

**BUFFALO HOUSING COURT  
REFORM PROJECT**

**2006 REPORT**

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Buffalo City Court Judge,  
Housing Part**

## TABLE OF CONTENTS

<b><u>Introduction</u></b> .....	1
<b><u>PART I: Summary Evaluation of Entire Project</u></b> .....	2
<b><u>PART II: Description of How Project Was Implemented</u></b> .....	3
A. <u>Liaisons and Neighborhood Communication</u> .....	3
B. <u>Orders to Vacate</u> .....	4
C. <u>Lis Pendens program</u> .....	5
D. <u>Accurint Searching, Title Searching and Warrant Reconciliation Program</u> .....	5
E. <u>Receiverships</u> .....	7
F. <u>City Foreclosure Program</u> .....	10
G. <u>The Neighborhood Preservation Collaborative</u> .....	10
H. <u>Rooming House Task Force</u> .....	10
<b><u>Conclusion</u></b> .....	11

## **Introduction**

Due to the generous financial aid of the Oishei Foundation and the volunteer administrative support of the Local Initiatives Support Corporation (LISC), the Buffalo Housing Court Reform Project has completed its mission to fully transform the Housing Part into a proactive problem-solving court, that not only handles disputes equitably but promotes rehabilitation of properties and surrounding neighborhoods in the City of Buffalo. The results we achieved would not have occurred without the support of the Honorable Sharon S. Townsend, the Honorable Thomas P. Amodeo, Buffalo City Court Clerk Sharon Thomas, the Office of Court Administration, and court staff members Shawn Fagan, Patricia Winters, David Leys, and Anthony Pearl.

As a result of our success, the New York State Division of Criminal Justice Services (DCJS) has continued our current level of funding to maintain the two positions created by the Oishei Foundation's grant. We thank New York State Senator Dale Volker for his initiative and support in making this funding possible. The one-year DCJS grant will be administered by the New York State Unified Court System, from whom Buffalo City Court has requested that these positions be made permanent.

In addition to maintaining our current level of service to the citizens of Buffalo, the court enthusiastically welcomes another new role. Since its inception, the Housing Part was empowered to hear landlord-tenant eviction cases in the City of Buffalo. However, until January 2007, the eviction cases were heard at a Special Term, which rotated among eleven City Court judges every four weeks. Due to programs and policies initiated in the Housing Part, all eviction cases were recently transferred to the Housing Part for the 2007 calendar year. Consequently, all code violation cases and evictions in the City of Buffalo will be heard in the same forum.

This important change was made possible because of the commitment to the Housing Part by Judges Townsend and Amodeo and City Court Clerk Sharon Thomas. Under their leadership, the Unified Court System provided Buffalo Housing Court with a full-time court attorney to pre-try landlord-tenant eviction cases, a second full-time court clerk, and a part-time civil court clerk, as well as offices, computers, and the necessary supplies to handle the increased caseload. The City of Buffalo has similarly increased the resources provided to the court by adding a second full-time attorney and a paralegal.

Consequently, if property owners have pending cases in Housing Court (including outstanding fines and warrants), those cases are now addressed at the same time eviction proceedings are brought. The court may design remedies to address both the code violations and the evictions. These remedies may include the denial of judgments of possession until fines are paid, community service is completed, or other conditions are satisfied; the appointment of receivers to collect income from properties to facilitate repairs or make payments toward fines; and referrals to appropriate social service agencies to ensure that tenants find habitable apartments. Applying the problem-solving model of Buffalo Housing Court to eviction proceedings ensures compliance more quickly, identifies underlying issues, and reaches resolutions of quality-of-life concerns that long plagued Buffalo's neighborhoods.

## **PART I: Summary Evaluation of Entire Project**

Housing Court has fulfilled its mission to become a problem solving court by using a variety of programs to find solutions for code violations and quality of life concerns for all properties in its jurisdiction. In response to input from staff and volunteers, the Executive Director and the Program Coordinator were able to implement several strategies, including receiverships and orders to vacate, to overcome some of the court's most difficult roadblocks. They have studied the challenges faced by the court and have responded with policy changes and better communication with City administration.

