
THE SAN JOSE HOUSING SERVICE CENTER

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As recently as the end of World War II, San Jose was a quiet, relatively obscure community that served as the commercial center of California's largely agricultural Santa Clara Valley. With a population of about 90,000, it was really more a large town than a city, and it certainly did not begin to rival San Francisco, fifty miles to the north, as a metropolitan center. In the spring, families from San Francisco and other communities bordering San Francisco Bay would drive to San Jose and to the Santa Clara Valley to see the thousands of blossoming fruit trees in the valley's seemingly endless orchards.

Yet within a little more than three decades, San Jose has emerged as one of California's largest and most important cities. Now home to almost 600,000 persons, it ranks twentieth in the nation in population and is the fastest growing city among the top twenty-five. The orchards are gone, replaced by miles of indistinguishable housing developments and deceptively modernistic factories, housing the valley's booming electronics industry. Bay Area residents have come to think of San Jose as representing the worst in urban sprawl, with dirty air, traffic-choked roads and freeways, and an absence of any sort of clear community identity.

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Housing is San Jose's largest industry. Even though the city's growth rate has slowed somewhat from the almost unreal pace of the 1950's and 1960's, enough new residents move to San Jose each year that housing is always in short supply, and new construction begins as fast as developers can get the necessary permits. The local political scene is dominated by a fierce struggle between development interests and associations of area residents seeking to preserve the valley's few remaining areas of open space.

Inflation, the continually increasing demand for housing, the occasional political successes of the anti-growth forces and, not least, the developers' desire for the fortune to be made in Santa Clara Valley real estate, have combined to drastically increase the cost of San Jose housing. The average home price has increased from less than \$40,000 in 1974 to more than \$80,000 as of the end of 1978. While the county's median household income is relatively high by national standards, the county's growth has not kept pace with the runaway ascent of housing prices. For the last two years, a household at or below the median income level simply has not had enough income to purchase a home in any but the county's poorest areas.

Rents also have risen at a phenomenal rate, increasing by fifty to one hundred percent over the past five years. In many cases, amateur speculators hoping to cash in on the housing crunch have purchased rental property at grossly inflated prices and then doubled or tripled rents in order to meet their mortgage payments. Despite the repeated promises of landlord groups that rents would be cut as a result of the passage of Proposition 13, which slashed property taxes throughout the state, few tenants have received significant decreases, and many have actually received additional increases. Unlike a number of eastern states, California has virtually no rent or eviction control, and tenants, in light of their large numbers, are surprisingly ineffective as a political force.

San Jose's Housing Service Center was founded in 1975, when a sharply divided City Council awarded \$160,000 in Community Development Block Grant (CDBG) funds to the San Jose Community Tenants Union to provide counseling and information about housing problems to low- and moderate-income San Jose residents. How the Tenants Union, which for several previous years provided downtown San Jose tenants the same service on a voluntary basis, won the confidence and votes of the council majority is a story in itself, one in which City Hall rivalries and intrigue played as large a part as the Tenants Union's favorable track record and community support. The center opened on August 1, 1975, with a full-time staff of six, including a director, a secretary, two default

and budget-planning counselors and two landlord-tenant counselors. The center contracted with two attorneys, experienced in the landlord-tenant field, to provide staff training, legal consultation and representation in appropriate cases.

From the beginning, it became clear that the new project was addressing a widely felt need in its community. Nearly 500 clients called the center during its first month of operation, with more than 5,473 having been served by the end of its first fiscal year. An emergency housing component (eight units were managed by the center for persons needing temporary shelter) proved so popular that it became unworkable, being able to accommodate only a fraction of the eligible households requesting the service. The component was later found to be inconsistent with CDBG regulations and was dropped. Center attorneys appeared in court with nearly as much regularity as public defenders, slowly introducing local courts to the implied warranty of habitability, retaliatory eviction and other doctrines, accepted by California's appellate courts, but rarely applied at the municipal (trial) court level.

The load became such that the center took the lead in establishing, with the sponsorship and valuable assistance of the Santa Clara County Bay Association's Lawyer Referral Service, a special landlord-tenant panel whose members accept cases referred by the center on a reduced-fee sliding scale. Center staff participated in panel operations by screening clients for financial eligibility, and center attorneys provided intensive training in landlord-tenant law to panel members. The panel was and still is one of the first such low-fee private legal resources in the county.

The center has grown significantly since 1975, with the assistance of additional CDBG funds from the city, housing counseling grants from HUD, and a series of special project grants under the Comprehensive Employment and Training Act (CETA). The original staff of six has expanded to twenty-two. Services currently provided include not only basic landlord-tenant and default counseling (by telephone and by appointment), but also HUD-licensed home ownership counseling, landlord-tenant dispute mediation, and fair housing counseling (including discrimination checks to help apparent discrimination victims determine whether discrimination actually occurred). Likewise, the center provides various special projects involving a liaison with community groups working for the development of adequate, affordable housing for the center's client population. Center attorneys provide staff training and, with the assistance of the bar association panel, legal assistance to clients, as well as an ongoing program of free public classes on the rights of renters and owners.

