

**Affordable Housing Law:
Theory and Practice**

**Northeastern University School of Law
LAW7518**

Roberta L. Rubin,
617-224-0609
rrubin@kleinhornig.com

Office hours: Friday 1:30-3:30
or by appointment

This course will explore how and why Federal law supports the production, finance and operation of affordable housing, and the consequences, both intended and unintended, of historical shifts in Federal housing policy. Students will examine in detail the ways in which both housing legislation and the tax code, as well as regulatory, administrative and judicial interpretations, affect the structure and documentation of complex transactions. Together, we will analyze the “real world” impact of changing policies and legal requirements on the practice of affordable housing law.

The course will begin with a discussion of the basic economic and political justifications for affordable housing legislation and a survey of legislative initiatives over time, to illustrate the breadth and scope of federal affordable housing programs and the way in which those programs have reflected the changing social and political environment. We will consider housing programs from the divergent perspectives of public agencies, private developers and residents. Against this backdrop, the course will focus on housing programs today, including large-scale comprehensive neighborhood revitalization programs involving public/private partnerships under the United States Housing Act of 1937, as amended, the Internal Revenue Code, and associated federal regulations. Topics for discussion include the role of the Federal government in determining access to housing, the pros and cons of using tax incentives to finance development, housing as a vehicle for social change, and the role of law in reducing or increasing racial and class disparities in housing. We will also look at programs to increase affordable homeownership, and the impact of the subprime mortgage crisis and foreclosures on low-income communities. Students will examine the practical implications of the interplay between traditional public housing and tax-driven private investment through role-play negotiations, drafting exercises, and document review, in addition to analysis of key statutory and regulatory provisions.

Although this course has no prerequisites, administrative law and basic income taxation are recommended.

Goals

- 1) To enable students to gain substantive, in-depth knowledge of key Federal laws affecting the development and operation of affordable housing.
- 2) Through case studies, sample transaction documents and concrete examples, to provide an opportunity for development of practical skills in legal analysis and interpretation.
- 3) To familiarize students with the many dimensions of policy-making through legislative and administrative action, including policy analysis, political realities and difficulties of program implementation.
- 4) To examine civil rights issues in the context of housing law and policy.

Readings

A wealth of literature is available on housing law and policy, as well as related issues, such as poverty, welfare reform, and changes in the overall economy. For this course, we will draw from a variety of sources, including the following:

A. Textbook. The following **required** text is available at the book store:

Alex Schwartz, *Housing Policy in the United States: An Introduction*, Routledge Press, 2010.

B. TWEN - Supplemental Materials. Cases, statutes, regulations, articles and excerpts from additional texts will broaden the scope of our readings while providing up-to-date information. You will need to download **required** readings for many classes from the Internet through TWEN “web links”. (See *class-by-class syllabus descriptions of readings and TWEN for download information*). Additional **required** materials will be posted on TWEN as “course documents”.

Please note: Where documents are made available through “web links”, often only a portion of a lengthy document is assigned. ALWAYS DOWNLOAD DOCUMENTS BEFORE PRINTING to avoid having to print many pages of material that you are not expected to read. PAGE REFERENCES IN THE SYLLABUS FOR MATERIALS TO BE DOWNLOADED FROM THE INTERNET REFER TO THE PAGE NUMBERS PRINTED IN EACH DOCUMENT – not including cover pages, tables of contents, separately numbered introductory material, etc.

Students are also urged to read *The Boston Globe* and/or *The New York Times* on a daily basis to keep up with current events pertaining to housing and community development. In addition, there are many Internet sources that you may want to consult (see attached web addresses).

Finally, for perspectives on housing policy, students are encouraged (**but NOT required**) to read at least one of the books on the list of “selected recommended books” below.