Neighborhood collaboration and empowerment continued to grow as a direct result of Housing Court's continued initiatives. In the first year of The Housing Court Reform Project, the court's involvement with block clubs, community groups, and concerned individuals allowed both the community and the court to better understand and meet the area's housing needs. Community members have been able to more efficiently navigate and utilize the court process. The court changed its procedures to be more transparent and to help streamline the improvement of neighborhoods.

Housing Court liaisons continued to grow in number, responsibility and impact. The enhanced role of these individuals and the residents they represent was the most significant aspect of the Reform Project – they helped to initiate and implement most of the Housing Court initiatives, based upon the needs of their neighborhoods. By training, empowering and inviting these volunteers to effectuate positive change in their neighborhoods, the Housing Court Reform Project extended its impact beyond the courtroom for years to come.

For example, Art Robinson, a liaison for the Fillmore/Lovejoy Districts, has organized a task force comprised of the judge and federal, state and local legislators to draft legislation to combat incomplete foreclosures, one of the most significant problems facing City housing, particularly in the districts he represents. Harvey Garrett, liaison for the Niagara District, continued to spearhead his own initiatives to address quality-of-life, crime and economic development of the commercial strips in his area. Leslie Vishwanath, another liaison for the Fillmore District, accepted the responsibility to serve as the court's receiver city-wide, while subcontracting with Stephanie Simeon and Brad Hamm, liaisons for the University District, and Lynn King, liaison for Delaware/North districts. In doing so, she realized an opportunity to work with Crisis Services to develop a program to assist the City's homeless population.

The progress by the Reform Project extended not only beyond the courtroom but also beyond the City limits. In September 2006, the Judge and Executive Director visited the Housing Court in Cleveland, Ohio and participated in a seminar on property flipping. We were joined by Michele Johnson, a third liaison for the Fillmore District, and Building Inspector Tracy Krug, who screened their documentary "Flipped", which illustrates the deleterious impact of internet-based property flipping on communities in Buffalo. The seminar included a question-and-answer period in which Judge Nowak provided detailed examples of the innovative strategies we have deployed in Buffalo and how such programs might be replicated in Cleveland - and vice versa. As a result of this collaboration, Cleveland's Housing Court sought to initiate legislation allowing corporations to be found guilty and sentenced if they fail to appear (as in Buffalo), while Buffalo Housing Court has implemented Cleveland's policy of denying landlords

the ability to evict until they have addressed outstanding fines. We anticipate that this dialogue will continue so that each jurisdiction may build upon the successes of the other.

We have seen that neighborhoods in the City of Buffalo have varying needs. While some may have only a few houses in need of minor repairs, others are being wasted with blight. The key in maximizing the court's efficiency and effectiveness has been to involve municipal and community agencies to a greater extent. Prosecution, for example, can be as valuable a tool as grants and low-interest loans. Merging the diverse resources of government and community has been vital to the success and further development of the project.

Building on the strong community outreach program begun in the first year of the project, the Program Coordinator extended the court's partnerships further by developing strong relationships with the Save Our Streets Task Force, the Board of Block Clubs of Buffalo, Hispanics United of Buffalo, the Urban League, and other human service agencies. The Program Coordinator met with these organizations as well as more than 270 block clubs to present the new Housing Court system. The focus of these partnerships has been to allow a stronger, more reciprocal relationship to grow between organizations that can benefit from the other's resources.

The court is optimistic that the liaisons and other partners will maintain and even expand the role and impact of the Reform Project to improve their neighborhoods. Because of the knowledge and experience of the many volunteers utilizing the court, along with the support of the Office of Court Administration in providing staff, offices, equipment and supplies, we believe that the positive changes made by the current staff will continue indefinitely.

## **PART II: Description of How Project Was Implemented**

### **A. Liaisons and Neighborhood Communication**

The number of regular liaisons increased to a plateau of approximately 25 at any one point in time, with two to four liaisons per district. The quality of the work of these liaisons, along with their outreach into neighborhoods and effectiveness in finding proactive solutions, continued to improve steadily.

