

COMMUNITY & ECONOMIC DEVELOPMENT CLINIC:

UC Irvine School of Law

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TEACHING TRANSACTIONAL LAW BY PRESERVING AFFORDABLE HOUSING

Over the past fifty years, law schools have moved, somewhat begrudgingly, from a pedagogy featuring doctrinal lectures and the Socratic method to a greater inclusion of experiential learning. Experiential learning is a broad concept. Definitions include the notion of “learning through doing,” with reflection afterward, but there is little consensus beyond that. As

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students demanded increased real-world experience, a push supported by the American Bar Association and the organized bar, law schools began and expanded clinical programs, in which students moved from theory to practice and, in many cases, from the classroom to the courtroom. Clinical courses, in which students practice law supervised by faculty who are also practicing lawyers, became a common offering in many U.S. law school curricula in the latter part of the twentieth century. At many schools, however, such courses still are available only to a small percentage of students. The University of California, Irvine School of Law (“UCI Law”), which opened its doors to students in 2009, has a vibrant legal clinic environment, not surprising for a school founded with clinical legal education as a core function. In this article, we provide two case studies that include student comments about their experiences. We believe these descriptions exemplify UCI Law’s approach.

I. THE CREATION OF A LAW SCHOOL THAT PRIORITIZES TEACHING THROUGH PRACTICE AS WELL AS ANALYTICAL EXPERTISE

The structure and substance of UCI Law’s Community & Economic Development Clinic (“CED”) is a byproduct of a University of California Regents 2007 decision to create a new law school at the University of California, Irvine. UCI faculty and prominent members of the Orange County professional community put together a successful proposal for a new law school that articulated four broad goals. Two of those goals facilitated the creation of UCI Law’s vibrant clinical program: (1) a stated dedication to “public access and public education”; and (2) clinical education as a central focus, so as to encourage students “to explore the social, intellectual and professional benefits of a career in poverty law, civil rights, and public interest law.”¹

¹ The other two were an explicit focus on disciplinary and interdisciplinary work of the kind seen at great universities and a greater degree of faculty collaboration with colleagues across the UCI campus than the norm at many other law schools. As discussed below, the fourth goal mirrors one of the clinical program goals, to involve UCI students from other disciplines, as appropriate, in clinical courses. See Proposal for a School of Law at the University of California, Irvine (Jan. 4, 2001). After six years of effort by administrators, faculty, and others dedicated to the goal of a public law school in Orange County, the University of California Board of Regents approved the proposal in July 2007.

UCI Law commenced in July 2008 with fourteen founding faculty and one year to devise a curriculum, before the first class of sixty students arrived in August 2009.² Our founding dean, Erwin Chemerinsky, articulated his central vision for the curriculum as “to do the best possible job of preparing students for the practice of law at the highest levels of the profession.” During that initial year, the founding faculty met once a week to discuss and determine the content of their vision of an ideal law school curriculum. They initially decided the courses to include in the first year, and then voted to require that each student complete a substantial clinical course taught by one or more full-time faculty as a requirement for graduation (“core clinic”).³ Each core clinic would be taught for six units, with a minimum of 220 practice hours and a maximum of eight students per faculty. This decision created the foundation for UCI Law’s plan to hire at least ten full-time clinical faculty, and the creation of the current ten core clinic courses, including CED.⁴

As the founding dean for the clinical education program, Carrie articulated a combination of requirements and goals for core clinic courses.⁵ She advised that UCI Law should create a variety of types of core clinics to provide students with enough options to allow them to select a course that would assist them in developing competencies they anticipate they will use in their career. Carrie suggested UCI Law strive to create core clinic

² The founding faculty were Erwin Chemerinsky (Dean), Dan Burk, Linda Cohen, Joseph Dimento, Catherine Fisk, Carrie Hempel, Trina Jones, Elizabeth Loftus, Rachel Moran, Carrie Menkel-Meadow, Beatrice Tice, Grace Tonner, Kerry Vandell, and Henry Weinstein.

³ For a description of the first-year curriculum courses, see Carrie L. Hempel & Carroll Seron, *An Innovative Approach to Legal Education and the Founding of the University of California, Irvine School of Law*, IN *THE PARADOX OF PROFESSIONALISM: LAWYERS AND THE POSSIBILITY OF JUSTICE* 169 (Scott L. Cummings ed., 2011) (UC Irvine School of Law Research Paper No. 2011-20, <https://ssrn.com/abstract=1851702>).

⁴ The other nine core clinic courses are the Civil Rights Litigation Clinic, Criminal Justice Clinic, Domestic Violence Clinic, Environmental Law Clinic, Immigrants’ Rights Clinic, Intellectual Property, Arts, and Technology Clinic, International Justice Clinic, Ninth Circuit Appellate Litigation Clinic, and Worker’s Law and Organizing Clinic. UCI Law has previously had two iterations of a core clinic in Consumer Law, although this course will not be offered in the upcoming year.

⁵ UCI Law also has several elective clinics that are most often taught by part-time faculty with expertise in specific subject matter areas such as employment, international human rights litigation, reproductive rights, and tax.

courses that would complement areas of non-clinical faculty expertise, to provide opportunities for faculty collaboration and offer students additional courses to complement their clinical education. She also advised that all core clinics: (1) structure their courses so that students, with close supervision, serve as the primary advocates for clinic clients, rather than faculty; (2) maintain caseloads that provide students with various intellectual challenges, in working through complicated substantive issues and in practicing sophisticated legal skills; (3) include some projects or cases that have the potential of an impact greater than addressing an individual client's needs; (4) provide their services pro bono to clients who otherwise would not be able to obtain legal representation; and finally, to the extent possible (5) design courses that provide opportunities for students to collaborate with professionals and/or graduate students in other disciplines.⁶ Beginning in fall semester 2011, UCI Law offered its first class of sixty students four core clinics to choose from, including CED.⁷ CED initially was the only core clinic with two faculty.

