

2017

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Alina S. Ball

*UC Hastings College of the Law*, balla@uchastings.edu

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## Recommended Citation

Alina S. Ball, *Community Development Law and Economic Justice—Why Law Matters: The Potential Impact of Corporate Law Clinics*, 26 *J. Affordable Housing & Commun. Dev. L.* 52 (2017).

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# Community Development Law and Economic Justice—Why Law Matters: The Potential Impact of Corporate Law Clinics

*Alina Ball*

The Social Enterprise & Economic Empowerment Clinic (“the Clinic”),<sup>1</sup> an in-house corporate law clinic at UC Hastings College of the Law, began working in the Salinas Valley with other legal service providers in late 2014 to promote community-driven solutions to access safe drinking water. The Salinas Valley, California, is one of the largest and most productive agricultural regions in the nation.<sup>2</sup> Agricultural businesses began to flourish in the mid-1900s and continue today to be the region’s major industry. The “green gold” of the Salinas Valley significantly contributes to Monterey County’s \$8 billion agricultural industry, making it the fourth highest producing region in California.<sup>3</sup> The Salinas Valley is, however, also home to extreme wealth inequality and the tributaries that flow from its raging waters are not a new topic of discussion in the rural communities. Perhaps no other natural resource exemplifies the disparity within this region more than the access to potable water.<sup>4</sup>

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1. For more information on the Clinic, see <http://www.uchastings.edu/academics/clinical-programs/clinics/socialenterpriseandeconomicempowerment/index.php>.

2. JOHN STEINBECK, *OF MICE AND MEN* 57 (1937) (“We could live offa the fatta the lan’.”).

3. See *Economic Contributions*, MONTEREY COUNTY FARM BUREAU, <http://montereycfb.com/index.php?page=economic-contributions> (last visited July 14, 2017) (“‘Monterey County agriculture pumps \$8.12 billion into the local economy and supports more than 76,000 jobs,’ Agricultural Commissioner Eric Lauritzen announced as he released an updated report of a comprehensive economic analysis of the county’s leading industry on June 30, 2015.”).

4. “Some people have a right to more water than others, . . . That’s built into the legal framework of California.” Gov. Jerry Brown on California Water Crisis, ABC News (Apr. 5, 2015), <http://abcnews.go.com/ThisWeek/video/gov-jerry-brown-california-water-crisis-30107922>. *Salad Bowl of the World: At What Cost?*, MONTEREY HERALD (Apr. 18, 2015), <http://www.montereyherald.com/article/NF/20150418/NEWS/150419757> (last visited July 14, 2017) (identifying that the agricultural industry consumes 90% of the water in the Salinas Valley).

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*Alina Ball (balla@uchastings.edu) is Associate Professor of Law and Director of the Social Enterprise & Economic Empowerment Clinic, UC Hastings College of the Law.*

One of the Clinic's clients is a farmworker housing cooperative in the Salinas Valley ("the Cooperative"). The Clinic provides corporate and transactional counsel to the Cooperative and is representing the entity in its quest to own and control its water system. In our corporate lawyering, we seek to honor the sacrifices, ingenuity, and lay lawyering of the many residents of the Cooperative. This representation provides a textured portrayal of corporate lawyering that intentionally integrates the values of community lawyering.<sup>5</sup> There is a pressing need for private ordering expertise in building institutional power within low-income communities as well as individual access to financial security.<sup>6</sup> The objective of my comments in this essay is to legitimize and articulate what I describe as "corporate-community lawyering"—the intentional incorporation of community lawyering theory into a distinctly transactional practice.

### A. A Community Fortified Through Resistance to Racial Subordination

The following narrative provides a brief history of the establishment of the Cooperative and the development of its leadership as a precursor to describing the Clinic's current representation.<sup>7</sup> In the late 1960s, a group of farmworkers, who were unionized under the United Farm Workers, organized and operated their own strike against a local strawberry company. The company retaliated against the striking farmworkers by threatening to evict them from their labor camp. The farmworkers did not realize prior to the strike that the company owned the labor camp where most of their homes were located and their families resided. As a means to having the farmworkers removed from the labor camp, the company sold the camp to a new owner who eventually had the police evict the farmworkers. Approximately thirty-two families set up tents, built makeshift cardboard shacks, and converted their cars into sleeping quarters.

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5. Karen Tokarz, Nancy L. Cook, Susan Brooks & Brenda Bratton Blom, *Conversations on "Community Lawyering": The Newest (Oldest) Wave in Clinical Legal Education*, 28 WASH. U. J.L. & POL'Y 359, 364 ("[C]ommunity lawyering is an approach to the practice of law and to clinical legal education that centers on building and sustaining relationships with clients, over time, in context, as a part of and in conjunction with communities. It incorporates a respect for clients that empowers them and assists them in the larger economic, political, and social contexts of their lives, beyond their immediate legal problems.").

6. Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 67, 108 (2000) ("The goal for community lawyers should include assisting clients to create power and lasting institutions with the ability to influence the clients' environment, rather than solely the creation or enforcement of rights or providing legal remedies to legal wrongs.").

