



## CONNECTICUT LEGAL SERVICES

A PRIVATE NONPROFIT CORPORATION

211 STATE STREET BRIDGEPORT, CT 06604

TELEPHONE (203) 336-3851

FAX (203) 333-4976

E-MAIL RTENENBAUM@CONNLEGALSERVICES.ORG

NADINE NEVINS  
RICHARD L. TENENBAUM  
*REGIONAL DIRECTORS*

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MARY E. GREY-FOX  
NILDA PLANAS  
WANDA E. SERRANO  
*LEGAL ASSISTANTS*

ADMINISTRATIVE OFFICE  
62 WASHINGTON STREET  
MIDDLETOWN, CT 06457  
(860) 344-0447

AARON BAYER  
*BOARD CHAIR*

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### LAW OFFICES

211 STATE STREET  
BRIDGEPORT, CT 06604

16 MAIN STREET  
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85 CENTRAL AVENUE  
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564 PROSPECT STREET  
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155 WEST MAIN STREET  
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## Testimony of Richard L. Tenenbaum February 19, 2009

### Select Committee on Housing Re: H. B. No. 6143 An Act Concerning Protections For a Tenant Whose Landlord Is Subject to a Foreclosure Action.

#### Introduction

I am Richard Tenenbaum, attorney with Connecticut Legal Services in Bridgeport and supervisor of the housing task force for my agency. We represent tenants being evicted by mortgage lenders and services who have foreclosed on mortgages and taken over property where our clients live. I urge support of H.B. 6143 which, had it been in effect, could prevent the loss of personal disruption and stable housing for good tenants.

You are hearing both in this bill's public hearing and generally in media coverage about the policy issues surrounding the decisions of foreclosing plaintiffs to empty an occupied building. The purpose of my testimony today is to advise the committee about the human consequences of the sudden and most often unexpected displacement of families who are meeting their obligations.

Legal aid clients have been receiving expert advice and assistance from the best eviction lawyers in the state, since the foreclosure epidemic began. Most tenants facing eviction after foreclosure are not so fortunate. We believe that many families who are told to move do so and render themselves homeless before the legal process has run, even though they could be given time to find replacement housing in the eviction process. They are probably being deprived of return of security deposits, even though the law requires it.

#### Ms. F. No Heat or Hot Water, Security Deposit not Returned

I represented a tenant, Ms. F., whose apartment was acquired by US Bank. She received Section 8 rental assistance. When advised that she would have to leave by a real estate agent hired by the bank, she began looking for new housing. Over the course of many months, Ms. F. found several apartments that she felt met her needs, but each one was rejected by the Bridgeport Housing Authority because it was either too expensive or had too many housing quality violations to meet Section 8 requirements. The bank had started eviction proceedings.



The eviction was brought not against my client, Ms. F, but rather, it named "John Doe I, John Doe II, Jane Doe I and Jane Doe II" as the occupants of the apartment. The bank's real estate agent knew her name, as she had spoken to Ms. F, and Ms. F.'s name was on the mailbox. This is the first of many indignities my client suffered. She knew enough to seek legal assistance. I was able to make the bank start the eviction over, because they did not use my client's name. We believe that many tenants who receive eviction papers addressed only to John or Jane Doe may not even realize that they are the eviction defendants and may ignore the papers and get a default eviction judgment against them.

During the winter, my client's hot water heater broke down. It took several weeks to get it repaired, then the furnace died. The City of Bridgeport had great difficulty forcing US Bank to make the necessary repairs, since it did not easily have a way to contact the bank. I contacted the bank's eviction attorney, but he was not able to get repairs done. Meanwhile, my client and her child were forced to stay with her mother, when there was no hot water or no heat, jeopardizing her mother's own tenancy.

Finally, Ms. F. found an apartment that was approved. She was unusually fortunate to receive a cash-for-keys payment from the bank, but when she claimed the return of her security deposit, the bank ignored the request, even though under Connecticut law, the owner of the property at the time of vacating is responsible for returning the money. On my client's behalf, I filed an administrative complaint with the Banking Department, and the Department obtained the deposit plus the penalty for her. Ms. F. was one of the lucky tenants. She was never homeless, and she did not lose money, even though she was without heat or hot water for a protracted period, and she had to endure tremendous emotional distress of being a party to an eviction and having an uninhabitable apartment.

### **Mr. R. Elderly, Long-term Tenant Locked Out**

Mr. R. is another client. His eviction was brought by Mortgage Electronic Registration Systems (MERS), claiming in the complaint to have acquired the property in foreclosure. He was also a Section 8 tenants, and he was also unable to locate an apartment that met program requirements. After a time, Mr. R. was the only occupant left in the building. Vandals began removing plumbing and other items from the building. His apartment was burglarized, and he feared remaining in the building and often slept elsewhere.