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A FEW WORDS ABOUT ASSIGNED CASES:

With very few exceptions, excerpts from assigned cases are posted on TWEN under “course documents”. THE EXCERPTS ARE FAR SHORTER THAN THE ORIGINAL CASES. While full cites are included in the syllabus, you are only responsible for reading the prepared excerpts.

For some classes, excerpts from as many as 4 or 5 cases have been assigned as required reading. Typically, when this occurs, it is because the decisions relate closely to one another. Some represent multiple phases of the same litigation. Others reflect differing positions taken by different courts on particular legal issues. Either way, when several cases are assigned for a single class, the focus of your reading should be on the similarities or differences between the decisions, and the cumulative impact on affordable housing and/or individual rights.

Selected Recommended Books:

Bratt, Rachel G., *Rebuilding a Low-Income Housing Policy*. Philadelphia, PA: Temple University Press 1989.

Rachel Bratt, Michael E. Stone and Chester Hartman, *A Right to Housing: Foundation for a New Social Agenda*, Temple University Press, 2006.

Xavier De Souza Briggs, ed., *The Geography of Opportunity: Race and Housing Choice in Metropolitan America*, Brookings Institution Press, 2005.

Halpern, Robert, *Rebuilding the Inner City: A History of Neighborhood Initiatives in the United States*, Columbia University Press, 1995.

R. Allen Hays, *The Federal Government and Urban Housing: Ideology and Change in Public Policy*, State University of New York Press, 1995.

Vale, Lawrence J., *From the Puritans to the Projects: Public Housing and Public Neighbors*. Cambridge, MA: Harvard University Press, 2000.

Assignments and Grading

There will be a written final take-home exam at the end of the term. There will not be an in-class final exam during exam week.

Please type your exam in 11 point or larger type, double-spaced, 1” margins. The recommended page limit is 15 pages. This is intended as a guide, not an absolute mandatory limit. However, students are asked to use reasonable judgment – if the limit is 15 pages, please do not submit a 25 page paper.

Class participation (including, but not limited to, participation in formal role-playing and mock negotiations) and class attendance count toward your final grade. In addition to getting more out of the class through active discussions, engaged participants have an additional opportunity to demonstrate their grasp of the material, which will affect their final course evaluations. Instruction will include a combination of lecture and discussion. I will “cold call” on students using a modified Socratic method, and while I will not embarrass or humiliate anyone for being unprepared, my general expectation is that each student should come to class expecting to participate on a regular basis.

Selected Sources on the Internet Related to Affordable Housing

Center on Budget and Policy Priorities	http://www.cbpp.org/
Center for Social Policy Research, John W. McCormack Graduate School of Policy Studies, University of Massachusetts-Boston	http://www.mccormack.umb.edu/csp/index.jsp
Citizens Housing and Planning Association	http://www.chapa.org/
<i>Cityscape</i>	http://www.huduser.org/periodicals/cityscape
Fannie Mae Foundation, <i>Housing Policy Debate</i>	http://www.fanniemaefoundation.org/programs/hpd
Institute for Research on Poverty	http://www.ssc.wisc.edu/irp/
Interagency Council on Homelessness	http://www.ich.gov/
Joint Center for Housing Studies, Harvard University	http://www.jchs.harvard.edu
Massachusetts Coalition for the Homeless	http://www.mhsa.net/
National Coalition for the Homeless	http://www.nch.ari.net/
National Law Center on Homelessness and Poverty	http://www.nlchp.org/
National Low Income Housing Coalition	http://www.nlihc.org/
U.S. Department of Housing and Urban Development	http://www.hud.gov/
HUD CLIPS (text of all HUD statutes, regulations, handbooks, notices, etc.)	http://www.hudclips.org
HUD User (documents and reports published by HUD)	http://www.huduser.org/
Urban Institute	http://www.urbaninstitute.org/
U.S. General Accounting Office	http://www.gao.gov

