

Keeping People In Their Homes: Boston's Anti-Foreclosure Movement

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Abstract

While high foreclosure rates devastate low-income communities throughout New England, a grassroots movement in Massachusetts works to keep tenants and owners of foreclosed properties in their homes. The combined efforts of legal services attorneys, neighborhood organizers and community developers empower local residents to combat post-foreclosure displacement and regain their voice in the political process. This inter-organizational network is dissected and each organization profiled.

We are a nation in crisis. What began as a recession in late 2007, spurred by sharp nationwide declines in housing prices, erupted into a full-blown economic catastrophe in 2008 with the breakdown of the global banking industry. Years later, we are still struggling to recover from the aftereffects of one of the worst collapses since the Great Depression of the 1930's.

The implosion of the subprime mortgage market caused a breakdown in global financial networks, as the value of mortgage-backed securities – a heavily traded financial commodity worldwide – plummeted. These

mortgage-backed securities and collateralized debt obligations, two rather recent innovations of the financial industry, allowed firms around the world to invest in U.S. real estate. The problem was in the packaging of these financial vehicles. Prime mortgages (low-risk) were bundled together with subprime loans (high-risk) and sold with a triple A credit rating stamped on the front, ensuring investors that they were safe investments. While the housing and credit bubbles built up to their peak in 2005-2006, these subprime loans remained dormant, ticking time bombs secured by American homes. When the real estate bubble burst, investor confidence came crashing down. As “too big to fail” financial institutions teetered on the brink of collapse, the federal government prepared a \$700 billion bailout of the banking industry. Over-mortgaged homeowners lost their homes as waves of foreclosures coupled with a decimated housing market created blighted pockets of vacant, boarded-up REO (bank-owned) properties, devastating local communities. Banks were saddled with self-inflicted pipelines of non-



performing, toxic mortgages with nowhere to dump them. In low- and moderate-income communities throughout the country, including New England, foreclosure rates were magnified by an “increased take-up of higher risk loan products and rising foreclosure rates for these products” (Borgos, Chakrabarti & Read 2011). The undesirability of low-income neighborhoods to outside investors and a lack of available capital within the community produced a market without buyers, uprooting entire neighborhoods. In Chelsea, MA, one in 30 households suffered a forced exit due to foreclosure (Fisher, Lambie-Hanson & Willen 2010).

We now face the enormous task of recovery. The foreclosure crisis is far from over and a new market of scarce credit and continuing mortgage defaults hinders the stabilization efforts of the federal government. Recovery alone is not enough to right the wrongs of a broken system. The foreclosure crisis presents an opportunity to steer ourselves toward a more equitable and sustainable economic future, while protecting our hardest hit communities from a mass displacement like the one in Chelsea.

A rapidly growing grassroots movement in Boston envisions such a future. This network of community organizers, legal services providers, and nonprofit community developers works tirelessly to keep people in their homes. These organizations provide pro bono legal representation, advocate for stronger consumer protection laws and underwrite new, affordable mortgages for low-income residents. The movement empowers thousands of families throughout Massachusetts and New England to actively participate in achieving a positive economic future.

Organizing For Social Change: City Life Vida Urbana

City Life/Vida Urbana is at the heart of the Boston area anti-foreclosure movement.

This 38-year old community organization is based out of Jamaica Plain, a culturally rich and socioeconomically diverse neighborhood of Boston. City Life’s mission is to fight for racial, social, and economic justice and gender equality by building working class power (more about City Life’s mission can be found at www.clvu.org). Since 2007, this fight has primarily focused on preventing foreclosure-related displacement of local residents, dually concentrating on individual outcomes in housing court and in negotiations with lenders, while attempting to effect systemic change in the larger political and economic systems that allowed the mortgage-lending crisis to occur. In this section, I discuss City Life within a larger framework for conceptualizing community organizing entities and present the strategies, tactics, and partnerships that have contributed to its success.

The People’s Movement – A Contextual Framework for Community Organizing: The Midwest Academy Manual for Activists (Bobo, Kendall & Max 2010) provides a framework for understanding the complex mechanisms and dynamic relationships required to make the anti-foreclosure network successful. This framework situates organizations in relation to existing power structures along a community-organizing spectrum. No one type of organization is ideal for organizing around every issue and social environment. Rather, these groups specialize in a particular method of social change best tailored to their strengths, expertise, and objectives (Bobo, Kendall and Max 2010). Generally, as we move further right along the spectrum, the status quo and existing power dynamics of the politico-economic arena are increasingly challenged and tactics for forging public support become more radically adversarial. In Figure 1, I have placed each major organization according to their respective roles in the movement: Boston Community Capital’s Stabilizing Urban

