

Announcements

Dick Rothschild Receives LACBA's Shattuck-Price Outstanding Lawyer Award



The Los Angeles County Bar Association awarded our own Richard A. Rothschild, Director of Litigation, with its highest honor, the Shattuck-Price Outstanding Lawyer Award for "extraordinary contributions to improving the administration of justice and outstanding dedication to the high principles of the legal profession."

Dick oversees Western Center's entire trial court and appellate litigation docket. Among his many cases, Dick served as principal counsel in *Serrano v. Priest*, the landmark school financing case; and *Nelson v. Board of Supervisors*, which held that a county may not prevent homeless people from receiving subsistence General Assistance payments on the ground they lack a valid residential address. Dick currently serves as lead appellate counsel in *Nativi v. Deutsche Bank et al.*, which involves post-foreclosure tenants who were locked out in violation of the Protecting Tenants at Foreclosure Act (PTFA). Congratulations, Dick! -- *The WCLP Housing Team*.

Conferences, Trainings and Webinars

[California Mortgage Settlement and the California Homeowner Bill of Rights Training](#)

August 14 9:30 am - 12:45 pm - Los Angeles, San Francisco (simulcast video)

Katherine Porter, Professor at UC Irvine Law School, appointed by Attorney General Harris to monitor compliance with the Mortgage Settlement, will explain the terms of the settlement and what homeowners and their advocates should expect. Brian Nelson, Special Assistant Attorney General, will discuss and explain the recently-passed California Homeowner Bill of Rights, which gives a private right of action against banks for violations in the foreclosure process. 3 free MCLE hours.

[Housing Law Overview - Benchmark Institute](#)

September 20-21 - San Francisco

Two-day training geared toward legal services attorneys and advocates presents key strategies for producing, preserving and protecting individual rights to housing in public, subsidized, and private housing. 15 hours MCLE.

[College of Advocacy - Benchmark Institute](#)

October 19-26 - Los Gatos

This week-long training in the beautiful Santa Cruz mountains provides lawyers, advocates and legal assistants with a unique opportunity to become part of a close and committed legal community working together to effectively represent low-income people and their communities. The College offers diverse substantive and skills training, specifically geared toward developing the extraordinary competence, caring and commitment necessary to helping our clients. 51 hours MCLE, including 1 hour of elimination of bias.

[Rural Housing Summit](#)

October 25-26 - Asilomar Conference Center, Pacific Grove

This conference brings together housers and planners to examine rural issues and develop a

strategic action plan for the upcoming year and beyond. Participants will explore and identify opportunities to improve the living conditions of rural California families.

LAAC calendar

The Legal Aid Association of California publishes a calendar of upcoming trainings, webinars, and events at: <http://www.calegaladvocates.org/calendar/>.

Litigation and Local Advocacy

Tenant in government-funded low-income housing has a due process right to good cause, and notice of the reason, before she may be evicted

[*Anchor Pacifica Management Co. v. Green*](#), 2012 WL 1382577 (2012) (certified for publication)
Counsel: Andrew Radel and Jolene Larimore (private practice), for defendant Sharon Green; Maria Palomares, David Pallack (Neighborhood Legal Services of Los Angeles County), Stephanie Haffner (Western Center), and Catherine Bishop (National Housing Law Project), for Amicus Curiae Coalition for Economic Survival.

This is the first published California Court of Appeal decision requiring good cause for eviction from locally subsidized housing. It affirms prior Superior Court appellate department decisions requiring good cause for termination of federally subsidized rentals, dating from 1974: *Appel v. Byer*, 39 Cal.App.3d Supp.7 (1974) and *Mitchell v. Poole*, 203 Cal.App.3d Supp. 1 (1988). The opinion finds state action in view of the level of involvement of the City's redevelopment agency in the privately operated complex.

Ms. Green, represented by private attorneys Jolene Larimore and Andrew Radel, lived in an apartment building that received various subsidies from the Glendora Redevelopment Agency. Her landlord, Anchor Pacifica Management Company, argued among other things that because of the Supreme Court's recent decision in *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (2011), Ms. Green's claim was moot. The decision's footnote 4 states that the redevelopment housing obligations survive Matosantos:

Anchor Pacifica contends that the Supreme Court's recent decision in *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, which upheld an initiative requiring the wind-up and dissolution of local redevelopment agencies, "virtually assures" the Glendora Community Redevelopment Agency will cease to exist and will required (sic) termination of tenant subsidies at Heritage Oaks Apartments. This contention is misguided. Under Health and Safety Code section 34176 the City of Glendora is authorized to retain the housing assets and perform the functions of its redevelopment agency (§ 34176, subd. (a)); and, if it elects not to do so, those activities will be assumed by the Department of Housing and Community Development (§ 34176, subd. (b)). (See generally *California Redevelopment Assn.*, at p. 250 ["redevelopment agencies may continue to make payments and perform existing obligations until other agencies take over"].) 205 Cal.App.4th at 247.