Fourteen years into its existence, UCI Law has, for the most part, succeeded in creating a variety of core clinics that accommodate students' preferences. We say "for the most part" for two reasons. First, students do not always get their first choice of clinical course, but more than 90 percent end up in a clinic of their first or second choice. Second, the current set of core clinics does not yet provide a proportionate opportunity for non-litigation experiences when compared to the number of students interested pursuing a non-litigation practice.⁸ This past year, students could select among core clinic courses in appellate litigation, civil rights litigation, community and economic development, consumer law, criminal justice, domestic violence, environmental law, immigrants' rights, intellectual property, arts, and technology, international justice, and workers' law and organizing. Many of these core clinics involve subject matter areas that can

⁶ See Carrie Hempel, *Writing on a Blank Slate: Drafting a Blueprint for Experiential Learning at the University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 147, 154–155 (2011), <https://scholarship.law.uci.edu/ucilr/vol1/iss1/10>.

⁷ The three other original core clinics were Ninth Circuit Appellate Litigation, Environmental Law, and Immigrants' Rights.

⁸ Three of the current ten clinics provide primarily non-litigation experiences: CED; Intellectual Property, Arts, and Technology; and International Justice.

be complemented by enrollment in non-clinical courses in the same area. Clinic faculty have autonomy in their choice of clients, cases, types of services offered, and limitations on their services. Nonetheless, all core clinics have adopted the four goals articulated above, except for the International Justice Clinic, which generally does not represent clients, as is common for clinics working in international law.⁹

UCI Law is one of a handful of law schools, if not the only U.S. law school, to require and guarantee an in-house clinical course for each student prior to graduation. This dedication of substantial school resources to clinical education is possible only because of UCI Law's foundational commitment to provide such a course for every student. The founding faculty took to heart the repeated conclusions of several important studies on the strengths and weaknesses of U.S. legal education: that most law school curricula do well at teaching analytical thinking, also termed technical expertise, but generally do not do well at providing students the means to acquire the hands-on skills necessary to successfully practice law.¹⁰ In the pages that follow, we share two stories about the extent to which hands-on learning has had a positive impact on the lives of our clients, as well as on the education and careers of our students.

⁹ Examples of UCI Law core clinic efforts that have resulted in positive changes in law and society include: (1) the Criminal Justice Clinic's success in expanding the legal grounds for the compassionate release of federal prisoners to include consideration of whether the prisoner, if sentenced today, would receive a shorter sentence for the exact same offense. *See United States v. Poulcott*, 510 F. Supp. 3d 1137 (N.D. Ga. 2020); (2) the Domestic Violence Clinic's successful legislative advocacy for the enactment of SB 374, which made California the first state to have a law concerning reproductive coercion; and (3) the Immigrant Rights Clinic's litigation of a class action suit to uphold local community members' Fourth Amendment rights during encounters with immigration agents at or near their homes. *See First Amended Complaint, Kidd v. Wolf*, No. 2:20-cv-03512-ODW-JPR (Oct. 27, 2020).

¹⁰ *See, e.g.,* AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT — AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) (the MACCRATE REPORT); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (The Carnegie Foundation for the Advancement of Teaching, 2007); ROY T. STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (Clinical Legal Education Association, 2007).

II. A SHORT HISTORY OF CED'S DEVELOPMENT AND LEARNING OBJECTIVES

We first taught CED in the fall of 2011.¹¹ While we were both experienced clinicians, with Carrie's fifteen years at the University of Southern California Gould School of Law and Bob's twenty-six years at Yale Law School, we faced several unknowns. UCI was a new law school with no prior clinical program, and Orange County was a blank slate, where we had few contacts. Worse, as the school year approached, we had no clients.

We did have a set of principles, most of which conformed to our experience. We would represent community-based groups and meet with clients in their communities. Students would be involved in client selection, following a process in which they would conduct an intake interview with the client and make a presentation to the class, with a recommendation as to whether to accept the request for representation. We then would ask the students as a group to answer two questions: should we as a clinic accept this client and, if yes, who is willing to do the work? We would advise the students that the discussions can be lengthy, and include considerations of priorities, allocation of resources, conflicts of interest, pedagogical value, competency, and long-term decision-making that may affect future generations of CED students. Finally, we would emphasize a problem-solving approach that includes both transactional and litigation strategies, offering clients the full range of services they would find in a law firm.

This type of practice is unusual for clinics focused on community economic development work. At a national conference of clinical law professors that we attended a few years ago, the consensus view was that UCI was the *only* CED clinic offering litigation services. While our policy was made easier by the fact that we both had litigation experience, it was also informed by our belief that a commitment to problem-solving would take us down unexpected paths and we would need to have multiple tools to help clients negotiate those paths.

¹¹ In this article, the terms "we," "our," and "us" refer to the authors, rather than the CED clinic as a whole.

A. Clinic Learning Objectives

As the CED syllabus explains, our learning objectives for our students include improving their: (1) listening, interviewing, negotiation, and legal drafting skills; (2) understanding of the dynamics of and work within groups; (3) ability to apply doctrine to real-world cases; (4) problem identification and problem-solving abilities; (5) writing skills in the context of emails, internal memoranda, memoranda to clients, demands to opposing counsel, and other written work product; and (6) oral skills through discussion of projects in weekly team meetings and formal presentations to clients, other students, opposing counsel, and possibly courts. In the classroom component, students learn about differing theories of community and community development, organizational development, and effective group work. Students also learn some real estate, housing, business organization, nonprofit corporation, tax, and employment law, and explore the impact of historical and current racial and other forms of discrimination in the communities we serve.

