

Evict This!

The Landscape, History and the Battle Against Evictions in West Oakland



Photograph of original photo Aug. 10, 1940

**A guide to rights, resources, and resistance
by The East Bay Solidarity Network**

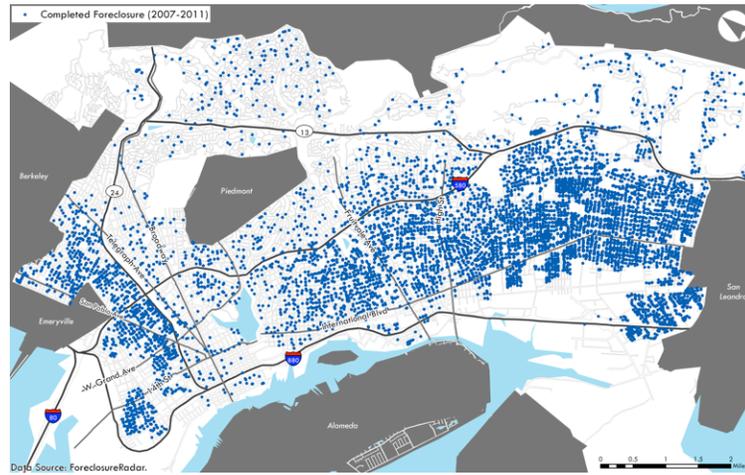
Introduction/Who We Are:

We are a group of people living in and around West Oakland who are angry about the epidemic of foreclosures and evictions happening around us and to us. We recognize all loss of housing as political and seek to understand the many causes and agents of this assault on our homes. This is a packet of information that covers the history of housing patterns in Oakland, how various people have been differently affected, the resources available to help stop an eviction, and information on what our group and others like ours have done in the past to use people power to keep folks in their homes.

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Part One: You Are Not Alone



A Map of the Greater Oakland Area illustrating the catastrophic foreclosure trend. Each blue dot represents a foreclosure completed between 2007 and 2011.

Foreclosure: An Epidemic

Out of about 150,000 households in Oakland, 10,000 have been foreclosed on since 2007.

As of 2011:

1 in 7 Oakland homeowners had been issued a Notice of Default (they have missed two consecutive mortgage payments)

1 in 14 had been issued a Notice of Trustee Sale, (they're about to lose their home)

1 in 14 households had already become REO (Real Estate Owned) status (the mortgage lender has acquired them)

The rate has slowed recently, amidst claims that the housing market is "rebounding." But the total foreclosures keep climbing. In summer 2013 around 300 Notices of Default and 200 Notices of Sale were filed each month.

What is causing this crisis? Why are so many people losing their homes? Who is responsible, and who is benefiting?

The banks would prefer you believe the victim-blaming and mystifying answers like “they shouldn't have taken out a loan they couldn't afford” or “that's just how the system works.” But the crisis is neither an accident on the part of the homeowners nor an unchangeable “law of economics.” To understand it, we have to go back to the Subprime Mortgage Crisis, when the economy collapsed in late 2007.

It's Not Your (De)Fault: Who Is Really To Blame for All these Foreclosures?

A **subprime mortgage** is a mortgage loan that costs the borrower more than a regular loan, often through higher interest rates. Banks say that they charge higher interest because they're taking a greater risk in lending to someone with bad credit. In reality, people who have already fallen on hard times are made worse off by having to take on predatory loans.



In the years leading up to the crash, many low-income people took out subprime mortgages, and many banks gave these out freely and easily, particularly Bank of America and JPMorgan. Other banks, most notably Goldman Sachs, took these subprime mortgages and **bundled** them, turning them into objects that could be bought and sold by financial institutions. The whole thing became a game in which investors guessed whether the loans would be paid back or not, as if they were gambling. Evidence shows that Goldman Sachs knew these loans had little chance of being paid back, but they conspired with rating agencies to make them look like safe, reliable investments. At

the same time as they were placing these debts up for betting by other people, making them look good, Goldman Sachs secretly bet against them, saying they would go bust. It was like a game of roulette in which one player knew what would come up next.

During each step of the process, the banks played dirty. Bank employees signed documents without verifying their accuracy, forged the signatures of executives and fabricated all kinds of information. Thus, official bank documents relating to deals worth hundreds of thousands of dollars were left full of lies and inaccuracies. This became known as **robo-signing**, as the banks “robotically” gave out these loans, often providing misleading or false information about the nature of the loans or having them reviewed by employees that weren’t informed or qualified enough to be doing so. Bank executives issued orders insisting that their employees give out a certain number of loans per day, regardless of whether these loans were fair, realistic, or financially stable. In doing so, they not only took advantage of the folks seeking the loans

but also jeopardized the stability of the whole economy.

This constitutes two huge episodes of **fraud**, or misleading someone for financial advantage. The mortgages were fraudulently given out by misleading the applicants, then turned into bundles that were fraudulently portrayed as safe and reliable investments.

Eighty-one percent of the homes foreclosed on since 2007 have been acquired by banks, financial institutions, or government sponsored enterprises, so it is mostly large and influential organizations of the same type that caused the crisis that are also gaining wealth from it. Specifically, the biggest forecloser is Deutsche Bank, in Germany, which has foreclosed on 1,511 homes in 2007-2011. The next biggest are US Bank, Fannie Mae, Wells Fargo, and Bank of America. All of these institutions repeatedly engage in financial crimes that harm all of us in ways that are often invisible but always felt.

Oakland Is For Everyone But Oaklanders

Financial parasites might be quick to grab homes, but they have no interest in keeping them. Instead, they sell them very quickly for profit. The auctions for foreclosed homes favor buyers with cash in hand, so the buyers of flipped properties are often investors. Investors have acquired 42% of the foreclosed properties in Oakland as of 2011.

Are these investors Oaklanders? Usually not. Sixty-six percent of the top thirty biggest investors taking Oakland homes are from outside Oakland. The two biggest investors have been Community Fund LLC and REO Homes LLC.

But investors don't live in the houses they purchase. They use them as tools to make money, just like the banks. Many investors buy up houses and then sell them quickly to other investors. Community Fund and REO Homes collectively acquired nearly 500 homes from 2007 to 2011. Community Fund has already flipped 120

homes to other investors, making an average profit of about \$71,000 per home. REO Homes has flipped 10 homes and raked in \$187,000 per home.

What we have then is group of big-money forces, some rich and some super-rich, booting folks out of their neighborhoods and then flipping the houses back and forth among one another, using what used to be someone's home as a token in their profit game.