7. Several of the facts and details are withheld to maintain the client's identity.

The evicted farmworkers knew of an abandoned labor camp the county owned<sup>8</sup> and moved into the barracks of the labor camp after several months on the streets. The city and county officials initially arranged for the families to be temporarily relocated to the camp, but as the families began to consider the possibility of somehow converting the labor camp into permanent homes they could own, there was resistance. The families refused relocation and defied deadline after deadline by the local government agency to move out of the labor camp. The living conditions at the dilapidated camp, however, were harsh. Over time, as the standoff between the farmworker families and the local government agency continued, more and more of the families moved out of the camp but remained active in problem solving around a long-term solution to affordable housing in Salinas Valley. There was well-organized and politically powerful opposition to the families staying at the labor camp that exploited racialized narratives of Latinos<sup>9</sup> as justification for why the government should not allow these Latino families to permanently live on the property. But the families endured. When only a few families remained, the local government agency sold the labor camp property to a private entrepreneur. One of the primary organizers among the farmworker families negotiated with the new landowner and convinced him to sell the camp to the farmworkers.

### **B. Community-Led Institution-Building**

The farmworker families engaged a local legal services organization to represent them in forming a housing cooperative on their newly acquired land. Membership into the Cooperative would consist of monetary payments as well as hours of community service to help the Cooperative cover the cost of development and rehabilitation of the property. The community service hours payment not only helped keep the Cooperative's development expenses down, but also lowered the cost of entry so that farmworker families that otherwise would not be able to afford homeownership

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8. RONALD L. MIZE, *THE INVISIBLE WORKER OF THE U.S.-MEXICO BRACERO PROGRAM: OBREROS OLVIDADOS* 20 (2016) ("One of the key means of securing a high degree of social isolation and racial segregation was the institutionalized practice of housing Braceros in labor camps. The labor camps were often located on growers' private property but there were other means of housing workers away from local communities or nearby small towns. During the Great Depression, labor camps were built and maintained by the federal government under the aegis of the New Deal unemployment-alleviation measure. . . . The federal labor camps housed labor for grower associations or even larger agribusiness entities.").

9. MARIO T. GARCÍA, *MEXICAN AMERICANS: LEADERSHIP, IDEOLOGY, AND IDENTITY, 1930-1960* 94 (1989) ("Most Mexican-Americans lived in de facto segregated tracts, but after World War II many, especially returning veterans attempted to purchase homes in new residential areas. Some realtors and developers, however, refused to . . . negotiate with them, insisting that if [homes were sold] to Mexicans, the Anglo residents of the tract would cancel their contracts and leave.").

could own membership in the Cooperative. The Cooperative would go on to secure federal grants and loans to finance the development of the land. By the end of the 1970s, the Cooperative was officially established and began opening its membership to other farmworker families in the areas. The community of persevering and determined Latino families who had nowhere else to go had blazed a new trail through difficult and sometimes hostile terrain to establish close to 100 permanently affordable housing units.

### **C. The Role of Corporate Law Clinics in Power Acquisitions**

Cooperative members first received notice that something was wrong with their water in the 1990s when reports provided by the private company, which owned the water system, showed that the nitrate level in one of the wells was too high for human consumption. The second of three wells on the Cooperative's property was discovered to have high nitrate levels in the mid-1990s, and the private company owner took it out of commission. The persistent organizing by the Cooperative's residents, as well as lab reports, led the local board of supervisors to approve a temporary filtration system for the last active well in the Cooperative. The county's long-term solution for clean water was to apply for state and federal financing to identify a new location and construct a new well for the Cooperative. With the assistance of federal grants and funds, the county completed drilling a new, deeper well, which cost several million dollars to construct. The Cooperative residents now have access to the safe well water, but the average family pays high monthly water bills.

Recently, the county announced its plan to sell the Cooperative's water system to a private company through a bidding and proposal process. Despite high assessment fees paid by the Cooperative members, the water system does not generate sufficient income to support the county's costs to maintain the system. Given the Clinic's unique experience representing business entities with a social mission and its commitment to community lawyering, several community partners introduced the Cooperative to the Clinic as a potential legal service provider. The Cooperative retained the Clinic to provide corporate counsel as they attempt to acquire ownership of their water system. We are advising the Cooperative on possible entity options to own and operate the water system; corporate governance issues; and counseling on the variety of federal, state, and local regulatory layers the Cooperative must consider in this transaction. By working to obtain control over its water system, the Cooperative is continuing its mission toward self-sufficiency and economic empowerment that led to its establishment.

Even this brief history of the Cooperative makes it clear that lawyers, while necessary along the way, have never been central to this community's quest for dignity and power. This is the context for community lawyering that the Clinic inhabits as legal counsel to the Cooperative. The Cooperative's journey did not start with lawyers, it will not depend solely on lawyers, and yet lawyers have an important role to play in the pursuit of economic justice.

The Cooperative members, and the community organizers before them, identified the problems, engaged in problem-solving, and then sought out support from lawyers based on their identified options and preferences. Lawyers then worked within those parameters to provide support and assistance. While the Cooperative's history is unique, the pressing need of disenfranchised communities across the country to build institutional power is not.

Thus, corporate law clinics similar to the Clinic have a significant role they can play in representing community-based institutions in disenfranchised and low-income communities. Community economic development legal scholarship will undoubtedly serve as a foundation for corporate law clinics if they take on this mantle to intentionally represent community-based institutions in marginalized communities. However, corporate law clinicians will also need to develop their own narratives and theories for corporate-community lawyering. Progressive lawyering models, which to date have focused on individual representation in litigation proceedings, need to contemplate the distinctions of community lawyering within transactional practices to fill gaps in our lawyering theory on the nuances of corporate law in community development practices. With a solid theoretical framing of corporate-community lawyering, corporate law clinics can help community-based institutions effectuate change and achieve economic justice.