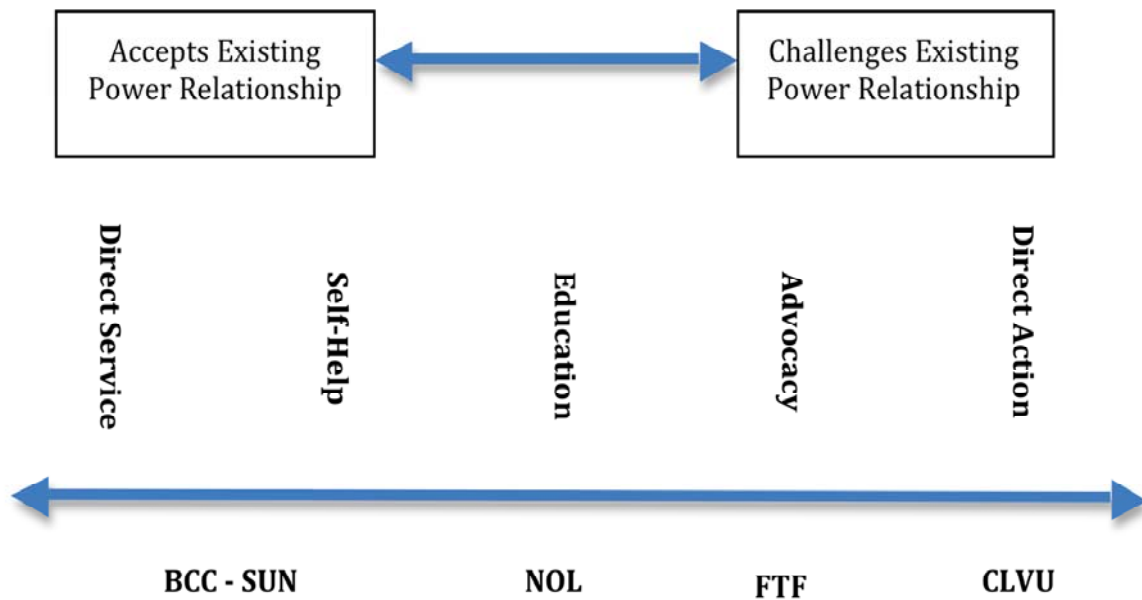
Neighborhoods Initiative (BCC-SUN), Project No One Leaves (NOL), the Foreclosure Task Force (FTF), and City Life Vida Urbana (CLVU). The following sections explore the role of each of these entities in preventing post-foreclosure displacement.

As the direct action organization of the movement, City Life’s primary responsibility is to mobilize, organize, and empower the people most directly affected by the foreclosure crisis – residents of low- and middle-income neighborhoods. Thus, the group itself is almost entirely comprised of residents who have gone through foreclosure, have

foreclosure branch of City Life), where different members lead discussions and present new ideas and strategies. In fact, many of the organizers were at one time new City Life members, receiving training and mentorship from pre-existing organizers who identified them as potential leaders.

To successfully mobilize, organize, and empower its community, City Life must meet the three standards of direct action organizing: to win real, concrete improvements in people’s lives, give people a sense of their own power, and alter the relations of power (Bobo, Kendall, and Max 2010). In the fol-

Figure 1: The Community Organizing Spectrum



been summoned to housing court for post-foreclosure eviction proceedings, or are at-risk of foreclosure. City Life represents “the best interests” of the people by being an organization of the people. Community meetings, rallies, protests, and eviction blockades all present opportunities for the organizers to cultivate local leadership, which in turn becomes increasingly involved in the planning and execution of community activities. This is readily apparent in the weekly meetings of City Life’s Bank Tenants Association (the

following section, the methods of achieving these objectives will be discussed in some detail.

Framing a Public Issue Through Individual Plight

“We shall not be moved” is the battle cry of City Life’s campaign and a poignant message of the ultimate goal of the tenants and former owners at the core of the movement. Each individual City Life member faces imminent displacement as a result of foreclo-

sure. The uncertainty that accompanies such living conditions interferes with the daily tasks of life – the incredibly debilitating nature of the situation is perceptible in the mannerisms of every first-timer at a City Life meeting. Behind on their skyrocketing adjustable rate mortgage payments, harassed by debt collectors and intimidated by bank representatives demanding they move out (without a court order), many of these people feel they have reached the end of the line and resign to a fate of homelessness. City Life’s response is simple: foreclosure is only the beginning of the fight. For many, simply seeing a room packed with neighbors also facing foreclosure is enough to rid them of their depressing outlook. For others, the opportunity to share their stories of anxiety and fear for their family’s livelihood lifts the burden off of their shoulders and begins the process of constructing a collective identity.

Over the course of a matter of weeks, the down-and-out demeanor of old transforms into one of newfound hope and regained spirit. Many long-time City Life members have equated their experiences in the movement to the therapeutic effects of going to church. This is a key characteristic of the City Life model, built upon an adversarial dichotomization of fat cat bankers and the downtrodden masses. Banks and mortgage lenders utilize intimidation tactics and the stigma associated with mortgage default to force the homeowner into a corner. They point the finger squarely at consumers and do everything in their power to keep foreclosure a private household matter. City Life reframes the problem. By sharing each other’s stories, publicly protesting outside mortgage lending conferences, and hosting candlelight vigils in front of foreclosed homes, members make foreclosure a singularly *public* issue. This allows for a broader discussion of City Life’s vision for a more just political and economic future.