Renters Evictions

Similar to foreclosures, evictions are happening all over Oakland and the Bay Area. There are several reasons to be concerned about the future of tenant's rights in the Bay. First, rent has increased dramatically in the Bay Area. Rent rose 6.8% in the last year, while the average national rent rose 3.1%. In recent years there has also been growing demand for housing in Oakland as many tenants in San Francisco are displaced. They find themselves unable to afford rent increases, or are evicted from their homes under the Ellis Act. The

Ellis Act, which is *supposed* to be used for landlords to reclaim their homes in order to be able to sell them or live in them, is being used as a means to vacate homes so that they can be sold and rented to upper class professionals. For those looking for new housing, it's increasingly difficult to find new homes. Vacancy rates in Oakland are only at 2.7%--half of the national vacancy average of 4.7%.

All of these factors make for a situation in which it is very difficult to be a renter in Oakland. In an environment where housing is already scarce and expensive, it is all the more difficult for renters who either have a bad line of credit or a previous eviction on their records. While there is very little data available on the number of evictions happening on a yearly basis in Oakland, evictions remain commonplace, and should not be written off simply as a consequence of delinquency. It is unreasonable to demand dramatic rent spikes in a city that in recent years has had 22.3% percent of the population living below the poverty line, yet it is unsurprising that many landlords would find

excuses to evict low-income tenants in order to house tenants willing to pay more.

Many folks feel embarrassed or isolated when facing an eviction, but eviction is an unfortunate reality for many Bay residents. In 2010, the East Bay Housing Organizations surveyed residents and found that an overwhelming number of renters felt under siege in the housing market. A majority of respondents to their survey (70%) felt that the housing in the Bay Area was a huge problem, while over 60% reported spending more than 30% of their incomes on their housing costs (which is the recommended amount). A troubling 26% reported spending more than half of their family's income on rent, leaving very little of their wages left over for other expenses. Moreover, 24% of people stated that they had moved in the past because they had not been able to afford rent increases, and 66% had difficulty finding housing that they could afford. Given these trends, having a tough time paying rent should not be evidence of delinquency, but more as an unfortunate reality of a housing market that is growing much faster than people's wages.

You Are Not Alone

So, what caused the crisis that is kicking families out of neighborhoods? A criminal class of the rich that has hijacked the economy and takes it for reckless joy rides - they get the gains while everyone else bears the risks. When you or your friend or your family member is foreclosed on or evicted, it's not because of bad luck or some accident of the economy - it's because of predatory behavior by the same group of people who want the same thing that they've always wanted since the beginning of this country: less for everyone else and more and more for themselves.

Part Two:

How We Arrived Here



Construction of the Nimitz/Cypress Interstate Highway through West Oakland in the late 1950's destroyed entire blocks of homes, displacing thousands of mostly black families.

West Oakland: A Contested Neighborhood

This section is about the way that neighborhood residents, Oakland city agencies, the state of California, and the federal government, struggled over West Oakland after 1950. City officials systemically tried to destroy this neighborhood in the city that threatened the property values of downtown establishments. Disguised as “Redevelopment” or “Urban Renewal,” various projects allowed the city to redistribute property from homeowners and small businesses, to private industry and corporations. It was able to build freeways and BART stations to make it easier for commuters to get to downtown San Francisco, totally bypassing West Oakland. Residents of this neighborhood quickly realized that redevelopment could erase buildings, but it was far more difficult to erase poverty and the structural racial inequalities that had been built

into federal housing policy and private housing markets over decades. This short history explores the numerous methods of “redevelopment” (which in reality means bulldoze and displace) but also how residents organized against this systematic destruction of their neighborhoods.



This is the Western Pacific Railroad Mole that served as a passenger terminal until the early thirties and then continued as a freight ferry transport point until the 1970s/1980s

1940:

During WWII, workers migrated from around the country to work in the naval shipyards. Sailors and

soldiers stationed at the military bases along the bay settled in West Oakland after the war, including a large number of black workers. Peralta Village was created in 1941, as one of California's first housing projects to house wartime workers. West Oakland also was the end of the transcontinental railroad and the West Coast headquarters of the International Brotherhood of Sleeping Car Porters, the first national black union.

West Oakland in the 40s was also known as "Harlem of the West" for its thriving Jazz scene. Popular Jazz clubs like Slim Jenkins' Place, and Esther's Orbit Room, along with many other thriving black owned establishments, created the 7th Street business corridor.

1950:

After WWII members of Oakland's city government realized the black workers who came during the wartime economy were going to stick around. In 1949 the federal government and the state of California simultaneously passed major

legislation that provided funding for local renewal projects and public housing and powers that made it easier for cities to acquire property. With these new powers, Oakland's Planning Commission designated ALL of West Oakland as "blighted", meaning they could use their powers of eminent domain to take over any property they wanted.

The designation of black and mixed race neighborhoods as "high risk" for loans made banks less likely to make capital available for home repair. Older homes were suffering from decades of neglect and instead of trying to help existing families stay in their homes and make them livable, the city proposed the *complete* destruction of public housing projects.

The 50s also saw the decline of the railroads as highway transportation grew, marking the beginning of the end for extensive West Oakland shops and train yards. By the late 50s West Oakland yard operations has practically ceased. Instead of trains, the city built the Cypress Freeway, an elevated highway that sliced across

Seventh Street and effectively isolated it from the city's downtown.

The Oakland Police Department also normalized the harassment and killing of black people that helped facilitate the necessity for, and creation of, the Black Panther Party For Self Defense in the 60s.

1960:

The 1960s saw the implementation of some of West Oakland's biggest Urban Renewal Projects: the Cypress Freeway; above ground BART trains; and a Postal Distribution Facility. The three projects went hand-in-hand with new ideas about urban renewal and a desire to remove "urban blight" from the city landscape.

The Post Office was a 12-block distribution center in the heart of the 7th Street business district. The photo on the front of this pamphlet is the old WWII tank that was used to plow down Victorian homes, displacing hundreds of families, to make way for the postal facility. Though officials promised that

the postal distribution facility would provide 2,700 jobs, employees transferred from other offices received all but 200 of the jobs. There was no relocation plan for the many displaced residents.

Plans for the creation of the West Oakland BART station shocked residents. In 1964, local activists formed JOBART (Justice on Bart) in an attempt to ensure fair compensation and economic justice for the neighborhood. Three key JOBART demands were: market value compensation for homes removed for BART construction; a relocation plan to assist displaced homeowners and renters in the neighborhood, (especially the elderly and the poor); and a commitment by BART to non-discriminatory hiring practices.

Faced with the potentially devastating redistribution of their homes, activists in West Oakland also took a stand against the cities proposed demolition of public housing projects. There was the United Taxpayers and Voters Union, which emphasized rehabilitation and not demolition of the Acorn Projects, more than 70 percent of whom were African American, and the Oak Center Neighborhood Association

which was able to successfully lobby the city and saved hundreds of homes from being destroyed in the Oak Center neighborhood.