Affordable Housing Law – Theory & Practice

Schedule Of Classes And Assignments

I. INTRODUCTION	
Class 1 Tues., Mar. 1	<p>Why affordable housing? What are the goals to be achieved? What are the rationales for and against addressing housing issues through federal legislation? Brief history of affordable housing legislation. (Lecture & discussion.)</p> <p>Readings: <i>Schwartz</i>: chapters 1 & 2 (skip appendix re data sources) (pp. 1 – 49) <i>TWEN – Web Links</i>: History of Federal Housing Programs; Joint Center for Housing Studies, “The State of the Nation’s Housing 2007”: <i>skim</i> Executive Summary (pp. 1-4) and Housing Challenges (pp. 1-6) <i>TWEN – Course Materials (Other Assigned Readings)</i>: Handout #1</p> <p>Short Exercise: Each year, the National Low Income Housing Coalition prepares a report analyzing affordability of rental housing in each metropolitan and non-metropolitan area in the United States. Please locate & briefly review data for your home community in <i>Out of Reach 2009</i>, available at http://www.nlihc.org/oor/oor2009/ and also glance at the page entitled “Growth of the Two-Bedroom Housing Wage” (listed under “Tables & National Statistics”).</p>
Class 2 Fri., Mar. 5	<p>The case for a right to housing. Discussion: On what basis could it be argued that there exists a constitutional right to housing? Examination of Supreme Court <i>Valtierra</i> and <i>Lindsey</i> decisions; consideration of alternative arguments for and against recognition of a right to housing.</p> <p>Readings: <i>TWEN – Course Materials (Case Excerpts)</i>: <i>James v. Valtierra</i>; <i>City of Cuyahoga Falls v. Buckeye Community Hope Foundation</i>; <i>Lindsey v. Normet</i>; and <i>Callahan v. Carey</i> <i>TWEN – Course Materials (Article Excerpts)</i>: Tim Iglesias, “Our Pluralist Housing Ethics and the Struggle for Affordability,” <i>TWEN – Web Links</i>: Chester Hartman, “The Case for a Right to Housing,” in <i>Housing Policy Debate</i>, Vol. 9, No. 2 1998. <i>pp. 227-230 and 237-241 only</i>, available on-line at http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_0902_hartman.pdf plus response by James Carr, pp. 247-256 http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_0902_carr.pdf</p>
II. THE ORIGINS OF CORE FEDERAL HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS 1937-1954: MORTGAGE INSURANCE,	

PUBLIC HOUSING AND URBAN REDEVELOPMENT	
Class 3 Tues., Mar. 9	<p>National Housing Act of 1934 and United States Housing Act of 1937: goals and limitations. <i>Lecture:</i> historical context; focus on mechanics of these statutes, which created parallel tracks for public and private housing development; relationship between statutory framework and housing affordability.</p> <p><i>Discussion:</i> What were the goals, both housing and non-housing related, underlying the early housing legislation of the 1930s? How do legislative and appropriations processes interact in the development of housing policy? How do principles of housing finance affect the development & implementation of housing policy?</p> <p>Readings: <i>Schwartz</i>, First half of Ch. 3, pp. 51-57; first half of Ch. 4, pp. 89-96; excerpts from Ch. 6, pp. 125-128 & bottom half of p. 131 (beginning of <i>Project Location</i>). <i>TWEN - Course Materials (Other Assigned Readings)</i>: Excerpts from National Housing Act of 1934 (§§ 1709 and 1713), United States Housing Act of 1937 (§§ 1401, 1402, 1409-1411) and Lanham Act (§§ 1501 and 1503) (<i>Note: only designated sections are required</i>)</p>
Class 4 Fri., Mar. 12	<p>Urban Redevelopment and Eminent Domain. <i>Lecture:</i> review of key legislative developments. <i>Discussion:</i> “urban renewal”, past and present, with a focus on the use of eminent domain for economic development</p> <p>Readings: <i>TWEN – Course Materials (Other Assigned Readings)</i>: United States Housing Act of 1949, §§ 2 and 105; Franklin Roosevelt 1944 State of the Union Message; <i>TWEN – Course Materials (Case Excerpts)</i>: <i>Berman v. Parker</i>; <i>Poletown Neighborhood Council v. City of Detroit</i>; <i>Wayne, County of v. Hathcock</i>; <i>Kelo v. City of New London, Conn.</i> <i>TWEN – Course Materials (Article Excerpts)</i>: Wendell E. Pritchett, The “Public Menace” of Blight: Urban Renewal and the Private Uses of Eminent Domain</p>
III. CHANGING TIDES: SHIFTS IN PRIVATE HOUSING PRODUCTION PROGRAMS AND PUBLIC HOUSING, 1941-1990	
Class 5 Tues., Mar. 16	<p>Development of Privately Owned, Publicly Subsidized Housing: Overview of shifting federal policies and priorities, 1949-1990.</p> <p><i>Lecture:</i> review of key legislative developments, including private production programs of 1960s and early 1970s, Nixon Moratorium, project-based rental assistance, block grant programs, and interplay between legislative and executive branches in development and implementation of housing policy.</p> <p><i>Discussion:</i> focus on pros and cons of block grant programs. Examination of legislative requirement that benefits be targeted toward the poor, judicial interpretations in response to legal challenges. How does the structure of the block grant program increase or diminish likelihood of discrimination?</p> <p>Readings:</p>

