

Chapter 6

Reflections on Community Lawyering

Chinese immigrants fleeing growing nativism on the West Coast settled in the area of Boston that would come to be known as Chinatown. By the 1920s, Chinatown was well settled with a thriving business sector and an active civic and community life (right).

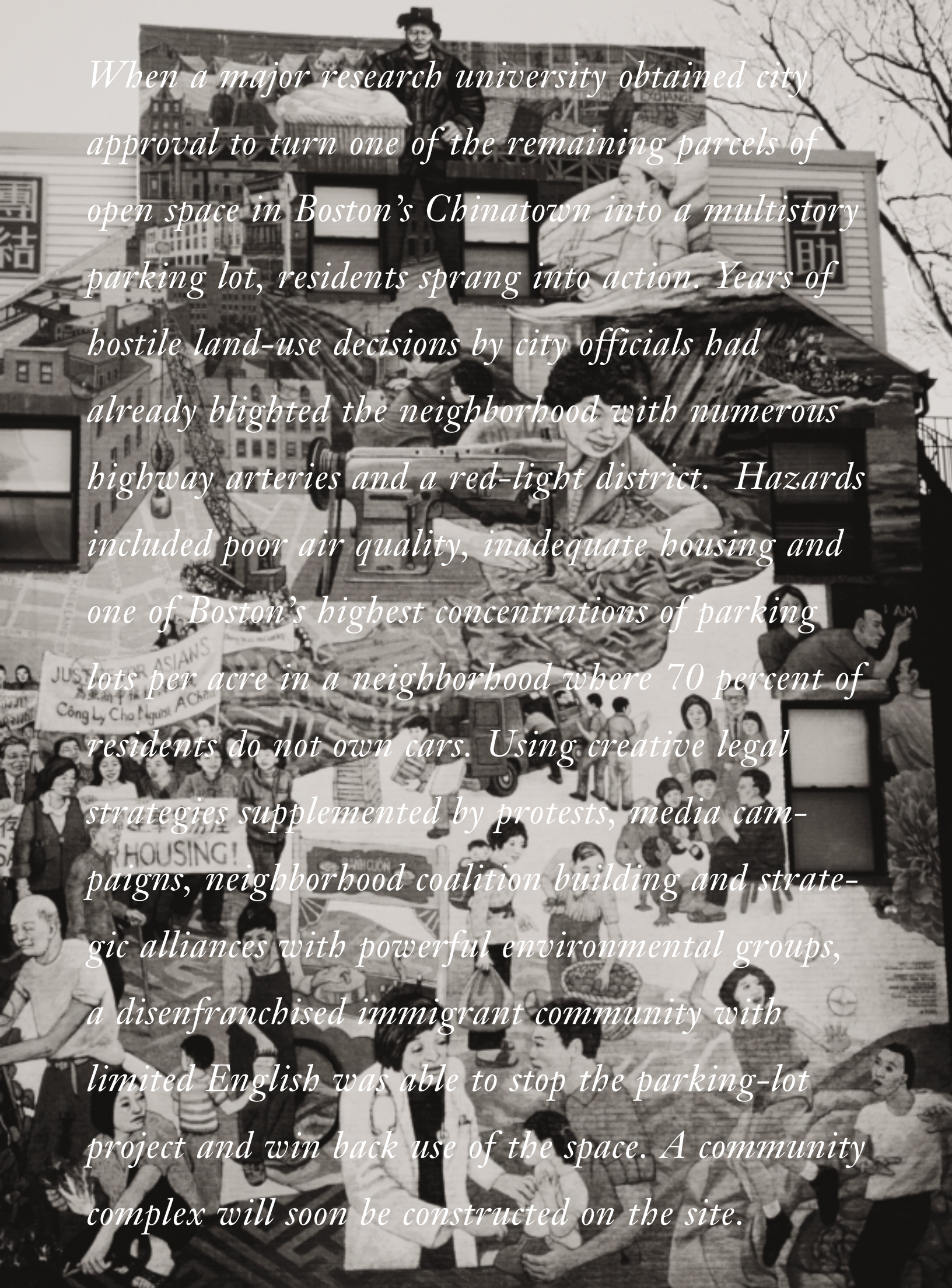


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When a major research university obtained city approval to turn one of the remaining parcels of open space in Boston's Chinatown into a multistory parking lot, residents sprang into action. Years of hostile land-use decisions by city officials had already blighted the neighborhood with numerous highway arteries and a red-light district. Hazards included poor air quality, inadequate housing and one of Boston's highest concentrations of parking lots per acre in a neighborhood where 70 percent of residents do not own cars. Using creative legal strategies supplemented by protests, media campaigns, neighborhood coalition building and strategic alliances with powerful environmental groups, a disenfranchised immigrant community with limited English was able to stop the parking-lot project and win back use of the space. A community complex will soon be constructed on the site.

