Brooklyn A and Bed-Stuy Community Legal Services collaborate to help Homeowners in Crisis

By Katherine Eustis and David Bryan

IT IS IMPOSSIBLE TO TURN ON THE news right now without taking a deep breath and preparing for the worst. We are inundated with heartbreaking stories of the long term unemployed, cuts to social services, families struggling to support loved ones, and, not least of all, people losing their homes. These stories and statistics can often be far worse for

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In New York City, African-Americans and Latinos are 165% more likely to be behind on their mortgages than homeowners as a whole. Inequalities in lending practices and foreclosures have escalated the already widening gap in homeownership between white families and families of color, and left many people facing very difficult times.

"The current wave of high-cost mortgages within our communities have created a sense of anxiety among homeowners and their associated family members. Obviously, for those who are in the midst of the foreclosure process this creates the anxiety of not knowing day to day whether or not your home and your finances will be secure. In the longer term, this creates an alienation from the financial marketplace that much of the rest of the country relies upon. Many are reluctant to seek any further credit due to the exploitation they believe they experienced during the crisis" explains David Bryan, Director of Brooklyn A’s Anti-Predatory Lending/Foreclosure Defense Project, which, starting in 2012, will collaborate with Bedford-Stuyvesant Community Legal Services (BSCLS) to maximize outreach and intake to provide legal services to more homeowners in crisis (the Project). Brooklyn A was awarded a HUD Fair Housing Initiatives Program grant under its Mortgage Rescue component to support this work.

Homeowners in the neighborhoods of Bushwick, East New York, Cypress Hills, Oceanhill-Brownsville, East Flatbush, Flatlands, Canarsie, and Bedford-Stuyvesant (consisting primarily of communities of color) are more likely than other borrowers to have subprime mortgages, and may now face foreclosure. All of these neighborhoods are core service areas of Brooklyn A and BSCLS; Brooklyn A’s East Brooklyn office is located directly in the middle of the district that has the highest foreclosure rate in New York State.

The areas served by Brooklyn A and BSCLS fall within the federal government’s identified mortgage foreclosure “hot zone” and the Project has been established to address some of these concerns. "My clients feel that their future is uncertain. As is the case in most of the country their employment is insecure. Many of my clients are civil servants who are losing their jobs in the midst of the government’s fiscal austerity. Many are elderly or disabled persons who believe that the pattern of refinancing your home when the payments got to be too high would go on forever", Bryan explains.

Data analyzed by New York Communities for Change shows that African Americans and Latinos make up 32% of homeowners in New York City, but accounted for 56% of the December 2009 to December 2010 pre-foreclosure notices issued; making them 175% more likely than the general population of homeowners to be in foreclosure. In 2009, Brooklyn had the second highest
number of foreclosure filings (7,108) as reported in the March 2011 “Foreclosures in New York City” report released by the New York State Comptrollers office. Half of the ten highest neighborhoods with foreclosure filings were in Brooklyn. Number one on the list is East New York/Starrett City 1,139; #5 Carnarsie/Flatlands 908; #6 Brownsville/Ocean Hill 739; #8 East Flatbush 383; #9 Bedford-Stuyvesant 780; all of these communities are served by Brooklyn A and BSCLS.

Brooklyn A currently has almost 100 open cases under the Project and will do intake and assist additional clients during the Project year. The Project is employing a legal strategy called “Default Judgment Avoidance Initiative” which focuses on cases that embody certain issues that will have a broader impact on public consciousness, policy, and judicial precedent (known as ‘impact litigation’). The strategy will hopefully expand the rights of borrowers and seek the shouldering of responsibility all the way up the line from corrupt sellers, lenders, lawyers, appraisers, and title companies. “Examples of the type of cases that we have involved ourselves with in the past are those in which the client was induced to believe that they were receiving a secured loan when in fact they were actually engaging in a sale of their home that was concealed from them. We have prevailed in several of these cases in the past, however, our own unstable funding has challenged our ability to take more of these type of complex cases on” Bryan explained. Currently, the Project is identifying major wholesale purchasers of sub-prime mortgages who often claim no responsibility for the fraudulent nature of the transactions or the people they affect. The Project is also hoping that Default Judgment Avoidance can emphasize the racial targeting and other such violations of civil rights that took place in this most recent mortgage crisis, demonstrating once again practices which have prevailed for decades in our society. The use of impact litigation will be particularly key in pointing out these flagrant and unjust methods of targeting people of color and the underserved in our society.

