

Brooklyn Legal Services Corporation A

BUILDING COMMUNITIES
ENSURING OPPORTUNITY
ACHIEVING JUSTICE

SPRING 2014



Mayor de Blasio Emphasizes Need for Affordable Housing

By: Domenico Siravo, Development and Marketing Coordinator
AmeriCorps VISTA

BROOKLYN A'S POSITION IS that the shortage of affordable housing is one of the most troubling problems facing communities all throughout Brooklyn. Even though real estate developers are profiting at near unprecedented rates, low-income families are continuously being displaced from

toward rent in 2011; the need for affordable housing has become starkly apparent. While Brooklyn A continues to help individual families gain access to and remain in affordable housing, we are also strong advocates for local and city wide policies that encourage the availability and permanence of more affordable housing. Consequently, we are deeply encouraged that Mayor Bill de Blasio has made improving the current state of affordable housing a central issue of his new administration.



Rendering of Two Trees Management's proposal to redevelop the Domino Sugar factory in Williamsburg. Photo by SHoP Architect.

their own neighborhoods. According to a recent report prepared by NYC Council Member Brad Lander's office, since 2005 only 2% of all multifamily housing built were considered to be affordable units. Meanwhile, in 2011 49% of all low-income households in NYC paid at least half of their incomes

In February, the Mayor pledged to preserve or construct 200,000 units of affordable housing over the next 10 years. What many see as a test case for this plan, in March Mayor de Blasio engaged with Two Trees Management Company, the developer of the \$1.5 billion dollar redevelopment project of the Domino Sugar refinery in Williamsburg, Brooklyn. After facing pressure from the Mayor, Joe Walentas representing Two Trees

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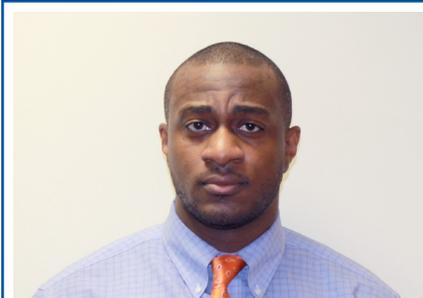
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UC Davis Invasion

agreed to include 537,000 square feet of affordable housing, which is an increase from the previously planned 427,000 square feet; the deal was approved by the city's Planning Board this March. Brooklyn A, along with a coalition of other established community based organizations including Churches United For Fair Housing (CUFFH), El Puente, Southside United HDFC (Los Sures) and St. Nicks Alliance among others, has worked with NYC Council Member Antonio Reynoso and been involved with negotiations with Mr. Walentas with the intentions of representing what is best for the community and to try and mitigate the negative impact that huge development projects can bring to neighborhoods; which includes potential displacement of low-income families. Increasing the amount of affordable housing in the project is certainly a step in the right direction, though we will continue to work with community members on this project and any future ones to ensure that the needs of Brooklyn residents can be met and that neighborhoods can be enriched without exploiting low-income working class families who are often the most vulnerable. ■

New Staff at Brooklyn A

Help us welcome these great new additions to our staff!



NDUKWE AGWU, ESQ.
Senior Staff Attorney , Consumer & Economic Advocacy Program

Ndukwe Agwu graduated from SUNY Purchase in Purchase New York with a double degree in Political Science and Economics. He went on to attend Touro Law School, graduating in 2006. Immediately following graduation from law school, Ndukwe went on to work at DHL as an in-house attorney handling OSHA and workers compensation claims and hearings. In 2008 he accepted a position with Legal Services of the Hudson Valley (LSHV) as a staff attorney. There, he started out in their Mount Vernon office as a general practice attorney handling primarily landlord/tenant, public benefits, unemployment, and social security benefits. In 2010 he moved into the foreclosure unit and soon thereafter became one of the lead foreclosure attorneys for LSHV. As a hobby he took up boxing and professional weightlifting.



CHARLES ALVAREZ, J.D.

Columbia Law School Social Justice Initiatives Fellow, Community & Economic Development Program

Charles received his J.D. in 2013 from Columbia Law School where he was a Harlan Stone Scholar. Charles has been a Law Clerk for Earthjustice, the New York Environmental Law and Justice Project, The Door, and Brooklyn A. He has participated in the Child Advocacy Clinic and was a Summer Intern for the Tokyo Public Law Office in Japan. Charles speaks advanced Japanese and knows conversational French and Spanish.