While a common struggle is constructed through collective action, individual testimonies at meetings, protests, blockades, and vigils put a face to the movement and serve as powerful mechanisms for mobilizing support. It is far more difficult for a legislator or a bank executive to ignore a person than an organization. City Life’s strategy is to force decision makers to experience foreclosure through the eyes of its members and to portray its Big Bank opposition as cold, callous, and unjust.

Coalition Building and Strategizing for Success: “When We Fight, We Win”

Focusing on the individual struggles of its members allows City Life to pick winnable short-term issues and achieve real improvement in people’s lives. At the heart of the movement, City Life has built alliances with legal services providers, non-profit community developers, and other community-based agencies to provide immediate solutions to the problems at hand. City Life focuses on the struggles after foreclosure and thus refers people at risk of foreclosure, but not currently foreclosed on, to its partner organizations like the Ecumenical Social Action Committee (loan modification counselors). By focusing only on post-foreclosure cases, City Life is better able to dedicate their limited resources to preventing immediate displacement. The partner organizations involved in post-foreclosure activities will be discussed in greater detail later in this paper. For now, they will be examined in the context of City Life’s mission.

Legal services partners collectively referred to as the Foreclosure Task Force provide legal representation for defendants in foreclosure-related eviction cases in housing court. City Life and the anti-foreclosure movement claim a victory every time an eviction case is dropped due to fraudulent foreclosure practices, legal error, mutual settlement, or other reasons.

When the legal process fails to stop eviction, as is common with many former owner cases, City Life turns to grassroots tactics to prevent displacement of residents. Taking the fight to the public arena has proven extremely useful, intensifying political pressure as news media sources feature the “David vs. Goliath” stories that City Life so adeptly brings to light. Foreclosing entities that have refused to work with City Life’s partners encounter a treacherously uphill media battle once a story is published about their unwillingness to find a solution to a problem steadily affecting more and more segments of the population.

As a last stand effort, City Life also engages in eviction blockades, staging rallies outside of the homes of members due to be evicted by the constable. In some cases, these blockades force the bank to call off the eviction and renegotiate, a testament to the power of mass protest and the threat of worsening an already poor public image. In other cases, the eviction does occur, and the occupant is removed from the home. No matter the outcome, City Life ensures that the protest remains non-violent and civil – the bank is *always* the aggressor.

City Life’s partnership with Boston Community Capital (BCC) has also proven tremendously successful in preventing resident displacement. BCC, a nonprofit community development financial institution, purchases foreclosed properties from banks and sells them back to the original owners with a new, affordable mortgage (also discussed in greater detail later in this paper). For those who have enough income and savings to afford one of these mortgages, but have been unable to obtain a loan modification from the bank, the BCC buy-back program presents an opportunity for the occupants to remain in their home through a fair market value, cash transaction that also benefits the foreclosing lender. This program represents the type of innovative, social en-

terprise that takes advantage of the network that City Life holds together. Without the media influence and collaborative partnerships that City Life offers, these creative community options would be hard-pressed to get off the ground.

With each individual victory – a successful eviction blockade or repurchased home – the movement grows stronger and City Life’s influence expands. As awareness builds in the community, so too does the demand to effect change on a broader scale. Community pressure is wielded to advocate for stronger consumer protection bills and foreclosure-specific laws expanding tenant and owner rights. Smaller victories build political clout and allow City Life to demand more from the political process. With their demands strategically outlined and detailed and the conditions for victory clear-cut, City Life actions offer a marked distinction from their Occupy Wall Street allies.

City Life does not just participate in the fight – it wins. A somewhat recent achievement by the collective advocacy efforts of City Life and its partners at the Harvard Legal Aid Bureau (HLAB) came in August 2010, when Massachusetts Governor Deval Patrick signed into law “An Act to Stabilize Neighborhoods,” granting unprecedented legal protections to tenants living in foreclosed buildings. Drafted by former HLAB students, the law passed unanimously through the state legislature, due in large part to the advocacy and mobilization efforts of City Life organizers. This was a tremendous victory for the anti-foreclosure movement, as it not only established additional protections against urban blight and prevented tenant displacement, but also gave the community a sense of its own power to alter the status quo. “People power” had triumphed over “big money” interests in the private financial sector. The success of rallies like this sends a clear message to the opposition – they can

no longer brush the people of the movement aside.

Today, City Life remains locked in a struggle to accomplish their most ambitious objective since the movement began: bank-induced principal reduction for at-risk homeowners. Such a proposal has met stiff resistance from the banking industry, even though the highly successful and Federal Reserve approved BCC buy-back model does exactly that. City Life argues that principal reduction is a tool that must be made available to mortgage workout counselors to ensure that low- and moderate-income communities are able to avoid another onslaught of foreclosures. Although progress has been slow, movement organizers and community residents remain committed to this issue.

As a direct action organization, City Life engages in grassroots community mobilization to focus on fixing the problems caused by skyrocketing foreclosure rates and the pockets of abandoned properties and urban decay these foreclosures cause. Its organizers developed a plan that builds upon small, street-level victories to accomplish systemic changes in the politico-economic arena. An organization comprised of “the people,” it works toward a vision of a more equitable and just financial future for low- and middle-income society, to tip the scales in favor of the consumer over big money financial services providers, and make a home affordable for the working-class family.