Significantly, in the past year, not one liaison discontinued his or her service to the court. In fact, a superb liaison who left in 2005 due to a work commitment found time to return in 2006. Two new liaisons were added to the Ellicott District area in May 2006 – both work with the Buffalo Urban League, an organization that the Housing Court Reform Project had previously determined to be a strong partner for future projects. In September 2006, a third liaison was added in the Niagara District to specifically address the commercial development of Grant Street. At approximately the same time, a fourth liaison was added in the Masten District to assist the FLARE community association.

The most recent trend has been in the use of more specialized liaisons, like the one focusing on Grant Street. We similarly have liaisons specializing in the "Forever Elmwood" area, the Fruit Belt, Hamlin Park, the Fillmore/Leroy neighborhood, and the Old First Ward, all smaller defined areas within Councilmatic districts. These specialized liaisons have worked well

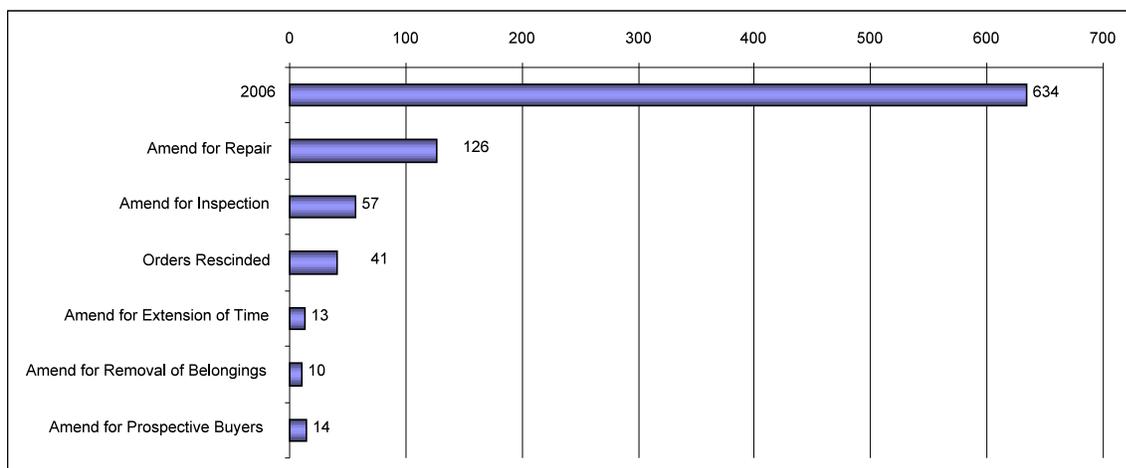
within the current scheme because they have allowed the original liaisons to delegate some of their work, thereby increasing the focus of the liaisons overall. Generally, the smaller the focus, the greater the community impact.

The Executive Director tended to provide assistance to the more experienced liaisons, by explaining legal ramifications of various strategies, performing title searches, and communicating with banks or other lienholders to identify solutions for problem properties. The Program Coordinator was instrumental in recruiting, training and monitoring the liaisons, particularly the newer ones, in order to maximize their abilities to participate in and implement the Housing Court programs. She continued to plan liaison training sessions, one of which she conducted herself to unveil a “Community Toolbox” (attached as Appendix A), which was ultimately provided to block clubs City-wide.

These liaison training sessions continued to flourish throughout 2006 with additional well-focused presentations to provide the liaisons and other community members with needed information and direction to create pathways of success in regenerating better neighborhoods. Topics ranged from systematic reporting to compassionate services that are directed at homelessness and poverty. The liaison training expanded to include community leaders and neighborhood activists, thereby providing a solid base of information that will alleviate undue time constraints on our volunteer liaisons.

#### B. Orders to Vacate

Throughout 2006, the court continued to issue numerous orders to vacate and other related relief as set forth below. The orders to vacate represent properties where either (1) the public was protected from dangerous conditions, or (2) the properties were protected from vandals. While these orders certainly benefit communities and help deter quality-of-life crimes, the court more enthusiastically focused on the orders modifying the orders to vacate.



