Contention over the inner core of cities has escalated as reinvestment attracts former suburbanites back to the center, and rising prices drive low-income people to the outer ring. From Oakland, to San Jose to South Lake Tahoe, the pressure on low-income populations is intense. While greenhouse gas emission reduction and urban planning principles favor compact urban development, communities of color living in the target zone all too often lose out on the benefits of an improved neighborhood. Instead, they are displaced.

Displacement accelerates the dispersal caused by other factors, such as the predatory lending and resulting foreclosure crisis, which has resulted in millions losing their homes. In their current form, these sorts of struggles are too often seen as something the individual homeowner, evicted tenant, or displaced business must deal with alone. However, organized resistance to flawed development schemes and collective action to resist eviction and foreclosure are more crucial than ever. ■ —Ed.
San Jose Flea Market Faces BART Expansion, Displacement

By Ginny Browne

Called *La Pulga* or “the flea” by the region’s Spanish-speaking communities, the San Jose Flea Market has been a South Bay community institution for more than 50 years. The 120-acre open air market is the largest in the nation and attracts over four million visitors annually. For Mexican, Central and South American, Vietnamese, Korean, Chinese, and South Asian immigrants, it has provided a one-of-a-kind opportunity to incubate small businesses offering an unparalleled variety of affordable, culturally-specific goods and services.

In 2007, the Valley Transportation Authority in Santa Clara County released a Draft Supplemental Environmental Impact Report on the planned 16-mile extension of the Bay Area Rapid Transit (BART) train line from Fremont to San Jose. Its northern most stop would be located on Berryessa Road right by the flea market. Shortly after the report’s release, the owners of the property where the flea market is located hired a consulting firm to draw up plans for an upscale mixed-use residential and commercial development. Then, without informing the vendors, the owners appealed to the San Jose City Council to change the site’s zoning designation to allow for development, and received it—given the potential for new housing stock along the BART extension corridor—thus paving the way for the flea market’s closure.

In 2009, an award-winning short film about the San Jose Flea Market—*La Pulga*—was released. It features Rigoberto, who came to San Jose from Mexico in 1990, to help a friend run his flea market stand. Since then, Rigoberto has opened his own stand, selling Mexican candy and piñatas with his wife and children. “All of this has helped me realize my dream,” he told the filmmakers. “But the dreams of my children, as well as my fellow merchants here will come undone if the flea market should close.”

A Blow to Immigrant Entrepreneurship

The San Jose Flea Market struggle highlights critical aspects of how we understand, resist, and prevent displacement caused by gentrification, especially around transit oriented development (TOD). For example, housing groups may fight for greater affordability of TOD sites, but what about the small businesses and other community institutions that meet the needs of those residents at risk of displacement? It was a question raised by the flea market vendors and their supporters when they showed up by the hundreds at city council meetings to protest the proposed closure.

Chris Lepe, a community planner with Transform, who as a student at San Jose State University...
in 2007 helped the flea market vendors in their campaign against the closure, says: “Before the merchants and community organized, City Hall showed no consideration for the cultural and economic importance of the market for San Jose’s immigrant and working class communities. We were outraged because we felt that [the role of] government was to mitigate the environment and social impacts of market forces, but instead it was rushing to approve the plan without regard to thousands of people whose livelihoods were tied to that land.”

In many ways, the council’s initial failure to recognize the economic and social benefits of the flea market speaks to the historical invisibility of immigrant entrepreneurship. Family-owned businesses have always been a critical source of economic development in immigrant communities where people have traditionally been excluded from access to capital.

Flea Market Offers Deals and Livelihoods
When the San Jose Flea Market vendors began organizing in 2007, their top demand was that the City Council recognize the economic and social value of the market and commit city resources to helping them find an appropriate site for relocation. Speaking at the last zoning meeting in March 2007, one vendor implored the council to consider the extent of the impacts, saying: “The flea market provides us a place to succeed. I’m not looking for a handout. I’m not asking for anything from the government. I just want to work.”

Although the council—responding to pressure from the vendors—eventually voted to explore potential relocation options for the flea market, it has still to make good on this promise. The economic downturn had given the flea market an unintended reprieve, but since last fall, progress on the multimillion dollar development has picked up again. This time around, however, the owners have informed the vendors that they intend to preserve the flea market in a new, scaled back plan for the site. Still, the vendors and their supporters are not taking anything for granted. Urban Habitat and the University of California Berkeley’s Center for Community Innovation are currently conducting research into the social and economic impacts of the San Jose Flea Market through surveys and interviews with merchants and consumers.

Development and Displacement

Last fall, the Dukakis Center for Urban and Regional Policy at Northeastern University released the results of a groundbreaking study on the relationship between transit-oriented development (TOD) and gentrification.1 The report not only confirmed many of the risks associated with TOD that affordable housing groups have long suspected, it also revealed some surprising new reasons for concern.

An analysis of socioeconomic indicators in 42 newly transit-rich neighborhoods in 12 metropolitan regions documented two key patterns:

- TOD drives up land values and housing costs, leading to an influx of higher-income residents, while causing low-income people and people of color—especially renters—to be priced out of their neighborhoods.