In addition to the more tangible skills outlined in our syllabus, we structure our course and the way we work with our students in an effort to teach them to take initiative and be creative in their approach to problem-solving, learn when and how to exercise judgment in evaluating client goals and cases, communicate effectively with their clients, and reflect on how the work they are doing does or does not match their own conceptions of professional identity. Finally, because virtually all of the clinic's clients are formally and informally defined groups rather than individual clients, we ask our students to consider and reconsider two questions: who is the client we represent, and what does the client want?

B. Initial Development of CED Clients, Including CED's First Two Mobile Home Park Resident Groups

On the last day of orientation, the day before our first class, CED had its first client, a community development group in Santa Ana challenging California's Redevelopment Act. Then that client referred us to a Santa Ana business group. A colleague referred us to a scholar seeking to preserve the intellectual property of former slaves. When Pitzer College and the City of Ontario sought to form a new organization to develop a community garden on city land, the project director sought advice from her mother,

a clinical law professor in New York, who said, “You know, there’s this new law school in Orange County . . .,” and CED had another client. CED added other clients during that first year, but it was not until late spring 2012 that the clinic first became involved in representing resident groups at mobile home parks. CED’s mobile home park practice originated from two separate events, each of which was to have a major effect on its work and the cumulative effect of which was to define the clinic in ways we could not have predicted.

The first of these events began with a simple request. One of our first students, Sam Lam (2012),¹² now a senior counsel at Skybound Entertainment in Los Angeles, wanted to reach out to Orange County’s Vietnamese community, many of whom lived in mobile home parks in Westminster. Sam arranged a Saturday morning meeting with former state Senator Joseph Dunn, who was instrumental in drafting California’s Mobilehome Residency Law (MRL). Those who attended the meeting were: CED students and faculty; Senator Dunn; Henry Heater, a lawyer representing several mobile home park residents; and Maurice Priest, a former lobbyist for Golden State Manufactured-Homes Owners League (“GSMOL”) and the president of a nonprofit tax-exempt corporation named Resident Owned Properties (“ROP”). Our three guests trained the CED group in California Mobilehome Law and suggested types of services for which mobile home resident groups needed pro bono representation. Not long after the meeting, in the best tradition of our profession, Henry Heater referred to CED a San Bernardino rent increase case and Maurice Priest asked CED to help a group of San Juan Capistrano mobile home park residents form a nonprofit tax-exempt organization to purchase their park.¹³

The second event occurred shortly before spring semester 2012 final exams. UCI Law’s Environmental Law Clinic sponsored a talk by a California Rural Legal Assistance (“CRLA”) lawyer on the oppressive environmental conditions and management practices at a small mobile home park in Riverside County’s Coachella Valley. Several Environmental Law Clinic students wanted to help CRLA, so we accompanied those students and

¹² The date in parentheses next to each former student’s name denotes their year of graduation.

¹³ The San Juan Capistrano mobile home park referral is the subject of one of the two case histories we discuss below.

a few more CED students on a two-day field trip to talk to residents and county officials. We left knowing that CED would continue to be involved, but also that CRLA would be lead counsel. We did not have a plan, and we did not yet know where this project would lead us. We did not know that the Capistrano Terrace and Shady Lane projects, described in the pages that follow, would substantially influence the course of CED's work. In the next two sections, we describe CED's work over the next seven to ten years on these two projects, including the work of our students, the decisions made, the results achieved, and the effects of these experiences on our students and their careers as attorneys.

III. SHADY LANE

Shady Lane Mobilehome Park is located in the Coachella Valley unincorporated town of Thermal, California. Thermal is well-named, as during the time CED represented its clients, the average high temperature for June through August was 106 degrees, and temperatures of 115 degrees or higher were not unusual. Many of the residents were Latino farmworkers living in unpermitted mobile home parks with ongoing water, sewage, electrical, and air-conditioning problems. In midday in the summer, it was not unusual for the electricity in Shady Lane Park to fail, resulting in residents not having air conditioning in their mobile home units. Consequently, temperatures in the units sometimes reached 120 degrees.

In many ways, Shady Lane Park was a typical residence for California farmworkers. The property became a mobile home park when a farmworker asked his coworker, Mr. Garcia, if he could park his mobile home on Garcia's land. Garcia agreed — and started a business — eventually laying fifty-six pads on which to place homes and building a four-apartment structure for his family. The electricity was inadequate, the sewage consisted of open septic fields dug by residents, and the water came from a contaminated well. Eventually, Garcia contracted with his neighbor, who ran a mirror-image park adjacent to Garcia's, to share use and maintenance of a better well on the neighbor's property. On the day he died in 1998, Garcia transferred the property to six of his seven children. Although the elder Garcia never secured a conditional use permit ("CUP"), his children started the

process, only to abandon it when they learned the projected costs of necessary upgrades.¹⁴

In 2011, Riverside County issued the Garcias a notice of noncompliance with health and safety regulations. The Garcias responded by serving the residents and County a notice that they intended to close the park in one year.

In Spring 2012, CED began working with our co-counsel, CRLA. We filed a complaint and a motion seeking a temporary restraining order in Riverside County Superior Court to prevent the park's closure. The complaint alleged several habitability claims, based on deplorable conditions in the park, and that the owners failed to follow MRL requirements for proper notice of a landowner's intent to close a park.

