

CRLA Foundation Welcomes New Legislative Advocate Tyrone Buckely



We are pleased to announce the addition of Tyrone Buckely to the housing team in Sacramento. Tyrone joined the California Rural Legal Assistance Foundation (CRLAF) as their housing legislative advocate in December. Prior to joining CRLAF, Tyrone was Housing and Environmental Justice Policy Director for the Sacramento Housing Alliance. He also served as Diversity Coordinator/Legislative Advocate for Planning and Conservation League and the PCL Foundation, where he developed and implemented their environmental justice program. Tyrone graduated from UC Davis Law School and holds a Masters degree in City and Regional Planning from Cal Poly San Luis Obispo, where he was a US Department of Housing and Urban Development Fellow.

CRLAF is the statewide non-profit providing legal services and policy advocacy exclusively for California's rural poor. Not to be confused with its sister organization CLRA, Inc., CRLAF was founded to engage in legislative and administrative advocacy, and provide support for rural legal services offices. CRLAF and Western Center housing advocates have worked as team for over 30 years in the Capitol, advancing the cause of safe and affordable housing for low-income Californians. Welcome Tyrone!

Conferences, Trainings, and Webinars

Western Center Housing Task Force Meetings

Fresno - Friday, March 22d

Los Angeles - Friday, March 29th

Join us for our Spring Task Force meetings! Each will run from 10am to approximately 4pm. The training in Fresno will be on Subsidized Housing; in LA it will be on Transportation Oriented Development. Both meetings will include federal and state legislative updates, as well as a roundtable discussion with experienced attorneys. Please RSVP to Marilyn Harris at mharris@wclp.org by March 20. More

details and locations to be sent to those who RSVP. 3.5 hours of free MCLE will be provided. Also, watch for our Northern California meeting in the summer.

[California Eviction Defense: Protecting Low-Income Tenants 2013](#)

March 13 - San Francisco and Webcast

Attorneys will learn the basic laws regarding eviction defense and housing law and have an opportunity to connect with non-profit legal service agencies able to facilitate pro bono representation of low income families facing this predicament. Registration is free. 6 hours MCLE credit provided.

[NLIHC Annual Conference and Lobby Day](#)

March 17-20 - Washington, DC

Conference features Keynote Speaker author/professor/commentator Dr. Melissa Harris-Perry; screening of *The Pruitt-Igoe Myth*; and the 31st Housing Leadership Awards Reception honoring Senator Olympia Snowe & Chester Hartman, Ph.D. Registration rates vary.

[Housing California 2013 Annual Conference](#)

April 16-18 - Sacramento

This conference will feature a variety of workshops on a wide range of topics related to affordable housing. Early bird registration closes March 14. Registration for non-profits is \$400; scholarships available. Check the link for workshop and keynote information.

[Housing Rights Center 14th Annual Housing Rights Summit & Resource Fair](#)

April 18 - Los Angeles

This day-long conference will highlight the following topics: Veterans' Issues - Homelessness, Mental Health & Employment; Transgender Issues - Establishing Legal, Societal and Culturally Competent Frameworks; Complex Housing Laws - The Rights of Convicted Sex Offenders, and Persons with Felony Convictions. Registration is \$25; fee waivers available. MCLE credit provided.

[Federal Court Boot Camp Conference: How to Practice in Federal Court](#)

May 3 - Los Angeles

May 30 - San Francisco

An introduction to federal court practice, including discussion of the various CA

Presented by Pincus Professional Education. Early bird registration at \$350 for non-profits ends April 12; partial scholarships available. 6 hours MCLE credit provided.

On January 11, Tenants Together hosted the **Second Annual Tenant Lawyer Network Conference**. A wide range of panelists presented on issues such as affirmative litigation, ethics considerations when representing



multiple tenants, valuation of damages, and a civil right to counsel. Western Center's Brian Augusta and Stephanie Haffner (seen here with Tenants Together Executive Director Dean Preston, on right) presented legislative and case updates on issues impacting landlord and tenant law. We're looking forward to next year's conference.

Litigation and Local Advocacy

Landlord does not have a constitutional right to illegally raise rent

[Oviedo v. Windsor Twelve Properties, LLC](#), 212 Cal.App.4th 97 (2012)

Ms. Oviedo sued for violation of the Los Angeles Rent Stabilization Ordinance and malicious prosecution as she was served with a 40% rent increase even though her tenancy was rent stabilized. Landlord claimed its actions in serving a 60-day notice of rent increase, 3-day notice to pay or quit, and eviction lawsuit were protected speech under California's anti-SLAPP statute. The court of appeal disagreed, as Landlord was not sued for conduct exercising constitutional rights but for the underlying conduct of illegally raising her rent. Even though filing an unlawful detainer action is generally protected speech, California law still does not immunize landlords from malicious prosecutions where Ms. Oviedo did establish a probability of winning her claim. Counsel: Jennifer Hughes, F. Edie Mermelstein. Tenants Together and others supported a successful request for publication.

