**Community Economic Development Clinic**

**Law 439**

**Spring 2011**

**Course Description**

Community economic development (CED) has emerged as an important strategy for redressing urban poverty. The main programmatic goal of CED—advanced primarily by community-based nonprofit organizations—has been to increase investment in low-income neighborhoods in order to produce economic transformation and community empowerment. Toward this end, CED has evolved as a set of multi-disciplinary techniques, integrating aspects of corporate finance, infrastructure development, and community organizing. This integrated approach has been used to create jobs, stimulate the development of affordable housing, and expand the availability of community services.

What role do lawyers play to support CED efforts? In this course, we will address this question from multiple perspectives, combining live-client work, in-class exercises, and classroom study. One dimension of the course will involve assisting lawyers representing community organizations on economic justice initiatives. In collaboration with partner organizations, you will have the opportunity to work on projects with community-based groups engaged in promoting living wage job development in low-income neighborhoods and preserving affordable housing. The class will also examine the different points of legal intervention in the multi-faceted CED process, using structured in-class exercises to extract more general skills and principles that can be applied in a variety of transactional contexts. In addition, classroom time will be focused on exploring a range of historical, theoretical, and empirical literature on CED, which will be used to frame a critical discussion about the efficacy of CED as an antipoverty tool. Los Angeles, which has been the site of innovative CED campaigns, will serve as a focal point of our analysis.

**Course Schedule**

The class will meet on Tuesday and Thursday, from 3:05 p.m. to 4:20 p.m. in room 3393. You will also be required to spend one day a week working on a CED project, as discussed under “Course Requirements.”

**Course Requirements**

This is a graded five-unit course. Your grade will be based (in the proportion indicated in the parentheses) on your completion of the following four course requirements:

1. ***Class Participation (25%)*.** Because this is a small intensive course, your active participation is critical. Class attendance and participation in class discussions will therefore form part of your overall grade in the course.
2. ***Exercises (15%)***. In addition, we will engage in some simulated exercises throughout the semester focused on CED lawyering skills.
3. ***Class Projects (30%)***. A key part of the course will be your class projects, which you will undertake in connection with a client group working on a CED initiative in Los Angeles. **It is important to emphasize the significance of your obligation to the organization you select to work with.** You will have an opportunity to work with a community organization on CED issues, honing the skills and concepts that you learn in the course. In turn, you are making a semester-long commitment to the organization, which is relying on you and devoting its own resources to support your clinical experience. It goes without saying that your work must be undertaken with the highest level of care and conscientiousness. The first week of class, representatives from the organizations will come to discuss the projects. You will then rank your preferences for the projects that you want to work on. I will attempt, to the extent possible, to match you with your preferred project.
4. ***Final Paper (30%)*.**  The final course requirement is a **15-page paper, which will be due on Thursday, May 12, 2011**. You will have considerable discretion in formulating the idea and structuring the research for your paper, but it must relate to the central theme of the course—understanding the interaction between law and CED. For instance, you may decide to write a paper based on your class projects or you may opt write a research paper based on one or more of the substantive themes we discuss in class.

**Course Materials**

The course materials are available on the ERES course page. There may be additional handouts provided in class through the semester. To access the materials online, you will need to enter this password: **ced2011**.

**Office Hours**

My office hours will be on Wednesday from 3 p.m. to 5 p.m., or by appointment.

**Contact Information**

Room 2441

Tel. 310.794.5495

Fax: 310.206.7010

Email: [cummings@law.ucla.edu](mailto:cummings@law.ucla.edu)

**Class Schedule**

***Week 1***

**January 11 1. What Is Community Economic Development?**

William H. Simon, *The Community Economic Development Movement*, 2002 Wis. L. Rev. 377, 377-436

Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, 54 Stan. L. Rev. 399, 458-91 (2001)

**January 13** **2. Introduction to Class Projects**

**No Readings**

**Guest Speakers**: Representatives from community organizations

***Week 2***

**January 18 3. What Is CED Lawyering?**

Brian Glick & Matthew Rossman, *Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice*, 23 N.Y.U. Rev. L. & Soc. Change 105, 105-133 (1997)