Chapter 6

Reflections on Community Lawyering: The Struggle for Parcel C

Excerpted from the article of Zenobia Lai, Andrew Leong and Cbi Cbi Wu, 6 UCLA Asian Pacific American Law Journal 1, at 1.

Key Lessons Learned

- Document the history of policy decisions that have created racial barriers in order to help community members understand structural exclusion and to build the record for possible litigation.
- Recognize the tension between raising community members' awareness of their legal rights and acknowledging the limits of legal strategies.
- Elicit the community's own voice, creativity and judgment on all matters including legal strategy and advocacy.
- Mobilize young people in outreach efforts.
- Work with lawyers who speak the language of the community and share its culture.
- Carefully monitor translators to ensure accurate communication with clients and community groups. Remain connected to the community to build trust. Shared ethnicity and/or language alone are insufficient.



“Chinatowns” are among the most vibrant ethnic neighborhoods in America’s urban landscape (left). Boston’s Chinatown has had a rich tradition of commerce, restaurants and community life, as well as a history of protest against unfair local policies.

Boston’s Chinatown has not been well served by urban renewal (above). Through the 1950s and ‘60s, substantial portions of Chinatown’s land and housing were taken for major highway construction and the expansion of the Tufts–New England Medical Center. In 1974, the city moved an adult-entertainment district to Chinatown to make way for the construction of the new government center.

Overview

Chinatown is among the most vibrant ethnic neighborhoods in America's landscape. Home to recent immigrants and old-timers alike, a city's Chinatown is the heart of many urban Asian-American communities. Chinatowns are often found in city centers, in crowded and polluted environments. Boston's Chinatown, the fourth largest in the United States, is no exception.

Since the 1950s, urban planning has given Boston's Chinatown two massive highways, land-hungry medical institutions and a red-light district. Decades of such harmful policies came to a head in 1993, when the city of Boston tried to sell open land in the heart of Chinatown to build a mammoth parking garage. The proposed sale of this land, known as "Parcel C," sparked protest and galvanized resistance.

The Parcel C struggle combined grassroots community organizing and community lawyering. This case study explores what "community lawyering" means in practice, especially when the community is disenfranchised, immigrant and not fluent in English. It also addresses how to go beyond the limitations of traditional lawyering, which often focuses narrowly on legal remedies granted by a court of law. The struggle succeeded only because legal strategies were supplemented with political protests, media campaigns, neighborhood coalition building and alliances with powerful environmental groups.

THE LEGACY OF URBAN PLANNING

Boston's Chinatown is a small but densely populated community encompassing 46 acres in the downtown. For many, Chinatown is a pleasant stop on weekend excursions, a purely commercial district of "exotic" shops, markets and restaurants. But it is also a residential community and home to more than 5,000 people.

During the 1880s, Chinese immigrants fled the rising nativism of the West Coast and arrived in Boston to develop the area known today as Chinatown. The Chinese community was well-settled and growing during the early and mid-20th century. After World War II, the business sector—especially restaurants—flourished, bringing economic prosperity as well as new civic and community associations.

Starting in the 1950s, Chinatown became a victim of "urban renewal."¹ Cities such as Boston adopted strategies specifically to attract businesses and industries back into downtown, to refurbish its tax base, and to entice urban residents to remain. Unfortunately, all communities did not equally share in the burdens and benefits of urban renewal.² In the 1950s and 1960s, Boston's Chinatown lost one half of its land and one third of its housing to two new highways: the Central Artery and the Massachusetts Turnpike Extension. Built between 1953 and 1959, the Central Artery destroyed more than 50 housing structures as well as half of the celebrated On Leong Merchant Association building. In 1963,

¹ Urban renewal, refers to the federal program heralded by the Housing Act of 1949 and its subsequent amendments. PL 81-171, 42 U.S.C. § 1441, et seq. (1949).