As with everything we do at Brooklyn A, one of the most important facets of the Project is community outreach. Part of what allows predatory lending to continue to exist, and what allowed it to gain such robust health in the years preceding the crash, is misinformation or lack of any information to begin with; educating the community on the options that are open to them as homeowners in crisis, as victims of predatory lending, or as potential home buyers is a cornerstone of the Project’s mission. Our staff attorneys will determine which cases are poised for trial and which homeowners are in need of loan modifications. Although a focus of the Project is to make large waves with the cases we try, our objective is also to keep people in their homes and maintain the strength of the communities we serve; loan modifications will be key in obtaining those objectives. Knowledge is the best defense against the greed and ignorance of predatory lending that people of color and/or underserved communities possess.

Brooklyn A has a wide network of partners consisting of pro-bono lawyers, supportive law firms, and community organizations who have signed on to help us spread awareness and help people out of crisis. This network of organizations and volunteers will be instrumental in assisting us to aid these families get the most equity out of their homes as possible and avoid homelessness at all costs.


David Bryan, Director, Anti-Predatory Lending/ Foreclosure Defense Unit

Katherine Eustis, Development Intern
2011 Annual Partnership Awards Benefit

By Katherine Eustis

Brooklyn Legal Service Corporation A’s Annual Partnership Awards Benefit, held at the New York Marriott Brooklyn Bridge on November 17th, 2011, was nothing short of an amazing success. The Event fell on a momentous date for the city, the legal services community, and the country at large. As we all congregated around buffet tables and shared in honoring Sargent Shriver, Dan Nissenbaum, and Harvey Lawrence, Occupy Wall Street was protesting its eviction from Zuccoti Park with huge rallies all over the city. In addition to the mass assembling in the streets of Manhattan, earlier that week the legal services community nationally had been dealt the blow of a 14.8% budget cut in our federal funding; a staggering number by any measure but, especially for citizens of New York City, whose legal services program is among the largest in the country. So it was with this backdrop that we all joined together with elected officials, leading lawyers, corporate and banking figures, staff, community members, and family to shed some light on current events and make sense of the road that lies ahead.

The Event began as guests settled into their seats with opening remarks from our long time friend, Roma Torre of NY1 who served as Mistress of Ceremonies. Roma expressed gratitude for the dedication and sacrifice of the Legal Services community; she referred to our Annual Benefit as ‘part of the fabric of Brooklyn.’

The convocation was then given by Sister Kathy Maire, Executive Director of Bushwick Housing Independence Project, with a reading from Isaiah. The convocation gave way to commentary and welcome remarks from Marty Needelman, Brooklyn A’s Project Director & Chief Counsel, Paul Acinapura, Brooklyn A’s General Counsel and Jim Windels, of Davis Polk and Wardwell and Brooklyn A’s Board Chair. The three remarked on the “challenging and troubled times, troubles that tell us who we are and who we have become...who we are as a people and a culture.”

James J. Sandman, President, of the national Legal Services Corporation, this year’s Guest Speaker, spoke of the inspiration he derives from the work done in the Legal Services community. He pointed to the work of New York State’s Chief Judge Jonathan Lippman, who has fought to preserve and expand civil Legal Services throughout the State. Quoting Judge Lippman’s stance that “...inadequate legal access is a bipartisan issue...” and praising his work on talking to the business community and holding public hearings around the State to preserve and expand the right to legal aid, finally declaring in referring to Judge Lippman, “I wish I could clone him,” Mr. Sandman described the challenges to his own work on Capital Hill—striving to keep Congress from slashing Legal Services budgets even further while facing such misconceptions, “Federal funding of civil Legal Services is a luxury.” He concluded his rousing call to arms with the statement, “Ignorance is the enemy,” concluding that “…Access to justice is not like every other issue on the budget table...you will not have a nation worth defending if you do not have a strong justice system.” To a standing ovation and several loud choruses of ‘Amen’ Jim ended with a quotation, “thou shalt not ration justice.”

After that much needed spirit lifting speech, we began the Honoree presentations, first to the late Sargent Shriver, founder of the national Legal Services program as part of the “War on Poverty; one of whose sons, Mark
Shriver was in attendance to accept the award on behalf of the Shriver family. The commemorative video Brooklyn A had prepared for the evening featured former President Bill Clinton’s eulogy and clips of Sarge throughout his long and distinguished career, along with pictures and video of his beautiful family. Bill Josephson, close friend of Brooklyn A and Sargent Shriver, discussed Shriver’s commitment to Legal Services and Brooklyn A, and how moved Sarge was when Brooklyn A’s headquarters building was named after him. He read a moving excerpt from Mark Shriver’s eulogy at Sarge’s funeral and reminded us all what an amazing man we were celebrating. Mark Shriver began his words with a humorous anecdote about his siblings and described the important work each one does in furthering their father’s legacy. Mark noted that his father had been, “...fondest of Head Start but proudest of Legal Services...” because it was, “...giving money out to sue your boss.” Mark outlined his father’s stance that “Trying to extend justice into a poor person’s life, attacks the structures of destitution.” Noting it as “...a war on poverty and a war on luxury.”