Richard Marsico, *Working for Social Change and Preserving Client Autonomy: Is There a Role for “Facilitative” Lawyering?*, 1 Clinical L. Rev. 639, 640-46, 658-63 (1995)

Daniel Shah, *Lawyering for Empowerment: Community Development and Social Change*, 6 Clinical L. Rev. 217, 231-240, 249-257 (1999)

Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 Col. Hum. Rts. L. Rev. 67, 110-126 (2000)

Sheila R. Foster & Brian Glick, *Integrative Lawyering: Navigating the Political Economy of Urban Redevelopment*, 95 Cal. L. Rev. 1999, 2053-72 (2007)

**January 20 4. Disinvestment: Causes, Consequences, and Early Responses**

Douglas S. Massey & Nancy A. Denton, American Apartheid: Segregation and the Making of the Underclass 17-59 (1993)

Peter Dreier, John Mollenkopf & Todd Swanstrom, Place Matters: Metropolitics for the Twenty-First Century 102-112(2001)

Robert Halpern, Rebuilding the Inner City: A History of Neighborhood Initiatives to Address Poverty in the United States 57-82 (1995)

***Week 3***

**January 25 5. Community Development Corporations: Past and Present**

Robert Halpern, Rebuilding the Inner City: A History of Neighborhood Initiatives to Address Poverty in the United States 83-148 (1995)

Alexander Von Hoffman, *New Immigrants Transform the Old City*, *in* House by House, Block by Block: The Rebirth of America’s Urban Neighborhoods 206-249

**January 27 6. Organizational Law and Representation**

James Fishman & Stephen Schwartz, *Choice of Legal Form for a Nonprofit*, *in* Nonprofit Organizations 61-68 (1995)

In re Los Angeles County Pioneer Society, 40 Cal.2d 852 (1953)

James Fishman & Stephen Schwartz, *Affirmative Requirements for Tax Exemption*, *in* Nonprofit Organizations, 351-355 (1995)

IRS Regulation on Exempt Purposes, 28 C.F.R. § 1.501(c)(3)-1(d)

Department of Housing and Urban Development Regulation on Community Housing Development Organizations, 24 C.F.R. § 92.2

Stephen Ellman, *Client-Centeredness Multiplied: Individual Autonomy and Collective Mobilization in Public Interest Lawyers’ Representation of Groups*, 78 Va. L. Rev. 1103, 1112-1113, 1135-1139, 1163-1166, 1170-1173 (1992)

***In-Class Exercise 1***

***Week 4***

**February 1 7. Access to Capital: The Community Reinvestment Act and Community Development Financial Institutions Act**

Jonathan Macey & Geoffrey Miller, Banking Law and Regulation 186-199 (2001)

Kenneth Thomas, The CRA Handbook 371, 388, 406 (1998)

Jacob M. Schlesinger, *Gramm Crusades to Overturn Community Lending Act*, Wall St. J., April 19, 1999

National Community Capital, Jargon-Free Summary of the CRA Sunshine Regulations (Jan. 10, 2001)

Jean Lam MacInnes, *The Community Reinvestment Act and Community Development Financial Institutions: A Return to the Bailey Building and Loan Company Model*, 16 Notre Dame J.L. Ethics & Pub. Pol’y 603, 604-611

Rochelle E. Lento, *Community Development Banking Strategy for Revitalizing Our Urban Communities*, 27 U. Mich. J.L. Reform 773, 783-790 (1994)

**February 3 8. Supply-Side Affordable Housing: The Low-Income Housing Tax Credit**

Kirk McClure, *The Low-Income Housing Tax Credit as an Aid to Housing Finance: How Well Has It Worked?*, 11 Housing Pol’y Debate 91 (2000)

Ethan Handelman, David A. Smith & Thacher Tiffany, How Massachusetts Can Best Use Its 2009 Affordability Resources 5-12 (2008)

Herbert Stevens & Thomas Tracy, Developer’s Guide to the Low Income Housing Tax Credit 13-20 (4th ed. 2000)

California Tax Credit Allocation Committee, A Description of the California Tax Credit Allocation Committee Programs 1-5 (1995)

Housing Pioneers, Inc. v. Commissioner, 58 F.3d 401 (9th Cir. 1995)