² The destructive legacy of urban renewal in numerous cities is well documented. See, John Stainton, *Urban Renewal and Planning in Boston—A Review of the Past and Look at the Future*, a Consultative Study, at 19 (Nov. 1972, BRA) (hereinafter, Stainton). See, also, Martin Anderson, *The Federal Bulldozer: A Critical Analysis of Urban Renewal, 1949-1962* (MIT Press, Cambridge, Mass., 1964); Jewell Bellush and Murray Hausknecht, *Urban Renewal: People, Politics and Planning* (Anchor Books, New York, N.Y., 1967).

the Massachusetts Turnpike Extension destroyed 60 more housing structures. Cutting off potential routes of expansion, these highways eliminated much affordable housing, reduced the number of commercial venues and added enormous traffic congestion, noise and pollution.³

Federal urban-renewal policy started to restructure Chinatown when the city of Boston adopted the 1965 South Cove Urban Renewal Plan (the Plan) that slated Chinatown for "slum clearance." The Boston Redevelopment Authority (BRA), the city agency in charge of urban renewal, took land from Chinatown residents and sold it to Tufts–New England Medical Center (T–NEMC). This exchange of land enabled T–NEMC to triple in size in the 1970s and 1980s.⁴

As a tax-exempt entity, T–NEMC received federal funds to acquire and demolish Chinatown properties in order to develop its own buildings.⁵ In its role as landlord of the newly acquired properties, T–NEMC refused to renew leases for both residential and commercial tenants, which meant the loss of both jobs and affordable housing for the Chinatown community.⁶

Having a modern hospital in the heart of Chinatown might have been expected to soften those blows. Unfortunately, T–NEMC has given little back to the community in which it is housed. Most Chinatown residents have not and do not today receive medical care at T–NEMC. Instead, they go to the South Cove Community Health Center in Chinatown, founded in 1976. Before that time, residents traveled about 1.5 miles to Boston City Hospital for medical services because T–NEMC declined to provide outpatient facilities. Even after T–NEMC began operating some outpatient facilities in the 1970s, few Chinatown residents used its services because it did not provide interpreter services, provided less free health care, and was less culturally sensitive to the Chinese population's dietary preferences, Eastern medicine and work schedules.⁷ Indeed, when South Cove was first formed, its doctors were not allowed patient-admitting privileges to T–NEMC, although only half a block separated the two facilities and such referrals would have greatly benefited patients.

Urban renewal also moved a red-light district into Chinatown. Before urban renewal, adult-entertainment shops were located in Scollay Square, about 1.2 miles away from Chinatown. When the Square was demolished to make way for the new Government Center, these establishments scattered across the city, with a few relocating to lower Washington Street beside Chinatown. In 1974, the city of Boston took an unprecedented action by creating a safe haven for adult-entertainment businesses. The idea was to contain these businesses, prevent their spread into other neighborhoods and make them easier to police. The city chose to create this "Combat Zone" beside Chinatown, rather than next to Back Bay or Beacon Hill, which are predominantly white and wealthier neighborhoods.⁸ Throughout the

³ Chinese Economic Development Council, Economic Development for Boston's Chinese Community, Phase II, the Acquisition of Title VII-D Community Development Corporation on Planning Grant Proposal (Dec. 1, 1975), at 12-13.

⁴ See, e.g., New England Medical Center, Master Plan 1990-2000, at 6-13 (Boston, March 1990).

⁵ See, Section 112 of the Housing Act of 1961, Pub. L. 87-70, 75 Stat. 149 (June 30, 1961); Julian H. Levi, Municipal and Institutional Relations with Boston: The Benefits of Section 112 of the Federal Housing Act of 1961 (Chicago, University of Chicago Press, 1964), at 2, 12-14.

⁶ See, **Singtao Daily News** (April 27, 1981). See, also, Joan Axlerod, "Rent Hikes Force Needle Trades to Look Elsewhere: Tufts Puts Squeeze on Chinatown," **Boston Ledger**, July 31, 1981, p. 3, col. 1.

⁷ See, Sullivan and Hatch, *The Chinese in Boston*, 1970, at 66. Action for Boston Community Development, p. 20 (Boston, 1970). See, also, Boston Redevelopment Authority, *Chinatown-South Cove District Profile and Proposed 1978-1980 Neighborhood Improvement Program*, p. 19 (Boston, Summer 1977).

⁸ See, e.g., Robert A. Jordan, "In the Zone: It will Be Business as Usual, says Boston Counsel," **Boston Sunday Globe**, July 22, 1973, p. 27, col. 1; Robert Jordan, "Board OKs Zone for Hub's Adult Shows," **Boston Evening Globe**, Nov. 14, 1974, p. 1, col. 4; Edward Burke and Peter Mancusi, "Combat Zone is Alive, Well...and Still Hard Core," **Boston Globe**, Aug. 28, 1974, p. 1, col. 1.