The Black Panther Party for Self Defense organized against police violence and towards the self-empowerment of the Black community in West Oakland. They offered resources and services to the community, and advocated for the armed self-defense of black people.

1970:

The West Oakland BART Station, the Post Office and the Cypress Freeway were all completed, displacing hundreds of families and businesses, and completely changing the face of the 7th street. The majority white city government was successful at sectioning off this black portion of the city with these projects, while thousands of whites fled to the surrounding suburbs. These dynamics exemplified the Black Panthers analogy of the black urban areas as exploited colonies controlled from the suburban perimeter. These conditions were also reflected when suburban

homeowners in 1978, worked to monopolize and segregate the assets of postwar prosperity, efforts that culminated in Proposition 13, the nations first and most influential tax limitation measure.

Prop 13 slashed property taxes that depleted the states ability to raise public funding, money that was crucial to public education, public utilities and maintaining urban cities. It raised the values of houses bought before 1975 and made it harder

for new buyers to purchase homes. Prop 13 was a direct response from white homeowners in the suburbs, to black neighborhoods in the cities. It was the clear defunding of inner cities that made everyone in the suburbs richer.



Creating West Oakland BART Station, 1974

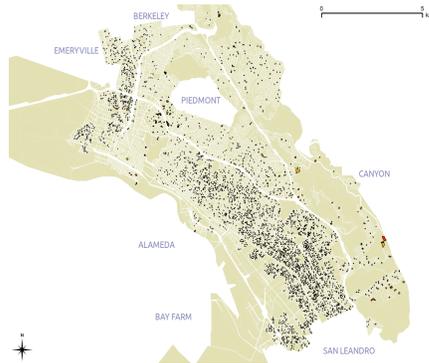
1980:

The 1980's saw the effects of de-industrialization in West Oakland, when the last factories started to close, and unemployment was on the rise. Large scale prisons were built all over California to house surplus populations of black and brown workers that cities like Oakland no longer need to work in their train yards or cereal factories, or General Electric manufacturing plant.

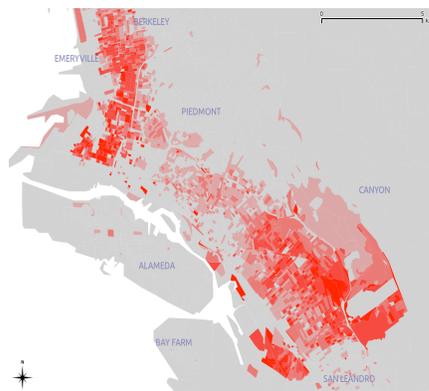
In 1989, the Cypress Freeway collapsed during the Loma Prieta earthquake. When Caltrans planned to rebuild the freeway in the same location, West Oakland activists, under the banner of the Citizens Emergency Relief Team (CERT), proposed a different route for the freeway, one that would minimize impact on West Oakland. They proposed that the city was neglecting the needs of their neighborhood, just to make it easier for commuters to travel from the suburbs to downtown San Francisco. In the 90's they were able to successfully move the location of the freeway, and Caltrans renamed the street

originally covered by the Cypress Freeway--
Mandela Parkway.

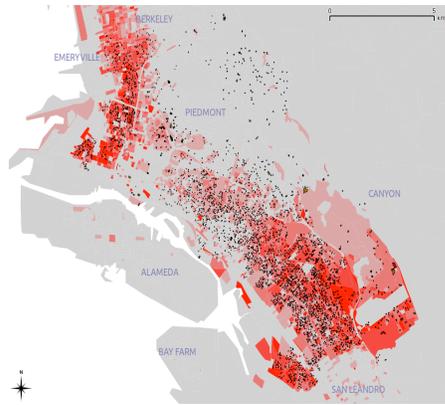
Racial Breakdown of The Foreclosure Crisis



*The black dots
here represent
foreclosures in
Oakland*



*The red areas
represent the black
populations in
Oakland*



The two maps together show foreclosures disproportionately targeting black homeowners

The foreclosure crisis has disproportionately affected people of color, especially black homeowners. This disparity is seen in the maps of Oakland above. The highest areas of displacement are in West and Deep East Oakland, and the lowest areas of displacement are in the affluent Oakland Hills and the neighborhoods surrounding them.

Oakland is one city in a nationwide foreclosure crisis that is stealing the wealth out of communities of color. 93% of the foreclosed homes purchased by investors in Oakland were in low-income neighborhoods. Nationally, 17% of Latino homeowners, 11% of African-American homeowners, and 7% of white homeowners have already lost or are at imminent risk of losing their homes. More disturbingly, black and Latino families have been disproportionately affected by the crisis. *Even when accounting for income*, nearly 8% of both groups have already lost a home, compared to 4.5% of white borrowers*. In other words, people of color with the same income as whites are losing their homes at a disproportionate rate--systemic racism is clearly at work.

Communities of color have undoubtedly been unfairly hurt by the foreclosure crisis and there is no guarantee, especially from the government, of any help returning their wealth. According to a study by the Alliance for a Just Society, "The most devastating impacts of the ongoing foreclosure crisis were in majority people of color

communities: Zip codes with majority people of color populations saw an average of \$2,198 in lost wealth per household, over 1.7 times the average lost wealth in segregated white zip codes.”

These facts alone speak to a need for an end to blaming homeowners who have been under attack from an unjust system. As a community we must stop expecting the same government, which has proven to be systemically racist towards people of color, to produce different results. We must organize and fight back and say no to greed, racism, gentrification, and oppression.

Besides just the plain facts and figures, neighborhoods are changing. With so much forced transition, movement, and loss of wealth in low-income neighborhoods, it is difficult to feel the same sense of community that was previously felt. The effects of gentrification are not only measurable in numbers such as increased rent and property value, but in the feel of the community. After families have been kicked out of their homes and the homes are rented by more

affluent folk who have the luxury to spend more on rent, the community begins to change.

The businesses change and the whole look and feel of neighborhoods change as long standing communities are torn apart by predatory banks, investors, and opportunists moving in to take advantage of the crisis. With a diminished sense of community, folks are less likely to have solidarity with each other and feel a connection to their neighbors. This institutionalized racism in the foreclosure crisis has reached not only into the pocketbooks of people of color, but has also caused the stress of displacement. People are forced to move out of the neighborhood they have known all their lives, and has filled up what used to be leisure time with time spent working extra hours and time spent searching for a new home to live in. It is time for communities to come together and fight back as communities, friends, and as neighbors to fight the racist, classist, and predatory banks and investors.