Although CRLA was lead counsel, the lawyers agreed that Meg Tanaka (2013), then a UCI Law second-year student in the CED clinic, and now an attorney at the Orange County Office of County Counsel, would argue the TRO. Meg reports:

I had the opportunity to argue a temporary restraining order request to enjoin the owners from improperly closing the mobile home park. My classmates and supervisors spent time mooting and posing various questions to test our legal arguments. I learned strategies from our supervisors about how to prepare notes for oral argument. They emphasized the importance of truly listening to the question asked while not losing sight of the goal of preventing the park's imminent closure. On the morning of the court hearing, I remember all of us waiting on the benches in the courthouse. When the case was called, I barely started my argument before the judge began asking questions about the timeline of our request. I quickly had to pivot away from my notes to directly respond to the court's questions. I was thankful for all the team preparation and relied on our collective research to argue about the catastrophic impact of the mobile home park closing and residents losing their homes.

¹⁴ Municipal and regional planning commissions grant conditional use permits to allow a landowner to legally use their land in a way not permitted by zoning regulations. These permits are often subject to conditions imposed at the time of granting that require movement toward eventual compliance with applicable regulations, and the ability to revoke the permit if the landowner does not meet certain milestones.



SHADY LANE MOBILEHOME PARK RESIDENTS PHOTO COLLAGE.

Courtesy UCI Community Economic Development Clinic.

During oral argument on the motion, the Garcias' legal counsel agreed to the residents' demand to keep the park open, eliminating the court's need to grant a TRO. This was the first victory in this case for our clients, who told us their most important goal of the litigation was to keep the park open to maintain their community. The other goals the residents articulated, in order of importance, were stabilizing rents, securing reliable access to air-conditioning in summer months, and improving wastewater system management to eliminate sewage overflows and ensure the ability to operate washing machines.

Several semesters of CED students represented the clients in the discovery phase of the litigation, which lasted for approximately two years. Students propounded written discovery, answered defendants' discovery requests, and defended depositions of several park residents. Alex Ackel (2016), also a second-year law student when he began working on the Shady Lane project, and now a senior associate trial attorney litigating plaintiffs' medical malpractice, civil rights, products liability, and personal injury claims at the Seattle law firm Friedman Rubin, observed this about his experiences representing the residents:

When I first started working on the Shady Lane Mobile Home Park project, the case was in active litigation. From the outset, the lawsuit faced a major challenge: how do you on one hand allege that the owners must keep the park open, and then also allege that the park is completely uninhabitable? Perhaps even more

challenging was the fact that no matter how successful we were in litigating the case, the owners would never be able to afford the needed repairs.

In Spring 2014, the court ordered the parties to mediate and assigned an attorney the court described as “one of his best mediators” to the task. After two rounds of mediation, the parties in November 2014 negotiated and agreed to principal terms of a conditional settlement. The settlement agreement provided Shady Lane Park residents twelve months to identify and approve a buyer to purchase the property from the defendants for \$225,000.¹⁵ In the interim, the owners agreed to make certain repairs to the park’s electrical system.

CED’s next big hurdle in the case was to find an appropriate buyer. The residents informed CED that they wanted a nonprofit corporation to own the park but did not want resident control. The task was made more difficult because the park did not have a conditional use permit, which meant that an owner could not legally require the residents to pay rent.¹⁶

Starting in early 2015, our students embarked on a series of efforts to find a buyer and begin renovation of the park. Alex recalls the challenges we faced in looking for a new owner by the deadline and his work on a contingency plan in the event we could not:

Finding a new buyer who had both the experience and resources to operate the park in the right way proved to be difficult. As a stop-gap, we came up with a creative solution; we created a nonprofit to act as a transitional owner that could begin the development planning process while we searched for a permanent owner.

In February 2015, CED students filed the paperwork to incorporate Shady Lane Mobilehome Park Inc. (“SLMP”). Three Coachella community

¹⁵ \$225,000 was \$75,000 less than the amount CED believed the park was worth, based on the calculation of the cash flow of a fully permitted park reduced by an estimate of the expenditures necessary to bring the park up to permitted standards. The settlement agreement did not become final until September 2015, which allowed the residents an additional six months after the principal terms were set to find a purchaser.

¹⁶ Amazingly, throughout the course of the litigation and during the period after settlement before the new owner obtained a CUP, Shady Lane Park residents voluntarily paid their rent each month, presumably understanding the importance of those continued payments to their goal of the continued existence of their residential community.

members, one of them a park resident and leader of the informal resident organization, agreed to sit on the initial board of directors, along with the two of us. Despite the potential for future conflict of interest issues with park residents, we agreed to serve as directors and counsel for SLMP after obtaining the consent of residents and with the knowledge that CRLA would still serve as counsel for residents and their informal organization. The potential for conflicts between the residents and the corporation led to a formal split between CRLA and CED. We each represented separate interests, and everyone was concerned that the residents not lose the value of independent counsel. We were all aware of another mobile home park in Coachella Valley where the new nonprofit owner raised rents to improve the park and the actual conflicts that arose. In our case, as we moved toward selling the park to a new owner, questions did arise, but they never erupted into actual conflict. CRLA's continuing role as the residents' attorney helped resolve issues at an early stage.

Also in spring semester 2015, students began what would turn out to be over three years of effort to obtain a CUP to end the park's many years of illegal operation. Several teams of students worked continuously on the various tasks Riverside County required an applicant to complete before it would issue this permit, including meeting with various county officials involved in the CUP process, vetting, retaining, and working with experts to complete numerous reports, making presentations to other local officials and commissions, and exercising judgment about when and whom to push harder to move the process forward.

In addition three students took the initiative to conduct online research for sources of funding for the park. They came up with two possibilities: a pre-construction grant from the California Department of Water Resources for pre-construction work to bring a water and sewage system to the park, and a second state grant to provide for emergency drinking water. These students drafted applications for both, and both were approved. The emergency water grant provided \$69,000 to the park and was subsequently renewed. The grant to design a new water and sewage system presented a serious time crunch, and the students submitted the application electronically at 11:50 pm, barely meeting a midnight deadline, the day before their law school graduation ceremony.