- Wealthier populations moving into TOD neighborhoods are more likely to own cars and the increased vehicle ownership alongside the displacement of traditional transit users in many instances can actually lead to a decrease in transit use.

The Northeastern study is only the latest contribution to a mounting body of evidence that gentrification is closely association with TOD. In 2009, the Center for Community Innovation (CCI) collaborated with the Association of Bay Area Governments to develop an “early warning tool kit”2 outlining factors affecting a neighborhood’s susceptibility to gentrification following public investment in transit improvements. CCI’s analysis of 1990 and 2000 census data for Bay Area counties found that gentrifying neighborhoods are almost twice as likely to be within a half mile of transit as non-gentrifying neighborhoods.

Policy Drives Density
The dynamics of neighborhood change must be viewed in the context of a changing policy and market environment. In 2008, TOD officially became statewide environmental policy in California. Senate Bill 375 establishes a framework for integrating regional land-use, transportation, and housing development policy in accordance with the greenhouse gas emissions reduction goals outlined in Assembly Bill 32, which had become law two years earlier.

While SB375 provides metropolitan planning organizations with new tools to encourage housing development, the guiding framework for new housing along transit focuses almost exclusively on density rather than on affordability. The affordability components associated with
Preliminary findings confirm the critical role the flea market has played in providing economic opportunity. A surprisingly high percentage of merchants surveyed report that they started selling at the flea market because they were either unemployed or had been laid off, and the flea market business helped them survive. Ninety percent of vendors surveyed live in San Jose, thus not only serving the South Bay’s diverse communities, but also reinvesting their earnings back into the local economy. Among the customer base, two-thirds of the 277 surveyed reported that price was very important in their decision to shop at the flea market. Customers tend to be from low- and middle-income households—a majority

the law consist only of incentives, not requirements. Without mechanisms to ensure that TOD-generated housing is affordable to a range of income levels, neighborhoods around transit corridors become vulnerable to land speculation and to the enormous instability it creates in local housing markets. This vulnerability is magnified by two factors underlying the rise of TOD:

1. Proposition 13 and other measures that have hamstrung government’s ability to raise revenues encourage cash-strapped local governments to seek the highest possible revenues from land-use decisions.

2. While TOD arose from a specific set of social and environmental concerns, its rise to prominence as policy has occurred alongside renewed interest in compact, urban development with proximity to transit among the young professional class.

Who Gets In, Who Moves Out?

Existing public transit infrastructure is, unsurprisingly, most developed in and around major U.S. metropolitan areas, which are home to 75 percent of immigrants, 65 percent of Latinos, and 55 percent of African Americans, but only 35 percent of whites.

Displacement around TOD is most evident in metropolitan centers and in places where rental housing—which is most immediately affected by changes in the housing market—predominates. Analysis of 2000 census data by the Center for Transit-Oriented Development (CTOD) for 3,300 transit zones nationwide found that renters make up nearly two-thirds of those living within a half mile of transit stations.3

In addition to market-rate rental units, AARP’s Public Policy Institute reports that in 20 large metropolitan areas, there are nearly 200,000 federally subsidized affordable rental apartments within a quarter mile of existing or planned transit stations. Seventy percent of them have contracts that will expire before 2014.4

Endnotes


earn less than $50,000 annually and a quarter, less than $25,000. (Santa Clara County’s 2009 estimated median family income was $88,525.*) Complete results of the research will be available at Urban Habitat’s website later this year.

Survivor: The Flea Market Strategies

Despite the owner’s stated desire to let the San Jose Flea Market remain for now, the vendors and their supporters have identified a variety of possible strategies for ensuring the market’s survival, whether or not it stays at its current site. They are:

- Building a broad-based community coalition to win a legally binding Community Benefits Agreement (CBA) with the current or future owners, which would formally incorporate the flea market into the site’s development plan.
- Forming a nonprofit merchants cooperative that can develop its own funding and governance structure and, if need be, partner with the City or County to relocate on publicly owned land. Such a cooperative could also institute a fund that, over time, would be able to purchase the land.
- Creating a traveling market that locates in different neighborhoods on different days of the week or weeks of the month—modeled after Ciclovia, an increasingly popular event that shuts down city streets for a day to promote biking and walking, often accompanied by street vending and public entertainment.
- Pushing for the creation of a regional fund using redevelopment money—similar to affordable housing funds—to support immigrant entrepreneurs incubate small businesses in TOD zones with mechanisms, such as subsidized commercial rents or infrastructure for new open air markets.

Claiming TOD for Transit Users

Low-income communities and communities of color have as much a stake as anyone in TOD, as they are more reliant than anyone on transit. So it is all the more important that protecting culturally relevant and community-driven economic engines like the San Jose Flea Market in TOD zones become part of the vision for sustainable development.

“Many developers and elected officials have joined the movement for ‘greener’ cities and transit oriented development, in response to consumer demand and a more conscious voting public,” says Chris Lepe, community organizer with TransForm. “Now we have to work to place social justice at the forefront of grassroots efforts to build more sustainable cities. A healthier environment cannot exist without an equitable society.”