The center's staff is an extremely diverse group in terms of experience, age, education, ethnicity, economic background, and specific skills. This diversity has been quite beneficial to the center in addressing the needs and understanding the problems of its equally diverse client community. The center's board of directors, which began as an inexperienced but idealistic group of Tenants Union activists and friends, also has evolved into an eclectic, broadly representative group. The board has strong community ties and a growing sense of confidence in overseeing the affairs of a large and increasingly visible public service agency.

Disputes between renters and owners are by far the center's greatest source of business. Questions about termination notices, rent increases and unrefunded security deposits keep the phones ringing almost constantly, particularly around the first of a month. Complaints about discrimination, not only on the "traditional" bases of race, sex, religion or national origin, but also increasingly against families with young children, are also part of the daily routine.

Calls from tenants outnumber calls from landlords about ten to one. This disparity once nearly cost the center its city funding when a conservative councilman charged that the center was not distributing services equitably between tenants and landlords. Despite the fact that San Jose's tenant-to-landlord ratio is almost certainly greater than ten to one, despite several center-sponsored educational forums for owners and managers, and despite the center's firm policy of serving either tenant or landlord so long as one is financially eligible for its services, the center annually must justify its existence in the face of opposition from the local apartment owners' association and large individual and corporate landlords.

Most of the center's clients are served through telephone conferences with staff counselors or through appointments at the center's downtown San Jose office. Staff members answer informational questions and, in some cases, investigate clients' complaints to determine whether informal resolution is possible. One of the center's two attorneys maintains regular office hours for staff consultations and is on telephone standby at most other times. Several criteria, including the seriousness of the complaint, the availability of other legal resources, and the importance of the legal issues involved, are used to determine if unresolvable cases are to be handled in-house or referred to the bar association panel.

The center's basic philosophy is to mediate rather than to litigate. Where the efforts of staff counselors to facilitate communication are unsuccessful, the center offers the additional resource of the Tenant-Landlord Hearing Committee, a city-sponsored board, appointed by the city

council, for which the center serves as administrative coordinator. The committee holds informal hearings and issues non-binding rulings in about 100 matters annually, with the parties abiding by the committee's decision in about ninety percent of the cases.

The amount of litigation handled directly by the center's attorneys has diminished somewhat from the organization's early days, when the attorneys were in court nearly every day. This diminution is partially attributable to the formation and continued vitality of the bar association panel, now handling many routine matters formerly handled in-house. Another factor is the increased sophistication and experience of the center's non-lawyer counselors, who over the years have developed a keen understanding of the day-to-day reality of landlord-tenant relations. These non-lawyer counselors have acquired the ability to spot truly serious or significant cases among the steady stream of problems with which they are asked to deal. Fewer client horror stories are taken at face value, and the increasingly skilled investigation by center counselors resolves many would-be cases before they ever progress to litigation.

When center attorneys do go to court, the results have been mixed. Many cases have been won or settled on terms relatively favorable to the center's client (usually a renter), and there is no doubt that the local municipal courts are more sensitive to landlord-tenant problems than they were four years ago. On the other hand, the basic structure of California landlord-tenant law makes many of these apparent victories essentially meaningless. While the center may be able to forestall an eviction because an owner has acted arbitrarily in serving a termination notice, virtually nothing prevents the same owner from evicting the same renter without cause two or three months later. Further, without any legal controls on evictions or rent increases, little can be done to protect the center's low- and moderate-income clients from inflation and speculation. Often only a psychological victory remains. Nonetheless, litigation can be used effectively as part of a larger political strategy. During the height of speculation-spawned rent inflation in the spring of 1977, the center began receiving complaints, particularly from older people on fixed incomes, of two- and three-fold rent increases. One eighty-one-year-old woman receiving \$296.00 per month in Social Security had her rent raised from \$140.00 to \$225.00 by a new owner. When asked why the increase was so drastic, the owner cited his \$400.00 per month mortgage payments on the rundown, aging property. Nothing in California law prevented the increase, which virtually resulted in a forced eviction of the center's client.

Here the center decided to file suit, as part of its strategy to call attention to the problems of fixed-income renters and to organize such renters

as a political force. A complaint for injunctive and declaratory relief was filed in the superior court, and a temporary restraining order against the rent increase and/or eviction of the tenant was sought. The grounds were mostly extrapolations from California appellate pro-tenant decisions, some involving discrimination against public assistance recipients and the aged, and arbitrariness in setting rental values. Amazingly enough, the court issued the temporary restraining order on a technicality (a defect in the notice of rent increase), and the publicity generated by the case eventually resulted in the center's client being offered alternative housing at a comparable price. At the client's request, the case was never pursued on the merits. Yet the case served as an important organizing tool, bringing many tenants, particularly senior citizens, together.

