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## Fighting Foreclosure in Boston

Sasha Abramsky | June 15, 2011

Twenty-four-year-old Harvard Law School student Sam Levine parks the silver Nissan hybrid he has driven into Boston's working-class Mattapan neighborhood. The wind hits him in the face as he steps onto Thetford Avenue. He is wearing black jeans, his dark hair slightly mussed and gelled into place. With him are two fellow students, third-year Marielle Macher and second-year Avis Bohlen. Marielle is wearing a coat under which is a red T-shirt with the words PROJECT NO ONE LEAVES written on the front. Avis is power-dressed in a skirt and svelte sweater. The trio could pass for actors in a Gap ad.

It had taken about an hour to reach Mattapan from the Harvard Legal Aid Bureau, with Sam navigating Boston's notorious traffic. During the ride, the group passed the time talking about jobs they were lining up for the summer and musing on the female voice commands of Marielle's GPS gadget. The students believe "she" is moody today.

As the lawyers-in-training approached their target neighborhood—cruising the back streets past Harambee Park, where a gaggle of long-necked geese spotted the grass, into a landscape of ramshackle, untended homes—they read off a list of twenty-four recently foreclosed properties published in a local realty journal. They are stopping at each house on the list, scouting to see if the property seems abandoned (broken or boarded-up windows, weeks of uncollected mail, trash strewn in the yard and so on). If it does, they move on. But if there is even a glimmer of a chance that the house is still inhabited, they park and approach the front door. When a resident answers, they quickly go into their patter about foreclosure rights and the danger of scam artists—who may be (or may already have been) in contact, promising the moon in exchange for a few thousand dollars—and they explain that Harvard's law students are willing to work gratis on the case.

When no one's home, they hang a red plastic bag on the door knob or slip it through the mail slot. Inside is literature about the foreclosure process; the Legal Aid Bureau, which has been working with several other regional law schools to offer legal services to owners and tenants facing foreclosure; and Project No One Leaves (PNOL), a consortium made up of lawyers, activists and a community development financial institution that is pursuing an innovative strategy to keep local residents in their homes.

Since the housing market collapsed, more than 3,500 homes in Boston have gone into foreclosure; some weeks, more than 100 properties are repossessed. In this city, as elsewhere in the country, a disproportionate number of shoddy subprime loans were issued to African-Americans—their terms deliberately obfuscated, their punitive provisions setting up borrowers to fail. As a result, from 2006 onward a huge number of the foreclosures in Boston have claimed properties owned by African-Americans. The scale of the dispossession is threatening to wreck not just individual aspirations but entire neighborhoods.

Boston Community Capital (BCC), the literature explains, has been buying distressed properties from banks and then selling them back to the original owners at just above the current market value, thus allowing the owners to stay in their homes with a more affordable monthly payment on a new, fixed-rate mortgage. It's a good deal for everyone involved: the banks sell the foreclosed properties for more than they would typically expect, the owners get to keep their homes, neighborhoods that would otherwise end up increasingly abandoned and dilapidated get a shot at staying afloat, and BCC captures funds by selling the property at 25 percent more than what it paid. BCC also locks in a chance at bringing in more money by having each owner sign an agreement stipulating that BCC will receive a share of the profit if the owner flips the home, a move that encourages residents to stay put.

Since May 2010, BCC has purchased fifty-five properties, containing a total of 125 units. "More than \$15 million in lending," BCC head Elyse Cherry avers—and an impressively low default rate of 2 percent. Over the coming years, BCC hopes to buy back hundreds more homes, mostly in Boston's impoverished working-class communities.

Not surprisingly, the model is attracting national attention. In a speech in April, Federal Reserve chair Ben Bernanke cited BCC's efforts as a welcome example of how "local communities are meeting the challenges of tough times." Lawyers and law students from Miami, Baltimore, Chicago, New York, Detroit, California and Washington recently attended a conference at Harvard about replicating the methods of Project No One Leaves. And other financial institutions and credit unions have expressed interest in providing the sorts of services BCC offers.

It's telling, too, that advocates across the country are looking to Boston rather than Washington for guidance on how to push for mortgage modifications. As the housing slump drags on, the Obama administration is proving increasingly unable to turn it around. Large banks, facing state and federal investigations into their handling of the foreclosure tsunami and bracing for big financial penalties, have dodged and weaved in their attempt to avoid culpability. In such a sluggish environment, the PNOL approach stands out for its creativity and effectiveness in helping ordinary homeowners the government has signally let down.

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"On the foreclosure work, we're really the last line of defense," notes Harvard Law professor David Grossman, who directs the school's Legal Aid Bureau. "We're the army fighting Wall Street."

