



# HOME FOR THE HOLIDAYS

## STORIES FROM THE FRONT LINES

Kathleen Guthrie Woods

**J**oe and Eliana Martin\* had been living in their San Francisco apartment for twelve years. They had good relationships with their neighbors and long-term landlord, their young children were doing well in nearby schools, and they were able to stretch their dollars because of the protection of rent control. So when the new owner of the building asked them to relocate so he could remodel their unit, they declined. When he offered to buy them out, they declined. It was their home, and they knew they'd have few options in the inflated real estate market.

\*Names and details have been changed to protect everyone's privacy.

The Martins had also heard rumors that their new landlord had paid other tenants to move out so that he could raise the rents from the \$1,200 a month the Martins were paying to the market rate of \$2,700. They also knew he owned multiple properties around the Bay Area, so they were suspicious when he served them with an eviction notice indicating his intent to move his family into the Martins' unit.

The Martins contacted the Eviction Defense Collaborative (EDC) for help in responding to the notice and were referred to the Justice & Diversity Center (JDC) of The Bar Association of San Francisco. They were matched with a volunteer attorney through JDC's Eviction Defense Project, who went to work to uncover the landlord's true motives. Intrigued by the owner's spouse's claim that they wanted to move because of high crime rates in their current neighborhood, the attorney dug into police records. Sure enough, statistics proved that crime rates were significantly *higher* around the Martins' building. He presented this to the owner's attorneys, and the case was dropped.

Joe and Eliana were determined to put up a good fight to save their home, but they were also lucky they knew to ask for help and were directed to JDC. Fortunately, there is a network of hard-working people helping individuals and families during these challenging times, when the possibility of losing one's home feels like an imminent threat.

## SNAPSHOT OF THE HOUSING CRISIS

Keeping people from becoming homeless is a daunting task. According to the San Francisco Residential Rent Stabilization and Arbitration Board (the rent board), in this past fiscal year (ending June 30, 2016) the number of units withdrawn from the rental market increased from 191 to 273.

"In general, eviction notices are going up, but wrongful eviction notices are going down," says Robert Collins, the rent board's acting executive director. And while some evictees get money for relocation, finding an affordable place to move into can be challenging. At the end of September 2016, those seeking to find out how long they'd have to wait for Section 8 housing, the federal government's program for housing assistance, were informed that the waiting list is currently closed. "There's a lot of anxiety in our population," Collins says.

Opinions vary as to the root causes of the lack of affordable housing. Certainly the tech boom has brought new businesses and more people into the city, driving up rents, and landlords are investing more in trying to evict long-term tenants of rent-controlled units. It gets ugly when it appears that many of the most vulnerable tenants are disabled, low-income, non-English speakers, or are simply unequipped to understand the legal processes.

2,304

number of eviction notices filed during fiscal year 2015–16\*\*

273

number of units withdrawn from the San Francisco rental market during fiscal year 2015–16\*\*

2,000

number of clients served by JDC's Homeless Advocacy Project (HAP) in 2015

75%

percentage of HAP clients who have mental or physical disabilities

20%

percentage of new HAP clients who are seniors, age 60 or older

\*\*San Francisco rent board

Among the most visible are clients of JDC's Homeless Advocacy Project (HAP), whose office is in the heart of the Tenderloin. HAP clients are homeless or are at risk of becoming homeless, and may suffer from mental illness, a history of drug or alcohol abuse, and low or no income. About 75 percent have disabilities. "It used to be the Tenderloin was the place of last refuge, had the lowest rents," says Teresa Friend, director and managing attorney of HAP, "but it's becoming gentrified, too." HAP's eviction defense staff of two part-time and two full-time attorneys have seen their practice grow.

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The Eviction Defense Project, a pro bono program of JDC, has been in place for decades and is often on the front lines providing full-scope representation during eviction proceedings. Through its Housing Negotiation Project (HNP), volunteer attorneys provide limited-scope representation for low-income individuals and families being evicted.

Part of the challenge is the speedy eviction process. "All the timelines are shortened," says Tony Burchell, who handles eviction cases as the Right to Civil Counsel (RTCC) program staff attorney, a position that is funded by the City and County of San Francisco and is 100 percent free to qualifying clients. "A typical civil case runs thirty days. My cases run five days."

A landlord must have "just cause" for evicting, which might include habitual late payment of rent, breach of a rental agreement or lease, creation of a nuisance, or withdrawal of all rental units in a building from the rental market under the Ellis Act. But the combination of long-term tenants in

rent-controlled apartments plus the new laws is encouraging landlords, especially new owners, to get creative. Burchell tells the story of an owner who served an entire building of tenants for hanging their laundry out of their windows. Or a roommate with a dog that was approved with an oral modification by the previous owner but is now considered a breach of lease by the new owner because the change is not "on paper."