TRICIA LENDORE, J.D.

AmeriCorps* VISTA Law Fellow, Preserving Affordable Housing Program, Individual Housing Representation Unit

Tricia holds a J.D. in 2013 from the SUNY University at Buffalo Law School where she was a recipient of the Charles. H Revson Law Student Public Interest Fellowship and an editor of the SUNY Buffalo Public Interest Law Journal. She has served as a Law Clerk for the N.Y.S Supreme Court, the U.S Equal Employment Opportunity Commission, and the N.Y.S Department of Labor. Prior to law school Tricia received her B.A. from Cornell University. Tricia currently holds a certificate in Labor and Employment Law.



GREGORY E. LOUIS, ESQ.

Staff Attorney, Preserving Affordable Housing Program, Group Housing Representation Unit

Before coming to Brooklyn A, Greg represented low-income tenants as an attorney for Legal Services of The Hudson Valley. Greg received his J.D. from Fordham University School of Law in 2009. After Law School he was a Morgan Lewis Public Interest Fellow and spent a year as an associate at Morgan, Lewis & Bockius LLP. Greg is Fluent in Haitian Creole and French.



New Staff



ANDREW MALOZEMOFF, ESQ.

Staff Attorney, Consumer & Economic Advocacy Program

Andrew attended University of Miami School of Law in 2007 with his primary interest being in the field of entertainment and intellectual property law. Andrew was a fellow at Brooklyn A through the Miami Law Legal Corps program, which provides a fellowship to Miami Law graduates to work for non-profit and government organizations. After his fellowship Andrew continued to volunteer working for the foreclosure unit at Brooklyn A.

During the course of law school Andrew also worked as a freelance web site developer. Along with his foreclosure work he is now interested in the legal area of internet technologies, including internet security and domain name issues.

AUSTEN D. REFUERZO, J.D.

Berkeley Law Bridge Fellow, Preserving Affordable Housing Program, Individual Representation Unit

Austen is a 2013 Graduate of University of California Berkeley School of Law where he was a member of the Berkeley

Business Law Journal and acted as counsel for the New Business Counseling Practicum at Berkeley Law. Before coming to Brooklyn A, Austen worked as a Legal Extern for Justice Baxter of the Supreme Court of California, as an intern for the Fifth District Court of Appeal in California and was a case manager for the Los Angeles Superior Court ADR Department. In his spare time Austen likes to surf (though not in the Hudson) and watch baseball.



SARAH ELLIOT, ESQ.

Staff Attorney, Simpson Thacher & Bartlett Extern, Consumer & Economic Development Program

Sarah Elliot is an extern from Simpson Thacher & Bartlett LLP, where she is a corporate associate. Ms. Elliot is a 2012 graduate of Duke University School of Law, where she served as Executive Editor of the Duke Law Journal of Constitutional Law and participated in a wide variety of public service activities, including the Duke Children's Law Clinic, Street Law Youth Home Program, Southern Justice Project, and Durham County Guardian ad Litem. Ms. Elliot is admitted to practice in

New York and holds a B.A. from the University of Texas at Austin.



CHRISTOPHER SINA, J.D.

New York University School of Law Housing Fellow, Preserving Affordable Housing Program, Individual Housing Representation Unit

Christopher graduated from New York University School of Law in 2013 where he was an editor for the Journal of Legislation and Public Policy. Chris has experience as a Law Clerk for Nevada Legal Services as well as serving as a Clinic Student for the EDNY Government Civil Litigation Clinic. Additionally Chris was a summer intern for Brooklyn A in our Individual Housing Unit. He received a B.A. in political science from University of Nevada Las Vegas and studied abroad at University of Brighton in England.

The Significance of Denial Letters for Loan Modifications

by Andrew Malozemoff, Esq., Staff Attorney, Consumer & Economic Advocacy Program

ONCE A BORROWER defaults on his or her mortgage payments, often one of the first steps taken is to seek assistance. A borrower may ask the mortgage servicer, a community development organization, or another entity to assist them in working out an affordable payment arrangement with their servicer. This often begins the process of applying for a loan modification, during which the borrower sends financial information to the servicer who, in return, replies with letters concerning the status of the review. Of these letters, none is more feared than the denial letter. Yet the very letter we fear is the one we must give the most attention, for after the word “denied” comes the most critical language: the reasoning.