Amended orders to allow for repairs were limited to specific individuals and were typically not prepared until days or hours before those contractors were scheduled to work on the various properties. Accordingly, those orders nearly always resulted in repairs actually completed, with the protection by the original order remaining on the property so that those

repairs would not be futile. Rescinded orders represented properties brought fully up to code and scheduled for imminent occupancy, either by the owner or by tenants who often were screened by Housing Court liaisons. Orders amended for inspection and for prospective buyers represented properties where the court and liaisons sought possible long-term solutions, usually direct transfers, receiverships, or short sales. Orders for extensions of time or for tenants to obtain belongings typically worked hand-in-hand with pending receiverships and allowed low-income occupants to find habitable, safe and secure housing.

The court, and particularly the Program Coordinator, also assisted in the enforcement of these orders. Through meetings with all district chiefs and open training with the officers in two police districts, certain needs were addressed to allow police officers to carry out the purposes of the orders to vacate. Additional systems were set up to assure that each officer making an arrest could present a case with the proper documentation provided to an Assistant District Attorney on the day of the court intake.

C. Lis Pendens program

Unfortunately, due to the pressing needs and short staffing of the Department of Economic Development, Inspections, Permits, and Licenses, this project did not launch effectively from its introduction in the Fall 2005. Quite simply, inspectors were unable or unwilling to inspect and cite properties for Housing Court simply because they were the subjects of foreclosure proceedings, when few violations existed.

Nonetheless, the court has utilized interns to track the notices of pendency pulled in February and March 2006 for this program, to determine the percentage of properties where the foreclosures were completed. The court anticipates studying the foreclosures that were abandoned since that time, and determining whether they resulted in vacancy or obvious deterioration. If a significant percentage did so, the court will encourage the City to revisit the original program, or to utilize the data to support the legislation to address incomplete foreclosures through Mr. Robinson's Task Force, as described above.

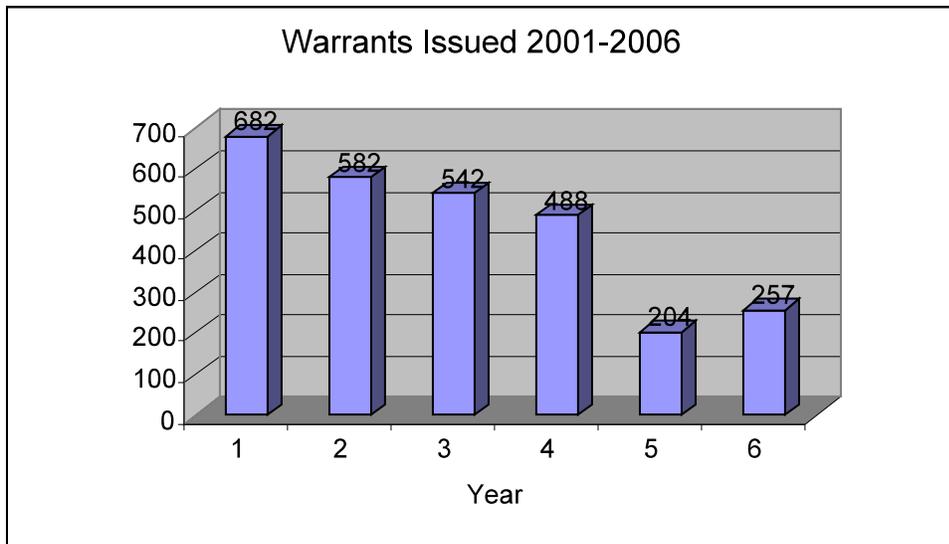
D. Accurint Searching, Title Searching and Warrant Reconciliation Program

Throughout 2006, locating property owners continued to be a large focus of the court, for two reasons: (1) it was much easier to correct code violations and find solutions to neighborhood concerns with the participation of property owners, even if that participation was less than completely voluntary, and (2) the Buffalo Police Department continued to have difficulty finding time to execute search warrants, especially for violation level offenses. As more cases were brought against defendants who lived outside of Erie County (the warrant jurisdiction of the court), it became critical to provide notice to such defendants at their best possible addresses so that the court could conduct emergency demolition hearings or trials *in absentia*.

The Program Coordinator and Executive Director, along with interns and volunteers under their supervision, conducted over 6,000 Accurint searches<sup>1</sup> to attempt to locate defendants in 2006. The cost of these searches, paid by the Office of Court Administration, was \$ 3,225.00. The searches resulted in appearances for approximately 50% of all defendants searched. Without Accurint, and the work of the two funded positions, all of those cases would have resulted in either warrants or attempts to correct code violations without the participation of the property owners.

