobbying and law reform initiatives into current efforts, and to coordinate the work being done by advocates across the city.

Thinking Point: How can we leverage pro bono resources to enhance existing housing work?

Participants universally agreed that pro bono resources are critical, and the firms participating in housing advocacy are doing wonderful and important work. However, they stressed that these cases can not just be "handed off" to pro bono counsel, and they often are exceedingly time intensive for the legal services co-counsel. Participants also agreed that pro bono efforts in tenant purchase cases cannot realistically be expanded without additional legal services experts to support the cases. They explained that the cases for tenant associations require significant support and that co-counseling may be best for a number of reasons:

- 1) Successful advocacy often involves relationships with local government and the community that most law firms do not yet possess; legal services co-counsel can tap into these relationships more readily;
- 2) Legal services attorneys often need to sensitize pro bono co-counsel on the "cultural aspects" of poverty law and end up accompanying them to visit clients' homes, take photos and record housing code violations, and to communicate effectively with clients and tenant associations ;
- 3) Pro bono co-counsel often are appropriately focused on the individual client and do not necessarily understand how the case intersects with broader systemic issues;
- 4) Firms often staff these cases with junior attorneys who have little courtroom experience.

One participant also noted that she is uncomfortable with the notion of giving all of the difficult or labor-intensive cases to pro bono counsel. The legal services community needs to be a comprehensive resource and have the skill and capacity to do all types of cases.