The center's attorneys take few appeals. The cost of pursuing an appeal is substantial. Moreover, California's Rules of Court and Code of Civil Procedure make it very difficult to mount a meaningful appeal in the typical landlord-tenant case. Judges are not required to issue findings of fact and conclusions of law in cases having less than \$1,000 in controversy, and jury trials, while allowed, are extremely rare. Without erroneous fact findings, legal conclusions, or jury instructions improperly given or refused, it is difficult to present an appellate court with an adequate record. More significantly perhaps, California tenants are not as a matter of right entitled to a stay of eviction pending appeal. Where trial judges are willing to grant a stay, they tend to require the posting of a substantial appeal bond. This bond is usually large enough to prohibit the center from pursuing an appeal, except in the most important cases. Nearly always the bond size prohibits appeal at the client's expense. Further, there are a number of bay area public interest law firms specializing in appellate work. For these reasons, the center gives a low priority to appellate practice, and concentrates on situations requiring more immediate attention.

There is no way of knowing for certain whether the center's activities have reduced the burden on local courts. Undoubtedly, many cases which would have been litigated without the center's intercession were resolved with the assistance of staff counselors or attorneys having a relationship with the center. The center's efforts in community law classes to teach owners and renters their rights likely have prevented a number of disputes based on ignorance or misunderstanding of the law. At the same time, it would not be surprising to find that many center clients who have gone to court did so because someone informed them of and encouraged them to assert their rights. Since civil caseloads have been increasing annually throughout Santa Clara County, meaningful official statistics are not available.

The center's basic contractual commitment to its various grantors is and always has been to inform low- and moderate-income San Jose residents of their housing rights and responsibilities. At the most fundamental level, this commitment is still the heart and soul of the center's work. Yet, serving the low- and moderate-income community has had a number of obvious implications for the center. In the last year or two, the organization's attention has turned increasingly to the economics and politics of housing itself. The center has actively supported the development of an increased supply of adequate low-cost housing for rental and purchase by low- and moderate-income persons. It has worked with senior citizen groups to improve housing options available to the aged, and with tenants' associations interested in establishing tenant-owned cooperatives in large HUD-subsidized projects. The center has been a major force in combating housing discrimination. Most recently, several staff members working on a CETA-funded special project completed a city-wide discrimination audit. The audit revealed that more than fifty percent of San Jose's apartment owners apparently discriminate against racial minorities.

As a non-profit, publicly funded corporation committed to serving both owners and renters, the center is somewhat limited in its ability to become involved in significant law reform efforts. Many landlord complaints appear to be no less legitimate on a case-by-case basis than tenant complaints, and many disputes referred to the center arise from personal differences and an inability to communicate, as much as systemic inequities. Still, the profound impact of San Jose's affordable housing shortage and California renters' relative lack of protection against dramatic rent increases and arbitrary evictions lie at the root of hundreds of the center's cases. The center has been effective in helping landlords and tenants understand each others' problems, and in protecting the rights of both groups under existing law. Yet the center has been less able to address the more fundamental problems created by viewing housing as a commodity rather than a basic right.

The center's involvement in the cooperative housing movement has been a notable bright spot in terms of long-range reform. Center staff and attorneys have been assisting one largely minority tenants' association for more than three years in its bid to acquire ownership of a HUD-sponsored project on San Jose's east side. The history of this attempt to change the basic economic relationships of low- and moderate-income housing has been fascinating. Local and federal officials, one of San Jose's largest developers (who presently owns the project), and a determined but frequently factionalized and disorganized group of tenants, face each other across a conference table and try to comprehend each

other's concerns. At this writing, cooperative ownership by the tenants has been promised by all concerned, but the timetable for implementation is still indefinite.

The center will continue to support low- and moderate-income cooperative housing whenever possible. It also supports creative efforts to build and rehabilitate low- and moderate-income housing units. During the past year, the center innovatively proposed to relocate several hundred rundown but structurally sound homes from the flight path of San Jose Municipal Airport to various pockets of the city's open space. The relocation was to be followed by rehabilitation and resale of the homes under HUD's Section 235 program. The entire package, which would require an estimated initial \$1.5 million investment, would ultimately be financed by sale proceeds. The price of these homes, about \$35,000-\$40,000 each, would bring at least these few dwellings within reach of the average San Jose household income. So far, the plan has been received with interest by local officials, but has been passed over for funding of downtown redevelopment and other commercially oriented projects.

The center's most enduring contribution has been to provide people with information enabling them to exercise their legal housing rights. This contribution has helped clarify the law of landlord-tenant relations and has encouraged people to resolve their disputes in a spirit of cooperation. Despite its rapid growth and its transformation from a voluntary, highly partisan Tenants Union project to a widely respected quasi-public agency, the center has not lost its basic orientation to helping clients and to a philosophy of advocacy rather than of problem management. The center has an insistent yet credible voice, calling attention to the housing problems of low- and moderate-income people.

The center's future depends largely upon the social, political and economic forces in this period of apparent conservatism and economic austerity. Clearly, these forces are beyond the center's control. Given the housing options for San Jose's low- and moderate-income households, it would be extremely difficult for the center's client community to lower its expectations. The center, which springs from and remains firmly committed to that community, is not likely to lower its expectations either.