

A conversation with Sonja Trauss, March 6, 2017

Participants

- Sonja Trauss – Co-founder, California Renters Legal Advocacy and Education Fund (CaRLA)
- Alexander Berger – Program Officer, US Policy, Open Philanthropy Project
- Nicole Ross – Operations Associate, Open Philanthropy Project

Note: These notes were compiled by the Open Philanthropy Project and give an overview of the major points made by Ms. Trauss.

Summary

The Open Philanthropy Project spoke with Ms. Trauss of CaRLA as part of an update on our 2016 grant. Conversation topics included CaRLA's lawsuits against Lafayette and Berkeley, its plans for litigation around nexus studies, and updates on its board and budget.

Lawsuits

City of Lafayette

At a recent hearing regarding CaRLA's case against the City of Lafayette for violating the Housing Accountability Act (HAA), the judge seemed unconvinced by CaRLA's lawyers' argument that the benefits of the act are mainly for people who need housing, rather than for developers.

The Lafayette campaign cost around \$100,000.

City of Berkeley

CaRLA plans to sue the City of Berkeley for a violation of the HAA. CaRLA thinks this is a clearer case than the Lafayette suit and that it is more likely to win. CaRLA is currently waiting for the developer to agree to participate in the case. Various groups have offered to support CaRLA if this suit goes to the appeal level.

Mayor of Berkeley Jesse Arreguin has stated that he believes the demolition permit for the project in question is discretionary, but this is not the standard interpretation of the HAA (for instance, city attorney Zach Cowan has said on the record that his view is that the HAA would encompass and require a demolition permit). However, there isn't a lot of law concerning the permit that specifically sets this precedent.

CaRLA thinks this lawsuit will be valuable in part as an opportunity to receive media coverage and to organize around. CaRLA also sees this as related to state-level efforts to pass HAA amendments. There are an especially high number of housing

bills this year, and Assembly Bill 678, which would make the HAA easier to use, is one of the most popular.

When CaRLA sued Berkeley previously, it was awarded fees (i.e. its costs around the case up to that time). If it wins this case, it will likely win fees again.

Litigation around nexus studies

CaRLA expects to engage in litigation, as well as work to shape the public conversation, to counter the idea that new housing hurts affordability. A developer in Berkeley recently filed a writ challenging some elements of his entitlements process, including its nexus study. CaRLA plans to file an amicus brief in this case.

Not much is published on cases challenging nexus studies. The use of nexus studies and inclusionary zoning practices spread quickly after the *Palmer v Los Angeles* decision that ruled that requiring developers to replace rent-controlled housing with rent-controlled housing violated the Costa-Hawkins Rental Housing Act. Cities have been using nexus studies in this way for roughly ten years.

CaRLA thinks the logic that undergirds nexus studies is demonstrably flawed, and that it is politically harmful to have city-endorsed nexus studies falsely claiming that new housing increases overall housing costs. CaRLA plans to argue that these studies fail to show a nexus by demonstrating to a judge that the studies' logic is flawed. Once the city passes a new inclusionary ordinance, the city will need a new nexus study; at that point, CaRLA will try to find a plaintiff with standing to sue.

The Building Industry Association (BIA) began challenging the use of nexus studies to support inclusionary housing ordinances in 2011, though from a different angle than CaRLA.

Updates on other activities

- Brian Hanlon and Stephen Menendian are monitoring cities for potential opportunities to file cases around the Fair Housing Act (FHA) and are laying the groundwork for such a case, including determining criteria that might indicate that a given case is particularly promising.
- CaRLA is working on creating resources to help other people file lawsuits against cities.

Organizational updates

Brian Hanlon has joined as co-Executive Director, and maintains most of CaRLA's relationships with key players at the state level.

CaRLA's current board members are:

- Stephen Menendian

- Sonja Trauss
- Brian Hanlon
- Kate Vershov Downing
- Alex Gourse
- Rafael Solari

Budget

In addition to its funding from Open Philanthropy, CaRLA has raised roughly \$175,000 from other sources this year. \$100,000 of that is from a single source.

All Open Philanthropy Project conversations are available at <http://www.openphilanthropy.org/research/conversations>