One day, Mr. R. returned home to find that a padlock had been placed on his door. He was unable to get in, and he called the police. They were not able to assist Mr. R, as they had no one to contact at Mortgage Electronic Registration Systems, as Mr. R. had not been given the name and address of a managing agent, as required by C.G.S. §47a-6. When he contacted my office, I called the attorney representing MERS in the eviction, but my calls were not returned. I finally filed a complaint with the local Housing Prosecutor. When she called the attorneys and threatened them, she got a return call, and my client was restored to the apartment. Mr. R. eventually found suitable replacement housing and avoided further homelessness, but he also suffered great distress.

**Mr. M. Sued by His Former Landlord for Nonpayment of Rent Accrued after the Landlord Has Lost the Property**

We know from our own cases that some foreclosed landlords who have already lost the property in court are still demanding rent from tenants who are going to be forced to move, and some people are actually making rent payments, depleting the savings they may need to allow them to move. In fact, my colleague in Bridgeport has had to defend two separate evictions at the same time against the same client; an eviction by the foreclosing mortgage company, seeking to empty the building, and an action charging nonpayment of rent, brought by the former owner who had already lost the property claiming rent that came due **after** the property had transferred through foreclosure. Without Connecticut Legal Services' representation, our client could have been put out of his home by this individual, and he would have a spurious eviction judgment for nonpayment on his credit record.

**Bank Refuses to Sell to a Buyer**

My office presently represents two different families, both receiving Section 8 assistance. US Bank is now the owner. The former landlord of one of our clients who likes her learned about her situation became interested in buying the building she was living in with the tenants and the leases intact. He approached the real estate agent who had been working with our client regarding the possibility of purchase. According to our client, the agent's response was that the bank was not interested in considering a sale until the building was empty.

**Conclusion**

H.B. 6143 provides reasonable protections for good tenants trying to meet their obligations. The foolishness and the harm caused by the financial institution clearing the buildings are obvious. This Committee should agree that this bill has become a necessity.

Testimony Submitted to the Committee on Housing  
February 19, 2009

*M. Jodi Rell*  
*Governor*  
*State of Connecticut*

Testimony Supporting H.B. No. 6378:  
An Act Concerning Relief for Families Facing Foreclosure

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Good afternoon Chairman Gomes, Chairman Green and Members of the Housing Committee, I am Governor Rell and respectfully submit this written testimony in support of **House Bill 6378: An Act Concerning Relief for Families Facing Foreclosure**. The national recession has now landed hard on the front doorsteps of hundreds of our families, many of whom are running out of options to save their homes. They now look to the State of Connecticut to help them maintain their single most important investment – their home.

This bill was crafted with the purpose to strengthen and broaden existing safety nets for Connecticut citizens facing foreclosure. I am sure your offices, just as my office does, hear from citizens almost daily. In their voices there is anger, fear and, in some instances desperation. We can not afford to let them wait. They are running out of time.

These are extraordinary economic times we are facing and we must respond in kind. I believe this bill will do just that:

- Section 1 of the bill expands the Connecticut Housing Finance Authority's residential mortgage loan refinancing guarantee program to all homeowners facing financial hardships affecting their ability to meet their monthly mortgage obligations, not just those with adjustable rate mortgages.
- Section 2 expands the definition of "financial hardship due to circumstances beyond the mortgagor's control" in the Emergency Mortgage Assistance payment program to include a loss of income equaling less than 25 percent of aggregate family household income if accompanied by evidence of an unanticipated rise in housing or other expenses that can be documented as unrelated to the accumulation of credit or installment debt incurred for recreational or non-essential items; meaning, the mortgagor must have a decrease in income and an increase in expenses that are beyond the mortgagor's control.
- Section 3 expands the circumstances in which a mortgagor may apply for emergency mortgage assistance payments to include when the mortgagor has received notice of intent to foreclose or is 60 or more days delinquent on payment. Under current law, the mortgagor may not apply until the mortgagee has begun the foreclosure process. It will also allow CHFA to refer the mortgagor to a credit counselor before the foreclosure process begins.

Our mortgage assistance programs, from the very start, have been intended to help Connecticut families keep their homes. I realize that the number of approved applications under these existing programs has been smaller than what we had hoped, however, I am confident that this bill will allow more homeowners to qualify. Homeownership is the American Dream and remains one of the cornerstones of our economy.

I thank the Committee for your time and please do not hesitate to contact my office with any further questions. Thank you.