Socially Responsible Mortgage Lending: The SUN Initiative

The Stabilizing Urban Neighborhoods (SUN) Initiative of BCC works to stabilize the hardest hit neighborhoods of Massachusetts by purchasing foreclosed properties before the occupants are evicted, then reselling the properties back to the original owners with fixed-rate mortgages at the current value of the home. The result is a far more affordable monthly payment and the restora-

tion of economic security and stability in the neighborhood.

For example, a homeowner in Randolph, Massachusetts, repurchased her home with the help of SUN. She originally bought the property with a \$330,000 mortgage, but when her husband suffered a heart attack, the piling medical bills left her incapable of making the house payments. The collapse of the housing market left the home valued at a mere \$180,000. SUN purchased the property from the foreclosing bank at this lower price and sold it back to the original owner with a new mortgage nearly \$100,000 less than the original, significantly reducing the monthly payment to a price she could afford. Such an approach works to bring capital to lower-income communities that have been abandoned by conventional financial institutions. However, BCC is not just dumping capital into these communities. They are bringing capital back as well, forcing existing financial institutions to realize that investing to improve these neighborhoods not only provides a sound social and financial return, but also establishes an environment in which everyone shares equal stakes in an economically sustainable future.

Structuring and Financing the Buy-Back Program

In the fall of 2009, BCC launched the SUN program with \$3.7 million in start-up capital. SUN has since rapidly expanded its operational and financial capacity, lending more than \$14 million to over 125 households over a two-year period.

The buy-back process can be divided into three, overly simplified steps: buying, reselling, and financing. SUN oversees two affiliated subsidiary groups that jointly manage these tasks: NSP Residential LLC and Aura Mortgage Advisors. NSP Residential is a real estate acquisition company that purchases the foreclosed homes in an occupied conveyance transaction (occupied state) at or

below market value from the foreclosing bank. Once NSP takes possession of the property, it sells the home back to the owner at 125 percent of the market value purchase price. The 25 percent markup diverts funds to SUN's loan loss reserves, which secures the capital of the program's investors. SUN justifies this markup by citing the inherently risky nature of lending to prior defaulters. Currently, SUN's leadership is actively working to lower this markup cost to make their loan products even more affordable for future clients.

After the resale is complete, Aura Mortgage Advisors underwrites a new mortgage using very strict underwriting procedures to ensure that only sustainable and truly affordable mortgages are provided – something that conventional mortgage lenders were not doing leading up to the crisis. Aura is an atypical mortgage lending company in that they offer only one type of loan – a 30-year, fixed rate mortgage. This is in stark contrast to the wealth of financial products offered by normal mortgage lenders, which can get complicated very quickly. A standardized, fixed-rate loan provides certainty and stability to the mortgage, which is why Aura does not offer other, sometimes more enticing or profit-maximizing financial products. Simplicity and transparency in underwriting procedures and mortgage conditions allows the client to fully understand the financial choice he or she is making.

The loan officers and intake specialists employed by SUN work with the client much like a financial counselor. They help the client adopt responsible spending strategies to build adequate savings pools to plan for contingencies such as job loss or other emergencies. Additionally, the client is required to create a direct deposit account with SUN, so that the mortgage payments take first priority in household expenditures. Lastly, it is important to note that SUN's clients are exclusively at-risk or post-

foreclosure owners, a target population deemed untouchable by conventional lenders. To build enduring relationships with the banks from which SUN seeks to purchase properties, its directors included an additional condition in the mortgage package. If the property value appreciates and the owner sells the home or refinances, the equity is split between the owner and SUN, with SUN's share recycled back into the lending program.

This equity split clause and the 25 percent markup are controversial and hotly debated within the movement. Some argue that these conditions place unnecessary financial constraints on the client, prohibiting the owner from enjoying one of the premier benefits of home ownership – long-term appreciation on their investment. Others argue that such constraints are necessary to assuage the slippery-slope concerns of the banking industry. After all, without such a constraint, every owner with an undesirable mortgage, even if affordable, would be incentivized to stop payments, be foreclosed-on, and buy it back with a cheaper mortgage through SUN. However, SUN actively screens candidates to prevent such activities and it remains difficult to foresee such a problem arising.

Targeting Neighborhoods

Originally, the SUN Initiative limited its efforts to Boston and Revere. Their efforts were focused on the six hardest hit neighborhoods of Dorchester, Roxbury, Mattapan, Roslindale, Hyde Park, and East Boston. Not coincidentally, these urban neighborhoods depend heavily upon the availability of affordable housing, which has considerably decreased over the past 20 years. The stiflingly tight conditions of the affordable housing market coupled with an equally precarious financial environment (accentuated by the residents' reliance on inadequately low-paying jobs) rendered these neighbor-

hoods highly susceptible to aggressive predatory lending practices and the severe downturn in the job market. The decision to focus on these communities was easy: the six neighborhoods together comprise less than one third of all Boston housing, yet contain more than 83 percent of the entire city's foreclosure activity (Cherry & Hanratty 2010).