"Maybe renters paid in the middle of the month, and the old landlord didn't care," says Cary Gold, who has spent thirty years involved in tenant politics, including in her current role as supervising attorney for the Eviction Defense Project. But after a building has sold, tenants are evicted for nonpayment of rent on the first of the month. "Renters felt protected for so long, but now they're vulnerable and landlords can get three to four times the rent" says Taylor Pospichel, a HAP staff attorney. "Fights for those [rental units] are vicious." Gold also reports seeing a dramatic increase in owner move-in cases. "I saw maybe five cases in ten years. Now, it's fifteen to twenty cases in ten months."

"It's very taxing and scary when a landlord's attorney says you have to get out," says Mairi McKeever, director and managing attorney of JDC's Pro Bono Legal Services Program. It also becomes more complex when the client does not speak English. "It makes them so much more vulnerable," she says, but JDC is usually able to identify attorneys and interpreters who can help.

Without representation, people may settle or move without any compensation. "In a lot of cases, people [renters] cave in to the pressure," says Rohit Chhabra of Chhabra Law Firm, who volunteers for the Eviction Defense Project. "They think, 'I don't know what to do, I don't want to deal with the court.'" According to the 2014 *San Francisco Right to Civil Counsel Pilot Program Documentation Report*, published by the John and Terry Levin Center for Public Service and Public Interest at Stanford Law School, "Landlord attorneys tend to be repeat players, with expert knowledge of both the law and the adjudication process." Unrepresented tenants are at a clear disadvantage.

This is where JDC is making a significant contribution.



## IT TAKES A CITY

“This story,” Tony Burchell says, “tells how everyone across the city comes together to preserve someone’s housing.”

Elderly and disabled, Jeffrey\* was served with an eviction notice because he was unable to clean up his single resident occupancy (SRO) unit, and he had no place to go. He first reached out to San Francisco City Impact in the Tenderloin. He was eventually referred to HAP, which was at capacity, so HAP sent him to Burchell, JDC’s Right to Civil Council program staff attorney, for eviction defense.

One of the big challenges was that Jeffrey didn’t have a phone. To reach him to address any matters in his case, Burchell had to get in touch with people at San Francisco City Impact. “They would go by his place, pick him up, bring him to me,” says Burchell.

Eventually, Burchell was able to negotiate a settlement deal so that Jeffrey could stay, but there was still the issue that he had no income. Social workers from HAP stepped in and connected him with the Q Foundation, which provides services such as housing referrals, move-in deposit loans, and rental subsidies to people with HIV/AIDS. They were able to cover his back rent, and as long as he could get some income, they could subsidize his rent.

He was eligible for General Assistance (GA), a program that provides a cash grant in exchange for workfare community service, except that Jeffrey didn’t have any ID. It took “a lot of jumping through hoops,” but Jeffrey was able to stay in his home. “If it had not worked out, he would have ended up in a shelter,” says Burchell. Instead, because everyone across the city worked together, “it’s a great, wonderful, happy ending.”

\*Name has been changed to protect everyone’s privacy.

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Tony Burchell, JDC’s Right to Civil Counsel program

## DOING SOMETHING TO HELP

“Anybody who is being dragged to court needs to have legal representation,” says Chhabra, who volunteers to take on landlord-tenant cases, and JDC is well-positioned to respond to the current crisis. JDC’s RTCC program is based on the conviction that “everyone should have access to legal services in cases involving basic human needs, including housing.” Under the RTCC umbrella, staff and volunteers provide full-scope representation in eviction defense cases and limited-scope representation through HNP.

When a potential case comes to JDC, it is vetted to make sure the client falls within the income limits, and the case itself is screened to make certain it has a good defense. Gold promotes these cases as opportunities for attorneys to gain experience, since the components—discovery, motions, settlement, and trial—are the same as those in business litigation. Many cases are referred to pro bono attorneys in the city.

HNP, also under Gold’s supervision, relies on volunteer attorneys for approximately one thousand settlement negotiations every year. Every Wednesday and Thursday afternoon, attorneys meet with clients in the court’s hallways, then negotiate with landlords’ attorneys to help tenants stay in their housing or get settlements for time and money to facilitate moving. If the parties don’t agree, the tenant then has to secure full-scope counsel or go to court unrepresented.