*Statistics from the Center for Responsible Lending

Part Three:

Learning Our Legal Rights



We at East Bay Solidarity Network believe in using any and all means for folks to assert themselves over the bosses, landlords, banks, politicians, and others who would try to exploit them. Often, this means going outside the law when the law favors those in power over everyone else. EastBay Sol is most interested in doing this sort of extralegal direct action in collaboration with folks who have limited or no access to legal routes to protect themselves or choose not to use those routes. Going outside the law carries risks, however, and we fully support those who choose to stay within the law in order to avoid the force that cops, courts, and others can bring to bear. We should not be fooled into thinking that the law does enough to give us our basic rights and dignities - but that does not mean we should not use it whenever possible to protect ourselves, especially when landlords can and do take advantage of tenants who do not know their rights. To that end, this section is aimed at providing a basic understanding of tenants' rights.

Your Best Protection Under The Law

For better or worse, written records are often taken more seriously in courts than spoken testimony. For this reason, it is very important to **document all of your significant interactions** with your landlord. This does not have to be formal or fancy - it can range from a handwritten letter or email to the landlord or it can be as simple as a notebook with entries like this: "July 5th, 5:15 PM - made a phone call to request repair of leaking ceiling in living room. No answer - left voicemail" "July 7th, 3:35 PM - have not heard back about ceiling, left another voicemail." "July 8th, 11:08 AM - landlord called back about ceiling, promised repairs would begin tomorrow morning."

If this imaginary landlord continued to be delinquent about repairs, the tenant would now have a record to show in court! If possible, the strongest form of documentation is going to be the type that shows the landlord actually received the message such as certified mail. For any written communication with the landlord, try to date, sign,

and properly address the letter with the landlord's name. Keep copies of all documents if possible.

What Are My Rights As A Tenant Facing Eviction?

Happily, Oakland provides relatively good legal protection to many of its tenants due to a law passed in 2002 called the Just Cause for Eviction Ordinance, or Measure EE. This law protects most Oakland tenants from being evicted suddenly on the whim of their landlord. You are protected by Just Cause **unless**:

1. Your building was built after 1983
2. Your landlord lives in the building (it is "owner-occupied") **and** the building consists of three or fewer units

If you are covered by Just Cause, you are protected in a variety of ways from eviction, described below. If you are not covered by Just Cause, skip this next section and move on to the one below it.

What is a “Just Cause for Eviction”?

Being protected by Just Cause means that a landlord needs serious, verifiable reasons for evicting you - they cannot evict you just because your lease is up, because they want to get a new tenant and raise the rent, because they want to sell the house, or because they don't like you. Instead, in order to evict you, a landlord has to do the following:

A. Give you a **written** notice describing **specifically** how and when you did something “wrong” that meets at least one of these seven reasons for eviction:

1. Not paying rent on time.
2. Violating a part of the lease even after **written notice** to stop was sent to you. Note that these “violations” can be fairly trivial things. EastBaySol knows of a case, for instance, in which a landlord threatened to evict a tenant for installing a beehive in her garden, citing that “...*Tenant shall not make any*

*alterations in or about the Premises without
Landlord's prior written consent...."*

3. Refusing to sign a new lease that is identical to your old lease when your lease expires.
4. Doing significant damage to the property and refusing to stop doing whatever is causing the damage or paying for the repairs after getting **a written request** from the landlord.
5. Creating noise or other disturbances that other tenants or residents (even ones that live outside the building), even after **receiving written notice** to stop
6. Using the building for an illegal purpose, like selling drugs or prostitution
7. Refusing to let the landlord into the apartment for inspection, repairs, or other purposes. Note, however, that **you may** refuse to allow a landlord to enter if they have not given you a 24 hours' **written notice and they must try to work with your schedule if you want to be present for the visit.**

B. Alternatively, the landlord may try to evict you not because of anything you did, but instead

because of something that they want to do with their building, including:

8. The owner wants to move back into the unit and you and the landlord have a written agreement, or it states it in your lease, that the landlord is allowed to move back in after a stated amount of time.
9. If the landlord - or the landlord's spouse, domestic partner, child, parent, or grandparent - wants to move your unit to live there, they have Just Cause for evicting you if it states in your **lease or some other written agreement** that the landlord may do so, having given you a certain amount of notice. If this agreement was made, you have no legal protection against eviction. Additionally, eviction is possible if there is no written agreement but the landlord meets the following requirements:
 1. It is the first time in a three-year period that the landlord is moving into the unit for this reason
 2. The landlord gives appropriate notice to the tenant, including: information about all of the property owned by the intended occupant (the landlord or their relative), the

property address on which they claim a homeowner's tax exemption, and any possibility of a replacement unit for the dispossessed tenant.

3. The landlord or relative moving into the unit is not using any other unit on the property after moving

4. The landlord is not evicting a tenant who has lived in the unit for at least five years and is either a. 60 years of age or older, b. physically or mentally disabled, or c. catastrophically ill. The landlord may, however, evict such a tenant if they or their relative who is moving in is also 60 years of age or older, disabled, or catastrophically ill.

10. The landlord invokes the Ellis Act, a law that allows landlords to evict all of a building's tenants at the same time, usually in order to change a single family home into a condominium with multiple units or, the reverse, turning a multi-unit building into one big mansion. Landlords must give at least a 120-day notice for an Ellis Act eviction, possibly longer depending on the age or health of the tenants involved. Ellis Act evictions

are complicated but can and have been successfully resisted by tenants - please contact us if you are facing an Ellis Act Eviction.

11. The landlord wants to make repairs on the unit that cannot be made with the tenant living there. The landlord must explain clearly why the tenant cannot live there for the duration, and they must allow the tenant the opportunity to move back in when repairs are completed at the same level of rent.

If the landlord **does not** meet one of these Just Causes in their threat of eviction (if, for example, they simply verbally threaten you or leave a written threat that does not clearly cite one of these reasons or lists reasons that are untrue), then they have no legal grounds for eviction and you **do not** need to leave.

In the case of the reasons under group A, where the tenant is considered to be at fault, the landlord may give you a three-day notice called a Notice to Perform or Quit or a Notice to Quit.

A Notice to Perform or Quit can be served in cases when a tenant is mildly in breach of the agreement, such as by not paying rent, and it gives you three days to **either assert your rights if you do not feel that the notice is valid, settle on another agreement with the landlord, or meet the landlord's demands**, in which case they **cannot** evict. It is important to have some kind of **written** communication with the landlord within the time period stated on the notice, even if the situation is not resolved because you want to be able to show at a later point that you were responding to the notices. If you do not "perform" or leave in three days, the eviction process begins. **This does not mean that you will be evicted at the end of this period, no landlord can ever remove you or your property, it simply means that the landlord can start the court-ordered eviction process at which point you will be able to see a judge to explain your case.**

A Notice to Quit can be served by landlords when a tenant more seriously breaches the agreement, such as by damaging the property or using it for

illegal purposes, and means you must leave the property in three days. If you do not leave in three days, the eviction process begins.