The form and content of denial letters is regulated by the Consumer Financial Protection Bureau. Federal regulations require that denial letters state “the specific reason or reasons for the servicer’s determination for each ... loan modification option”. 12 CFR 1024.41(d). Simply stating that a modification is denied is not allowed. Specific reasoning is important, because it allows the borrower to determine if the servicer is making a reasonable determination or not.

For example, one of Brooklyn A’s clients received a denial letter stating that they were denied because their current mortgage payment was at an affordable level. As the client’s current mortgage payment totaled over 60% of their reported income, this ratio-

nale was clearly unsubstantiated. Another client also received a denial letter claiming both that the “housing expense is at an affordable level” and that “we are unable to create an affordable payment”. Again, these reasons were so contradictory as to make no sense.

Of course, understanding the criteria used to determine applicability

a denial, and analysis of the numbers used can help find errors in the servicer’s determination.

Borrowers must be sure to be prompt in appealing a denial, as regulations allow servicers to limit the time to appeal to only 14 days after sending a denial letter. By the time the letter arrives, this could only allow a few days to prepare an appeal letter. Fortunately, federal regulations provide another means to report account errors via what’s called a Qualified Written Request. Though a full article could be written on such letters, in short a Qualified Written Request is a letter written by the borrower to the mortgage servicer requesting information or reporting errors on a mortgage account. 12 CFR 1024.31. With a Qualified Written Request, a borrower can not only request the values used in coming to determinations of denial, but can potentially challenge those determinations by framing them as account errors. This allows a borrower multiple avenues of analyzing and challenging modification denials.

Importantly, in the context of a foreclosure action, the denial letters and the corresponding appeals create a documented record of the borrower’s and the bank’s approach to the loss mitigation process, which may serve very useful if and when a potential bad faith claim may arise. At that point, a unsubstantiated denial letter claiming both affordable payments and unaffordable payments can’t just be brushed under the rug. ■



for a modification is important in critiquing these letters. Attorneys have had success appealing denial letters with counter-calculations and obtaining modifications as a result. Important to this equation is obtaining the numerical data used by the servicer in coming to the determination of denial. Often, requesting these numbers is the first step in appealing

Program Updates:

Here is a snapshot of what our various programs have been up to.



PRESERVING AFFORDABLE HOUSING PROGRAM: INDIVIDUAL HOUSING REPRESENTATION UNIT

was recently successful in preserving the tenancy of a 65-year old woman who had been living in her apartment for 27 years. Our client was under the threat of eviction due to her alleged Chronic Nonpayment of Rent and was without alternative housing options. The Judge ultimately granted our motion, dismissing the case and allowing our client to continue her residency.

is helping the tenants to receive a 7A administrator who can make necessary repairs to the building that the landlord has refused to make and will allow for the tenants to stay in their apartments.

CONSUMER & ECONOMIC ADVOCACY PROGRAM

has helped a Sheepshead Bay client owing more than \$918,000 in her foreclosure case receive a trial modification reducing the principal to \$663,000. For each year every mortgage payment is

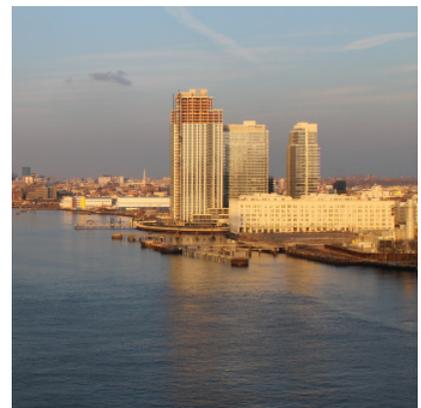
paid on time, \$85,000 would be removed from the total. After 3 years, she will owe \$255,000 less than the original amount.

COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAM

recently assisted a small Brooklyn based not-for-profit corporation that had initially incorporated using an Albany based company that incorrectly formed them as a foundation. Brooklyn A's CED attorneys assisted the client with the filing of an amendment of its Certificate of Incorporation with the NYS Department of State to reflect its actual charitable purposes and to update its corporate name. We also assisted them with their initial and annual charities registrations with the Charities Bureau of the NYS Office of the Attorney General and with updating all of its core corporate governance documents. We are in the process of assisting them prepare the application for federal tax exemption. The corporation plans to undertake a wide variety of charitable activities primarily in Brooklyn, including providing mentorship, educational opportunities, free food and basic necessities, and social support to low-income and marginalized New Yorkers. ■

PRESERVING AFFORDABLE HOUSING PROGRAM: GROUP HOUSING REPRESENTATION UNIT

has just begun to file a motion for a rent stabilized building in a highly gentrified area. The landlord bought the building from foreclosure and then has attempted to clear the building and kick out tenants who have lived in the building for up to 7 years. The group Housing Unit



UC Davis Invasion



Brooklyn A was thrilled to host students from UC Davis School of Law Humanitarian Aid Legal Organization (HALO) who volunteered to work us during their spring break in March! The students helped us with important projects that will result in great resources for present and future clients and in return the students received a real taste of what it's like to work in public interest law. We hope that witnessing the crucial need for affordable high quality legal services and the rewarding work that can come from putting a community first has inspired these promising minds to make public interest a central piece of their future legal careers.

“Working with Brooklyn A was a wonderful opportunity to learn about the legal issues that low income tenants face while living in Brooklyn. Not only did we learn about the current issues and needs of those living in Brooklyn, but we also had the opportunity to get involved and make a difference in the community. This experience just reaffirmed not only my desire to work in public interest, but the serious need for public interest lawyers.”

—CHELSEA EVANS

UC Davis School of Law, class of 2016

“After working with Brooklyn A, I have a better understanding of the communities that public interest lawyers serve. In addition, having the opportunity to work with attorneys and see firsthand how the law is used outside of law school is absolutely invaluable. Thank you, Brooklyn A for making the week such a wonderful experience!”

—ANTONIA WONG

UC Davis School of Law, class of 2016

“I was not only exposed to the important work the Housing Unit did in conjunction with local housing activists to protect tenants, but I was also able to

work with the Unit on substantive legal issues and witness the amazing work and dedication they poured into their client's cases. With the challenges facing tenants in Brooklyn, the attorneys of Brooklyn Legal Services Corp A serve as important conduits into an often bewildering and alienating legal system.”

—JASON LUU

UC Davis School of Law, class of 2015

“The week spent working with Brooklyn A was great. Every staff member we dealt with was passionate about what s/he was doing, and it showed. The organization had also put in the effort to make sure they gave us projects that we could finish within our limited time. What really impressed me was the amount of respect everyone in the office had with others. We truly felt like we were integrated into the organization even though we only had a few days to help get work done.”

—JOHNATHAN BALDAUF

UC Davis School of Law, class of 2015

“My experience at Brooklyn Legal Services Corp A was an incredible opportunity to observe how a non-profit legal organization operates. The team at Brooklyn

A is a dynamic, intelligent, and caring group of individuals who are passionate about their work and the opportunities they provide for their clients. Working specifically under Martin Needelman, the Co-Executive Director of the organization, allowed me to see what a challenging, and incredibly rewarding, line of work housing discrimination law presents. I look forward to keeping in contact with this organization throughout my legal career.”

—ABIGAIL MULVIHILL

UC Davis School of Law, class of 2016

“The week I spent at Brooklyn Legal Services Corp A was an excellent opportunity to immediately address tenants' legal concerns and gain hands-on experience in Brooklyn Housing Court. My mentoring attorneys, Marty, Greg and Adam, were always willing to answer questions and offer advice. I had an amazing experience and highly recommend law students and attorneys to get involved with an organization that exudes dedication to the community and a passion for justice.”

—LAUREN WOODS

UC Davis School of Law, class of 2016

“As a law student hoping to have a career in public interest or service, working with Brooklyn Legal Services Corp A gave me insight into what that would look like on a daily basis. The work public interest lawyers do truly is critical and instrumental for fostering justice. The passion the Brooklyn A staff demonstrated was inspiring, and I'm glad I was able to learn and work alongside them.”

—SARAH CHI

UC Davis School of Law, class of 2015



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