The results of the Northeastern study (see Sidebar) provide a unique opportunity for communities fighting displacement and TOD advocates to come together and reformulate a framework for just and successful TOD.

* U.S. Census Bureau: State and County QuickFacts.
Building Transit Oriented Community in Oakland’s Chinatown

By Vivian Huang

ome is more than simply a place. It is a connection to a community of people, the comforts of familiar sights and sounds, and the sense of belonging. As history has shown us, numerous urban “renewal” efforts in the name of eliminating blight disregarded people’s visions for their homes, resulting in displacement of individuals and disintegration of communities. Today, the trend is to promote transit oriented development (TOD) in the name of addressing climate change. But if development is done inequitably, it represents the latest challenge to low-income communities of color.

Oakland Chinatown’s history is one of survival in the midst of continual acts of displacement. The first Chinese immigrants who formed various Chinatowns in Oakland during the 1850s had been driven from the fields of the Gold Rush by racist, hostile miners. Later, intense racism would cause some of these Chinatowns to move—as with the settlement at San Pablo Avenue and 19th Street—or be eliminated altogether—as when the Chinatown at Telegraph Avenue and 17th Street burned down. Eventually, the Chinese community was consolidated in the area around 8th and Webster Streets.

Roy Chan of the Oakland Asian Cultural Center has been documenting this history, particularly because as time continues to march forward, much knowledge has been lost to the current residents. “The reason why we wanted to tell a complete story of the blocks that used to be there is because more recent immigrants do not have any idea of what happened,” says Chan.

“The Oakland Chinatown Oral History Project is a way to personalize and humanize the story—to show that these were real homes that were built over the decades and taken away,” he explains. “We want to equip the community to know its own history and to speak on its own behalf.”

A key turning point for the neighborhood came in the mid 1960s. In 1965, the Bay Area Rapid Transit (BART) agency, working with the city, redeveloped three blocks in Chinatown—demolishing existing buildings and relocating Madison Square Park to create the Lake Merritt BART station and BART headquarters. Destroyed in the process were 75 homes, an orphanage for girls, and the Chinese True Sunshine Episcopal Church.

“Leaving that church was more traumatic for my mother than leaving her house. In my lifetime, I only saw my mother crying twice. Once was when her biological mother died, the other time was when they took away the church property,” says Fran Toy, former resident of the area. “After the church was moved, we lost congregation members by the drove. And I remember one Sunday going to church, the priest and I were the only two people there.” (See

Photo: Lake Merritt TOD Planning Meeting, Laney College, March 5, 2011.

©2011 Eric K. Arnold
sidebar on page 66 for a detailed account of Toy’s experience.

More recently, tenants received eviction notices from the Pacific Renaissance Plaza in 2003. As Amber Chan of the Asian Pacific Environmental Network (APEN) recalls, “At the time, they evicted low-income elderly and families from 50 units. We knew we had to fight to stop the evictions. I remember one tenant saying ‘I am not a dead rat. You cannot throw me to the street. I will stay here and fight you.’”

Then in 2006, BART decided to demolish its headquarters and close down the Lake Merritt station plaza, leaving the neighborhood without a vital community space for tai-chi, chi gong, and lion dancing. The community collected over 1500 petition signatures and raised $35,000 to create a space at Madison Park, but the funding was not enough to cover other needed services, such as public restrooms and a covered pavilion.

**Transit Oriented Displacement: Circa 2012**

Now, Chinatown is once again at the heart of another development process. The push to develop housing, jobs, and neighborhoods near transit is an opportunity to create green, walkable, transit-friendly communities that will reduce car usage and greenhouse gas emissions. However, development without equity can result in the displacement of core transit users, such as renters and low-income households, and an influx of higher income, car-owning residents who are less likely to use public transit, thereby defeating the goal of development near transit. A study by the Center for Community Innovation at UC Berkeley’s Institute of Urban and Regional Development has shown that the area around Chinatown and the Lake Merritt BART station is highly susceptible to gentrification. Fruitvale and West Oakland are examples of areas that have experienced rent increases, evictions, and loss of affordable housing as a result of such development.

Given the history of displacement, there is a lot of
fear in Chinatown of being excluded from the decision-making during this round of redevelopment.

“When it comes down to the community, the citizens who live in Chinatown are usually last,” says Alan Yee, an Oakland-based attorney, in a recent KALW news report. “In redevelopment, they look to the developers and what they want and forget what the community needs. Unfortunately, when BART came in, the community wasn’t organized, so they were able to take the land without any community input or compensation to the community.”

Organizations, such as APEN, Asian Health Services (AHS), and East Bay Asian Local Development Corporation (EBALDC) have worked to organize community members—conducting over 1000 surveys and engaging them in planning workshops—so they are able to articulate what they would like to see in the plans.

“Community engagement is definitely important because of the history of these processes in Chinatown,” states Julia Liou of AHS. “Traditionally, our communities haven’t been part of the planning process. Usually, it’s just a flyer that goes out. So, it’s important to advocate for the needs identified by the community.”