The Process of Revitalizing Communities

After the initial intake interview in which the entire repurchasing and financing process is explained to the client, the client must undergo strict financial screening procedures during which SUN assesses the client's ability to afford the projected monthly payments. The personalized underwriting standards of SUN challenge industry assumptions about who can afford a stable home, a significant divergence from the conventional lenders' reliance on abstract mathematical models to calculate risk and quantify uncertainty. SUN's approach is a far more pragmatic method of assessing a potential borrower's ability to make payments over the life of the loan – only make loans that the borrower can afford. This means setting non-flexible limits on debt-to-income ratios, realistically evaluating household income and expenses, and building savings and capital reserves to protect the borrower in case of emergencies.

A five-minute walk through these neighborhoods will leave no doubt in one's mind – these are vibrant, yet struggling communities. Foreclosure is merely one of the consequences of the economic crises of the past few years, but it remains one of the most distressing. The uncertainty of the living situation seems to have a crippling effect on the occupant's mind. In my various roles in the movement, I've worked with many tenants and owners going through foreclosure. Their stories are all different and their circumstances as diverse as their ethnicities and the languages they speak. But universally,

they identified the uncertainty of the immediate future as the most emotionally and physically ruinous challenge of the whole ordeal.

That is where SUN can make a difference. If a family knows that the roof over their heads is here to stay, they can focus on piecing their lives back together again, instead of worrying about an uncertain future. It presents a path toward reformed recovery, a socially responsible method of mortgage lending that places a priority on the health of the community, rather than satisfying profit-maximizing investors. SUN still has private investors, and yes, they do make a healthy economic return on their investment. Yet, SUN is also free from the encumbering characteristics of its for-profit counterparts. SUN employs a true-to-its-roots development strategy that recycles capital back into low-income neighborhoods, boosts the city's affordable housing stock, and reverses disinvestment trends that threaten the longevity of the community.

Legitimacy, Relationship-Building, and Negotiating Among Financial Entities

For SUN, forging strong partnerships with state and federal entities such as the Federal Reserve, the U.S. Department of Housing and Urban Development, and state housing agencies builds political clout and legitimizes the SUN process in the eyes of its mortgage servicing and banking brethren. These political contacts in turn pressure the owners of these pipelines of bad loans to divert these loans to SUN, in a mutually beneficial transaction that minimizes the losses incurred to bank investors while halting the spread of urban blight and preventing widespread displacement.

There is a simple supply-and-demand logic behind these transactions. As clients default on their mortgages, the bank begins foreclosing on these properties. While these foreclosures occur to some degree in every

neighborhood, certain neighborhoods experience rapidly escalating levels of foreclosure rates. Pockets of concentrated foreclosures form in specific segments of the community, resulting in waves of vacant properties and urban decay. Outside investors avoid these undesirable locations where real estate prices have tanked. Saddled with a foreclosed home and a real estate market without buyers, banks are forced to hold onto these toxic assets, as the costs to minimally maintain the property continue to pile up. Additional costs accrue through the legal and administrative proceedings necessary to evict an occupant. What develops is a market excessively supplied with foreclosed homes in dire need of demand. The SUN Initiative injects demand into the REO market. The foreclosing entity and SUN negotiate a fair market price and the bank sells the property to SUN with the occupants still inside. SUN underwrites a new mortgage at current, rather than inflated value, and conveys the house back to the original occupant. The result: the occupant remains in the home, the community is saved from another vacant REO property, and the foreclosing entity minimizes its losses from a poor investment decision.

Although this may seem like an obvious choice for the banks, the negotiation process has proven to be incredibly complex and, at times, frustrating. In some cases, the turnaround is very quick – SUN makes an offer, the bank accepts, and the owner gets the home back all within two weeks. However, this is a best-case scenario and usually is not that simple or easy. Because SUN is a tiny financial institution by industry standards, getting a bank to respond to an offer on a timely basis is difficult. One would imagine this is rather counterintuitive – the bank is holding a toxic asset on their books, has a buyer making a cash offer for it, yet continues to demand more money or hold out for an unlikely offer. The longer these proper-

ties remain in a bank's portfolio, the higher the cost of legal fees, maintenance, broker fees, and other losses the bank sustains. Therefore, one of the best, yet riskiest negotiation tactics in SUN's arsenal is to wait. But this tactic can be a treacherous gamble – while the offer is pending, the bank's attorney is still pursuing the eviction case in housing court. The attorneys of the Foreclosure Task Force assist in stalling this process long enough for SUN to finalize the transaction, but such a move still leaves much to chance. Accordingly, the SUN negotiators must carefully balance time tactics with the need for urgency.

Good rapport with decision-making contacts within the banks allows SUN loan officers to circumvent riskier negotiation tactics. The turnaround on offers is hampered primarily by the enormity of the other side. Banks receive thousands of offers a day and the procedures for processing these offers and separating the viable ones from the unreasonable ones makes the process terribly cumbersome. SUN attempts to cultivate strong relations with a point-person in the mortgage department with decision-making authority. This contact's familiarity with the program allows SUN to speed through the red tape, pushing these deals along the chain-of-command and moving the process closer to optimal efficiency. Establishing solid communication lines with mortgage servicing executives is not always easy, but is facilitated with the help of the Federal Reserve Bank of Boston, the Massachusetts Department of Housing and Community Development, and other political connections that have the attention of industry leaders.