Grossman, a longtime housing attorney who has worked on the anteforeclosure campaign for the past couple of years, has three Harvard degrees: a bachelor's in biology, a master's from the Divinity School and a law degree. (He graduated from Harvard Law in the same class as Michelle Obama, a noted Legal Aid Bureau alum.)

Grossman clerked for the Israeli Supreme Court in the late 1980s. Since 1995 he has been teaching at Harvard Law School, where he focuses his efforts on promoting social justice lawyering. His interest comes, he says, from his understanding of the ethical core of Judaism—what he refers to as *tikkun olam*, the obligation to "repair the world." With the housing crisis, he has found a scandal large enough to match his sense of duty.

"I see the fallout from the way our political system and economic system work," he says. "This is a product of Wall Street greed, a lot of it. For the first couple years of this, every foreclosure we were seeing was the result of a predatory loan." Homeowners, he insists, got duped into signing awful deals. "The rates they got were horrendous. And it was race-based, no question about it."

Grossman, who is in his early 50s, sports a brown-going-on-ginger goatee. In casual settings, he wears

sunglasses pushed up on his forehead, even when there's no sun outside, and he drinks a lot of Coke. A street map of Boston is tacked up on a wall in his office. Opposite it hangs a sepia photo of four Red Sox players from a distant era.

Although Grossman is an out-of-towner, he's been in the Boston area long enough that he almost sounds like a local. He speaks fast, his vowels drawn out like those of a native son. He knows he can't stop foreclosures. But he can, he says with a touch of pride, alter the cost-benefit analysis for banks when it comes to evicting delinquent owners and their tenants. On most weekends, and some weeknights, groups of his students canvass Boston's geography of despair, trying to inform owners and tenants of their rights in the face of aggressive bank actions to evict them. He and his students regularly represent residents from neighborhoods like Mattapan during hearings at the downtown Boston Housing Court, making enough of a pain of themselves that the banks' attorneys—none of whom would talk to *The Nation* for this article—frequently decide that it is in their clients' best interests to work out a deal. Sometimes the attorneys will back off their eviction proceedings; other times they'll agree to pay the occupants a pretty large sum to move out. (Such payments are labeled "cash for keys.") Absent legal intervention, residents usually settle for a few thousand dollars. With the backing of good lawyers who know how to string cases out for months or even years, the payment can increase several-fold.

The program, says Housing Court judge Jeffrey Winik, helps to balance the scales of justice, providing representation to those who otherwise would have none. At the same time, it forces these students, who are slated to enter society's most elite strata, to remain grounded. "It's an opportunity to make sure their eyes stay open," Winik explains during a brief lunch break between cases. "These are the folks who are going to be making the laws in the next twenty-five to thirty years. I want them to understand there's a world out there that lives week to week, paycheck to paycheck." Winik, who also teaches law at Boston University, pushes the students when they argue before him—asking them challenging questions, forcing them to think on their feet and develop complex legal arguments around the issue. Afterward, Grossman huddles in the hallway with the students and critiques their performance. He's as rigorous as any moot court judge, and his students seem to thrive on the criticism.

Sam, Marielle and Avis knock on the door of the Thetford Avenue house they have identified as being at risk of foreclosure. A young African-American man answers. Sam, businesslike, introduces the team and tells the man that the home he is living in is going into foreclosure. Is he the owner? No, says the guy. He's the tenant; the owner lives next door. Did the tenant know this home was about to be sold out from under the owner? No, the man replies. No one had mentioned anything to him.

Sam gives the man two bags of PNOL material and asks him to pass one along to the owner. As the students head back to the car, however, the owner materializes from what looks like a basement flat next door. They stop and talk with him, find out his story. He is a Boston cop, he says, and he bought the home from his parents in 1985, intending to rent it out for extra cash. As its value skyrocketed during the housing boom, he refinanced and then refinanced again, taking on one dubious adjustable-rate subprime loan after another. At its peak, the home was worth \$560,000 and he owed \$470,000 on it, with monthly payments of \$2,800.

As it turned out, that was just the teaser rate. When the variable rate kicked in after three years, his mortgage payments jumped to \$4,000. At the same time, the value of the property collapsed to about \$280,000, making it impossible for him to refinance. Despite his policeman's salary, he fell behind on payments; in January 2010 he stopped paying entirely, and the bank began foreclosure proceedings.

Similar stories can be heard all over town. "We discovered the average outstanding mortgage amount [in Boston's hardest-hit neighborhoods] was \$325,000," explains BCC's Elyse Cherry. "But if you applied any kind of underwriting criteria, the average mortgage they could support was somewhere in the region of \$150,000."