“We really want to see a neighborhood that is a place where people choose to live and have the ability to afford to live, regardless of their economic condition,” says Ener Chiu of EBALDC. “The plan should provide the kind of cultural, business, public, and educational amenities that would make people want to live here.”

Li Ya Chen, a member of APEN, says, “When I first arrived in the Bay Area, my monthly income was only about one thousand dollars, but the rental of a one-bedroom apartment was over $700. It was very difficult to survive. I heard about low-income housing, but I was at a loss because I didn’t know where and how to apply. The Lake Merritt BART project should be for people at all income levels. Affordable housing should include extremely low-income folks.”

Shao Yang Zhang, another member of APEN, believes that public safety, employment, and housing
issues are related to each other. “To solve the problem of public safety, we must solve the job and housing issues because they are the root causes of the problem,” she points out. “The more housing complexes, the more supporting facilities you will need to provide employment opportunities to the local community and help enhance the people’s standard of living. If everyone has a job and stable place to live, the crime issue will be improved. Oakland could become a model city for the nation.”

In addition to the issues of housing, jobs, and public safety, many community members also cite the need for greater pedestrian safety. “My apartment is located right next to a crossroad that often has a lot of car accidents. Two years ago, my neighbor, Mrs. Chan, was hit and killed by a car,” recalls Hai Bo Pan, another APEN member. “Not long after, another gentleman was hit by a car at the same location, and he was seriously injured.”

Chinatown, it is important to remember, is not just a community for Chinese. As Tô Châu, a Vietnamese patient at AHS points out, “Chinatown is important because it is an Asian place where I can...”

---

**Transit Oriented Displacement: Circa 1965**

A former Oakland Chinatown resident remembers the arrival of Bay Area Rapid Transit (BART) to her neighborhood. Adapted from an interview with Fran Troy for a radio documentary on KALW’s Crosscurrents by Lindsey Lee Keel.

The three square blocks called Madison Square Park was once a thriving neighborhood until the wrecking ball of urban renewal made way for what is now Lake Merritt BART Station. It is paved over now, but the house where Fran Troy grew up was right here, where Madison Park is today.

“I lived there from the moment I came home from the hospital until four days before my 22nd birthday, when I left to get married,” says Troy, adding that it was a safe neighborhood of Victorian duplexes and apartment buildings. “We didn’t even lock our doors!”

Like Troy’s own family, most of the neighbors were working class, many of them immigrants from China. Although she grew up during the Depression, Troy and her siblings did not know they were poor.

“We played in the streets a lot because in the ’30s there weren’t that many cars. I think the guys played ‘kick the can.’ And we saved the paper caps from milk bottles that were delivered and played with that. It was just a very peaceful childhood,” says Troy.

“The majority of us children went to what we called American school [until] the early afternoon, then we had a little breather, and then we went to Chinese school before dinner.”

There was always something to do, and for Toy’s family that included spending a lot of time at the True Sunshine Episcopal Church.

“My mother was a very faithful Christian, very devout, and she gave hours to the church. She volunteered herself and of course, she volunteered her children. So, every Saturday she marched my brother, my sister, and me from 8th Street, where we lived, to the church. And we’d clean the church for Sunday services.”

Toy, her sister, and about three other young ladies used to collect the Sunday school students and walk them to the church and then back home. “Like the Pied Piper,” she quips. The congregation was mainly Cantonese and so was the neighborhood. But the tightly knit neighborhood was slated for demolition as part of the city’s plan to eliminate what it called ‘urban blight.’

UC Berkeley Geographer Richard Walker explains: “In the mid-20th century, Victorian houses were regarded as old dogs... completely out of fashion and clunky. So that’s the kind of mindset of the downtown business people you would have circa 1950.” That mindset allowed for a top-down approach to redevelopment. City planners decided to level three blocks to make way for a new BART station and headquarters.

“Now there’s also, of course, an unspo-
I do want it to be improved. Some housing is so old, it is a sad sight. In the next 20 years, I want to see this neighborhood improve, and I hope to have more parks.”

The planning process is now moving into the stage where a community stakeholder group—comprised of about 50 people representing the institutions and constituents of the area—will be working on shaping the plan over the next several months. “I am hopeful that we can fix the problems together,” says APEN member Hui Zhen Li. “If we can make this plan meaningful and the city does what it promises, the area will be beautiful. ■

References:

Endnote

Photo: Fran Toy at the 25th Anniversary of her ordination. Courtesy of the Episcopal Church.
Lake Tahoe Development Creates
“Poverty with a View”

By Gabriel R. Valle

As the snow piles up around Lake Tahoe and tourists flock to the resorts, it makes for happy hotel and restaurant managers, casino and shop owners, but rising snow levels also means higher heating bills, more traffic, and a greater cost of living. For a tourist, the higher prices and traffic congestion are a temporary inconvenience—the price of visiting one of the most beautiful places in the world. For the low-income local community, the consequences are far more serious as the increase in wealth around the Tahoe basin has led to a flurry of developments and redevelopments, each pricier than the other.