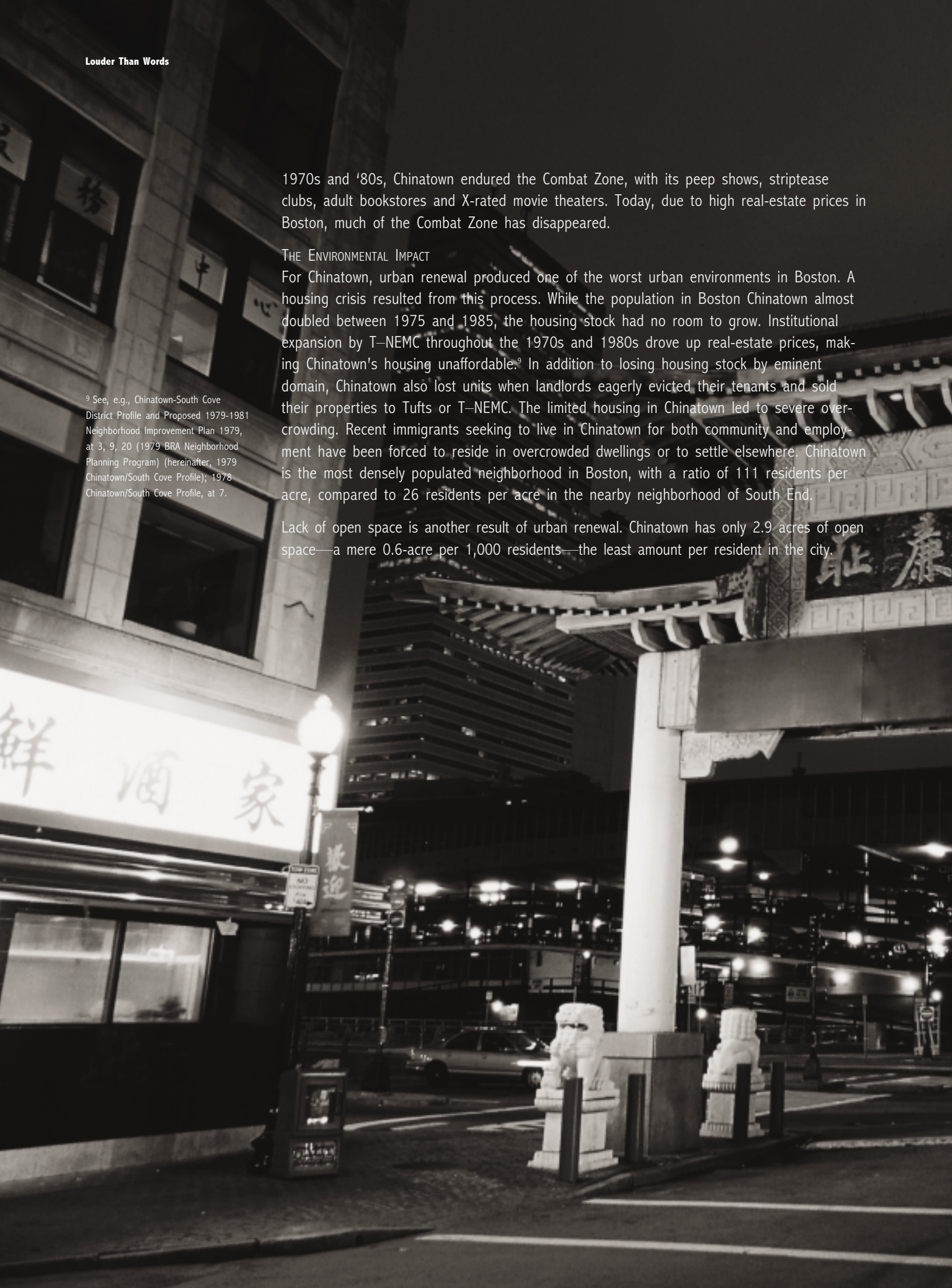
1970s and '80s, Chinatown endured the Combat Zone, with its peep shows, striptease clubs, adult bookstores and X-rated movie theaters. Today, due to high real-estate prices in Boston, much of the Combat Zone has disappeared.