Nahal Hamidi (2016), currently a real estate attorney at Tesla, was one of those graduating students. She worked on the Shady Lane project for at least two semesters. She recalls the following about her work to provide her clients better living conditions:

I gained invaluable firsthand legal experience including negotiating a settlement agreement, drafting a purchase and sale agreement, forming a nonprofit corporation, and applying for a conditional use permit to legally operate the park. Most importantly, I learned about creative lawyering to make sure my client's needs were being met. During our representation of the park and its residents, one ongoing habitability issue the residents were facing was the inadequate water and sewer systems. The water supplied to the park was contaminated with chromium 6, which poses a risk of cancer when ingested. Although we were simultaneously working on settlement efforts, we realized that the water and sewage issues needed to be solved as soon as possible, and the residents would potentially not have sufficient resources to solve this issue even after settlement was reached. We quickly became experts in assessing the costs and feasibility of different sewage and septic systems; researched potential methods to treat chromium 6; and researched potential grants which could help address these issues. We applied for and successfully obtained \$250,000 in grant funding from the California Department of Water Resources (DWR) Proposition 84 grant program to provide park residents access to clean drinking water and to install a functioning sewer system.

In spring 2016, CED started to reach out to potential buyers and potential lenders in the event SLMP became the purchaser. We met with Clearinghouse CDFI to see if it would be willing to lend money for the park's purchase.¹⁷ After a few meetings, despite the relatively small loan amount, Clearinghouse determined that it would not finance the acquisition of Shady Lane Park because of the uncertain amount of expenses the county would eventually require to bring the property into compliance with state

¹⁷ Clearinghouse CDFI is a Benefit Corporation that "addresses unmet credit needs throughout the U.S. and in Indian Country through direct lending, equity investments, and financial assistance. <https://www.clearinghousecdfi.com>.

and local regulations. We had funding to design a water and sewer system, but it was impossible to determine what the ultimate cost of that and other improvements would be, as well as whether we would need to temporarily relocate residents during the renovation and what that would cost the park.

Also, during spring 2016, CED identified a very promising potential buyer, the Caritas Corporation (“Caritas”). Caritas is a faith-based tax-exempt nonprofit corporation dedicated to providing affordable housing in California, specifically through ownership and management of mobile home parks. Initial conversations went well, and CED worked with Caritas staff to draft a joint-venture LLC to buy, renovate, and manage the park.

A few weeks prior to the September 2016 deadline for purchase pursuant to the settlement agreement, however, Caritas informed CED that its board of directors was not willing to approve the purchase for a park without a CUP. Caritas suggested an alternative: it would lend SLMP the money needed to purchase, and in return, SLMP would give Caritas the option to purchase the park once it obtained a CUP. If Caritas decided to exercise its option to purchase, the outstanding balance of Caritas’ loan to SLMP would be forgiven in return for the transfer of ownership of the property.¹⁸ SLMP and the park residents accepted the offer and shortly after, SLMP became what we hoped would be the short-term, interim park owner.

This turn of events put even greater pressure on CED to get a CUP for SLMP as soon as possible. As we painfully learned, getting this permit ended up taking quite a while longer and quite a lot more work. Christopher Valentino (2018), now a real estate associate in the San Francisco office of Gibson, Dunn & Crutcher, remembers his efforts to get the CUP application approved:

When I joined the Shady Lane project in Fall 2017, the project had been going for at least six years by that point, and my team’s job was to oversee the final approval of the conditional use permit by the County Planning Board, a task that three or four previous groups of students had worked on for years. On paper, this was a project that everyone could get behind, but the challenge was two-fold: (1) getting the county to pay attention to our project long enough

¹⁸ The Purchase and Sale Agreement, Option Agreement, and Loan Agreement are all available on request.

to gain momentum, and (2) organizing our third-party partners and getting them to deliver their specific pieces of the project (be that a survey, capital funding, or a management plan) while we had the county's attention.

I remember that getting the CUP across the finish line required: (1) sheer unrelenting force of will, and (2) coordination. Getting responses from the county on even the most basic of items took constant follow-up (emails, phone calls, voicemails) and was a serious impediment to moving our application forward to the commission hearing. We utilized a dual track method of both constantly following up with the Planning Department (in the nicest way possible) and engaging with local elected officials to help put pressure on the Planning Department to respond to us. This strategy worked, and we got the Planning Department's attention, but then we had to deliver all the outstanding items necessary for a commission hearing, which meant we had to coordinate with a series of third-party partners to provide the necessary technical and managerial expertise to convince the planning commission that the project would be successful (i.e., be able to satisfy the conditions of approval and bring the park up to certain code requirements).

This experience operationalized the term "zealous advocacy" for me. It showed me that successful transactional lawyering is about moving forward, no matter how "stuck" the case may be, and trying alternative means of advocacy when the formal procedures are indifferent to your client's cause. Procedural, or substantive, laws are only as useful as the organizations designed to implement them.

In June 2018 the Riverside County Board of Supervisors approved the conditional use permit. At a July 2018 meeting between Caritas and CED, Caritas exercised its option to become the owner. In April 2019, SLMP formally transferred its ownership to Caritas and CED's work to transform the park into an affordable housing community was finally complete.

In sum, although many clinical programs have litigated habitability issues and others have closed on real estate purchases, in the Shady Lane project, CED did both, as well as serving as the de facto developer to bridge the litigation and the purchase. We believe this is the only time a law school

clinic has filled all three roles, and it exemplifies our view of what we mean by problem-solving. The problem took us down an unexpected path, and we responded with determination, finding creative solutions to achieve our clients' goals.