Vail Resorts, owners of Heavenly Mountain Ski Resort in South Lake Tahoe and Vail Ski Resort in Eagle County, Colorado, see the development of ski villages as a means to increase business from skiers and snowboarders. The ski villages—patterned after old European resorts—try to recreate a certain alien mountain culture where visitors can stay, eat, play, and spend their money. More than a mere tourist trap, a ski village like Heavenly Mountain Village is fitted for an affluent tourist with its art galleries, chic coffee shop chains, brand-name ski stores, realty offices, and the occasional local high-end boutique or restaurant.

While the ski villages may have destroyed local Tahoe culture, they offer an opportunity to correct some of the mistakes made by earlier development. Heavenly Village, for example, has better water management, more energy efficient buildings, a more centralized location for tourism, and offers an opportunity for transit oriented development (TOD).

“Heavenly” South Lake Tahoe

The South Tahoe Redevelopment Agency (STRA) was created in 1988 by the City of South Lake Tahoe to give the dying Stateline area a boost, and the area’s first TOD was enacted in June of the same year. The purpose of the agency was to enhance the natural beauty of South Lake Tahoe while centering development on an improved transportation network. The development was organized for mixed use and TOD, and the STRA claimed that their plan was informed by discussions with local community members and community workshops.

The City of South Lake Tahoe and the Tahoe Regional Planning Agency claim that since the completion of Heavenly Village in 2001, the Stateline area has seen a “20 percent reduction in vehicle traffic at the Park Avenue and U.S. Highway 50 intersection...” (Restoration in Progress: Environmental Improvement Program Progress Report, Tahoe Regional Planning Agency, 2007). This means that there is less sediment runoff into the lake and fewer CO$_2$ emissions. As far as the STRA was concerned, they had accomplished their goal of creating a more walkable environment around the Heavenly Ski Resort where visitors could spend their money shopping and dining. Regardless, the city’s romantic view of sustainable development neglected to address social equity.

With increased wealth, often comes increased poverty. As Heavenly Village gained notoriety as a four-season resort, low-income residents were forced to compete with
Bay Area wealth. Their economic vulnerability marginalized them and forced them out to the back roads of South Lake Tahoe. In attempting to create a ‘high end’ playground for the elite, the once renowned local ‘mountaintown’ characteristics were lost and the decaying infrastructure of the local low-income community hidden behind the second homes of the wealthy. Or as Delicia, a South Shore resident commented sardonically: “This is poverty with a view.”

**Being a Have-Not in a World Made for Haves**

The Heavenly Mountain Shuttle bus offers free rides to anywhere on the South Shore—anywhere that is, tourists or skiers or weekenders might want to go. Residents have to take the local BlueGO bus—as infrequent as it is—to get to the free shuttle to the ski resort. What’s more, increased ridership on the free Heavenly Mountain Shuttle has caused the fares on the local BlueGo to go up to three dollars one way.

“As with all aspects of the city, transportation decisions must be made on informed citizenry,” said Joan Roelofs in her book, *Greening Cities: Building Just and Sustainable Communities* (Bootstrap Press, 1996). “Public participation should include those who are affected by transportation systems, including the elderly, disabled, poor, and children. Too often, it is the commercial sector and those promoting ‘economic growth’ that dominate in this area.” This is exactly what many South Shore locals fear has happened.

In the nearby community of Bijou, where the majority of South Shore’s low-income Latinos live, the rental properties are primarily converted old hotels left over from the 1960s Winter Olympics building boom. Now the spike in land prices caused by the creation of Heavenly Village has essentially assured low-income residents that they will continue to live in run-down and dilapidated apartments. As Hal Clifford, author of *Downhill Slide: Why the Corporate Ski Industry is Bad for Skiing, Ski Towns, and the Environment* (Sierra Club, 2003), points out in his book: “A ski town worker’s life increasingly is a commuter’s life, defined by the constant struggle to get by in a world of below average pay and above average costs... The haves-versus-the-have-nots reality has bitterly split ski towns and... deeply faulted the socioeconomic and political landscape in many mountain communities.”

**Finding a Voice for the Disenfranchised**

Clifford also pointed out that as long as the people who live in small mountain towns do not control the levers of power, the towns will end up being what they don’t want to be. Now it appears that there is an attempt being made by the Latino communities around the lake to create their own political power and in this, they are being helped by the Family Resource Center in the nearby town of Truckee.

“We are improving people’s health and creating community leaders who will become stakeholders and gatekeepers in changing the system,” explained Executive Director Adela Gonzalez del Valle. “[We are] working with Latino community members to help [them] find a voice... to challenge the existing system in the town.”

It was Julian Agyeman, who in his book *Sustainable Communities and the Challenge of Environmental Justice* (NYU Press, 2005) asked the question: “Can we achieve sustainable development and sustainable communities by tweaking existing policies, which we are doing at present, or do we need a rethink, a paradigm shift?” For the communities and environment around Lake Tahoe, this paradigm shift may be their best chance for a just and sustainable community.