In addition, 153 title searches were performed by the Executive Director to verify ownership, determine the status of foreclosures, and assess liens for possible transfers. These searches were necessary before the court could craft an appropriate solution for each property.

The most notable trend in case handling by the reformed Housing Court is the dramatic decrease in the use of warrants, as shown in the following chart:



This decrease in warrants is due to the fact that several procedures were attempted before issuing a warrant. Upon the first non-appearance by a defendant, an Accurint search was performed, which often resulted in a better address for the defendant or revealed that a defendant was deceased. When a better address was found, a new letter was sent to the defendant demanding appearance in court. As mentioned above, about half of the time, defendants received these new letters and appeared in court, thus eliminating the need for a warrant to be issued. If no updated address was found, a title search was often requested. If the title search revealed that the defendant had not owned the property as of the date of the violations, the case was withdrawn, and the City then pursued an action against the new owner. After this investigation, if the court concluded that the defendant could not be compelled to appear, the court proceeded with a trial *in absentia*, a receivership, or a demolition hearing, depending on the circumstances.

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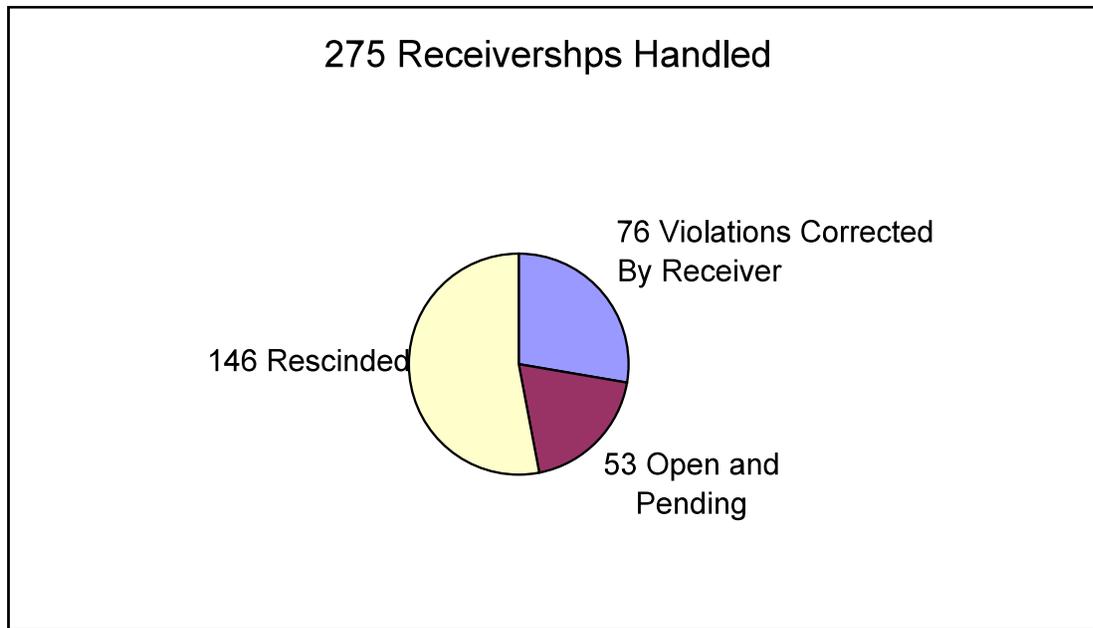
<sup>1</sup> Several different types of searches were often necessary to verify the best address for a single defendant; therefore, the number of individuals searched was less.

The slight increase in warrants in 2006 is based upon the court's confidence in finding correct addresses for defendants through Accurint, title searching and liaison investigation. The court plans to meet with new Buffalo Police Commissioner H. McCarthy Gibson to discuss new approaches to execute the reduced number of warrants.