What If I Am Not Protected By Just Cause Law?

Unfortunately, lack of protection under Just Cause means that landlord can ask you to leave the property at the end of any long-term lease period or simply at the end of a month if you do not have a long-term lease. They must normally give you at least 30 days of notice **in writing**, which is extended to 60 days if you have lived there for at least a year. If you are in breach of your agreement, however, this notice is reduced to only three days. If you do not leave by the end of the time stated by the notice, the eviction process begins.

I Am Being Evicted - What Is Going To Happen?

Note: Eviction is a complicated legal process that is beyond the scope of this pamphlet to fully explain in depth. What follows is meant as a **brief**

overview to give you a sense of what could happen.

The legal eviction process can take anywhere from 3 weeks to a few months. If you have not “performed” or left by the end of the time listed by a Notice to Perform or Quit or left by the end of the time listed by any other notice, the landlord can file an eviction lawsuit, called an Unlawful Detainer (UD). Note that if a landlord does not file an Unlawful Detainer and instead engages in a so-called “self-help eviction”, trying to force you out by changing the locks while you are gone or cutting off utilities, for instance, **your landlord is breaking the law** and you can report them to the police if you choose.

In the event of an UD, there are a few things you should know:

We recommend above all else filing your paperwork at the courthouse listed on the UD notice within 5 days of receiving the notice (extended to fifteen if you were served the notice by mail rather than personally). You may wish to

seek the advice of a lawyer to be sure you are defending yourself as best as possible through the UD process, but it is not completely necessary. If you do not respond, the landlord may obtain a “default judgment” from the court, essentially automatically winning.

Responding to the UD requires a filing fee, usually around \$180, but you can request a waiver - called an “Application for Waiver of Court Fees and Costs” from the Clerk of Court or online at <http://www.courts.ca.gov/documents/fw001.pdf>

If you feel the landlord’s eviction suit is unfair, you may have a legal defense on your side. There are several common responses to unlawful evictions, but, again, it is imperative that you respond to the UD within five days with your grievance, otherwise you will lose this possibility of defense **even if it was valid** - here are some examples of common grievances:

The landlord requested rent that was already paid or in excess of the agreed rate

The rental unit is somehow legally uninhabitable (i.e. lacks running water, see below for more on habitability)

The landlord is filing the eviction to punish the tenant for legally valid complaints or some other assertion of their rights

The landlord did not properly serve their UD complaint (this grievance is called a Motion to Quash)

The landlord made allegations about your behavior that are untrue (this grievance is called filing for a Demurrer)

If you wish to file a Motion to Quash or a Demurrer, we definitely recommend seeking legal advice from a professional.

In a clear case of the law being on the side of those with property, the UD will appear on your record for seven years **even if you win** the lawsuit, which may make it harder to rent in the

future. For this reason, if you know you are in breach of your lease and do not have a legal defense, you should try to get out before the landlord can file the UD unless you are planning to use direct action to stay in your house.

Going to Trial: A Primer

Once you have responded to the UD, the court will normally set a trial date within 20 days. There are a few things you should do in this time.

Contact a housing clinic, tenants' organization, attorney, legal aid organization or similar group - we have many options for free assistance listed in Part 4 of this pamphlet.

In the time leading up to the trial, both you and the landlord have the right to "request discovery", which means legally acquiring information that may help your case. This discovery may include spoken or written testimony from the landlord or others involved in the case (oral depositions or written interrogatories); investigation into the landlord's records, things, or places; or sending lists of statements that you ask the landlord to

affirm or deny (requests for admission). Each party is allowed five days to respond to a request for discovery, so **you must make a request a minimum of five days before the trial for the evidence to be able to be used.**

You can request the appearance of witnesses to testify about your case. If a witness is unwilling to testify on your behalf, you may subpoena them by serving a written order from the Clerk of the Court that may be delivered by anyone over the age of 18.

Be sure to have at least five copies of any document you are using as evidence - you will need to have one each for the judge, court clerk, landlord, the witnesses, and yourself.

Work with your legal advisor to decide how you want to arrange and present your evidence and witness testimony to argue your case.

You also must decide whether to request a jury trial (your landlord may also request this). We do not recommend requesting a jury trial without

being represented by a lawyer, as it is more complicated and expensive, especially for the losing party.

After the Trial

If you win the case the court will allow you to stay in your home and in many cases require the landlord to pay any of your incurred legal fees, including . You still may need to pay any unpaid rent or similar costs owed to the landlord your attorney's fee.

If the court decides that the landlord has legal ground to evict you, it will issue a **writ of possession**, meaning that you have five days (sometimes longer, you should receive a notice with the exact day to leave the premises) to leave before the sheriff will come to forcibly remove you and lock you out. Any possessions still in the house may be seized by the sheriff. Note that **the landlord is not entitled to possession of the space or anything in it, and has no right to keep you out of the space, until those five days have passed.**

Losing the case may also mean that the court forces you to pay unpaid rent, court costs, attorney's fees, and other penalties. It also will appear on your credit report for seven years.

Occasionally, tenants in dire need of housing may be allowed by the court to stay in their home even if they have lost the eviction suit. This is called **relief of forfeiture**, and it occurs only when the tenant can show the court that moving would cause "severe hardship" and that the tenant is capable of paying all of the costs currently owed to the landlord and meeting all requirements of the lease. If you believe you qualify for relief of forfeiture, you should apply as soon as the court tells you that you have lost the eviction suit, as **you must apply before the landlord regains possession of the unit.**

Finally, it is possible for both you and your landlord to appeal the case if you have lost. Appealing does not normally prevent you from having to move, however, unless you can

demonstrate that moving would cause extreme hardship for you or your family.

What Are My Rights Living Under A Landlord?

Can My Landlord Increase My Rent Whenever They Want?

It depends. Some Oakland tenants are protected by the Rent Control Ordinance, and some are not.

You have rent control **unless**:

- You live in a home built in 1983 or later

- You live in a single-family home

- Your landlord lives in your building, and the building has three or fewer units

If you do not have rent control, then your landlord can indeed raise rent whenever they want, though you can resist these changes through direct action.

If you do live in a house with rent control, the landlord can only raise rent once per year and only by a small amount each year (2.1% this year,

though the landlord may raise it by more if they did not raise it during previous years). If you believe your landlord is raising your rent illegally, contact us.

Repairs

One of the most common sources of tension between landlords and tenants is repairs, probably because it is one of the easiest ways for landlords to exploit their tenants.