Boston as the Ideal Environment and the Challenges of Model Transferability

A long-term goal for SUN is to expand the model beyond the borders of New England. However, this is a far more difficult task than it may seem, as the market condi-

tions and social environment in other parts of the country may prove problematic in adapting the model to the local surroundings.

The SUN lending strategy has thrived in Boston. In just a few years, the organization has made great strides toward legitimizing itself as a successful community development institution in the local mortgage-lending world. City and statewide government initiatives have incorporated the program into their own larger community development plans and area lenders are now more comfortable selling their REO stock to SUN.

Boston also has a very strong professional housing field and a wealth of nonprofits with academic support devoted entirely to affordable housing issues. Most importantly, Boston is an active city in an active state. An army of consultants and community development centers in every neighborhood make housing issues a top priority throughout the state. New England cities, especially Boston, have very strong social ties to community as well, with a history of community organizing around social justice and housing issues. Neighborhood organizations like City Life existed long before SUN and BCC arrived – these nonprofit networks had gone through many years of maturation before the social capital so crucial to SUN's effectiveness was developed and ready for use.

Other parts of the country that are deeply affected by foreclosure may lack the social capital, ties to community, and strong affordable housing networks that provided the groundwork necessary for such a progressive lending strategy. These communities may not have experienced the historical downturns that prepared the foundations for a politically endorsed and richly established housing and finance community critical to the program. The political and consumer protections in Massachusetts state law may admittedly be anti-business and anti-growth, but such an environment gives people time to organize and to fight for the interests of

the community. Lastly, it is important to note that BCC had been around for over 25 years before SUN was established. SUN's business plan works because its locally grounded parent organization is highly attuned to the changing needs and environment of the community. BCC brought a level of sophistication and experience to the project that will not be immediately present in other localities.

Navigating Anti-Foreclosure Movement Partnerships

BCC's SUN Initiative has benefited enormously from its partnership with the anti-foreclosure movement. City Life actively promotes the organization's efforts, while also providing a large client base for SUN. Information sharing and strong communication between SUN and the Foreclosure Task Force permits both organizations to stay informed of each other's progress on individual client cases. Coordinating the legal and financial activities of these two organizations allows the legal services providers to stay updated on purchase negotiations, while providing SUN a legal timeline to gauge the time sensitivity of their purchase offer.

SUN continues to struggle persuading some banks and mortgage servicers to cooperate with the buy-back program. However, extensive local, state, and national media coverage, including a recent interview by Fox News and a feature story by CBS Evening News, have helped increase community awareness of the program and expanded the client pool. Political allies and support, including an endorsement by Federal Reserve Chairman Ben Bernanke, have further improved the initiative's standing and garnered additional support for the cause.

As with any inter-organizational partnership, there have been some challenges. Ideological conflicts between the consensus-building approach of SUN and the adversarial strategies of City Life are not uncommon,

especially in light of SUN's recent move to partner with City Life's Public Enemy Number One – Bank of America – in a joint buy-back pilot program. An environment of transparency, close collaboration, and constant communication between the legal services, community organizing, and community development branches of the movement is critical in addressing ideological and operational issues such as these when they do arise. As the movement grows, its unity and effectiveness become ever more dependent upon maintaining open lines of communication between organizations, clearing the air of grievances when necessary.

SUN also plays a role in another movement to transform the way finance is practiced. It is an attempt at reformation from the inside out, toward a more progressive and equitable economic structure. It seeks to fix the problems of modern finance, which has deviated from a system of participatory capitalism. Instead of helping the community these institutions were established to serve, the industry has reinforced an exclusive financial structure by separating firms from the communities their investment decisions impact. Capital has become scarce or non-existent for many working-class communities as a result. SUN is actively challenging many of the mainstream assumptions of the financial industry, arguing that low-income people with imperfect credit not only have a right to an affordable home, but they also possess the means to pay for it. This model of community finance acknowledges that investments connecting these communities to the mainstream economy result in long-term social and economic returns. In this context, SUN is banking done right – putting the community's priorities ahead of myopic private interests.

The Foreclosure Task Force & Project No One Leaves

Completing the anti-foreclosure trifecta are the legal services providers collectively called the Foreclosure Task Force (FTF). For the purposes of this paper, FTF refers to the three primary legal services providers in Boston that founded FTF – the Harvard Legal Aid Bureau (HLAB), the WilmerHale Legal Services Center, and Greater Boston Legal Services. As the movement has expanded, more legal organizations have joined in providing pro bono or reduced-cost services, including representation and advising. These efforts span across the state, including neighborhoods such as Springfield, Chelsea, and Malden, as well as other cities like Providence, Rhode Island. The three Boston organizations remain the most heavily involved groups, overseeing and directing the majority of anti-foreclosure legal activities.