Loan modification valid even without formalities

[Barroso v. Ocwen Loan Servicing LLC](#), 208 Cal.App.4th 1001 (2012)

Homeowner who signed and returned a modification agreement and made payments thereon alleged formation of a valid contract to modify her loan documents, even though bank never returned a fully executed copy and the modification offer states that the modification agreement does not take effect unless the homeowner receives a copy signed by both parties. Bank's return of fully executed copy is not a valid condition precedent to

contract formation. Although she did not allege compliance with the conditions for a revised loan modification offered because she did not get a notarized signature as required, she sufficiently alleged breach of the original modification agreement and therefore also may amend her complaint to allege breach of the covenant of good faith and fair dealing and wrongful foreclosure. To allege equitable wrongful foreclosure she needn't allege tender of any amount to forestall foreclosure because there was no default under the terms of the modification agreement. Advocates: Antonio Hicks, Nu Usaha, Neighborhood Legal Services of Los Angeles County; Zshonette L. Reed, Lorden & Reed.

Tulare County adopts housing element in wake of suit

Matheny Tract Committee v. County of Tulare, (2012)

After a 2011 writ of mandate suit filed by California Rural Legal Assistance, Tulare County--whose housing element update was several years out of date--adopted a housing element program to (1) prioritize water, sewage, drainage, roads, and other infrastructure development for disadvantaged unincorporated communities in the County, and (2) report to the community regarding progress in infrastructure development in County unincorporated communities. Advocates: Phoebe Seaton, Kara Brodfuehrer, Ilene Jacobs, California Rural Legal Assistance; Stephanie Haffner, Richard Rothschild, Western Center on Law & Poverty.

Court awards attorneys' fees when landlord voluntarily dismisses eviction case before trial

Park v. Metzger, Los Angeles Super. Court No. 12U01664 (Dec. 19, 2012)

Witness the power of Civil Code section 1942.4, which prohibits landlords from demanding, collecting or raising rent when a public entity has found that it is in substandard condition, and the condition hasn't been repaired. Civil Code section 1174.21 says that a landlord who institutes an eviction action in violation of 1942.4 is liable for fees. Defendant's motion for attorneys' fees showed that the three-day notice was served in violation of 1942.4. Even though landlord dismissed suit before trial, in a detailed and well-reasoned decision the trial court commissioner awarded reasonable attorneys' fees of \$7,735. Contact [Tenants Together](#) for a copy of this persuasive decision.

California State Legislation and Administrative Actions

Permanent Source bill introduced

[SB 391](#) (DeSaulnier), the California Homes and Jobs Act of 2013, was introduced on February 20. The bill would impose a \$75 fee on the recording of mortgages

property documents. Expected to raise hundreds of millions of dollars annually, the bill would fund various housing programs at the Department of Housing. SB 391 requires a 2/3rds vote, but the Democratic super-majorities in both houses give hope that the bill can pass the Legislature this year.

Governor's Budget adds back housing element review staff

Although the state budget unveiled last month had little in it for housers, it did propose restoring funding for 5 more housing element review positions at HCD. In his initial budget 2 years ago, Governor Brown had reduced positions at the department. Last year, 5 positions were restored. This budget provides for another 5 positions, funded through the AB 32 greenhouse gas auction implementation fee. The positions are badly needed to deal with the tsunami of housing elements due under the new timelines for housing elements.

Redevelopment redux reintroduced

Senate leader Steinberg put in the first bill of the session, [SB 1](#). Sometimes called "Redevelopment 2.0," it would again authorize localities to use property tax increment financing. Instead of combating blight as in former redevelopment, the bill is intended to provide a funding mechanism for SB 375 sustainable communities projects. Another key difference from redevelopment is that schools would not lose any tax revenue. The Governor vetoed last year's version of the concept, SB 1156.

Housing element statute of limitations bill introduced

[AB 325](#) (Alejo) would restore the statute of limitations in housing element challenges, to ensure that the element is enforceable throughout the planning period, as was the rule for some 25 years, before the decision in *Urban Habitats v. Pleasanton*. The bill is sponsored by Western Center and CRLA Foundation.

Many more bills to come

The bill introduction deadline is February 22. Many bills have yet to be introduced, as authors and sponsors are making last-minute tweaks and decisions about the scope of bills. Watch for more details later.

HCD Releases Housing Element Guidance

The [Guidance](#) is intended to assist local governments and stakeholders with streamlined updates and HCD review for fifth cycle housing elements. While all local governments are still required to complete a housing element update, the Update Guidance is designed to reduce the number and scope of housing element submittals per jurisdiction and to focus resources on providing assistance to jurisdictions to ensure compliance and effectively address housing needs. The Guidance includes 4 main components: 1) Clarification of the Streamlined Update

Template for jurisdictions' use in preparing 5th cycle housing elements.