The next Honoree to step up to the podium was this year’s Corporate Honoree, Dan Nissenbaum, a long time friend of Brooklyn A and major supporter of non-profit groups. Dan leads Goldman Sachs Urban Investment Group. Dan professed his discomfort with the notion of being formally ‘honored’ and wishing not to have to follow the rousing speeches of Sandman and Shriver he had sent Harvey Lawrence (this year’s Community Honoree) a text message that he would happily trade slots with him in the program. Dan explained that...
despite his personal reluctance to being individually honored, through his participation in the Brooklyn A Community Tour, prior to the Event, he had met a group of tenants who had struggled for years side by side with Brooklyn A and community organizers from Los Sures, forcing their landlord to make critically needed repairs. This had enabled Dan to see with his own eyes the unity and strength of the tenants, the much improved state of the building and the unique and close relationship they have with their attorneys. In his remarks, Nissenbaum took the opportunity to praise Brooklyn A and its achievements. He went on to say he could think of no greater compliment than to quote a client of Brooklyn A who explained succinctly “Brooklyn A has sustained and nourished me.” Dan talked about his family life and the sacrifices his wife and daughters make as well as the inspiration derived from a family who are heavily involved in the non-profit sector and community service. Talking about his own work he noted, “I have been humbled and empowered by all of my non-profit friends.”

Harvey Lawrence, Community Honoree and recipient of this year’s Denis Berger Memorial Award, took the stage to many cheers after the video presentation about him. The cheers were well deserved since Harvey and his organization, the Brownsville Multi-Service Family Health Center (BMS), are much loved pillars of the community they serve. He spoke of his employees and coworkers and how they recently set out to create a school in their neighborhood and how they got the courage to take on such a daunting task based upon their success in the past and present in building community health centers. He spoke of the value of working in the non-profit world and BMS’ commitment to community empowerment and the delivery of holistic health care to its community, giving us all a glimpse into what a meeting at BMS is like. He also spoke of his family and their commitment to one another, how not having much money but having a lot of love as a child prepared him for the future. He also talked about his long term friendship with Paul Acinapura and Marty Needelman and the ways both, Brooklyn A and BMS have developed together and in support of one another. Harvey left the stage to applause from all corners of the room.

After brief remarks from Rau Larsenmussen, Executive Director, Legal Services NYC, the night ended with closing words from Roma Torre and gave way to celebration, music and dancing with the great Bobby Sanabria Band, with the renowned Cuban percussionist, Candido Camero. As guests got up to dance, or have another drink or nibble, or greet the Honorees, it was apparent how lucky we all were to have a moment to pause and think about the work legal Brooklyn A does and the community organizations, clients, law firms, corporations, and banks with whom we partner. To celebrate the heroes of the legal and non for profit communities felt like a privilege in an otherwise dark and challenging time. The evening was truly inspiring and a great cause for hope.
1. Harvey Lawrence and Paul Acinapura
2. Sister Kathy Maire
3. Raun Rasmussen
4. Harvey Lawrence giving his remarks
5. Jim Windels
6. William Josephson
7. From left to right: Marty Needelman, Harvey Lawrence, Paul Acinapura, and Jim Windels

Page 7: 1. Mark Shriver and Marty Needelman
2. Roma Torre, William Josephson, Robin Friedman
3. From left to right: Jim Sandman, Mark Shriver, Marty Needelman, and William Josephson
4. Jim Sandman and William Josephson
5. From left to right: Paul Acinapura, Roma Torre, Harvey Lawrence, Jim Sandman, Marty Needelman, Mark Shriver, and Dan Nissenbaum
6. Mark Shriver, Paul Acinapura, Marty Needelman
7. Harvey Lawrence, family and BMS staff
8. Jim Sandman and Paul Acinapura
Solar power, a long promoted antidote to the looming perfect storm of energy, environmental and economic crises, has been getting a drubbing in the press recently. Since Solyndra shuttered its doors in early September, many critics have asked whether the government should be “picking winners” through programs like low-interest loans to manufacturers of solar panels like Solyndra, and whether solar energy will (ever) be a source of green jobs.