	<p>Schwartz , Excerpts from Ch. 7, pp. 157-162, 171 (bottom) - 176 and Ch. 9 pp. 209-218.</p> <p>TWEN – Course Materials (Case Excerpts): <i>National Wildlife Fed. v.</i>; <i>Bradley v. HUD</i>; <i>James v. City of Dallas</i> (both district court case & 5th Circuit decision); <i>Meija v. U.S. Dept. of Housing and Urban Dev.</i></p> <p>TWEN – Web Links: Orlebeke, “The Evolution of Housing Policy, 1949 to 1999”, <i>Housing Policy Debate</i>, pp. 489-502, 505-510, http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1102_orlebeke.pdf</p> <p>Optional Recommended Reading: TWEN – Web Links: Hirsch, "'Searching for a Sound Negro Policy': A Racial Agenda for the Housing Acts of 1949 and 1954" http://www.knowledgeplex.org/showdoc.html?id=1310&p=1</p>
<p>Class 6 Fri., Mar. 19</p>	<p>Occupancy of Public Housing: Legal and Policy Changes, 1969-1983. Lecture: review of major legislative changes (Housing Act of 1949, Brooke Amendments, federal preferences) affecting character of public housing, 1949-1983. Discussion: What were the intended and unintended consequences of these changes in federal housing law? How did legislative changes and implementing regulations create new individual rights?</p> <p>Readings: Schwartz: Excerpt from Ch. 6, pp. 128-143 (top). TWEN – Course Materials (Other Assigned Readings): 1949 Housing Act §§ 301 & 302; TWEN - Course Materials (Article Excerpts): Alexander Polikoff, “Gautreaux and Institutional Litigation” TWEN - Course Materials (Case Excerpts): <i>Wright v. Roanoke Redevelopment and Housing Authority</i>; <i>Cuyohoga Metropolitan Housing Authority v. Harmody</i>; <i>Jaimes v. Toledo Metropolitan Housing Authority</i>; <i>Johnson v. Housing Authority of Jefferson Parish</i> (<i>skim Johnson</i>)</p>
<p>Class 7 Tues., Mar. 23</p>	<p>Tenant-Based Subsidies – the Wave of the Future? Lecture: Introduction of tenant-based subsidies; evolution of Section 8 program culminating in Housing Choice Voucher program. Discussion: Consider rationales for and against movement toward tenant-based assistance. What barriers exist to participants’ use of vouchers? What rights do private owners have to refuse to participate – or to a guaranteed rate of payment if they do participate?</p> <p>Readings: Schwartz, Ch. 8, pp. 177 - 207. TWEN – Course Materials (Case Excerpts): <i>Comer v. Cisneros</i>; <i>Cisneros v. Alpine Ridge Group</i>; <i>Attorney General v. Brown</i>; <i>DiLiddo v. Oxford Street Realty, Inc</i> TWEN – Web Links: Winnick, "The Triumph of Housing Allowance Programs" pp 110-119, http://www.huduser.org/periodicals/cityscape/vol1num3/ch7.html</p>
<p>IV. INDIVIDUAL RIGHTS: ISSUES RELATING TO ADMISSION TO AND</p>	