National Housing Law Project's Federal Update

Federal Legislation: Fiscal Issues

The fiscal picture for funding of the federal housing programs and the entire federal government is complex and frustrating. For the next few months the key issues include FY 2013 appropriations and sequestration, but the debt ceiling is also a factor:

- Completing Appropriations for FY 2013. Currently, the federal government is operating on a continuing resolution until March 27, 2013. H. J. Resolution (Sept. 19, 2012). Because of Fiscal Year 2012 funding anomalies, the CR severely underfunds the public housing operating fund and to a lesser extent the voucher program. The Administration and Congress are aware of the need to rectify the underfunding of public housing, but no one knows if funding will be restored.
- Sequestration. In January, Congress enacted the American Tax Relief Act of 2012, which postponed until March 1, 2013 the impact of sequestration (automatic across the board budget cuts) and made worse discretionary funding caps for the following two fiscal years. The Center on Budget Policy and Priorities (CBPP) estimates that if sequestration happens, there will be across the board cuts of 5.2% for the HUD and Rural Development housing programs. For California, this would result in cuts for public housing (of \$11 million from \$205 million) and homeless programs (of \$16 million from \$310 million). Finally, 16,219 of 306,341 housing choice vouchers would be cut.
- Debt Ceiling: On January 31, the Senate passed, H.R. 325, No Budget, No Pay Act of 2013, which suspended the debt limit through May 19th. The government will reach the actual ceiling sometime in August 2013.

Fair Market Rents

The Final Fiscal Year (FY) 2013 Fair Market Rents (FMRs) for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program has been released, 77 Fed. Reg. 61,158 (Oct. 5, 2012). The 2013 FMR in several jurisdictions declined from 2012, such as, San Francisco, San Jose, Los Angeles & Orange County, and Solano County.

Rental Assistance Demonstration

Rental Assistance Demonstration-Final Implementation, PIH 2012-32 (July 26, 2012). The Rental Assistance Demonstration (RAD) is designed to preserve affordable housing by leveraging private equity to address rehabilitation and

tenants' rights. The program has two components. The first allows public housing and Section 8 Moderate Rehabilitation programs to convert their financing to long-term, project-based Section 8 rental assistance contracts. The second allows owners of Rent Supplement, Rental Assistance Payment, and Mod Rehab projects to convert tenant protection vouchers to project-based vouchers when their subsidy expires or terminates. For California, HUD has awarded a commitment to enter into contracts under the first component with the housing authorities of the: City and County of Fresno, County of Kern, City of Richmond, County of Santa Barbara, and City of Ventura. Under the second component HUD issued a commitment for two developments. For more information, go to <http://portal.hud.gov/hudportal/HUD?src=/RAD>. Advocates with questions about RAD should contact Catherine Bishop, NHLP.

Final Discriminatory Effects Rule

After years of a rumored release, on February 15 the Department of Housing and Urban Development issued its final rule concerning the *Implementation of the Fair Housing Act's Discriminatory Effects Standard*. [78 Fed. Reg. 11460](#) (Feb. 15, 2013). The rule affirms the holdings of eleven federal circuit courts that have considered the issue - the Fair Housing Act prohibits not only intentional discrimination, but also creates liability arising from a facially neutral practice that has a discriminatory effect on protected classes. Claimants can meet this discriminatory effects standard by showing that the practice has a disparate impact on protected groups or perpetuates housing segregation. Further, the rule clarifies and establishes a three-part burden-shifting test used to assess whether a policy or practice has a discriminatory effect on a protected class. Under this test, the plaintiff or charging party must establish a prima facie case, whereupon, if met, the burden shifts to the defendant or respondent to prove that the practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. If the defendant or respondent meets that burden, the claimant can still prevail if it demonstrates that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect.

Streamlining of Public Housing and Voucher Administration May Benefit Tenants

A new HUD notice establishes temporary guidelines for PHAs in fulfilling certain public housing and Housing Choice Voucher Program requirements during this period of decreased resources available to PHAs. The notice allows for streamlining of several PHA functions, including: 1) calculating participants' annual income based on actual past income; 2) permitting households to self-certify that they have less than \$5,000 in assets; 3) allowing streamlined annual reexaminations for elderly families and disabled families on fixed incomes; 4) and allowing PHAs themselves to approve a voucher payment standard of up to 120% of the fair market rent as a reasonable accommodation. The temporary provisions established by this notice will be available to PHAs until March 31, 2014. A second notice allows a PHA to accept tenant self-verify income that is not counted in determining annual income for rent-setting purposes. Because these policies are discretionary, advocates should send a letter to the local PHA urging their adoption. Public Housing and Housing Choice Voucher Programs- Temporary Compliance Assistance, HUD-2013-02 (Jan. 22, 2013) and Guidance on Verification of Excluded

Income, PIH 2013-04 (January 28, 2013).