And not a moment too soon as the TRPA is now eyeing Kings Beach, Lake Tahoe’s poorest area with the largest Latino community, for its next transit oriented redevelopment.

---

**Gabriel Valle** is a graduate of San Jose State University where he wrote his Masters thesis on “Sustainable Tahoe: Bridging the Economic Gap” in 2009. He will join the Sociocultural Anthropology doctorate program at the University of Washington Fall 2011.
Rosaura and Jaime were able to find more work to supplement their income and paid their reduced monthly mortgage on time for well over a year. Then in early 2009, Chase informed them that they were ineligible for a permanent modification and moved to foreclose on the house because of the thousands of dollars in arrears that was owed from the trial modification. The bank stopped accepting the monthly payments and has made numerous attempts to sell Rosaura and Jaime’s home.

This story is just one example of what countless Californians have endured during the foreclosure crisis. Bank practices have harmed California communities through a cycle of abuse that began with the redlining of low-income and neighborhoods of color. First denied access to loans and investments, these neighborhoods were later flooded with subprime and option ARM loans at the height of the housing bubble.

Unheeded Warning, Followed by a Failed Remedy

Consumer advocates warned financial institutions, regulators, legislators, and the public about the dangers of subprime, nontraditional, and predatory lending to these communities. But the banks persisted and federal and state regulators failed to crack down on abusive lending while it was flourishing. Not surprisingly, low-income communities and communities of color have been disproportionately impacted by foreclosures since the real estate bubble collapsed in 2007. The only option homeowners had to avoid foreclosure was to negotiate a loan modification with their lender to lower monthly mortgage payments.

Then, in early 2009, the Obama administration launched the nation’s primary foreclosure prevention initiative—the Home Affordable Modification Program (HAMP). Under this program, the federal government provides incentives to banks to modify the terms of home loans for certain homeowners who are delinquent on their mortgage. The goal of the program was to ebb the tide of foreclosures and save about four million Americans from losing their homes.

Unfortunately, the program has failed because of the reluctance of banks to permanently modify a significant number of home loans. In California, 1.2 million homeowners have lost their homes to foreclosure since 2008 and only 122,577 have received permanent modifications under HAMP. While modifications may be hard to come by for all, they are harder still for certain borrowers and neighborhoods. Housing counselors report that loan modification outcomes are worse for borrowers of color than for white borrowers. This is a matter of grave concern since borrowers of color were more often targeted with predatory loans in the years leading up to the foreclosure crisis.

Disheartening Results From Limited Data

When HAMP was announced, the California Reinvestment Coalition (CRC) requested the Treas-
ury Department to require banks to collect data on the race, ethnicity, and neighborhood of borrowers seeking to avoid foreclosure through the program. Treasury instituted this requirement and released data about the HAMP program to the general public in February this year. The information is disheartening, to say the least. Aside from the limited ability of the program to help homeowners, it is unclear whether every homeowner was given a fair chance to save their home. And despite the requirement from Treasury, nearly 64 percent of the HAMP application data did not include information about race and ethnicity—either because the banks failed to collect it or homeowners refused to disclose it.

The gaps in the data inhibit a thorough analysis of HAMP’s ability to ensure equal access to loan modifications for all borrowers, regardless of their race or ethnicity. But analysis of even this limited information shows cause for concern. For example, Latino borrowers were more likely to be denied modifications because of “incomplete requests,” even though servicers frequently lose documents, according to housing counselors. And curiously, African Americans were more likely to have a modification canceled because it was “not accepted by the borrower.” There are also anecdotal reports from housing counselors that borrowers are sometimes steered into non-HAMP modification programs, which usually have less beneficial terms for homeowners.

The consistently high number of defaults and foreclosures in California demonstrates the unwillingness of banks to help people save their homes. An additional 800,000 homes are expected to foreclose by 2012, making a total of nearly 2 million foreclosures that have devastated California’s communities since the beginning of this crisis. The picture looks even grimmer when you consider that one-third of California’s homeowners currently owe more on their houses than their worth. In late 2010, there were reports about “foreclosure mills” with “robosigners” signing off on thousands of foreclosures without confirming the underlying facts. Among the many dubious foreclosure practices revealed by the reports was “dual track” servicing—where banks start foreclosure proceedings and issue a “notice of default,” even as they are negotiating loan modifications with the borrowers. Since the revelations, federal and state officials, including all 50 Attorneys General, have launched investigations into the practices. However, more needs to be done to prevent future abuses of California homeowners.

**Californians Launch RE-Fund Campaign**

A coalition was formed this year with the Home Defenders League (a project of the Alliance of Californians for Community Empowerment), PICO CA (People Improving Communities Through Organizing), CRC, and SEIU Locals 1000, 521, 721, and 1021 to create real protections for California homeowners. The RE-Fund California campaign was launched on March 16 in San Diego, Los Angeles, San Francisco, San Jose, Fresno, and Stockton. Through community organizing and legislative advocacy, RE-Fund California’s goal is to prevent unnecessary foreclosures and forestall their devastating ripple effect on California’s communities.