E. Receiverships

The largest of our programs continues to be the Property Management Receiverships. Over the past year, the receivership program has been changed in several significant ways. First, due to the particular constraints of the Community Based Organizations, the Court decided in August 2006 to assign all receiverships to a single organization, the Lt. Col. Matt Urban Human Services Center of Western New York. By having a single receiver, the court is better able to supervise the properties, and the receiver has more freedom to subcontract work to the other organizations. Because of the statutory 5 % cap on the receivership commission, this subcontracting arrangement should make participation with the receiverships more viable for the smaller organizations that will now be able to work for a reasonable fee.

Over the past year, 275 properties have been assigned to (or continued from the past year in) the receivership program. Of those, 146 have been rescinded, typically because the properties were deemed to be uninhabitable after interior inspections. Seventy-six properties (27%) have been successfully repaired and rented out by the receiver, often in combination with efforts by the owner. Fifty-three are actively in progress, as the following chart illustrates:

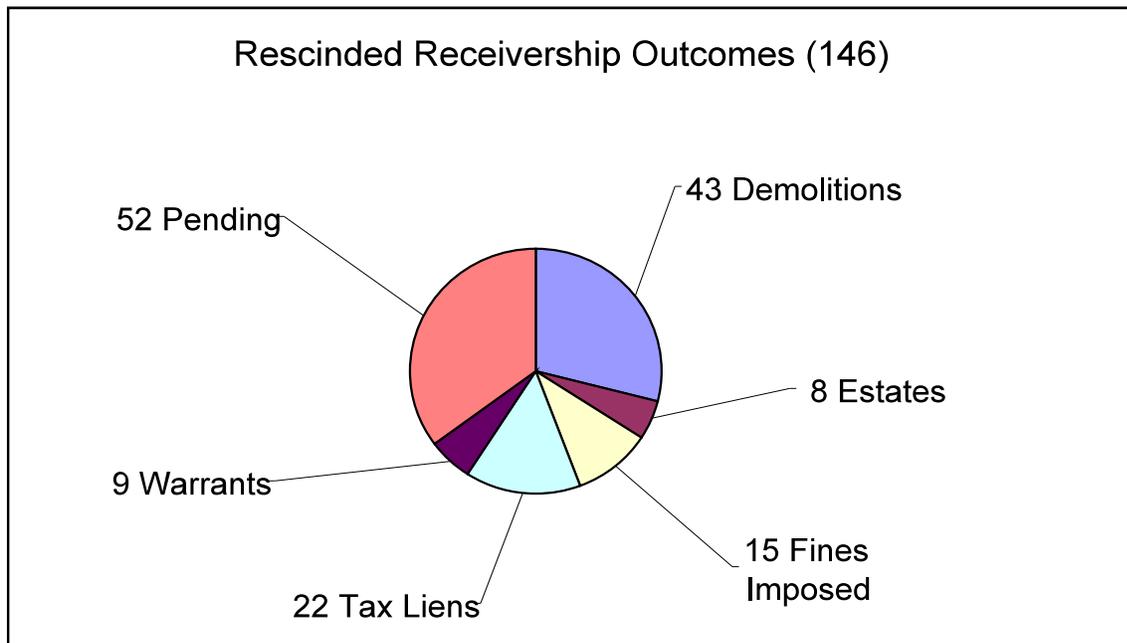


Perhaps the most significant aspect of the receivership program is that all of the properties placed into it would have had no possibility for resolution otherwise. The 76 successful receiverships are comprised of several different scenarios, and in some cases, the accomplishments reached several levels. For example, one property was owned by a senior citizen who had great difficulty managing his four unit building, even though it was occupied by only one tenant. The receiver utilized the funds for that unit to repair and place a tenant in the

second unit, then the third. After fixing the fourth unit, the receiver successfully placed a homeless family and obtained rental assistance funds for them, so that they could have a stable home. Now, the property is nearly fully up to code, and the owner and receiver are planning to sell the property to the father of one of the tenants, who lives in the neighborhood.

The cases for which the mere appointing of the receiver prompted the defendants to appear before the court and resolve the issues themselves demonstrates the additional power of the receivership as opposed to other remedies, such as warrants. For defendants who live outside of the jurisdiction of the court, interception of their rental income is a far greater threat than a local warrant.