The City of Glendora asked the Supreme Court to depublish the opinion because of footnote 4. Following up on its amicus role before the Court of Appeal, Neighborhood Legal Services of Los Angeles County - together with Western Center and National Housing Law Project - wrote to the Supreme Court on behalf of Coalition for Economic survival to oppose Glendora's request. On August 8, the Supreme Court agreed and denied the request. The Court ordered that the eviction judgment against Ms. Green be reversed. Advocate: Maria Palomares, NLSLA.

Sacramento Superior Court rules City of Folsom's sunset of inclusionary housing ordinance

void

[Sacramento Housing Alliance v. City of Folsom](#)

Counsel: Sarah Ropelato and Valerie Feldman, Legal Services of Northern California, lead counsel; Public Interest Law Project, and later, Western Center on Law & Poverty, co-counsel.

In a July 19 decision, Sacramento Superior Court Judge Timothy Frawley granted affordable housing advocacy group Sacramento Housing Alliance's petition challenging the City of Folsom's elimination of its inclusionary housing program. The Alliance brought the writ action after Folsom, against the recommendations of its head planner, sunsetted its inclusionary housing program without enacting a replacement program. The City had maintained the inclusionary housing program, which as part of its adopted general plan housing element, would meet a goal of developing 405 affordable units, representing 44 percent of the City's self-determined affordable housing goals. The Court found the City's action violated the consistency requirement fundamental to planning law.

Judge Frawley explained: "The zoning consistency requirement requires local governments to maintain consistency with their general plans. The City cannot simply ignore provisions in its general plan because they are inconvenient or get in the way of other City goals. If this were the case, the requirements of the General Plan would not be enforceable and the zoning consistency requirement would be illusory."

Barrientos continues to protect subsidized tenants living in rent-controlled units

Crisales v. Estrada, 204 Cal.App.4th Supp. 1 (2012)

Counsel: Lane Nussbaum, Legal Aid Foundation of Los Angeles; co-counsel Michael Soloff with Munger, Tolles & Olson LLP.

Affirming the trial court's judgment in favor of the tenant, the Appellate Division of the Los Angeles County Superior Court held that a landlord cannot terminate his Section 8 HAP contract without complying with the local rent stabilization ordinance, even for "business or economic reasons." Relying on federal regulations, landlord Crisales issued a 90-day good cause eviction notice to terminate his tenant's Section 8 tenancy because he no longer wished to participate in the Section 8 program. Following *Barrientos v. 1801-1825 Morton LLC*, 583 F.3d 1197 (9th Cir. 2009), the Superior Court said "no go" to the landlord's attempt. The Court correctly found the *Barrientos* analysis "to be persuasive, well-reasoned, and precisely on point," *Crisales* at 4, and affirmed possession in favor of the tenant.

City thwarts mobile home park owner's attempt to drastically increase rents

Besaro Mobile Home Park, LLC v. City of Fremont, 204 Cal.App.4th 345 (2012)

Counsel: Fremont City Attorney and Richards, Watson & Gershon

The park owner claimed it was entitled to a \$225 per month increase in space rent because fair market rents had increased in the area. It further contended that the City's denial of its requested rent increase violated the constitutional rights of the Besaro park. The appellate court upheld the City's decision by hearing officer to deny the rent increase, based on factors in the local mobile home park ordinance. The Court also rejected the park owner's claim that the City violated its right to due process and equal protection, and further found that the Ordinance did not violate the takings clause. Finally, to the extent the park owner presented a facial challenge to the twenty year old ordinance, such challenge was barred by the statute of limitations and by collateral estoppel due to a prior federal court case filed in 2005.

Court permits exculpatory clause regarding "noncore property functions" in residential lease

[Lewis Operation Corp. v. Superior Court](#), 200 Cal.App.4th 940 (2011).

Civil Code section 1943 prohibits a waiver of rights in lease or rental agreements as void. However, the California Court of Appeal, Fourth District, decided such protections do not apply to a waiver of negligence claims arising from the unrepresented tenant's use of an exercise facility at the property. Finding that although residential tenancies are a matter of essential public interest, the use of the exercise facility was an "amenity" and "a nonessential matter of personal improvement or enjoyment" which went beyond the bare habitability of the rental unit. The Court issued a writ, directing the Superior Court to grant summary judgment in favor of the landlord. A strong dissent declares that the statutory language clearly intends any provision waiving a tenant's right to have his landlord exercise a duty of care to be void, pointing out that current standard offerings such as garbage disposals, dishwashers and laundry facilities may be have viewed as amenities or enhancements in the past.

Senior residents move to enforce rent-restricted mobilehome park covenants

Counsel: Bet Tzedek Legal Services, California Rural Legal Assistance, private counsel Chandra Gehri Spencer, Perkins Coie, Horvitz and Levy LLP, and Western Center on Law and Poverty.