In the Housing Court, there's 38-year-old Sophia Marks, a secretary who took out a fixed-rate mortgage for \$326,000 in 2005 and then watched in horror as her home's value dropped to \$160,000 and her husband got laid off from his job with the city's transit authority. Despite Sophia's attempt to avoid foreclosure by wiring thousands of dollars to the company that held her mortgage, her home was eventually sold out from under her for \$166,500. She and her husband remain in the home, periodically returning to the Housing Court in an effort to persuade the new owner to sell it to BCC so that BCC can sell it back to them.

Also in the Housing Court is 59-year-old Y. Heather Gordon, a onetime JPMorgan Chase bank employee who bought a fixer-upper in Jamaica Plain in 1992 and slowly turned it into a decent home for herself, her two grown sons (both of whom are now back at home after losing their jobs in the recent downturn) and, on weekends, her three young grandchildren. After she went on disability in 2002, she embarked on a series of refinancing ventures, borrowing against the seemingly endless increase in her home's value to cover her daily expenses. By 2005 she owed \$287,000 on a home she had bought for only \$65,000, and her interest rate was 13 percent and rising. The last time she refinanced, she says, the company—a fly-by-night Internet operation that closed down immediately after securing her signature on a new loan agreement and selling the product to another lender—told her the monthly payment would be \$2,000; instead it was \$3,800. Within five months, she was facing foreclosure and the threat that her possessions would be thrown onto the street. She stayed in her home, taking what legal advice she could garner from Harvard Law students. Like Marks, she hopes the bank that owns her home will agree to sell it to BCC so that she can buy it back at a more reasonable price.

Despite the best efforts of Grossman's team, not all foreclosure victims win their courtroom battles. Increasingly, that's when on-the-ground activists step in to stop people from getting kicked to the curb.

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Four days after Sam, Marielle and Avis knocked on his door, the foreclosed homeowner from Thetford Avenue walks in late to a weekly ant foreclosure meeting organized by City Life/Vida Urbana, a community organizing group in Jamaica Plain. By the time he arrives on the second floor of the old brick Haffenreffer brewery, about 100 people are present. Some of them are community organizers; others are Harvard Law School students who had been driven to the event by Grossman. Most of them are foreclosure victims: disproportionately poor, overwhelmingly African-American. People like Osazee Egharevba, who lost his job in 2008, spent a year trying fruitlessly to secure a loan modification from his bank and went into foreclosure in September 2009—by which time his home, not long earlier worth \$512,000, was valued at a mere \$210,000. Over the first several months of 2010, the lawyers and law students from the Harvard Legal Aid Bureau negotiated a sale with Egharevba's bank. In late April, he was able to buy back his home from BCC for \$225,000. Thankful for his second chance, he now turns up at City Life every week and often helps canvass at-risk neighborhoods.

Off to the side of the rows of fold-up metal chairs stands a big bookshelf, on top of which are two stage props: a huge sword and an equally imposing shield on which, in lieu of a coat of arms, is the simple outline of a house and the words No One Leaves. The props represent City Life's "sword and shield" strategy, the sword being direct action (vigils, sit-ins, protests against banks seeking to evict people, blockades against sheriffs trying to remove residents and their possessions from a house slated for auction) and the shield being the detailed legal expertise provided by the Harvard Law students. Around the offices are an array of bumper stickers with slogans like Tenants Vote: Boston Tenant Coalition and Trabajos con Justicia/Jobs With Justice. There are Malcolm X quotes and a diamond-shaped orange banner adorned with the words Enough Is Enough! ¡Basta Ya!

"When we took up the foreclosure battle, we found a way to approach it from an organizing way rather than a casework way," says 62-year-old Steve Meacham, a longtime community organizer who has worked for City Life for the past eleven years. "Casework is important but individualized. An organizing approach

says we do it in a more collective way, that challenges the problem, doesn't just stick the finger in the dike."

A skinny guy with an intense, steely gray-eyed stare, Meacham seems like an organizer who takes his campaigns very seriously. Under his and others' tutelage, many City Life members have learned not just to formally protest foreclosures but to take action against banks attempting to evict residents who have fallen on hard times. Since 2007 City Life has arranged more than twenty blockades to prevent evictions from going ahead, most of which have been successful. The group has also effectively pushed BCC to become more involved in buying back distressed homes.

When the discussion section of the weekly meeting ends, the organizers lead a shout-out. "What do we do when the banks attack?" they ask their audience. "Stand up, fight back!" 100 people roar. "What do we do when the banks attack?" The audience members rise up out of their seats, fists clenched and pointing skyward. Grossman and his students stand too. "Stand up, fight back!"

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