OCCUPANCY OF FEDERALLY ASSISTED HOUSING	
Class 8 Fri., Mar. 26	<p>Civil Rights in Housing (guest lecture – Henry Korman) Readings: <i>Schwartz</i>: Excerpts from Ch. 11, pp. 253-264. <i>TWEN – Web Links:</i> <i>U.S. ex rel. Anti-Discrimination Center of Metro New York v. Westchester County</i>. <i>TWEN – Course Documents (Article Excerpts):</i> Henry Korman, “Underwriting for Fair Housing? Achieving Civil Rights Goals in Affordable Housing Programs”; Elizabeth K. Julian, “Fair Housing and Community Development: Time to Come Together”; and Henry Korman, “Deliberate Disregard: How HOPE VI Reauthorization Ignores Legacies of <i>De Jure</i> Segregation” (unpublished article) <i>TWEN – Course Documents (Case Excerpts):</i> <i>United States v. City of Parma</i></p>
Class 9 Tues., Mar. 30	<p>Fair Housing: Federal Affirmative Duty to Promote Fair Housing; The Limits of Fair Housing Policy: "Managed Occupancy" and Integration Maintenance. What are the parameters of the affirmative obligation imposed on the Federal government to promote fair housing objectives? What is the role of the courts in enforcing this obligation? How does – or should – the law distinguish between inclusion of one group and exclusion of another? What, if any measures, to maintain racial balance are permissible?</p> <p>Readings: <i>TWEN – Web Links:</i> Excerpts from federal regulations (24 CFR 1.4) and statutes (42 U.S.C. §§ 3604, 3605, 3606 and 3608 <i>TWEN – Course Materials (Case Excerpts):</i> <i>N.A.A.C.P., Boston Ch. v. Secretary of Housing and Community Development</i>; <i>N.A.A.C.P., Boston Ch. v. Kemp</i>; <i>Raso v. Lago</i>; and <i>United States. Starrett City Associates</i>.</p>
Class 10 Fri., Apr. 2	<p>Getting In the Door: Tenant Selection and Admissions to Public Housing and Federally Assisted Private Housing. How have the courts interpreted the obligations of public and private landlords in response to equal protection claims by prospective residents? What other factors may have influenced judicial actions? Examination of interplay between judicial decisions, federal rulemaking and actual tenant selection practices.</p> <p>Readings: <i>TWEN – Web Links:</i> HUD regulations re admission to public housing, 24 CFR Part 960 (Subpart A §§ 960.101-960.103 and Subpart B, §§ 960.200-960.208) <i>TWEN – Course Materials (Case Excerpts):</i> <i>Holmes v. NY City Housing Authority</i>; <i>Billington v. Underwood</i>; <i>Colon v. Tompkins Square Neighbors, Inc</i>; <i>Ressler v. Pierce</i>; <i>Edison v. Pierce</i> <i>TWEN – Course Material (Other Assigned Readings):</i> Sample Admissions and Occupancy Policy, Parts 1 and 2 (pp. 1-21).</p>
Class 11 Tues., Apr. 6	<p>Class 11 (July 2): Substantive Due Process and Evictions from Federally Assisted Housing. Examination of statutory and regulatory provisions and judicial</p>