IV. CAPISTRANO TERRACE

Capistrano Terrace Mobilehome Park is a 150-unit residential park built in the mid-1950s on a steep slope overlooking Interstate 5 in San Juan Capistrano, California. By 2000, the park was in poor condition. In 2007, residents filed a failure-to-maintain lawsuit against the owner that resulted in a substantial judgment, leading the owner to seek bankruptcy protection. In the U.S. Bankruptcy Court, the Creditors Committee approved a resolution in 2012 whereby Resident Owned Parks Capistrano Terrace ("ROPCT") would purchase the property for the amount of the debt, including attorney's fees. ROP, the Priests' nonprofit mentioned above, would manage the park for the benefit of the residents and ROPCT would resell it to the residents for the purchase price, earning no equity. Maurice Priest was the president of both organizations and his wife, Diane Priest, was the vice-president.

Also, in 2012, Mr. Priest, as ROP's president, negotiated a purchase and sale agreement ("PSA") between ROPCT and the park's resident association, Capistrano Terrace Mobilehome Owners Association ("CTMOA"). The agreement provided that the park would be sold within three years to a tax-exempt entity who would own it on behalf of the residents. Mr. Priest asked CED if it would be willing to work with the residents to form such an organization to purchase. CED agreed and was retained by CTMOA, after which the clinic learned of two additional agreements: a management agreement in which ROP stated all funds would be used for the benefit of the park, and a separate agreement in which CTMOA retained ROP to be its exclusive agent in securing financing for the purchase of the park, with a broker's fee. In addition, CED determined that rather than using excess capital for the benefit of the park, the manager (ROP) was retaining the funds with the intention of keeping them when the park was sold to another entity, even though the purchase and sale agreement stated that

all funds were to be used for the benefit of the park.¹⁹ CED's work to form a tax-exempt entity and draft bylaws suddenly looked more complicated.

To further confuse matters, when Maurice Priest met with the residents, he told them that once he got financing, the residents would own their property, when, in fact, the PSA provided that the property would be owned by a nonprofit organization, controlled by the residents. Although on several different occasions, CED corrected Mr. Priest at resident board meetings, the residents had already heard Priest's incorrect assertion on many occasions. Unfortunately, several residents believed the property would be subdivided and they would own the land underneath their homes, without understanding that this would mean they would need to find money to pay what would amount to a \$66,000 prorated cost per unit to pay off the mortgage and liens — money we believed most residents did not have. Our belief was confirmed at meetings with residents and through a review of income statements required by funders.

Nevertheless, Capistrano Terrace residents had suffered for years under difficult conditions and the opportunity to purchase their community generated a great deal of enthusiasm among them, along with the conflicting visions of the park's future ownership structure and fears that ROP was not acting in their best interest. Residents learned that ROP had taken ownership of several other parks with the stated goal of creating resident-owned parks but had not yet transferred any of those parks to other ownership. Many residents expressed concern that ROP would use this opportunity to add their park to its growing, seemingly permanent, portfolio.

Lindsay Anderson (2018), a second-year student at the time, and now a community association counsel at Epsten in San Diego, reflected on what it was like as a law student to work on the project during this time:

Working in the Community and Economic Development Clinic is what made law come alive for me. Reading cases and attending classes were a necessary evil of school, but the CED Clinic is where I found my passion. During my time in the clinic, I was privileged to work with a wonderful group of mobile home park residents who

¹⁹ The PSA states that ROPCT “shall use the remaining portion of monthly space rents . . . to pay for the proper operation, maintenance, management, and reserve payments to assure that the subject property is well maintained.”

were trying to purchase their mobile home park. Working with a homeowners' association is like nothing else. It is a crash course in handling client emotions and expectations. *Everything* is personal because the board members live there. The board members' passion is contagious. They are so invested in their community that you cannot help but become invested as well. Every up of the association is your up and every down is your down, but if you are lucky like me, every triumph of the association is your triumph.

We formed Capistrano Terrace Organization (“CTO”) as a 501(c)(3) tax-exempt organization. As with many of our clients, the residents at Capistrano Terrace had a wide variety of skills, but managing a corporation was a new experience. Like many volunteer boards, there was frequent turnover, magnified by the fact that CTO had yearly elections, with one-half of the board seats open. Residents were highly invested in the elections for board positions that were work intensive, as the board coped with purchasing and operating a 150-unit housing complex.

Parth Jani (2020), currently a labor relations attorney in the Irvine office of Jackson Lewis, also reflected on his experience representing the CTO board:

By fall 2018, the newly elected board needed to be advised of its bylaws and proper procedures to run both a board and community meeting. This required CED students to focus on taking the bylaws of the park and training board members in the proper procedures. The challenge was taking a legal concept, such as the importance of a quorum, and explaining it to individuals who did not have a legal or sophisticated background. Students put together PowerPoints, met with one another to prepare presentations, and presented certain topics to board members by using interactive styles, such as fill-in-the-blank sheets. These training meetings with the new board allowed students to tap into their own creativity and think about how to explain any concept without relying on too much “legalese.”

This interactive approach and training sessions we held for the new board members of CTO proved to be working because when we would go to their meetings, we could see new members making

sure there was a valid quorum to run a meeting. They would rely on the Robert's Rules of Order cheat sheet another student made for them when an issue came up on how to conduct a vote. I was privileged enough to be on this project for four semesters. Over that time, I got to see a newly minted board learn new terms, understand their bylaws, and run meetings with minimal supervision.