After further analysis into the 146 rescinded receiverships, the court has concluded that some of these properties should never have been placed into receivership in the first place; several early successes of the program, such as the placement of homeless families in units as noted above, caused a bit of over-enthusiasm. The outcomes of the rescinded properties are summarized in the following chart.

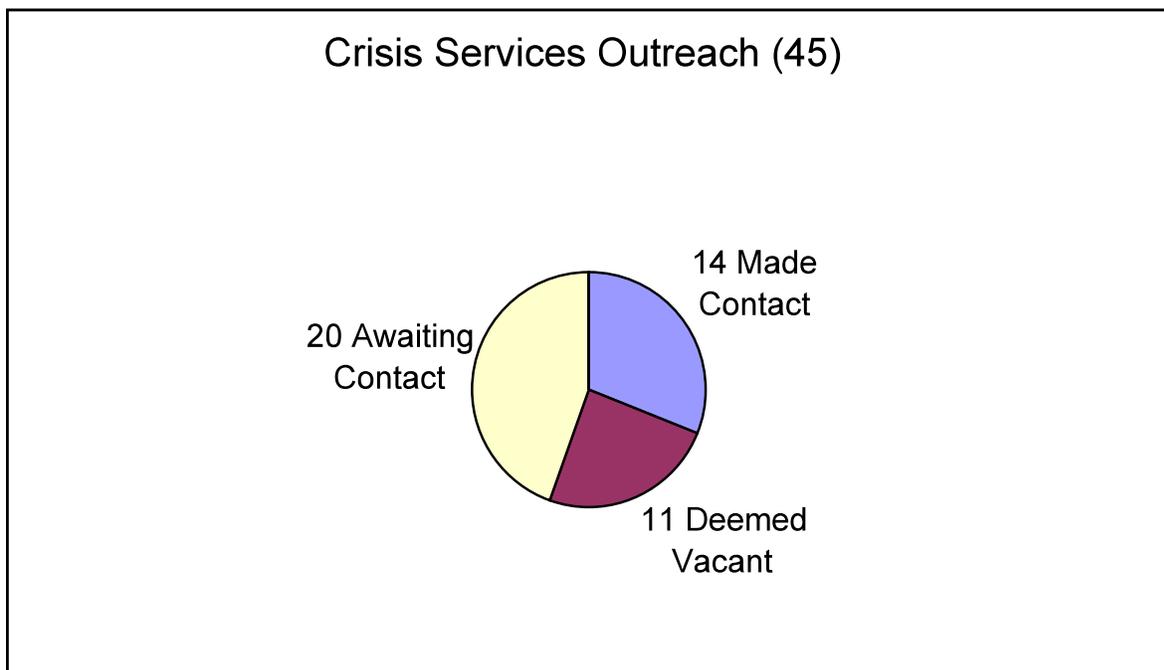


While the ultimate dispositions of these properties were not necessarily particularly innovative, the fact that a receivership had been attempted provided an additional layer of screening and evaluation to these cases. For example, the nine warrants issued after failed receiverships are known to have been issued upon reliable and valid information regarding the location of the defendant. Similarly, the 43 demolitions are also known to have been absolutely necessary, and not simply a knee-jerk reaction to a vacant property. Information about tax liens and deceased defendants was also gleaned from the receivership investigation process, and would not have been discovered under the old-fashioned Housing Court procedures.

The 53 open, unresolved receivership cases have presented a difficult challenge to the court and to the receivers. These are properties that are suspected to be occupied and not worthy

of demolition, but for which neither occupants nor defendants have been accessible. To better assess and intervene in these cases, we have teamed up with Crisis Services to provide outreach to occupants of Housing Court properties that are being considered for receivership. As a matter of course, now when a property is placed into receivership the Court sends a letter to the occupants instructing them to contact Crisis Services to avoid eviction. A self-addressed stamped envelope with a request for services is included for the occupant to return to Crisis Services. A record of these letters is forwarded to Crisis Services so that they can determine whether any occupants of given property have responded. For properties at which occupants have not responded, Crisis Services will send an outreach worker to assess the situation and provide any necessary referrals or intervention.