	<p>interpretation. How did the courts respond to tenants' due process claims in eviction actions? On what basis did the courts evaluate such claims in the context of privately owned assisted housing?</p> <p>Readings: TWEN – Web Links: Excerpts from HUD regulations re leases and grievance procedures, 24 CFR Part 966 (Subpart A, §§ 966.4(l), 966.6, and Subpart B, §§ 966.50-557) TWEN – Course Materials (Case Excerpts): <i>Rudder v. United States (skim)</i>; <i>Thorpe v. Housing Authority of the City of Durham (skim)</i>; <i>Escalera v. New York City Housing Authority</i>; <i>Caulder v. Durham Housing Authority</i>; <i>Joy v. Daniels</i>; <i>Carter v. Lynn Housing Authority</i>; <i>Simmons v. Drew</i> TWEN – Course Materials (Other Assigned Readings): Sample Admissions & Occupancy Policy, Parts 3 and 4 (pp. 22-28)</p>
<p>V. AFFORDABLE HOUSING DEVELOPMENT TODAY: MARKET CHALLENGES AND COMPETING PUBLIC AND PRIVATE AGENDAS</p>	
<p>Class 12 Fri., Apr. 9</p>	<p>LIHTC basics: Lecture: In-depth examination of mechanics of tax incentives for private investment in affordable housing. Focus on defined terms as key to understanding complex statute. Illustration through case study.</p> <p>Readings: Schwartz: portions of Ch. 4, pp. 96-101, and most of Ch. 5, pp. 103-120 top and Appendix pp. 123-124. TWEN – Web Links: Section 42 of the Internal Revenue Code subsections 42(a) – (c), 42(d)(1), 42(d)(2)(A) – (C), 42(d)(5), 42(e), 42(f)(1), 42(g)(1) & (2), 42(i)(1) – (5); Stearns, Low-Income Housing Tax Credit: A Poor Solution to the Housing Crisis, 6 Yale Law & Policy Review 203, pp. 203-215 TWEN – Course Materials (Other Assigned Readings): A Note on Basis; Section 42 worksheet (please complete in advance of class)</p>
<p>Class 13 Tues., Apr., 13</p>	<p>HUD, the IRS and the Marketplace: Challenging Legal and Practical Issues. Lecture: Highlights of technical issues raised by combining multiple sources of federal funds in a single transaction; the collapse of the tax credit market and the Federal response. Discussion: As illustrated by case study, how is the deal shaped by competing legal restrictions, public policy and private interests? Readings: (Additional readings may be assigned – check for updates) Schwartz: excerpt from Ch. 5 pp. 120-123. TWEN – Web Links: Review portions of Section 42 listed under Class 7 above plus IRC Section 42(h)(6) TWEN – Course Materials (Other Assigned Readings): Worksheet re federally financed transactions (please complete in advance of class); Anytown, USA case study, Part I; Anytown sample Sources and Uses statement.</p>
<p>Class 14</p>	<p>Meshing Public and Private Interests: Private Contractual Arrangements and</p>