ROP's efforts at refinancing, which depended on HUD-insured and state loans and which continued for several years, were all unsuccessful, and the residents feared that ROP would own the park in perpetuity. The financing was made more difficult by the fact that the park property needed substantial slope remediation to meet current safety standards, a process that increased the loan amount by several million dollars. CED also was concerned that as ROP continued to remove funds from the park's reserves, it had little incentive to sell to CTO. In addition, ROP spent over \$500,000 on engineers, architects, and other experts to complete the loan package, and treated these costs as a loan to be repaid by CTO, even though ROP had used rental income to pay these costs. CED believed that such costs were implicitly covered under the PSA's terms as a cost for the benefit of the park.

Mark Stamper (2016), a second-year student working on the CTO project, and now a deputy public defender in the Kern County California Public Defender's Office, stated:

My first clinic project initially involved helping mobile home park residents form a nonprofit and purchase their park. The project evolved as other students and I identified major misrepresentations by the residents' agent along with what we believed were significant misappropriations of funds. Our professors encouraged us to further investigate and research these issues. We identified several causes of action, including breach of contract, breach of fiduciary duty, and fraud. We met frequently as student-attorneys to discuss how to present our findings to the client and what strategies to recommend. Our professors offered advice and guidance as necessary, but generally allowed us to make our own decisions on how to proceed. We presented our findings and advised our client at weekly meetings. We learned to answer questions confidently and help

resolve disputes that arose along the way. The project also provided my first opportunity to interact with opposing counsel. This began with somewhat friendly questions that evolved into formal demands and ended in mediation when those demands fell through.

With all these issues pending, CED brought suit on CTO's behalf against ROP, ROPCT, Maurice Priest and Diane Priest. The litigation posed difficult real-world questions of professional responsibility. The ROP president, a member of the California bar, had drafted the PSA and presented it to CTMOA, which was unrepresented at the time. We were confident that a court would interpret ambiguous provisions against ROP. If we were correct, CTO would prevail in litigation and recover a substantial judgment. On the other hand, CTO's main objective was to purchase the park on behalf of the residents, and litigation would delay that process. Furthermore, any recovery would be used to reduce the purchase price, which meant that it would be effectively amortized over the length of the loan and each resident would receive a small benefit.

As noted above, we try to teach the students to consistently focus on the client and the client's needs and this was a perfect example of a case where a strong legal argument did not serve the clients well, the legal equivalent of a successful operation in which the patient died. With the CTO board's approval, CED negotiated a settlement that resulted in a new PSA with a defined purchase price, less than the price to which ROP claimed it was entitled, but greater than what we felt CTO could attain through litigation. The settlement process was difficult for clients, students, and attorneys. Lindsay Anderson (first quoted above) reflected on her role:

I was a student in the clinic right at a pivotal moment for CTO. The clinic had filed a lawsuit on behalf of CTO against the owner of the park — this owner had purchased the park with the promise of selling the park to the homeowners once they had organized and were ready for ownership but just kept moving the goal posts — and CTO needed to decide whether to settle or to take the lawsuit all the way. It was difficult to advise on because we were confident in our case, our client was righteously angry, and the terms for settlement kept changing.

We did not know if settlement was even possible, so we continued down two paths simultaneously for as long as we could. On the one hand, we were pushing hard for settlement. I attended negotiation calls with the owner and their attorney. I assisted with drafting settlement agreements and with loan applications, as CTO had no funds and was looking to purchase a multi-million-dollar mobile home park. I led calls with structural and civil engineers to discuss the issues with the slope that would need to be addressed after the purchase. On the other hand, we were moving forward with the lawsuit. I appeared in court for a case management conference (and immediately realized that I wanted to be a transactional attorney rather than a litigator!).

So many pieces were moving at once! At a time when I think other supervisors would tighten the reins or become micromanagers, Bob and Carrie encouraged us to think creatively. Throughout the entire experience, I felt empowered to experiment and safe in the knowledge that I was being shepherded by two brilliant legal minds.

Eventually we came to the point where the settlement would fall apart if CTO did not dismiss the lawsuit. Would scorching the earth in an epic lawsuit be satisfying? Duh. But was that truly what was in the best interest of the client? I remember struggling to know what to advise. There were so many hurdles — an unhelpful current owner, a strong willed and difficult to sway president, an ever-changing board, private financing and potential state sponsored financing, disenchanted community members — and so many ways for everything to blow up and go horribly wrong.

Watching Bob and Carrie struggle with this as well made me realize that this was not a situation with a definite answer. Bob's optimism and Carrie's pragmatism are a wonderful match. Advising in a situation like this, when there is no clear right path, takes courage and watching it modeled in Clinic helped to shape the attorney that I am today: one who keeps my client's best interests at heart and never stops fighting for them.

Unlike Shady Lane, Capistrano Terrace was fully permitted, with a strong cash flow, and a purchase price of \$10 million for a park with an appraised value of \$21 million. However, CTO had no cash and no assets. ROP, as CTO's

broker, based its financing plan on federal and state grants, but MPRROP, the state funder, rejected ROP's application and without state funds, the federal HUD grant was insufficient.²⁰ CED restructured and resubmitted the MPRROP grant, but MPRROP's restrictive interpretation of income disregarded the rent of any resident who refused to complete an income verification form, resulting in MPRROP's rejection of the second application.

At that point, CED returned to Clearinghouse CDFI, even though as noted above, it had rejected Shady Lane's application for financing because CED was unable to provide a specific dollar amount for bringing the park up to code. This time, however, Clearinghouse came through and financed the full purchase price of \$9,985,000. In April 2018, CTO closed on the property and became the owner of Capistrano Terrace. Two years later CTO was able to take advantage of low interest rates and refinance, which enabled it to build a substantial reserve, improve the property, and ensure that the units will remain affordable. Throughout the process, CED students represented CTO in closing the refinancing loan, securing a new manager, negotiating easements, and advising the board as issues arose.