“The foreclosure crisis in California has amounted to large losses for homeowners as well as draining local and state revenues [and] depleting our schools, police and fire stations, and county hospitals,” said Phil Ting, Assessor-Recorder of San Francisco. RE-Fund California estimates that the real costs of
the foreclosures to communities and local governments is around $650 billion. They encompass:
- Decreased home values for the foreclosed property and the surrounding neighborhood to the tune of $337,379 per community per foreclosure for an estimated total loss of $632 billion.
- Decline in property tax revenues, leading to schools, fire departments, police departments, and other crucial public services being underfunded. Property tax revenue losses are estimated at $3.8 billion—or $2,058 for every foreclosure.
- Costs associated with sheriff evictions, property inspections, blight and trash removal, and public safety—estimated at $17.4 billion, or $19,229 for every foreclosure.

RE-Fund Supports Three Bills in Legislature

Without hope from HAMP or help from the banks, homeowners and advocates turned to the state. In the current session of the state legislature, RE-Fund California supported a Homeowner Protection Package, which included three bills:

- **Fair Modification** (SB729): would require loan servicers to give homeowners a ‘yes’ or ‘no’ decision on their loan modification application before beginning the foreclosure process. It also allows homeowners to bring legal action when serious violations occur.
- **Foreclosure Fee to Recoup Losses** (AB935) would impose a fee of $20,000 per foreclosure on the foreclosing party.
- **Mortgage Title Transparency** (AB1321) would mandate recording of all mortgage deeds, trusts, and assignments, and payment of the requisite fees to provide clarity on who owns a loan, facilitate loan modifications, and ensure that the company foreclosing on a homeowner actually has the legal right to foreclose.

The three bills would encourage more loan modifications than the faulty HAMP program and bring transparency to murky bank practices. In the context of the state’s fiscal crisis, the package would have raised roughly $8 billion annually for essential services and programs. But all three bills failed to pass out of committee.

“Banks should not foreclose on a family’s home until they inform the owner whether the loan can be modified to an affordable level,” said Senator Mark Leno, co-author of SB729. “California homeowners who qualify for modifications should get them... not a foreclosure notice.” Well Fargo opposed SB729 and successfully lobbied to kill it.

The sad fact that the legislature could not get even one of these bills to the floor reveals the deep-pocket power of the banks and the need for communities to organize and raise their voices.

“The big banks caused the economic collapse, got bailed out with taxpayer’s money, are back to paying themselves millions in bonuses... and what do we get?” asks Peggy Mears, leader of the Home Defenders League and a Fontana homeowner. “Californians are paying the price, over and over again, for the greed of the big banks.”

At a demonstration on May 3, 2011, hundreds of protestors swarmed the Wells Fargo annual shareholders’ meeting demanding changes in their foreclosures process. Eight protestors were arrested after pre-
Ana Romero remembers the details of every letter with a lover’s compulsion. Flipping through the faxes, call logs, and notices amassed in her document binders, she somberly recites the circumstances. A single mother of three facing foreclosure, Romero has for the last three years wrestled with the largest behemoth banks, waging the kind of drawn out David-and-Goliath battle that leaves insomnia, hypertension, and lachrymose reflection in its wake.

When Romero purchased her San Francisco home seven years ago, the monthly payments were reasonably covered by her two-income household. Divorce changed all that.

With only one income since 2008, Romero has not been able to meet her monthly payments.

“For two years I have worked with the bank, sending them documents and trying the trial modification, but they don’t want to help,” she said, tears streaming down her face.

According to surveys carried out by the California Reinvestment Coalition, housing counselors report that servicers frequently lose documents and that Latinos are often denied modifications because of incomplete requests—possibly resulting from lost documents and answers given in Spanish. Most borrowers of color, they report, experience worse loan modification outcomes than white borrowers.

Romero’s loan modification application has been lost several times by her servicer. She now logs every phone call and keeps documentation binders close by to reference dates and correspondence.

A Bryant Elementary School teacher who has been with the San Francisco School District for 22 years, Romero fears her home becoming one of the 800,000 expected to foreclose in California by 2012.

With an adjustable rate mortgage whose interest rate is expected to increase this year, Romero has launched a Salvadorian food business to demonstrate alternative income sources, and works closely with housing counselors.

She also makes regular calls to her servicer. “It’s hard. I don’t have a single person to talk to. A different person answers the phone every time,” she said. “Where am I going to go if I lose my house?”

Listen to Ana Romero and learn more about how people of color are impacted by the foreclosure crisis at:

Irene Florez is a radio producer at KPFA, Berkeley, California.

Endnotes
1. Moody’s Analytics data for 2010.
5. CRC Survey (2009-2010).
8. www.corelogic.com/uploadedFiles/Pages/About_Us/ResearchTrends/CL_Q4_2010_Negative_Equity_FINAL.pdf
RE-Fund California Campaign Report.
Foreclosed Tenants Shut down Utility Shut-offs

By Jean Tepperman

Shortly after the birth of her youngest child, Kim Isaacs received notice that her West Oakland apartment building was now owned by Countrywide Home Loans, which had foreclosed on her landlord. They wanted her out. Isaacs had become one of the hidden victims of the foreclosure crisis—tenants in foreclosed buildings. According to a study by the statewide organization Tenants Together, 7,000 housing units hit by foreclosure in Alameda County last year were tenant-occupied. That’s 40 percent of all the foreclosed units in the county.