Fri., Apr. 16	<p>Regulatory Restraints. <i>Lecture:</i> Role of partnership agreement and regulatory agreements as mechanisms to translate federal tax incentives and operating subsidies into "real world" business relationships and funding for housing development and operation. <i>Discussion:</i> Focus on business and financial implications of legal requirements as reflected in deal documentation.</p> <p><u>Readings:</u> <i>Schwartz:</i> Excerpts from Ch. 12, pp. 303-310; excerpts from Ch. 6, pp. 143-149 (top). <i>TWEN Course Documents (Other Assigned Readings):</i> LLC operating agreement; sample Regulatory and Operating Agreement; Anytown case study, Part II</p>
Class 15 Tues., Apr. 20	<p>Mock Negotiation – Partnership Agreement; Focus on Qualified Action Plan - Implementation of Policy Goals at the State Level. Following student-led <i>mock negotiation</i> of partnership agreement, as time permits <i>discussion</i> will turn to policy issues raised by qualified allocation plan (to be continued in Class 16 as needed).</p> <p><u>Readings</u> <i>TWEN – Web Links:</i> Draft 2010 Massachusetts Qualified Allocation Plan (selected sections only, to be announced); IRC Section 42(h)(5)(A)-(C) <i>TWEN – Course Materials (Case Excerpts):</i> <i>In Re Adoption of The 2003 Low Income Housing Tax Credit Qualified Allocation Plan</i></p> <p><i>Exercise:</i> In preparation for class, each student should select 2 or 3 policy issues raised by QAP, be prepared to discuss how QAP could or should be modified to effect policy change.</p> <p><u>Assignment: Mock Negotiation.</u> Review case study and partnership agreement excerpts. Group to divide in half, with one half to represent the interests of the developer and the other half to represent the interests of the tax credit investor. Identify provisions of partnership agreement that are likely to be the subject of negotiation between the developer and the tax credit investor, and prepare arguments for each party's position (estimated time for class presentation: 20 minutes for each group). <i>All students are expected to participate.</i></p>
Class 16 Fri., Apr. 23	<p>Interplay with Laws re Tax-Exempt Organizations. <i>Lecture & discussion:</i> Focus on role of non-profits in housing development, particularly issues relating to IRS treatment of non-profit guaranties in LIHTC transactions. Why do non-profits have such a key role in housing development? What are pros and cons of non-profit participation, and how do joint ventures with for-profit equity investors affect goals & outcomes?</p> <p><u>Readings:</u> <i>Schwartz:</i> Excerpts from Ch. 9, pp. 231 (bottom) - 237 <i>TWEN – Web Links:</i> <i>Housing Pioneer v. Commissioner of Internal Revenue</i> <i>TWEN – Course Materials (Case Excerpts):</i> <i>Plumstead Theatre Society, Inc. v. Commissioner of Internal Revenue</i> <i>TWEN – Course Materials (Other Assigned Readings):</i> IRS memo re Low Income</p>

	Housing Tax Credit partnerships(required); Rubin & Klein articles re non-profit guaranties (optional)
VI. RESIDENTS REVISITED: THE QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998 AND HOPE VI; EXPIRING USE RESTRICTIONS AND “PRESERVATION” OF PRIVATELY OWNED AFFORDABLE HOUSING	
Class 17 Tues., Apr. 27	<p>Quality Housing and Work Responsibility Act of 1998: Getting Tough. <i>Lecture:</i> Examination of key elements of major public housing reform legislation; <i>discussion</i> of legal and policy issues associated with controlling crime in public housing.</p> <p><u>Readings:</u> <i>Schwartz:</i> Excerpts from Ch. 6, pp.149-155 <i>TWEN – Course Materials (Case Excerpts):</i> Department of Housing and Urban Development v. Rucker; Pratt v. Chicago Housing Auth. <i>TWEN – Course Materials (Article Excerpts):</i> Mark D. Rosen, “Our NonUniform Constitution: Geographical Variations of Constitutional Requirements in the Aid of Community”; Anne C. Fleming, “Note: Protecting the Innocent: The Future of Mentally Disabled Tenants in Federally Subsidized Housing After HUD v. Rucker” <i>TWEN – Web Links:</i> United States Department of Housing and Urban Development, “Public Housing Residents and the New Legislation: How Does the New Public Housing Law Affect Me?” available on-line at http://www.hud.gov/offices/pih/phr/about/resident.pdf (pp. 1-5)</p>
Class 18 Fri., Apr. 30	<p>Vanishing Units: HOPE VI and “Expiring Use” Properties. <i>Discussion</i> will focus on (1) legal and practical issues for public housing residents impacted by revitalization activities, and (2) the effect of expiring Federal use restrictions in privately owned, Federally subsidized housing on residents and the affordable housing inventory.</p> <p><u>Readings:</u> <i>Schwartz:</i> excerpts from Ch. 7, pp. 162-171 (bottom). <i>TWEN – Web Links:</i> GAO report on HOPE VI, pp. 1-35 (<i>recommended background reading</i>) <i>TWEN – Course Materials (Other Readings):</i> Memorandum of Understanding between residents and housing authority <i>TWEN – Course Materials (Case Excerpts):</i> Darst-Webbe Tenant Association Board v. St. Louis Housing Authority; Darst-Webbe Tenant Association Board v. St. Louis Housing Authority; People to End Homelessness, Inc. v. Deluco Singles Apartments Associates.</p>
VII. LOCAL POWER: EXCLUSIONARY ZONING AND COUNTERMEASURES	