CAPISTRANO TERRACE ORGANIZATION (CTO) BOARD MEMBERS (SEATED, WITH ONE CHILD OF THE BOARD PRESIDENT), LAW STUDENTS, AND AUTHORS CARRIE HEMPEL AND BOB SOLOMON (TOP RIGHT).

Courtesy UCI Community Economic Development Clinic.

V. CODA: FORMER STUDENTS' REFLECTIONS ON CED'S IMPACT ON THEIR CAREERS

The CED clinic is not structured, as are many clinical courses, on consistently teaching a set of legal skills to every class of students, such as learning how to file and argue a temporary restraining order, create and provide legal support to a nonprofit corporation, or defend a criminal case. Clinics

²⁰ MPRROP is the commonly used acronym for California's Mobilehome Park Rehabilitation and Resident Ownership Program, a grant and loan program managed by the California Department of Housing and Community Development.

structured in this manner can perhaps articulate more readily tangible skill development goals for every student. Instead, as noted at the beginning of this paper, we structure the work of the CED clinic around meeting our organizational clients' goals, which leads to our clinic students' practicing different skills depending on their project assignments and when they are enrolled in the clinic. Also, as noted above, many of our students enroll in subsequent semesters, to continue to work with clients and on projects to which they become passionately attached. Many of our projects are complicated, messy, and some are still not completed after the ten years the CED clinic has served as the clients' legal counsel. Our students graduate with a variety of experiences, but it is our goal that in every case, they leave UCI Law better prepared to tackle their entry into and continued experience in practicing law. In this last section of the paper, we share some of our students' reflections as to how their CED experience has contributed to their still relatively new legal careers.

Alex Ackel (first quoted above) reflects that:

Since graduating six years ago, I have come to appreciate the value of the experiential learning I received in the Community & Economic Development Clinic. I learned the important lesson that as legal professionals, you cannot always avoid risk. In fact, by taking risks you force yourself to find creative solutions for your clients, which ultimately leads to continued learning and growth.

Nahal Hamidi (first quoted above) notes:

The skills I gained in the clinic are skills I directly applied post-law school. After law school, I worked at two different law firms specializing in low-income housing — and one of the main reasons I chose those firms and succeeded at them was because of my experiences and knowledge gained through the CED Clinic.

Christopher Valentino (first quoted above) shares this:

Coordination may be a corporate buzzword that is thrown around all too often, but the concept of coordination is essential for the practice of law. I first learned that in Shady Lane because we had to coordinate with several third-party partners whose technical knowledge was essential to convincing the county to approve the

CUP. But my subsequent practice has reinforced this. No single lawyer, no matter how skilled, can answer all of a client's questions; but a skilled lawyer can be the person who assembles a team that can answer all of a client's questions and that can get the job done. More broadly, my time in clinic showed me how important humility is in the practice of law. Attorneys have a reputation of being brash, arrogant, and full of themselves. This reputation is not without a grain of truth. However, clinic showed me that the best attorneys are those who approach their work with humility, listen to their clients, and empower their colleagues.

AJ Talt (2017), a corporate transactional associate in the Silicon Valley office of O'Melveny, states:

One of the focuses of the CED clinic was always asking ourselves 'What are the client's goals and how can we achieve them?' I have found this to be a particularly helpful question I continue to ask myself on a daily basis during my practice, as it can be tempting to focus on things that I may feel "right" about but do not ultimately matter to the client. For example, when I am negotiating a transaction, I may think that a term should be written a certain way because it is done that way for 95 percent of people in my client's position, but if that term ultimately does not matter in achieving my client's goals, I have to remind myself that it should not be a priority. I do not think I would be as successful in understanding clients in my current practice and customizing my communication style to their specific needs without the experience I had at the CED clinic.

Parth Jani (first quoted above), who worked on the Capistrano Terrace project, finds:

The benefit of working with the CTO board of directors was that it allowed me to practice how to explain complicated concepts to people who do not have a legal background. This is a skill that I use in my career today as a young associate advising businesses on the implications of a lawsuit and the potential defenses we will use. For example, when drafting a client email, there are times where my first draft contains legal terms without any explanations. However,

one thing I learned in CED was to take a step back and think how someone with no legal training would understand what I was trying to communicate. I do this when drafting client emails, which has proven to be helpful in my career.

And finally, Mark Stamper (first quoted above) reflects:

I participated in UCI's Community and Economic Development Clinic for three semesters in law school. Six years into practicing law, I believe I learned more from the clinic than the rest of law school combined. The clinic gave me practical experience and taught me lessons far more valuable than most of the reading and lectures from the rest of law school. I have received compliments from colleagues and judges regarding my poise and demeanor handling difficult situations in court. I acquired those skills from my experiences in UCI's clinic and from the guidance of the clinic's professors.

CONCLUSION

In the two case studies discussed above, although CED was able to achieve its clients' goals of nonprofit ownership of their mobile home parks, not all the clinic's efforts on behalf of its clients have ended as well. Still, both projects exemplify our pedagogy, in which we place strong emphasis on student responsibility, community service, team collaboration, developing professional judgment, and creative problem solving. We have attended enough clinical law professor conferences to know that our clinic is an outlier in terms of both the breadth of legal tools we are willing to help our students employ, and the variety of substantive areas of law CED students learn in order to assist their clients. This type of practice means that our students will not all have the opportunity to learn the same set of skills. And although CED may not always achieve its clients' goals, this approach puts the community at the center of the clinic's work and gives students the mandate to listen to a client's problem. That's the starting point and we are open to using whatever legal tools the solutions to those problems may require.