Countrywide offered Isaacs $1,000 and two weeks to find a new place to live, pack up her things, and move out. “I told them, ‘No way!’” she said. She needed more money and more time to find another place for herself and her seven children. And as a member of Causa Justa/Just Cause, an Oakland and San Francisco tenants-rights organization, she also knew that city, state, and federal laws prohibit new property owners from simply evicting tenants.

So, Countrywide’s attempts to evict Isaacs failed. But then one evening in December 2007, an East Bay Municipal Utility District (EBMUD) representative turned off the water to her building. Isaacs believes that Countrywide failed to pay the water bill “on purpose, as a form of trying to push me out.” She added: “These banks get these properties and they intimidate people, kick them out on the street.”

The next morning, Isaacs and 15 other members and staff of Just Cause showed up at EBMUD’s downtown Oakland headquarters, demanding that the utility turn on the water. “They said, ‘That’s between you and the landlord. We can’t do anything,’” Isaacs recalled. “But we were like, ‘We’re not leaving until you turn the water on.’”

Finally, EBMUD board member Andy Katz got the agency’s staff to turn on the water. But when Isaacs and other tenants described their experiences with water shutoffs at East Bay EBMUD’s February 2008 board meeting, some board members were skeptical, recalled Just Cause organizer Robbie Clark. And board members were worried about how the agency could keep the water on if no one was paying the bills. Nonetheless, the board approved Katz’ proposal for a six-month moratorium on water shutoffs for foreclosed tenants.

Then, EBMUD studied the issue and discovered that in just four months, it had turned off water to 600 tenants in foreclosed buildings. Katz, meanwhile, had persuaded then-Assemblywoman Loni Hancock to introduce legislation to solve the problem.

Typically, creditors like EBMUD can place liens on properties if the owners fail to pay their bills. Then when the property is sold, the creditors get paid. But a California law enacted in the 1970s barred municipal utility districts from putting liens
Many foreclosed tenants have the right to remain in their homes.

All tenants have the right to remain in their homes for 90 days after foreclosure, according to the federal Protecting Tenants at Foreclosure Act.

Tenants with long-term leases have the right to stay in their homes until the end of the lease, under the same law, which also requires foreclosure owners to assume the responsibilities of landlords for making repairs and returning security deposits.

In cities with “just cause for eviction” laws, such as Oakland, Richmond, Berkeley, and San Francisco, tenants have the right to remain in their homes after foreclosure. These laws bar landlords from evicting tenants unless they have a “just cause,” such as nonpayment of rent and creating a nuisance.

Most tenants of Fannie Mae, Freddie Mac, and JP Morgan Chase can stay in their homes at least temporarily under these banks’ policies.

Tenants have the right to put utilities in their own name and pay utility bills themselves if their landlord fails to pay.

on property, which meant that if EBMUD kept the water on at a foreclosed property and the bank refused to pay the bill, the agency would never get its money.

That’s how Isaacs found herself testifying at a hearing in the state Capitol before an Assembly committee in 2009. She recalled that before the hearing, Hancock aide Hans Herman warned her: “I don’t know how this is going to go.”

“I was a little nervous,” Isaacs said. “They looked so serious and stiff. I was talking, getting tearful, trying to get my point across.” Then, in the roll-call vote, “the first person said ‘yea,’ the second person said ‘yea.’ [Herman] looked at me like, ‘Wow, this never happened before!’ Finally everybody said ‘yea.’ By then I’m in tears.”

Isaacs’ testimony helped legislators “put a face on this problem, to understand that this is about protecting innocent people caught up in this mess,” said East Bay MUD lobbyist, Randy Kanouse. But Governor Arnold Schwarzenegger vetoed the bill. So the next year, Kanouse went to business and realtor organizations, arguing that shutting off water in a foreclosed building creates an eyesore that brings down property values in the neighborhood. Armed with letters from business groups, Kanouse met with the governor’s staff. That year, Schwarzenegger signed the bill.

Now that it could recoup losses from unpaid bills, the EBMUD board voted last month to keep water on in foreclosed buildings and in all multiunit properties in which the landlord fails to pay the water bill.

With the water victory under their belts, Just Cause activists said they plan to continue organizing tenants in foreclosed buildings. “For us, it’s a huge issue,” Clark said, “especially their right to stay in their homes.”

The number of tenants statewide who are displaced by foreclosure continues to grow, reported Tenants Together in its third annual edition of California Renters in the Foreclosure Crisis. The number topped more than 200,000 in 2010. The report also contended that tenants who are unaware of their legal rights are often pressured into moving out. In addition, many renters face utility shutoffs, loss of security deposits, and health hazards from neglected buildings.

Jean Tepperman is a freelance writer and editor in the San Francisco Bay Area and is active in the movement for single-payer health care. A longer version of this story was first printed in the East Bay Express.