Farmworker Housing in California

Ilene J. Jacobs

Follow this and additional works at: https://scholarship.law.berkeley.edu/blrlj

Part of the Law Commons

Recommended Citation

Link to publisher version (DOI)
https://doi.org/10.15779/Z38H377

This Article is brought to you for free and open access by the Law Journals and Related Materials at Berkeley Law Scholarship Repository. It has been accepted for inclusion in Berkeley La Raza Law Journal by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact jcera@law.berkeley.edu.
Farmworker Housing in California

Ilene J. Jacobs†

It is always a little humbling to be asked to talk about farm worker housing, since I doubt that as a farm worker housing advocate I have the courage or the fortitude to face the conditions that farm workers face. I can only speak about being a farm worker housing advocate. I was reminded recently that conditions for farm workers have not changed very much over the years in this country. The chairman of the board of the Housing System Council, in a recent national conference in Washington, D.C., on the state of rural housing, harkened back to John Steinbeck and Edward R. Murrow’s description of conditions then facing farm workers, particularly their quality of life, housing, living conditions. The statement that struck me as being as applicable now as it was then: there is a crime here that goes beyond denunciation. Looking at their housing conditions in California, farm workers would justifiably feel and believe that California is a Third World country. I guess that our job as advocates, and I would hope that for all the law students in the audience, your job as advocates, is to address those problems. I found it interesting that this symposium on housing, justice and discrimination chose to have a panel on farm worker housing because farm workers are always forgotten, even by advocates. When we talk about fair housing issues, when we talk about discrimination, we talk about minority groups and we tend to think about ethnicity and race categories and we tend not to focus on farm workers as an occupation and category suffering discrimination. It is an important omission when it comes to discrimination and housing because farm workers are an invisible population when it comes to providing services and providing housing for them in California. That is what experience taught me as an advocate for farm workers.

Farm workers are invisible and marginal, and interestingly, I recently had an experience in Sutter County where I realized just how marginal is the farm worker population. The Sutter County Board of Supervisors is in the

† Ilene J. Jacobs is the Directing Attorney of the Marysville office of California Rural Legal Assistance, Inc. (CRLA). CRLA provides legal representation for farm workers and other low income people throughout rural California. Ms. Jacobs has been associated with CRLA for 11 years, 9 of those as Directing Attorney. Her work has centered around farm worker housing and employment-related litigation and community education, civil rights and anti-sluandlord litigation, creation of access to decent, affordable housing, health care, and education for low income, farm workers, and minorities in California, and advocacy to include migrant and seasonal farm workers in the decennial census. Ms. Jacobs currently serves as CRLA’s representative to the 2000 Advisory Committee.

Ms. Jacobs started her practice of law with the National Housing Law Project in 1979 in Washington, D.C., where her work primarily involved advocacy for the Constitutional rights of the homeless in litigation against the District of Columbia and federal governments. She also practiced with the Legal Aid Bureau in Baltimore, Maryland, before moving to California in 1986.
process of conducting study sessions to update its general plan. A general plan is the constitution for every county and city in California. Each plan has various elements, one of which is the housing element. The housing element is supposed to consider the needs of farm workers as a special population. The County, in the process of updating their general plan, decided to schedule a study session on the agricultural industry and this initial planning session made it clear that they wanted to solicit opinions from what they called experts and vested interests in the agricultural industry. The list of experts and vested interests included an agricultural commissioner, the Farm Bureau, a local agricultural employer, California Women in Agriculture, the Rice Growers Association, and the American Farm Land and Trust. I wrote in the margin of my notes, “Farm workers?” and I addressed the question of why, in a county were the economy of the county is based substantially on the agricultural industry, farm workers are not regarded as a vested interest nor as experts to be consulted about the need to preserve the agricultural economy.