To date, forty-five intervention letters have been sent since the inception of this outreach program in October, 2006. Of these, fourteen occupants have made contact with Crisis Services to seek assistance with their housing and benefits needs. Eleven of these properties have been found to be vacant upon further inquiry - often on the basis of the post office stamp of “vacant” on the returned mail. The remaining twenty properties are suspected to be occupied but no contact has been possible with the occupants. Many of these are suspected to be squatters.



The Court, Crisis Services, and the Matt Urban Center are in the process of submitting a grant proposal to HUD to fund an outreach program specifically designed to provide services and assistance to this difficult-to-serve population. Until such funding is secured, Crisis Services has committed to supervise one of their interns to manage this outreach project. The long-term goal is to create a permanent program that can provide outreach services to individuals who dwell in Housing Court properties and no longer have an active landlord-tenant relationship.

F. City Foreclosure Program

While the court believes that the original City Foreclosure Program would be effective in encouraging property transfers and cleaning title on vacant properties that do not yet require demolition, the City of Buffalo has taken no steps to implement this program, citing a lack of resources. The court will continue to offer its venue for such actions, and for Abandoned Dwelling Proceedings, which are similar procedures available to the City that may be used to achieve the same result.

G. The Neighborhood Preservation Collaborative

In May 2006, the Neighborhood Preservation Collaborative was proud to win the Pewter Plate Award from the Landmark Society of the Niagara Frontier. During the year, it hosted "Preservation Blues," which generated \$1,800 in startup capital for a Better Practices Fund (originally referred to as the "Gap Fund"). The Better Practices Fund is designed to assist homeowners in historic preservation districts with historically accurate or consistent repairs, if the cost of those repairs would exceed newer but less consistent modifications. The Collaborative continues to maintain its web site, npc-aware.blogspot.com.

Despite these positive advances, the Collaborative suffered from a lack of focus and attention from its members and committee chairs, many of whom chair or participate in other historic preservation efforts. While the Collaborative was successful in bringing these individuals and the groups they represent to the same table, they were unwilling to place the committees and efforts of the Collaborative ahead of their individual endeavors. As a result, the preservation community remained somewhat fractured and reactive in their efforts.

To inject new energy into the Collaborative, the court is currently seeking to encourage far greater participation from our local colleges and universities, particularly from students studying architecture and urban planning. With new members, the Collaborative will attempt to implement its initial programs, such as neighborhood booklets, the NPC Blog, the adaptive reuse program and administration of the Better Practices Fund. Existing organizations will continue to be invited to participate, with a focus on finding new committee chairs who have more time to devote to Collaborative efforts.

H. Rooming House Task Force

In September 2006, the Program Coordinator designed and proposed rooming house legislation to two members of the Buffalo Common Council. They quickly set up a meeting that also brought in representatives of the city's Law Department to review the suggested ordinances for feasibility. This legislation would assure the rights of both tenants living in rooming houses and their surrounding neighbors, effectively creating an ordinance that would require proper, on-site management and other remedial plans to create safer, healthier neighborhoods.

In October 2006, the Councilmembers presented seven resolutions to the entire body for approval. Five were passed immediately by the full body. One week later, the Program Coordinator spoke at the Common Council Committee on Legislation meeting to present the reasons why the other two resolutions were necessary. They passed that day. The resolutions

are now being set into ordinance by the Law Department and should be instituted into the City Charter by the end of January 2007. A copy of the legislation is attached as Appendix B.

### **Conclusion**

As a result of the Housing Court Reform Project, Buffalo Housing Court has become the most effective way for City residents to improve their neighborhoods. The court has received requests to meet with and present its strategies to other local courts, including those in Niagara Falls, Lockport, and Cheektowaga, as well as those in Cleveland and Youngstown, Ohio. The court has also offered insight and recommendations to representatives of every level of government in Western New York.

None of these accomplishments would have been possible without the initial funding by the Oishei Foundation and the volunteer administration of that funding by LISC. As a result of the Reform Project, Buffalo Housing Court received and continues to receive support from our administrative judges, the Office of Court administration, and staff members at Buffalo City Court. With the new support provided by the New York State Division of Criminal Justice Services, the court will continue its mission and encourage judges in other municipalities to follow its lead.

**Appendix A**

**Appendix B**