Class 19 Tues., May 4	<p>Exclusionary Zoning. <i>Lecture:</i> Historical context, exclusionary zoning in practice. <i>Discussion:</i> How do municipalities use the zoning power to exclude affordable housing in general and members of protected classes in particular? What standards have the courts applied in evaluating challenges to exclusionary zoning?</p> <p><u>Readings:</u> <i>TWEN – Course Materials (Case Excerpts):</i> <i>Kennedy Park Homes Ass’n v. City of Lackawanna</i>; <i>Village of Arlington Heights v. Metropolitan Housing Dev. Corp.</i> [Arlington I]; <i>Metropolitan Housing Dev. Corp. v. Village of Arlington Heights</i> [Arlington II]; <i>Huntington Branch, NAACP v. Town of Huntington</i>; <i>Cleburne Living Center (skim)</i>; <i>Metropolitan Housing Dev. Corp. v. Village of Arlington Heights</i> [Final District Court Decision]</p>
Class 20 Fri., May 7	<p>Inclusionary Zoning and Other Incentives for Development. <i>Lecture & discussion:</i> Examination of judicial and legislative attempts to combat local exclusionary zoning.</p> <p><u>Readings:</u> <i>Schwartz:</i> excerpts from Ch. 9, pp. 224-230. <i>TWEN – Web Links:</i> Robert F. Liberty, “Abolishing Exclusionary Zoning: A Natural Policy Alliance for Environmentalists and Affordable Housing Advocates”; Northeastern CURP report, <i>Building on our Heritage: A Housing Strategy for Smart Growth and Economic Development</i> (Executive Summary, pp. 1-6; Solving the Affordability Crisis, pp. 19 – 21 <i>only</i>) <i>TWEN – Course Materials (Case Excerpts):</i> <i>So. Burl. Cty., N.A.A.C.P. v. Tp. Of Mt. Laurel</i> [Mt. Laurel I](<i>required</i>) & [Mt. Laurel II] (<i>recommended</i>)</p>
Class 21 Tues., May 11	<p>Affordable Homeownership: Dream or Nightmare? <i>Lecture & discussion:</i> Examination of public programs to encourage homeownership among low- and moderate-income households, and the devastating effect of the sub-prime mortgage meltdown and foreclosure crisis on individuals and communities.</p> <p><u>READINGS:</u> <i>Schwartz:</i> Excerpts from Ch. 3, pp. 51-80 (top), 84-87; Ch. 4, pp. 89-96; Ch. 12, pp 291-303 (middle) <i>TWEN – Course Materials (Case Excerpts):</i> <i>Jackson v. Novastar Mortgage, Inc.</i>; <i>NAACP v. Ameriquet Mortgage Co.</i></p>
Class 22 Fri., May 14	<p>TO BE DETERMINED – it is likely that we will slip a little on the syllabus during the semester, in which case we will shift classes forward as needed; if not, an additional topic will be scheduled for this period.</p>

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The final take-home exam will be due at noon on Friday, May 21.
Exams must be submitted electronically using PlanetSSI (instructions to be circulated)
There will be no in-class final exam.