In 2008, Harvard Law students working at the law school's premiere public interest clinic – the Harvard Legal Aid Bureau – founded Project No One Leaves (NOL), a project designed as a community outreach, education, and civic engagement component of the legal services branch of the anti-foreclosure movement. While FTF provides legal representation and advice to both post-foreclosure eviction defendants in housing court and the members of City Life (with much overlap between the two), NOL educates the larger low-income community about the legal process, empowering them to assert their legal rights in court and in bank negotiations.

The students and attorneys of FTF and NOL perform a diverse array of roles as movement advisors, legal counselors, grassroots student-organizers, and legislative advocates. The two groups are almost indistinguishable from each other – most of the law students and lawyers involved in the legal representation side of FTF are also engaged

in the education and advocacy activities of NOL. For this reason, the structure and operations of these groups will be discussed together in the following sections.

Historical Foundations – “No One Leaves... Without A Court Order”

As the housing market began its collapse in 2007, the court system of Boston experienced an explosion in summary process eviction cases. Public interest attorneys in housing court noticed a surge in pro se (non-suited) defendants living in foreclosed properties. These defendants were, not surprisingly, uninformed of their legal rights and were at the mercy of a judge overwhelmed with cases and bank attorneys seeking to evict them as quickly and inexpensively as possible.

In the early days of this surge, the vast majority of these no-fault eviction cases were tenant-defendants. These tenants had paid their rent on time to their landlord and were now facing displacement due to no fault of their own. Many of these tenant-defendants were residing in subsidized, low-income apartments – a commodity in very low supply. Between the high costs of moving and the unavailability of affordable apartments, moving out was not a viable option for many of these defendants. Even today, the “cash for keys” out-of-court settlement offers made by opposing counsel are almost never enough to cover moving expenses, let alone the costs of temporary housing while the former occupants transition to a new residence. Much of the time, tenants were so scared by the flood of legal documents and opposing counsel’s complete monopoly of legal knowledge that they felt forced to take these dismal settlement offers. Some even left the apartment without any assistance, cramming in with distant family members or finding homeless shelters to stay in while they searched for available apartments. The ones brave enough to put their

faith in the legal system were unable to properly defend themselves and were herded through expedited legal proceedings that left them with a 30-day move-out deadline and no cash assistance. Perhaps the worst trend of all was the vast amounts of misinformation and fraudulent misrepresentations that various representatives of the foreclosing party made to these residents. Harassing phone calls, late-night house visits, and threatening letters are just some of the tactics employed by real estate brokers and bank agents to compel residents to leave the property without resorting to formal legal channels. Recognizing these violations of due process, the law students and attorneys at Harvard and Greater Boston Legal Services developed the Foreclosure Task Force and Project No One Leaves.

Legal Services in Action - Contact

These legal services groups provide advocacy and representation for post-foreclosure pro se litigants, while protecting both tenants and former owners from the bullying maneuvers of the opposing side. The first step is intervention. NOL trains undergraduate and law students, as well as volunteers from local neighborhoods, to participate in its community outreach program. The program educates occupants of foreclosed properties about their legal rights and connects them to the movement’s network of resources and partner organizations. NOL divides a Google map into Canvassing Zones, which are then populated with properties drawn from a real estate database that tracks listed foreclosure auctions. By canvassing properties immediately before or after the foreclosure auction, NOL aims to reach these residents before eviction proceedings are commenced.

Each week, teams led by an experienced NOL member canvass these zones, serving as area residents’ first point of contact with the anti-foreclosure movement. These teams

provide the resident with some basic information regarding the legal process, emphasizing that they are not obligated to move out until a court orders them to do so. This is by far the most important piece of information these teams provide, as NOL canvassers are locked in a race against time with their bank agent counterparts. If a bank representative reaches the occupant before the canvassers, NOL risks losing the occupant to a cash for keys deal, something that the entire movement perceives as a bank-favored transaction that harms the community.

More than a dozen university and community organizations manage nearly 25 zones in Boston and the surrounding area. Figure 2 on the last page provides a canvassing breakdown of the city.

Law School In A Day: Legal Education For Pro Se Defendants

An important educational piece of the FTF/NOL process is the pro se eviction defense clinic, held weekly at alternating FTF law offices. Each week, invitation letters are sent to new defendants listed on Boston-area court dockets. City Life members with upcoming hearings are also encouraged to attend one of these clinics.

At the clinic, tenants and owners are taught about the legal process and how to raise proper legal defenses as non-suited defendants. When a bank forecloses on a home, the tenants and former owners enter a legal grey-area, with tenants referred to as “tenants-at-will” and owners as “tenants-at-sufferance.” Once the bank-served Notice to Quit – if necessary – expires, the bank’s attorney initiates formal eviction proceedings by sending a Summons and Complaint to the resident. This document presents an appearance date for court. It is at this stage in the eviction process that defendants attend the pro se defense clinic.

Law students and attorneys running the clinic assist the attendees in filing their An-

swer and Request for Discovery, documents necessary for establishing a legal defense. These documents also prolong the eviction process, as opposing counsel requires time to prepare an adequate response.

The clinic also provides an opportunity for the lawyers to assess the merits of each case, offering full representation when possible, as well as time to review the opposing side’s compliance with due process and foreclosure laws. Especially in the early period of the crisis, many banks and their legal counsel committed serious errors in the foreclosure and eviction process, causing their eviction case to be thrown out by the housing courts once FTF attorneys raised these claims.