In mid-June, a number of seniors, all members of a group known as SAFE (Senior Alliance for Empowerment) and residents of the Ranch Mobile Home Park filed suit against the City of Thousand Oaks to reverse an illegal rent increase action taken by the City. Although previous land use actions restrict residency and rent affordability at the park to low-income seniors "in perpetuity," the City recently permitted a rent increase of more than 200% and further removed relied-upon rent protections for park residents. The writ petition seeks to enforce general plan housing element and various fair housing laws as well as the local rent stabilization ordinance. More info: Lynn Martinez, smartinez@wclp.org.

California State Legislation and Administrative Actions

Foreclosure bills highlight session

The Legislature returned in August for the final month of the 2012 session. Our [6-page pdf summary](#) (available [here](#)) highlights bills of interest. Among the main developments:

- The Governor signed legislation to prohibit "dual tracking" foreclosure loan modifications and concurrent foreclosure proceedings.
- All tenants would get 90-days' notice of a foreclosure under state law and would have the ability to file right-to-possession claims at any time (bill pending).
- Changes were enacted to the redevelopment wind-up law making it clear that many housing requirements will remain in place.

Federal Legislation and Administrative Actions

HUD relocation forms translated

HUD's Relocation Claim Forms have been translated into the following languages: Arabic, Chinese, French/Haitian Creole, Korean, Russian, Spanish and Vietnamese. The forms are available on HUD's Real Estate Acquisition & Relocation website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/forms. For questions, contact the local HUD Regional Relocation Specialist for assistance: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/contacts.

HUD releases mapping tool - allows advocates to access useful data, as well as ConPlan advocacy

The new [mapping tool](#) allows mapping with data drawn from a variety of sources: Comprehensive Housing Affordability Strategy (CHAS) from the Census Bureau, which describes housing problems and needs of extremely low-, low-, and moderate-income households; American Community Surveys (2005-09), with Census data on population demographics, description of housing stock (cost, condition) and workforce characteristics; Public and Indian Housing Information Center (PIC) from HUD, with information about the characteristics of public housing residents; Continuum of Care Point-in-Time homeless counts from 3,000 cities and counties; and location data from HUD, the Department of Transportation, and others, displaying the location/concentration of CDBG, HOME, HUD Multi-family housing developments, public housing, Section 8 vouchers, DOT data on fixed rail transit stops and FEMA floodplains.

The tool is intended to assist jurisdictions with their Consolidated Plan (ConPlan) priority setting process. More info: [Con Plans](#); [eCon Planning Suite](#); the [Tool](#) itself; tool [trainings](#).

HUD releases assisted properties spreadsheet

The 2MB [spreadsheet](#) is designed to capture the complete inventory of multifamily buildings on which funds from subsidized housing programs have been spent. This file is intended to include all multifamily units ever subsidized by either HOME or LIHTC, without duplication. Info includes addresses, the program(s) under which buildings received subsidies, and the date when the subsidies began.

Publications

[HUD Housing Programs: Tenants' Rights, 4th Edition, National Housing Law Project](#)

"The Green Book" is a comprehensive manual on HUD's housing programs, which includes unpublished court opinions, hard-to-find memos and other useful information. New information includes Low Income Housing Tax Credits, reasonable accommodations, and VAWA housing protections.

[2012 Advocates' Guide to Housing and Community Development Policy, National Low Income Housing Coalition](#)

The Guide provides advocates, policymakers, students, and others with information on the most relevant housing and housing-related programs and issues at the federal level, as well as information related to income programs and the community planning process.

The [Urban Institute](#) has released a trio of papers exploring how housing combined with support services can create better outcomes for vulnerable populations:

- [Housing as a Platform for Improving Outcomes for Older Renters](#) finds that beyond providing basic shelter, housing is critical for maintaining health, quality of life and independence for older populations.
- [Housing as a Platform for Improving Education Outcomes among Low-Income Children](#) demonstrates how high-quality, affordable housing located in safe neighborhoods can both help meet children's basic needs and provide access to high-performing schools, ensuring academic success.
- [Housing as a Platform for Formerly Incarcerated Persons](#) discusses how housing can provide individuals with a pathway toward successful reentry and reintegration following release from prison and jail.

[Affordable Housing Dilemma: The Preservation vs. Mobility Debate, National Low Income Housing Coalition](#)

A new look at one of the thorniest housing policy issues: Should policy favor the preservation of

housing in low income neighborhoods or should policy favor helping low income people move to higher income neighborhoods?

Employment Announcements

[Staff Attorney \(Community Empowerment/Economic Justice\), Lawyers' Committee for Civil Rights of the San Francisco Bay Area](#)

This position promotes economic justice for LCCR's client communities through direct services, policy advocacy, and potentially impact litigation. A significant part of the attorney's work entails managing Legal Services for Community Empowerment (LSCE). LSCE provides free legal assistance to low-income individuals, including women, people of color, and immigrants, who want to start or develop for-profit businesses, and to for-profit businesses committed to investing in economically distressed minority and immigrant communities.

To have your organization's job announcements included in our next Housing Update, email Michael Moynagh, mmoynagh@wclp.org.

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**Western Center leads the fight
in the the courts, counties and capital
to secure housing, healthcare and a strong safety net
for low-income Californians.**