Your landlord is obligated to ensure that your unit is legally “habitable”. Exactly what makes a unit uninhabitable is not strictly defined in the law - instead, it is a hazy definition based on how many problems there are and how severe they are. In spite of this haziness, many requirements of habitability are what common sense tells you they are - here is a quick list:

- Hot and cold running water, free of rust, bad odors, etc.
- Working sinks, toilets, and showers
- Functional, intact windows
- Smoke detectors

Working heater that can keep the house at 70 degrees
Free of pests (this does not mean the landlord can put down mousetraps and call it a day)
No leaks, mold, or water damage
No peeling paint or plaster, and no holes in walls or ceilings
Any appliances, such as stoves or refrigerators, that came with the house must be functional

An extensive list can be found at:
<http://www.caltenantlaw.com/HabChecklist.htm>

Depending on the number and severity of these and other defects, a house may be considered “uninhabitable”, meaning you have legal weight on your side against your landlord.

If you need repairs, we recommend that you contact your landlord in writing **and keep documentation of the request and their reply (if any). If the problem is obviously visible, take photographs of it.** If they prove

unresponsive to your request, you have a few options:

1. Move out immediately - Civil Code 1942 allows tenants to leave uninhabitable units without giving notice. If you were already planning on moving out soon, your landlord ignoring repairs gives you an opportunity to break your lease and leave without paying the next round of rent. This is tricky and likely to anger your (ex)landlord, so make sure you do all of the following:

- a. Call your landlord and alert them to the problem (you do not need to say that you are planning to move out if they do not do the repairs)
- b. Write a letter that details specifically and thoroughly all of the problems with your unit, then say that you are leaving under Civil Code 1942 because of those problems. Include in the letter a demand for a final walkthrough to assess the unit and return your deposit. Send the letter through certified mail and keep a copy for yourself

c. Record the damage - Clean and organize the house (any messes that you've made, unrelated to the problems, so the landlord can't say you're a destructive tenant), then take pictures and notes detailing all of the problem.

Your landlord will likely be angry and may refuse to do the walk through. They may even insist that you have not ended your lease agreement, but your rent obligation ends the day you move out. You should attempt to turn in at least one set of keys on that day and ask for a receipt for them. If your landlord is being hostile and/or refuses to meet you, just leave them on the kitchen counter with a note explaining when you left (be sure to keep track of this date for yourself as well).

2. Call in the City Inspectors: Oakland Building Services are the bureaucracy in charge of ensuring property owners properly maintain their rental units. You can contact them at 510-444-CITY, and you should be ready with a list of grievances. When the inspectors come, be sure to give them the list of problems and get the name

and number of the agent as well as their supervisor - some inspectors are corrupt and may be an ally of your landlord. If you know that other tenants in your building have similar repair grievances, try to call in a joint complaint to Building Services - this collective act could cause serious problems for a negligent landlord.

3. Repair and Deduct: Civil Code 1942 also gives you the right to repair problems yourself and deduct the cost from your rent under the certain circumstances:

- a. It has to be a problem that affects habitability, not just something you don't like about the place
- b. It cannot be a problem that or one of your guests caused
- c. You must have alerted the landlord to the problem first, giving them a chance to fix it
- d. You must give the landlord "reasonable time" to fix the problem. Again, there is no hard and fast definition of what this means, and it would ultimately be up to a judge's opinion. Roughly, it means about 30 days,

less if the problem severely affects habitability and less if it could be easily and quickly fixed.

e. The cost of a single repair cannot exceed one month's rent, but you can do multiple repairs that end up costing more than one month's rent

f. Any contractors you use must be licensed professionals (note that you cannot charge for your own time, even if you are a contractor or similar construction professional, though you can deduct the cost of materials if you do repairs yourself)

Be sure to document everything - get a detailed invoice from the contractors explaining everything they did and why. If they, for instance, remove and replace some structure that they consider beyond repair, make sure they write and sign a note on the invoice giving their professional opinion on why that was necessary. Make multiple copies of any invoices. Finally, when you go to pay your rent, subtract whatever you paid for repairs that month and include any and all invoices with your check.

4. Withholding Rent - this option can be risky, as your landlord could attempt to evict you for non-payment of rent. It can, however, be a powerful option if you have documented the problem and the landlord's unresponsiveness to it. The tricky part is that the house must have a "substantial reduction in habitability" - that phrase is as vague as it seems, and it is ultimately up to a judge to decide whether that is the case if your landlord sues you. How bad is "substantial"? Safe bets include:

- Lack of heat during winter
- Nonfunctioning water or electricity
- Broken windows
- Flooding

Unfortunately, there is no sure way of determining what is "substantial", and a tenant just trying to assert their dignity may find themselves being punished while a landlord is rewarded for being negligent. Again, documentation is your best friend, as a judge is likely to be swayed if they see that you asked for repairs multiple times while your landlord ignored you, eventually pushing you to withhold rent.

I Am A Tenant Living In A Building Undergoing Foreclosure - What Will Happen To Me?

Can I Be Evicted?

As with other eviction situations, you should first determine whether you are protected by Just Cause (see above). If you are, happily, there is no way for you to be evicted - foreclosure is never a Just Cause for eviction.

If you are not protected by Just Cause, you still have other protections:

So long as your building is being foreclosed on or after May 20th, 2009, you are protected by the Helping Families Save Their Home Act of 2009. This means that if you have an existing lease, you cannot be evicted until your lease expires; the only exception to this is if the purchaser of the property wishes to occupy it as their primary residence, in which case they may terminate your lease after 90 days. If you have only a month-to-

month lease or an expiring lease, you may be evicted only after 90 days.

Living in Section 8 housing offers similar protections. Your current lease must be respected by the new owner, who cannot evict you until it expires. In the case of an expiring lease, the owner must give you a 90-day notice for any evictions.

Finally, if Fannie Mae is the foreclosing agent, they are often willing to rent to the existing tenants. Contact them if you do not hear from them shortly after the foreclosure.

If You Are Allowed To Stay...

Be sure that all aspects of your lease continue to be respected. Your rent should not change in any way that your old landlord could not change it (see Rent Increases above). Your utilities must be maintained as they were, no matter who your new landlord is. The new owner is responsible for any and all repairs, including any that the old landlord failed to complete.

Be sure you know you are talking to when someone comes to your door saying that they are the new owner. Ask them a copy of the Trustee's Deed, and follow up by going to the County Recorder's office to make sure the same name is on the record. **Do not pay rent until you are totally certain that this person is the new owner.**

If You Are Being Evicted...