I realized that the only way farm workers are considered is when advocates force the issue and I think that is our job and it is your job. The only way to force the issue of adequacy and availability of housing is to do what I have been proposing, i.e., to have a farm worker housing advocacy project that addresses the needs of farm workers to have decent affordable housing, brings them out from the margins and makes them visible. You will find that in most communities the agricultural industry, as well as the “powers that be,” wish that when the farm workers’ job was done during the day the farm worker would disappear at the end of the work day and return the following day, and each day as needed, and so there is no effort to provide housing. I remember when I was a child in 1963 and I went on a family trip in the South and first confronted injustice, I first began to understand what racism and discrimination in this country is when as a little girl I started to cry when I saw the sign over the bathroom that said “Whites Only.” I think that farm workers in California, and my guess is that farm workers nationwide, see that sign all the time. There is still a sign hanging out for farm workers that says, in essence “Whites Only,” no matter the progress that we have made in desegregation in this country, nor the progress that we have made in civil rights in this country, the “Whites Only” sign still is there. As advocates we need to address it.

Housing injustice in farm worker housing is a redundant phrase in California. There is no housing for farm workers, and the discrimination against them is based on race, on national origin and on their occupation. Farm workers in this country historically have been excluded from legal protections. They were excluded from the National Labor Relations Act; they were excluded from so many of the national and state programs that were created for low income people and other minorities that a trend
developed for advocates to push for particular programs for farm workers and housing is one of those areas. The programs, however, are inadequate, and discrimination exists in typical and atypical terms. It exists in the way that we heard in this Symposium, i.e., against Latinos. Typical of their housing issues is the standard complaint that someone will not rent to you or sell to you because you are a farm worker, because you are Latino. Discrimination also exists in the housing programs that have been developed to house migrant seasonal farm workers. They are inadequately planned, they are inadequately funded, they are the first ones to be cut and it is very difficult to find neighborhoods that will accept them, and so they would be very difficult to place anywhere. Land use decisions typically are made that exclude farm worker housing and there is a lack of enforcement in our state and local government when it comes to the conditions of farm worker housing. Discrimination exists in all of those situations and I believe that historically, lawyers and legal services, as well as other civil rights advocates, have stayed away from dealing with the housing issues that face farm workers because they are very complex, and they are very difficult to remedy. It is difficult to remedy the lack of availability of housing. It is as difficult to remedy the lack of affordability of housing as it is to remedy discrimination: "No, you cannot live here because of who you are, or how you speak, or what you do for a living." The consequence of that is that we have both appalling conditions in which farm workers live and we have a complete unwillingness to accept farm workers within any community. I will give you two examples.

One is a case in Sutter County in which a non-profit housing corporation sought to develop farm labor housing in an agricultural area through the Farmers Home Administration Grant program that is specifically designed to serve farm laborers. FHA, as any developer, had to go to the various planning departments, environmental, health department, building department, Planning Commissioners and Supervisors for various permits. The publicity that surrounded their applications for these permits resulted in the formation of a group called, "Neighbors for Planned Development." This group decided suddenly their community needed better planning for housing and, clearly, this farm labor housing was not going to be well planned and they did not want it in the neighborhood. All kinds of horribles were set out as examples of what would happen: the increase in traffic, the cars in the yard that people would be working on, the dangers to their daughters, walking to and from school; all very, very thinly veiled racist comments about who would be living next door. They lost: 50 units now have been built and another 50 or so planned, and it has taken almost 10 years and two lawsuits in state court and one lawsuit in federal court to make that happen. That is one end of the spectrum when it comes to providing housing for farm workers, and one example of the problems that
you have to deal with when you have a housing developer who wants to go out and build some decent, affordable housing for farm workers in a community, and you have government funds for it, and it takes three lawsuits to get it done.

The other end of the spectrum is the example of farm workers who were migrant and seasonal farm workers, in families where generations worked for the same grower in Sutter County. One group in the family finally decided that they were tired of living in horrendous conditions. The houses that they lived in—well, I hesitate to call them houses—the structures that they lived in, included a burned out two-story building where about 20 to 25 single men slept on the floor every night. The second floor and staircase was clearly charred and could not be used and so they all pretty much stayed on the first floor. There was a toolshed that was used by two farm workers and there were a couple of trailers that were falling apart, they had holes in the floors, they used garden hoses to connect a propane tank. Those were serving the families because those were the units that were in "better" condition.