Whether they are manufactured by companies in the US, Europe or China, solar panels will be a part of America’s future energy diet. That is because the technology is a cost-effective and renewable energy source, capable of delivering direct savings to every household.

If every home in the US had a medium sized solar photovoltaic (solar pv) system on its roof, Americans could save over $140 billion annually in electricity costs. And for each home powered by solar energy, the annual reduction in carbon emissions would be equal to taking 1.5 cars off the road per home. Bringing solar to millions of homes would mean a jobs boost too, especially to the companies distributing and installing solar equipment.

These panels are a viable and convenient option for homeowners around the country because they are capable of generating enough electricity to cover a home’s entire electricity needs. They are also dependable; through a program called Net Metering, available in most states, a home’s pv system hooks into the electricity grid and the owner gets a credit on his/her utility bill for the amount of electricity the system generates.

So the real question is how we can make solar power a reality for millions of Americans. Community purchasing of solar, an innovative approach that mobilizes whole neighborhoods to go solar and cuts homeowner’s costs in the process, could bring the needed spark.

Government has been offering incentives to purchase solar panels for years, but several barriers remain: high upfront costs, consumer inertia and the sophistication required to navigate convoluted incentive programs.

In New York City, for example, interested homeowners who brave the tangle of regulations can cobble together a patchwork of incentives that reduce the cost of a solar pv system by 67 percent for an average size home. But that still leaves them facing nearly $11,000 in upfront costs, and some savings, like tax credits or property tax abatements, don’t kick in for a number of years. Although a homeowner could save $1,200 a year in electricity costs, it would take almost a decade before the initial investment is recouped through savings.

$11,000 in capital costs may sound like too much for middle class home-owners making it perhaps an insurmountable obstacle for lower income homeowners. Of low- and moderate-income households nationally, about 51 percent are homeowners. Many come from communities like those I serve. As a lawyer for Brooklyn Legal Services Corporation A, I represent nonprofit organizations—community developers, builders and operators of affordable housing, schools, and day care centers—all of whom can attest to the fact that the people most in need of savings on their electricity bills are those who can least afford to pay for a money saver like solar power.
Many homeowners also lack the financial savvy to know how to combine these incentives: there is no streamlined process that coordinates the federal and state tax credits, state rebates, and city property tax abatement and exemptions. Most people don’t even know of these incentives or see the value they offer in the first place.

But there is a local, neighborhood way to overcome both these obstacles. Community purchasing of solar or do, such as power purchase agreements (PPAs), where solar providers install and own the solar system on your home, and then sell you electricity at a lower rate. Another innovative program is Property Assessed Clean Energy (PACE), a no-interest loan program paid back as an add-on to property taxes. (PACE, however, is on hold in the residential market due to opposition from Fannie Mae and Freddie Mac.) PACE and PPAs are good tools for reducing upfront costs, but without community solar’s marketing, education and assistance, they don’t help homeowners overcome the technical barriers or inertia.

Government support of community solar can also be a catalyst in a national movement to solar. In Portland, Oregon, for example, with the help of city government and a federal grant, a non-profit community solar initiative called Solarize Portland installed solar on 120 homes in its first 6 months, which is more than three times the number installations in the whole city the previous year. With similar partnerships around the country, there could be a tidal increase in solar installations.

By using non-profits aggregators like those in Portland—organizations with extensive outreach and education experience—community solar can also help capture additional community benefits, especially in the area of jobs. Northeast Coalition of Neighbors, a Solarize Portland campaign, made training local workers a part of the bargain with the solar installer it used. In the neighborhood of East New York, Brooklyn, where I work and where unemployment was 19% in 2009—almost double that of the New York City average—local workers are starved for these kind of training and job opportunities.

Unlocking the potential of solar power can deliver on the promise of addressing the overlapping problems of jobs, energy costs and environmental impact. Community solar companies can help lead the way, one neighborhood at a time.