Everything said above about evictions applies in the event of a foreclosure. Remember that **the new landlord cannot simply lock you out - they must go through a legal process.**

There is one common difference between foreclosure evictions compared to others. Often the foreclosing agent wants to sell the property quickly (they're not interested in actually being landlords) and hires realty managers when they cannot. These managers often try to remove existing tenants by offering "cash for keys." Typically, these managers will offer you some cash sum to leave right away and couple this with

a threat that you need to leave within five to ten days or there will be consequences.

Do not be intimidated - know your rights.

These managers often lie about the law, hoping that you do not know that you are entitled to at least a 90-day notice (see above), or that you may not be in a position to be evicted at all.

Alternatively, you may want to move soon, either because you can eventually be evicted or just because you want to, in which case you should try to take advantage of the cash for keys. It is reasonable to ask for two months of expected rent wherever you are moving to plus moving expenses. Show the manager rental figures on where you are moving and the rates to hire movers, a moving vehicle, etc. Ask for at least half the money up front, if not all, before handing over the keys, and request a written and signed agreement before giving them anything. Drive a hard bargain - they are getting a huge advantage by having you move out, and you can and should extract a good amount of money from them.

Part Four:

Fighting Back



The East Bay Solidarity Network is a community group of volunteers living mostly in West Oakland who believe gentrification is a deliberate, engineered process that benefits only a few and hurts many. Furthermore, we recognize that working people face a variety of abuses in our day to day lives, from bosses stealing our wages or disrespecting us, to landlords refusing to make simple repairs. Rather than relying on lawyers, politicians, and other “experts” to solve these problems, we aim to build an organization for regular people to get together, organize, and fight

back to defend our homes, our neighbors, and ourselves. We believe that by acting directly to confront the abuses facing us and our friends or neighbors, not only are we more likely to succeed in getting what we want but we are also building up the power of regular people to make widespread changes in our world.

Our Goals and What We Have To Offer

East Bay Solidarity Network seeks to build community and solidarity among workers, neighbors, and all Oakland residents dedicated to fighting for just living conditions and wages. We believe that laws in their current form are advantageous to the rich and privileged and we will use solidarity to bring together our community to fight back against systematic oppression. We imagine this Solidarity Network as an all volunteer organization composed of residents of Oakland that will prevent eviction, win concessions from landlords, banks and employers, build political skills and analysis and pose a challenge to the ongoing gentrification and exploitation of the area. East Bay Sol has experience organizing direct

actions around housing and employment justice. We can draw on this experience to help neighbors come up with organizing strategies for defending their homes and apartments. We can also tap into our network of housing activist organizations in the Bay Area for skill-shares, people power and other resource sharing. While current members of East Bay Sol are committed to this project and intend to work hard to build a successful solidarity network, it is our priority to share all the organizing skills we have with members from the neighborhood and to make space for new folks to take on leadership responsibilities. We organize horizontally, meaning there is no top-down leadership that gives out orders: all members in the group have equal opportunity to have their opinions expressed and take part in making decisions. As a solidarity network we seek to better understand each other's differences and focus on our shared connections and community in our fight for justice.

East Bay Solidarity strives to be a welcoming and supportive environment for women, queer and trans* folk, people of color, and poor and working



class people:
the traditionally
marginalized.
We believe that
this must be
reflected not
only in our goals
but also in our
day to day
operation: the

character of our meeting space, our process of leadership development, and the ways we support and respect one another as individuals as we work as comrades.

Why are we working in West Oakland?

Ever since World War II, West Oakland's residents have been largely disregarded by political and economic actors throughout the greater Bay Area. Highways have been built and neighborhoods have been razed in the name of progress, neglecting the needs of residents and dramatically changing the character of our neighborhood. But organization against harmful

development is part of the history of West Oakland. As we explained in depth in this pamphlet, the fight for West Oakland has been a consistent battle between the residents and city developers, the police, local government, transportation agencies and redevelopment projects.

That battle is still being fought today. Now that wealthy speculators, land developers, and entrepreneurs see potential for profit and expansion in this neighborhood, we are certain that the wishes of the local population will once again be overlooked. As the cute cafe's, condo developments, and cupcakeries pop up around us, we see quite clearly that displacement of residents will be the flip side of this coin. We believe now is the time to build community power in order to halt a fresh wave of displacement and we hope that an organized West Oakland, with our history of resistance, can present a challenge to this all too familiar process.

West Oakland is home to the largest number of East Bay Solidarity's current organizing members.

We look to recruit organizers and build alliances primarily with others living in this neighborhood. In order to bring folks together to talk about the issues facing our community, educate tenants and owners of their rights in the face of conniving landlords and banks, and establish relationships among neighbors, we regularly hold neighborhood barbecues and tenants' rights workshops.

Our Strategy: How To Fight Back Against Your Landlord, Bank or Boss.

1) *Setting up a meeting.* If you are having a problem with your landlord, bank or employer, typically the first step is to call us and we will set up a face-to-face to meeting to discuss the situation with you and how our group may be able to help. Basically this meeting is a chance to get to know the people we are working with, gain a better understanding of their situation and explain how our organization works. Anyone who wishes to work with us must agree to become a member of the organization, which means that you identify with the goals of the organization and will come out to support other workers and tenants in the

future. We also expect that people who approach us for solidarity will be centrally involved in the campaign. This means coming to meetings and participating in all of the planning and strategizing.

2) *Developing a campaign, the demands, and the strategy.* Whether or not we take on a fight depends on our ability to identify a winnable demand. Are we asking to stop your eviction? Are we trying to reclaim stolen wages? If so, how much? Our demand needs to be winnable and specific. In this stage we need to gather as much information as possible about the “target” (landlord, bank, or boss) and brainstorm actions that might impact their ability to make profits, gain their attention, or annoy them so much that they would have to give into the demands.

3) *Get others involved.* One of the most powerful elements in winning a fight is an organized neighborhood or workplace. Some tactics that we may use at this stage may include: door knocking neighbors or holding outreach events to let residents in your neighborhood know that you're

fighting for your home; talking to co-workers who may be supportive, and finding others who have similar experiences and recruiting them to the campaign.

4) Write a letter which clearly states the demands. For example, we are demanding that your landlord refund you a \$500 deposit. We will write a letter with you that clearly states the demand, gives the landlord a timeline to respond (usually within one or two weeks) and lets them know how to contact us.

5) Demand Delivery. Our first action is to deliver the demand letter to the bank or landlord with as many people from the Solidarity Network as possible. The objective here is to show the landlord that you are not confronting this problem alone, and that if he doesn't meet our demand he will have to deal with this big group of people instead of just one isolated individual. We don't engage in negotiating at this action; we have seen that it is more powerful to stay silent, deliver the letter, and then leave. This way, the landlord will be left wondering what will come next. We will

have the upper-hand.