HAP is increasing its services and has added two new staff positions in the last two years, one through a contract with the mayor’s office, and one using money from a cy pres award. “There is plenty of work to be done,” says Friend, and Pospichel describes her days as a “mixture [of] court, client meetings, and home visits.” Since HAP focuses on serving clients with mental health and physical disabilities, many of its eviction cases revolve around nuisance and behavioral issues, such as unacceptable noise or alleged violence. The attorneys work with landlords to reach reasonable accommodations that include behavioral stipulations,






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Cary Gold, supervising attorney,  
Eviction Defense Project

## MAKE A DIFFERENCE

For information about volunteering with JDC’s Pro Bono Legal Services Program, including as interpreters in Spanish, Cantonese, and Mandarin, contact Gloria Chun at 415-782-8970 or [gchun@sfbar.org](mailto:gchun@sfbar.org).

 Make a contribution to JDC at [jdc.sfbar.org](http://jdc.sfbar.org).

“like a probation,” says Pospichel, in which clients may keep their housing by agreeing to continue or engage in treatment.

“If we aren’t successful,” says Erin Katayama, supervising attorney at HAP, “we’ll have another homeless person.” Her clients are not homeless yet, but “HAP’s holistic model means we fight the eviction and address the issues.” She has noticed that while some landlords are open to helping tenants stay in their homes, “they’re tired of being patient, maybe tired of seeing people fail.” In a recent case, Katayama represented a woman who had lived in her apartment for ten years, then missed work—and one month’s rent payment—due to a serious health crisis. The process of switching to disability took longer than expected, and although it came through, the landlord refused to accept it. “I guess I’m getting more shocked at the lack of empathy toward other humans,” she says. “One month’s rent!”

## BEHIND-THE-SCENES MOTIVATION

It’s interesting to look at the backgrounds of the people doing eviction defense work and hear why they feel called to do it. Their drive goes beyond wanting to gain litigation experience. “I feel every lawyer needs to give back to society,” says Chhabra, who worked as a software developer before becoming a patent attorney. Both Pospichel and McKeever were torn between pursuing master’s degrees in social work or public interest law. “As lawyers we can carry the ball further,” says McKeever. “I wanted to be able to use my skills to help a disenfranchised group.” When Burchell moved to San Francisco, he saw an opportunity to address the “crazy hot-button issue” of homelessness. “At the end of the day, you feel really good about what you’re doing,” he says.

Katayama received offers in other areas of law, but she had a personal reason for pursuing this work. “My grandfather, before he passed, helped me with money for law school. He was a Japanese internee, and when he got out, all of his property was gone. ‘Help people in need. The government won’t always be there for them,’ he said. He did not want me to be an attorney who preyed on people, so this was my promise to him.”

“I love our clients, I love working on the front line,” she adds. “I’m not solving the underlying problems, but I can be there for the individual.”

## WHAT YOU CAN DO

“The most compelling need is development of affordable housing,” says Friend. In the interim, there are several ways to make a difference for the individuals and families at risk of homelessness.

“We need attorneys who are willing to step up to the plate and say, ‘I will take a case,’” says Gold, “and I need five to ten volunteers every Wednesday and Thursday afternoon.” The Eviction Defense Project and HNP provide great opportunities for new attorneys to gain experience, and both programs are open to attorneys who don’t practice in this specific area. “Landlord-tenant law really is civil procedure,” says Gold, “and I am there to support them, answer their questions, review everything they’re doing.”

At the end of 2013, the results of pro bono legal services provided by local attorneys and volunteers were quantified in a “Social Return on Investment Analysis” performed for JDC by Community Services Analysis. “For every \$1 invested in the Justice & Diversity Center Legal Services Housing services during the year,” the report stated, “the San Francisco community receives \$11.74 of immediate and long-term financial benefits.” The ripple effect included significant and long-term savings in emergency housing, family assistance, and costs for subsidized housing. “During that year [2013],

the Justice & Diversity Center closed 1,621 legal matters resulting in \$6,351,110 in immediate direct financial benefits and \$3,929,553 in long-term consequential financial benefits” to the San Francisco community.

Furthermore, attorneys on the front lines agree with the findings in the Stanford report that “tenants are more likely to stay in their homes when provided full-scale representation.”

Having a home for the holidays and beyond? There’s no putting a dollar amount on that.

*Freelance writer Kathleen Guthrie Woods is proud to call San Francisco “home.”*

# MAKE A DIFFERENCE TODAY!



**You are the key to our success.** Your contribution to JDC will make an immediate and lasting impact on our community.

Help keep a family in their home today. Make a contribution at [jdc.sfbar.org](http://jdc.sfbar.org) or contact Steve Love, director of donor and community engagement, at 415-782-8917 or [slove@sfbar.org](mailto:slove@sfbar.org).

*The Mejia family, former HAP clients, with senior supervising attorney Katie Danielson.*