Daniel S. Hafetz, Esq. is a Skadden Fellow, and Staff Attorney of the Community and Economic Development Unit

Dan’s article was published on TriplePundit, www.triplepundit.com; an innovative new-media company for the business community that cultivates awareness and understanding of the triple bottom line. According to the Sustainability Dictionary, The Triple Bottom Line is an addition of social and environmental values to the traditional economic measures of a corporation or organization’s success. Triple Bottom Line accounting attempts to describe the social and environmental impact of an organization’s activities, in a measurable way, to its economic performance in order to show improvement or to make evaluation more in-depth.
In Memoriam of a Brave Mother

By Katherine Eustis and Natasha Daughtrey

TRAGEDY STRUCK THE BROWNSVILLE Brooklyn community in late October 2011, when Zurana Horton was gunned down at the intersection of Pitkin Avenue and Watkins Street as she picked up her children from P.S. 298, where students had been dismissed just thirteen minutes earlier. Ms. Horton died a heroine, hovering over a group of children and shielding them from the bullets raining down from the roof of the adjacent building. The loss of Ms. Horton is felt deeply by us here at Brooklyn A, not only due to the shocking and altogether devastating nature of this crime in one of the key communities that we serve, but because Ms. Horton and her family were our clients.

Ms. Horton, mother of 13, came to Brooklyn A on the brink of eviction from her dilapidated New York City Housing Authority (“NYCHA”) apartment. The apartment was so run-down that the Administration for Children’s Services (ACS) had taken the unusual step of moving her and the children out of it into a shelter in the Bronx. “This was unusual because ACS does not normally force a mother and her 8 children to move from their four bedroom apartment near their family and schools to a shelter in the Bronx” explains former Brooklyn A deferred associate, Natasha Daughtrey, who met Ms. Horton on Natasha’s first day at Brooklyn A. Ms. Horton was facing eviction because public assistance had stopped sending rent checks to NYCHA, the very same landlord who was refusing to do necessary repairs on the uninhabitable apartment. The odds seemed stacked against Ms. Horton and Natasha had her work cut out for her on her very first day in the Brooklyn A Housing Unit.

“I spent a lot of time working on Ms. Horton’s case,” explains Ms. Daughtrey, who greatly admired Ms. Horton’s determination,

“The thing that struck me most about her was that she had such limited resources at her disposal and still fought like hell for her kids. I can’t imagine what it is like to have so many children depending on you and having such an uphill battle to get simple things done, like having public assistance actually send your rent check when you’ve done everything you are supposed to do. Or trying to convince the NYCHA bureaucracy that your children can’t live in a dangerously dilapidated apartment. I just admire Ms. Horton for sticking with it, despite all her challenges.”

Ms. Horton did not live to see the resolution of her case with NYCHA. Ms. Horton and Ms. Daughtrey managed to solve some of the bigger problems facing the family such as getting the benefit checks back on track, paying NYCHA, and getting NYCHA to fix some of the most pressing repairs in the apartment. However, NYCHA failed to fully comply with the Court ordered stipulation to do repairs and so further action had to be taken. “We had to bring an affirmative suit called an HP action where you sue the landlord seeking a Court order specifically directing the landlord to do the repairs. We settled that case by a Court ordered stipulation that they would complete the repairs,” explains Ms. Daughtrey. Sadly, the outcome of the case is no longer relevant to Ms. Horton and her family but the legal struggle they faced is similar to the struggles faced by thousands of low-income families throughout New
York City.

In moments like this it is hard to feel hopeful about anything, yet we can feel inspired by Ms. Horton’s sacrifices in her life and in her death. Ms. Daughtrey and Ms. Horton shared for a brief time a mutual struggle to make life a little more livable for the Horton children; based upon her experience with Ms. Horton as well as her overall time spent in the Housing Unit, Ms. Daughtrey has this to say:

“What I gathered from this whole experience is that there are deep, resounding problems in our society regarding inequality, particularly income inequality. While doing housing litigation is an integral part of resolving the issue, the bigger problem is basic income inequality… We have to continue working together to raise all people up out of poverty and out of violence.”

Natasha Daughtery, Esq. Goodwin Proctor LLP is a former Brooklyn A Defered Associate

Katherine Eustis, Development Intern

BROOKLYN A UPDATES

Starting January 2012, the Williamsburg store front office of 256 Broadway will be closed. All of Brooklyn A’s Williamsburg staff will be returning to Brooklyn A’s headquarters building next door, The Shriner Tyler, MacCrate Center for Justice on the 2nd and 3rd floors of 260 Broadway.

Julia Kohen, an associate at the firm of Simpson Thacher & Bartlett LLP, joined the CED Unit in East Brooklyn as our next full-time Simpson extern.

Julia has been a Corporate Associate at Simpson since 2007 and is currently a member of the Banking & Finance Group. Julia was in a CED clinic in law school and has been involved in various pro bono projects at the firm, including its Election Protection efforts, two pro bono divorce cases, representation of a Tibetan nun in her asylum application, and the tax exempt application of a not-for-profit organization seeking 501(c)(3) tax exempt status. Welcome Julia!
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