6) *Wait for a response from the target.* Based on the time specified in the demand letter, we will wait for the target to respond, indicating whether or not they will meet our demand. If they do not respond, we will make it clear that further public action will be taken.

7) *Escalation.* If the target does not give in to the demands in our letter, we will begin a public campaign against them to pressure them into meeting the demand. Our strategy is to escalate tactics over time, so we are always on the offensive and leaving our target wondering what will come next. Escalating tactics could include, but are not limited to:

- Clog the phone lines, fax lines and/or email inbox of a company.
- Roll up thirty deep to a bank branch with chants and picket signs.
- Poster around your neighborhood, or the neighborhood of a corrupt landlord to

pressure that landlord into negotiating and inform people of the campaign.

- Find other tenants of a corrupt landlord and coordinate a rent strike or other pressure tactics to get demands met.
- Hold a rally to bring neighborhood attention to shady and unjust practices of a bank or landlord. Bring media attention to add extra pressure.
- Publicize the immoral practices of a landlord to their neighbors, prospective tenants, business associates, etc.

8) *Don't give up!* It could take months to break a hard landlord, bank or boss. The point is to keep the pressure on and escalate the actions. You will win the fight when the landlord or bank is afraid to find out what action is coming next, and when these actions consistently disrupt their ability to make money. It also really important to get your neighbors and co-workers (or ex-co workers) involved in the fight! They will be the best at helping you do short notice actions at your house or workplace.

Ways to Get Involved

There are many ways to support East Bay Sol that allow for a wide level of commitment in terms of time and effort:

- Join our contact list to stay informed about actions and events that pertain to worker/tenant issues in Oakland.
- 'Like' us on Facebook
- Come at us with a printing hookup for flyers, zines, and posters
- Bring a dish to a neighborhood BBQ or help with setup.
- Help with outreach: come flyering or meet up to make phone calls to invite neighbors to community events. Help us make banners for events.
- Leave us a voicemail or send us an email to schedule a one-on-one meeting about an issue you need help with.
- Use your photography and blogging skills to document our neighborhood events help maintain our blog

- Come out for an action and be in solidarity with your neighbors!
- Become an organizer! If you are dedicated to this cause and want to learn more about how to organize other working people, you can come to weekly meetings and help us with the day-to-day work of building this organization and raising our capacity to win gains for workers and tenants in our city.

Contact Us!!

Phone: 510.239.7739

Email: evictionfreeoakland@gmail.com

Facebook: East Bay Solidarity Network

Please check out our blog:

<http://eastbaysol.wordpress.com/>



Examples of Effective Resistance Around the Country:

A list of groups fighting back against housing injustice across the country, and winning with direct action!

Project No One Leaves

Out of Boston, Massachusetts, Project No One Leave's mission is to empower citizens living in foreclosed properties to protect their homes and communities through grassroots organizing, legal education, and civic engagement. They also work to empower tenants and former homeowners to avoid displacement post-foreclosure

Projectnooneleaves.org

Take Back The Land

The Take Back the Land Movement out of Atlanta is a national network of organizations dedicated to elevating housing to the level of a human right and securing community control over land. The Movement is led by impacted communities and is firmly rooted in 'Positive Action' campaigns, including those which break the immoral laws which allow banks to gain billions in profit while human beings are made homeless.

www.takebacktheland.org

City Life/Vida Urbana

City Life/Vida Urbana is a 38-year-old bilingual, community organization whose mission is to fight for racial, social, and economic justice and gender equality by building working class power through direct action, coalition building, education, and advocacy. In 2007 they launched a major campaign, the Post-Foreclosure Eviction Defense campaign, to help keep people facing foreclosure in their homes. Victories won by hundreds of organized families have created public and political pressure for legislative reform.

<http://www.civu.org>

Occupy Bernal

A San Francisco neighborhood organization that uses direct action tactics to keep neighbors in their foreclosed homes.

<http://occupybernal.org/wordpress/>

Seattle Solidarity Network

The Seattle-based solidarity network that has been successfully fighting wage theft, evictions, and other unfair employment and housing treatment. They have been around for about 5 year and have won dozens of direct action fights for workers and tenants.

<http://seasol.net/>

The Chicago Anti-Eviction Campaign

The Chicago Anti-Eviction Campaign will enforce our human rights to housing and continue fighting to stop all economically-motivated evictions in Chicago. They are no longer willing to wait for any authority to institute our human right to housing. We the People are Enforcing Our Human Rights!

chicagoantieviction.org

Local Resources for Support and Information Regarding Evictions

Causa Justa :: Just Cause

A grassroots organization building community leadership to achieve justice for low-income San Francisco and Oakland residents, coming out of the tradition of passing the Just Cause Proposition.

They provide tenant rights advocacy and information to tenants through their Housing Committee/Tenants' Rights Clinic.

West Oakland: 3268 San Pablo Avenue
Oakland, CA 94608

T 510.763.5877 | F 510.763.5824

East Oakland: 9124 International Blvd. Oakland, CA 94603

San Francisco: 2301 Mission Street, Suite 201, San Francisco, CA 94110

T (415) 487-9203

<http://cjjc.org/>

East Bay Community Law Center

Provides legal services to the low-income community in the areas of housing, welfare, HIV & health, homelessness and economic development.

2921 Adeline Street
Berkeley, CA 94703
T (510) 548-4040
F (510) 548-2566
<http://www.ebclc.org/>

The Oakland Tenant's Union

The Oakland Tenants Union is an organization of housing activists dedicated to protecting tenant rights and interests. OTU does this by working directly with tenants in their struggle with landlords, impacting legislation and public policy about housing, community education, and working with other organizations committed to furthering renters' rights.

T (510) 704-5276
<http://oaklandtenantsunion.org/>

ACCE : Alliance of Californians for Community Empowerment

Alliance of Californians for Community Empowerment (ACCE) is a multi-racial, democratic, non-profit community organization building power in

low to moderate income neighborhoods to stand and fight for social, economic, and racial justice.
Oakland/Bay Area Office
2501 International Blvd, Suite D, Oakland, CA 94601
T (510) 269-4692
<http://www.calorganize.org/chapter/903/home>

Foreclosure Defense Group

Formed out of Occupy Oakland, the Foreclosure Defense Group, defends homeowners against foreclosure. They don't do it for money. They do it because an injury to one is an injury to all, and because the banks should not be able to get away with theft.
T (510) 207-0182
<http://foreclosuredefensegroup.wordpress.com/>

Keep Your Home California

MEDA offers free services to low and moderate income families. MEDA's geographic focus is on the San Francisco Bay Area, and we never charge for our services. Help is Free. You should never pay for loan modification services.
T (888) 954-KEEP (5337)
<http://medasf.org/home/keep-your-home-california/>

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