Publications

[Renters in Foreclosure: ;A Fresh Look at an Ongoing Problem](#)

[National Low Income Housing Coalition](#)

Renters continue to constitute 40 percent of the families facing foreclosure of their homes. In this new report, which is an update of its 2009 report, NLIHC takes a broader look at the issue of renters in foreclosure. This report summarizes NLIHC's findings regarding renters in foreclosure and the PTFA and proposes key policy recommendations.

[Community Impact: The Effects of Assisted Rental Housing in Delaware](#) [DelawaAre Housing Coalition](#)

A new report on affordable rental housing in Delaware finds that the location of assisted multifamily rental housing is significantly more likely to be associated with a positive or neutral change in nearby house values than a negative change.

[Taking Stock: Rural People, Poverty And Housing In The 21st Century](#) [Housing Assistance Council](#)

Nearly 30 years ago the Housing Assistance Council (HAC) published *Taking Stock*, one of the first comprehensive assessments of rural poverty and housing conditions in the United States. Now HAC presents the newest edition of *Taking Stock*, using data from the 2010 Census and American Community Survey to describe the social, economic, and housing characteristics of rural Americans.

A [section](#) of the publication reports on farmworkers in Kern County.

[HUD Housing Programs: Tenants' Rights 4th Edition \(The Green Book\)](#) [National Housing Law Project](#)

New information includes the Low Income Housing Tax Credit program, reasonable accommodations for people with disabilities, and the Violence Against Women Act housing protections. New features include a topical index, a glossary of acronyms and common terms, and all-new visual aids, such as handy charts that summarize critical information.

Job Announcements

[The National Housing Law Project Hiring Staff Attorney](#)

NHLP seeks a seeks an attorney with 3-7 years of experience to join the exceptional staff in its San Francisco office. The staff attorney will work under the direction of NHLP's Executive Director and Deputy Director and will be responsible for providing legal and technical support to housing attorneys, other housing advocates, resident organizations and nonprofit agencies in on substantive housing issues that affect low income people and disadvantaged communities, often within the context of the federally-supported housing programs. The staff attorney will also engage in research; develop educational and legal resource materials, guides, and professional publications, including NHLP's Bulletin and Green Book; train attorneys, community advocates and resident leaders; analyze proposed housing legislation and regulations; and engage in selected litigation, in partnership with local counsel. Qualified applicants should send an email to staffattorney@nhlp.org with a cover letter, resume, writing sample, and references. Position open until filled.

[Bay Area Legal Aid Hiring Managing Attorney](#)

BayLegal is seeking a managing attorney for its Santa Clara County Regional Office. The applicant should be "a proven leader with the vision and talent to promote its mission and work with staff to ensure the delivery of quality legal assistance consistent with the American Bar Association's Standards for Provision of Civil Legal Aid. Applicants should have a demonstrated commitment to equal access to justice and making a positive difference in the lives of clients and their communities. Managing Attorneys are mentors, prevent and solve problems, seek to improve the office and program, and motivate staff to effectively advocate before the court, administrative agencies, policy makers, and community forums. They also serve on BayLegal's regional management team." Applicants should send cover letter expressing your qualifications and interest, resume, references, and a recent writing sample to: David McGee, Director of Human Resources, Bay Area Legal Aid, 1735 Telegraph Avenue, Oakland, CA 94612. Position open until filled.

[National Senior Citizens Law Center Hiring Executive Director](#)

NSCLC is seeking a new Executive Director to lead its 13- person staff with offices in Washington D.C., Oakland, and Los Angeles. The ideal candidate "must demonstrate a collegial leadership style, a passion for justice, and the ability to garner resources effectively, think creatively and plan strategically. [NSCLC] values a genuine commitment to working for the poor or disadvantaged and an understanding of the legal services community and its contributions." Applicants should send email with cover letter, resume as well as current and preferred salary requirements to Tom Smith at TSmith@nsclc.org. All applications should be submitted by March 15, 2013.

David Carliner Public Interest Award

[American Constitution Society for Law and Policy](#)

The Award consists of a cash prize of \$10,000 and transportation and lodging to the ACS National Convention in Washington to accept the Award. The Award recognizes outstanding public interest lawyers whose work best exemplifies its

namesake's legacy of fearless, uncompromising and creative advocacy on behalf of marginalized people. Applicants must have graduated from law school between May 2001 and May 2006 and have demonstrated a passionate commitment to public interest law throughout their career and be employed at a nonprofit organization, government entity, or law firm whose mission supports and furthers the causes for which David Carliner stood. Deadline to apply is March 15.

To have your organization's job announcements included in our next Housing Update, send them to us at ngrewal@wclp.org.

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