The objective of this clinical component is to provide the pro se defendant with enough information so that they can make informed decisions when negotiating with the bank’s attorneys and standing before the judge. Ideally, their case falls in a courthouse covered by FTF attorneys, where they will have access to de facto legal representation described in more detail in the next section. Unfortunately, this is not always the case, and with legal services providers already stretched thin, some litigants are forced to defend themselves without additional legal support. Luckily, the housing court environment is fairly informal and the presiding judges are accustomed to pro se litigants. Although FTF has a strong presence in the central Boston Housing Court, for defendants living outside of this court’s jurisdiction, the eviction defense clinic is potentially their only opportunity to have access to free legal counsel. As FTF has received grants to fund future efforts, additional legal services providers have expanded FTF’s influence beyond the boundaries of Boston. However, funds for public interest lawyers are scarce and it remains a long-standing challenge to meet the legal needs of the low-income community.

Aggressively Progressive Lawyering

The Boston Bar Association provides a service called “Attorney for the Day” at the Boston Housing Court. Pro bono attorneys from both legal services groups such as HLAB as well as private firms administer free legal advice, including “limited” representation for eviction defendants. This limited representation designation is important – it allows these lawyers to enter into an attorney-client relationship for a limited period of time, otherwise referred to as a “one day appearance.” Thus, the client extracts the benefits of legal counsel while the attorneys have no further obligation beyond that day’s hearing. In a time of strained legal resources, this program is imperative to providing much needed support to a population that cannot afford legal counsel.

FTF provides the bulk of its aid to defendants through this program of limited appearance representation. The typical post-foreclosure defendant will be contacted by a project canvasser, assisted by a law student at the pro se clinic, and defended on a limited appearance basis by an FTF attorney. Once a client has entered the FTF system, the cost of seeing an eviction case through skyrockets for the plaintiff. As time and legal costs pile up, the foreclosing entity becomes more inclined to offer better settlement deals or to work with organizations like BCC to reach a mutually beneficial solution that allows the defendant to remain in the home.

These efforts have not gone unnoticed. In the past year, HLAB students representing City Life members have twice argued their cases in front of the Supreme Judicial Court (SJC) of Massachusetts. In *Bank of New York v. KC Bailey*, 460 Mass. 327-2011, a precedent-setting victory for the movement, the SJC ruled that the issue of valid title fell under the jurisdiction of local housing courts. This ruling legitimized a strong legal defense that FTF continues to use today to

enforce bank compliance with strict procedural requirements when foreclosing. However, this victory means far more than an additional legal defense for homeowners. The movement of “the people” trumped the “big money” interests of the banking and finance industry in a supreme court of law, accomplishing a momentous shift in power relations, and confirming the progress made by the entire movement. The second case, *Eaton v. Fannie Mae*, is still awaiting a decision at the time of this writing.

Of all the arenas in which the movement fights its battles, the power imbalances in the legal system are perhaps the most discernible. In districts that lack FTF presence, defendants stand little chance of receiving a positive outcome better than a 30-day move out deadline. Bank attorneys face zero resistance when bringing forth their complaints and many defendants fail to appear for their court hearing, resulting in a default against them and a judgment entered in favor of the plaintiff. Simply put, these defendants are doomed from the start.

Conversely, in Boston Housing Court, where FTF presence is strongest, cases can be extended for many months, during which time BCC negotiates, City Life protests, and FTF defends. At minimum, these clients are given ample time to find affordable housing alternatives. In a best-case scenario, the eviction case is dropped entirely and the defendants repurchase the home through SUN. In other cases, both sides work the legal system until a money-and-time settlement is agreed upon. Regardless of the outcome, in every FTF-involved case, the defendant’s due process rights are asserted – a symbolic victory for the movement’s cause.

Conclusion

Over the course of my three-year involvement with the movement, I have worn many hats, serving as a student-organizer with No One Leaves, a participant in rallies

with City Life, a legal advocate with the Foreclosure Task Force, and a loan assistant with Boston Community Capital. Each position gave me a unique opportunity to observe the inner workings of all of these organizations and develop a full understanding of the work required to maintain such a strong, unified social network.

Whether working for legal services, SUN, or City Life, I am often asked, “Why help these people?” We can debate the hardships, blame, and the moral hazard of helping those who borrowed what they cannot pay back. Yet my simple answer is this: consider the alternative. Without both public and private sector intervention and cooperation, the result is a neighborhood of abandoned and boarded-up houses, homeless families, and a continuing downward spiral into further instability. That is a future that no one, including the banks, envisions. Additional resources and information about the movement can be found at projectnoone-leaves.org.

Figure 2: Boston Canvassing Zones



Christopher Larson was the Program Coordinator for the Foreclosure Task Force at the Harvard Legal Aid Bureau for two years and founded the Tufts University Chapter of No One Leaves in 2009. He served as the only undergraduate board member of Project No One Leaves and previously interned at Boston Community Capital's Stabilizing Urban Neighborhoods Initiative.

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