Andrew H. Foster, *Joint Ventures between Nonprofits and For-Profits: Will Revenue Ruling 2004-51 Provide Any Comfort?*, 14 J. Affordable Housing & Comm. Dev. L. 95 (2005)

IRS, Charitable Status of Nonprofit Housing Providers, Revenue Ruling 70-585

IRS, Nonprofit Housing Provider “Safe Harbor,” Announcement 95-37

***Week 5***

**February 8 9. Field Trip to Esperanza Community Housing Corporation**

**February 10 10. Lawyering as Institutional Design: Structuring an LIHTC Deal**

Affordable Housing Deal Fact Pattern [handed out separately]

Sample Limited Partnership Agreement [handed out separately]

***In-Class Exercise 2***

***Week 6***

**February 15 11. CDC as Business Developer**

Statutory Framework for Nonprofit Business Ventures: 26 U.S.C. §§ 512, 513; 26 C.F.R. § 1.513-1

*Business Development by Charitable Organizations: Legal Structure* Issues, *in* New Social Entrepreneurs: The Success, Challenge and Lessons of Non-Profit Enterprise Creation, pp. 323-330 (Jed Emerson & Fay Twersky eds. 1996)

James Fishman & Stephen Schwartz, Nonprofit Organizations 736-38 (1995)

Irwin Borof, *Escaping the Perils of Private Foundation Status*, National Economic Development and Law Center Report 43 (Winter 1983)

**February 17 12. CDC as Investment Broker: New Markets Tax Credit**

Michael J. Novogradac & Thomas G. Tracy, *General Operation of the New Markets Tax Credit*, *in* 2005 New Markets Tax Credit Handbook 7-49

Andrew H. Foster, *Final New Markets Tax Credit Regulations Released*, 14 J. Affordable Housing & Community Dev. L. 85 (2005)

Sarah Vallim, *The New Markets Tax Credit and the Community Economic Development Movement: A Los Angeles Case Study*, 16 J. Affordable Housing & Comm. Dev. L. 117 (2007)

***Week 7***

**February 22** **Make up Day (Monday Classes Meet). No CED Class**

**February 24** **13. Microenterprise**

Lewis D. Solomon, *Microenterprise: Human Reconstruction in America’s Inner Cities*, 15 Harv. J.L. & Pub. Pol’y 191, 191-221 (1995)

Peggy Clark & Amy Kays, Microenterprise and the Poor: Findings from the Self-Employment Learning Project Five Year Study of Microentrepreneurs 15-26

Rashmi Dyal-Chand, *Reflections in a Distant Mirror: Why the West Has Misperceived the Grameen Bank’s Vision of Microcredit*, 41 Stan. J. Int’L. 217, 241-253 (2005)

Lucie E. White, *Feminist Microenterprise: Vindicating the Rights of Women in the New Global Order?*, 50 Maine L. Rev. 327 (1998)

***Week 8***

**March 1 14. Worker Cooperatives**

David Ellerman & Peter Pitegoff, *The Democratic Corporation: The New Worker Cooperative Statute in Massachusetts*, 11 NYU Rev. L. & Social Change 441, 453-63 (1982-83)

The Mondragon Cooperative Movement, Harvard Business School Case Study

G. Mitu Gulati, T.M. Thomas Isaac & William A. Klein, *When a Workers’ Cooperative Works: The Case of Kerala Dinesh Beedi*, 49 UCLA L. Rev. 1417, 1422-1430 (2002)

Sample Cooperative Articles of Incorporation and Bylaws

***In-Class Exercise 3***

**March 3 15. Limited Equity Cooperatives**

PolicyLink, Limited Housing Cooperatives

Duncan Kennedy, *The Limited Equity Coop as a Vehicle for Affordable Housing in a Race and Class Divided Society*, 46 How. L.J. 85 (2002)

***Week 9***

**March 8 16. Community Action: Origin, Evolution, and Contemporary Applications**

Robert Halpern, Rebuilding the Inner City: A History of Neighborhood Initiatives to Address Poverty in the United States 106-118 (1995)

Randy Stoecker, *The CDC Model of Urban Redevelopment: A Critique and an Alternative*, 19 J. Urban Affairs 1-22 (1997)

Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. Rev. 443, 450-498 (2001)

Nona Liegeois, Francisca Baxa & Barbara Corkrey, *Helping Low-Income People Get Decent Jobs: One Legal Services Program’s Approach*, 33 Clearinghouse Rev. 279 (Sept.-Oct. 1999)

**March 10 17. Gentrification: Causes and Consequences**

Diane K. Levy, Jennifer Comey & Sandra Padilla, In the Face of Gentrification: Case Studies of Local Efforts to Mitigate Displacement 1-9, 43-51 (Urban Institute 2006)

Terra McKinnish, Randall Walsh & Kirk White, Who Gentrifies Low-Income Neighborhoods?, NBER Working Paper 14036 (May 2008)

***Week 10***

**March 15 18. Federal: HOPE VI**

Ngai Pindell, *Is There Hope for HOPE VI?: Community Economic Development and Localism*, 35 Conn. L. Rev. 385 (2002-2003)

Matea Gold, *Reviving Pride in the Projects*, L.A. Times, Sept. 20, 1999, at A1

**March 17 19. Local: Redevelopment**

Benjamin Quinones, *Redevelopment Redefined: Revitalizing the Central City with Resident Control*, 27 U. Mich. J.L. Reform 689, 700-708 (1993-1994)

William Fulton, Guide to California Planning 243-262

UCLA & LAANE, Who Benefits from Redevelopment in Los Angeles? An Evaluation of Commercial Redevelopment Activities in the 1990s (1999)

**DUE: Project Proposal**

**March 21-25 SPRING BREAK**

***Week 11***

**March 29 20. Anti-Displacement Policy**

Peter Marcuse, *To Control Gentrification: Anti-Displacement Zoning and Planning for Stable Residential Districts*, 13 N.Y.U. Rev. L. & Soc. Change 931, pp. 934-938 (1984-1985)

National Housing Conference, Inclusionary Zoning: The California Experience, pp. 9-38 (2004)

Furman Center, The Effects of Inclusionary Zoning on Local Housing Markets: Lessons from the San Francisco, Washington, DC, and Suburban Boston Areas (2008)

Portland No Net Loss Resolution No. 36021

**March 31 21. Project Meetings**

***Week 12***

**April 5 22. CED Lawyering in Multi-Organizational Environments**

No Reading

**April 7 23. Community Land Trusts**

Julie Farrell Curtin & Lance Bocarsly, *Community Land Trusts: A Growing Trend in Affordable Home Ownership*, 17 J. of Affordable Housing & Community Dev. L. 367 (2008)

**DUE: Project Outline**

***Week 13***

**April 12** **24.** **Low-Wage Work and the Living Wage Movement**

Hany Khalil & Sandra Hinson, *The Los Angeles Living Wage Campaign*, *in* Public Subsidies, Public Accountability: Holding Corporations to Labor and Community Standards 18 (1998)

Kathleen M. Erskine & Judy Marblestone, *The Movement Takes the Lead: The Role of Lawyers in the Struggle for a Living Wage in Santa Monica, California*, *in* Cause Lawyers and Social Movements 249 (Austin Sarat & Stuart Scheingold eds., 2006)

Rubalcava v. Martinez, 158 Cal.App.4th 563 (2nd Dist. 2007)

**April 14 25. Community Benefits Agreements**

Scott L. Cummings, *Mobilization Lawyering: Community Economic Development in the Figueroa Corridor*, 17 J. Affordable Housing & Community Dev. L. 59 (2007/2008)

Benjamin S. Beach, *Strategies and Lessons from the Los Angeles Community Benefits Experience*, 17 J. Affordable Housing & Community Dev. L. 77 (2007/2008)

***Week 14***

**April 19 26. Field Trip: TBA**

**April 21 27. Immigrant Organizing Initiatives**

Victor Narro, *¡Sí Se Puede! Immigrant Workers and the Transformation of the Los Angeles Labor and Worker Center Movements*, 1 Los Angeles Public Interest Law Journal (forthcoming 2009)

***Week 15***

**April 26 28. Conclusion: The Future of CED?**

No Reading

**May 7 DUE: Final Project**