The Mexican Consul at that time happened to come across the group of people who decided that they were going to have a little more courage than they had in the past, and filed a complaint about the condition of the place. The septic system was overflowing and there was raw sewage all over the place. There was no potable water supply. The gray water from the shower and washing machine was next to the well and that was the only source of drinking water. It was appalling. There were children living there as well, you know, and the women and men who were working in the fields. As soon as they complained they lost their jobs. A labor contractor was hired to find replacement workers, and the local sheriff was called to escort them out of the camp.

We decided to litigate against the attempt both to evict them and to fire them. Farm workers and seasonal laborers sued in federal court under the federal laws that protect migrant seasonal farm workers. We worked with a non-profit housing corporation as well as the local housing authority to ensure replacement housing and planned to build their replacement labor camp. We ended up with a consent decree in that case that provided not only for their continuing employment under certain terms and conditions, and for attorneys fees and money damages, and a piece of land that the non-profit would use to develop a replacement labor camp.

That is the other end of the spectrum: you start from abuse of workers, poor housing conditions and you end up with a proposed development. Looking at those two ends of the housing spectrum for farm workers, what jumped out at me in terms of what is needed for a farm worker housing advocacy project is that first of all you cannot have lawyers working alone; second of all, you cannot have housing developers working alone; and third,
you cannot have farm workers unprotected in the sense that their only choice if they look for decent, fair housing or complain about the condition of housing is to risk being fired, to risk losing their source of income, as well as the little shelter that they have. These cases led me to realize that we must have a project that combines all these things; therefore, we are seeking funding for a manual and training and a strike team concept to assist advocates who are trying to address farm worker housing needs. You must combine the farm worker housing advocate with the non-profit housing corporation and local government cooperation, whether you get that with the carrot or the stick, in order to build the housing and in order to remedy the poor conditions. You have to go in, up front, knowing that you have someone to develop the housing later on and that you have a way to temporarily house farm workers while these repairs are being made. That is the only way that we will accomplish both the goals of paper advocacy, which itself is not enough, and providing decent, fair, affordable housing for farm workers.

We, as lawyers, attempt to help with legislative advocacy to have laws adopted that protect farm workers, and then we advocate to have these laws enforced, and we get them enforced. We have not solved the problem if that is all we do, and so the other part of the advocacy is that we must work with the local governments and non-profit housing developers to make sure that they can develop the housing and that we do not end up with a lot of homeless farm workers. We have learned that lawyers for farm workers have to be many kinds of lawyers, as well as jacks of all trades. You must be an administrative lawyer and an environmental lawyer because if you do not know those areas of the law, then you will not be able to deal with the local governments to help the non-profits build the housing. You have to know that there are federal and state laws that protect farm workers and must be able to litigate in state and federal court. You have to know that farm workers have civil rights to be protected on the basis of race and national origin, as well as on the basis of occupation, and so you must be able to be a civil rights and fair housing lawyer. You also must be able to be developers, know the land use requirements, obtain approvals under various regulations in order to develop the housing, know code enforcement and know that you can ensure that code enforcement is done in a way that does not displace farm workers even more than they already have been. You have to be a community lawyer and in that sense I mean that you have to get used to wearing rubber boots and driving an old Ford pick-up and be willing to do it, because if you are, you are going to have very much more contact with your clients, and if you do not have contact with your clients, they will be gone. Farm workers historically who have complained about anything – working conditions or housing conditions – have been fired and have been put on a list in that area so that no one else will hire them. Workers who are
forced to decide between earning an income and being able to feed their family and standing up for their rights are not going to stand up unless you, as a community lawyer and advocate, ensure that needs are taken care of, that retaliation does not happen.

I think that the most important thing to remember is that farm worker housing advocates always have to be ready for battle. You always have to know that you are going to have a battle every step of the way. You are going to have a battle with the employers, you are going to have a battle with local government, you are going to have a battle with funding sources, you are going to have a battle with private developers, with the media, as well as with neighbors. The work that you have to do has to be done in conjunction with your clients as well as with the developers, as well with any of the members of local government and the media and the neighbors in your effort to reach past the battleground.

Thank you.