THE ENVIRONMENTAL IMPACT

For Chinatown, urban renewal produced one of the worst urban environments in Boston. A housing crisis resulted from this process. While the population in Boston Chinatown almost doubled between 1975 and 1985, the housing stock had no room to grow. Institutional expansion by T-NEMC throughout the 1970s and 1980s drove up real-estate prices, making Chinatown's housing unaffordable.⁹ In addition to losing housing stock by eminent domain, Chinatown also lost units when landlords eagerly evicted their tenants and sold their properties to Tufts or T-NEMC. The limited housing in Chinatown led to severe overcrowding. Recent immigrants seeking to live in Chinatown for both community and employment have been forced to reside in overcrowded dwellings or to settle elsewhere. Chinatown is the most densely populated neighborhood in Boston, with a ratio of 111 residents per acre, compared to 26 residents per acre in the nearby neighborhood of South End.

Lack of open space is another result of urban renewal. Chinatown has only 2.9 acres of open space—a mere 0.6-acre per 1,000 residents—the least amount per resident in the city.

⁹ See, e.g., Chinatown-South Cove District Profile and Proposed 1979-1981 Neighborhood Improvement Plan 1979, at 3, 9, 20 (1979 BRA Neighborhood Planning Program) (hereinafter, 1979 Chinatown/South Cove Profile); 1978 Chinatown/South Cove Profile, at 7.



The Chinatown community is surrounded by parking lots and high rises. Residential Chinatown consists of four housing projects and several blocks of modest row houses and triple-deckers. T-NEMC expansion has inserted 8-, 11- and 15-story buildings into the landscape. Thus, most Chinatown residents live either in one of the huge gray slabs of housing development or in the shadows of T-NEMC concrete. T-NEMC expansion has also produced in Chinatown one of the highest concentrations of parking lots in Boston, with 34 spaces per acre. By comparison, South End has 4.6 parking spaces per acre, and the city of Boston, as a whole, has 1.7 per acre. In 1990, Chinatown had 1,573 off-street parking spaces, taking up 9 acres of land. Most of these parking lots or garages are used by the medical institutions for employees, clients and patients and not by Chinatown residents, since 70 percent of them do not own cars.

Finally, traffic and pollution plague the area. A study performed for the Massachusetts Turnpike Authority Associates concluded that Chinatown streets are overloaded,¹⁰ producing extremely high rates of pedestrian accidents and fatalities.¹¹ Even the BRA has conceded that Chinatown suffers from "chronic traffic congestion [and that] pedestrian safety in the heavily concentrated residential areas has been threatened."¹² Bounded by the massive Central Artery and the Massachusetts Turnpike, Chinatown also suffers from air quality that violates national carbon monoxide safety standards.

¹⁰ See, Massachusetts Turnpike Authority, Air Rights Study (1993), at 52 (hereinafter, Mass. Turnpike Study).

¹¹ Boston Transportation Department, Pedestrian Safety Task Force, Report on Pedestrian Safety (Spring, 1992), at 2 (hereinafter, Pedestrian Safety Report).

¹² Pedestrian Safety Report, at 18. Between 1992 and 1995, one child and two senior citizens were fatally struck by vehicles in the vicinity of Parcel C.

As a result of urban renewal efforts, Chinatown has more than its share of parking lots, traffic congestion, pollution and housing shortages. Open space is in very short supply.

¹³ Master Highway Plan for the Boston Metropolitan Area, prepared for the Joint Board for the Metropolitan Master Highway Plan (1948).

¹⁴ See, e.g., "Council Opposes Artery Route in Chinatown," **Boston Daily Globe**, Oct. 19, 1953, p. 1, col. 3 ; "Garment Area Issue Taken to Herter's Home," **Boston Daily Globe**, Oct. 27, 1953, p. 1, col. 6.

¹⁵ See, Real Estate Research Corp., Urban Renewal Land Disposition Study (Washington, D.C., Dec. 1973). Walter L. Smart, Diagnostic report of residents to be relocated, South Cove Urban Renewal Project, at 6-10 (Boston Redevelopment Authority, Oct. 1967) (hereinafter, Diagnostic Report of Residents).

THE SACRIFICE OF CHINATOWN

The Central Artery was not originally planned to run through Chinatown.¹³ Instead, it was supposed to trace the waterfront, bisecting the Leather District to the east of Chinatown before it snaked along the eastern edge of Chinatown, south of the commercial core. The original plan kept the commercial core of Chinatown undisturbed, taking housing on only two streets. However, vehement protests from powerful leather and garment industries adjacent to Chinatown prompted the Boston City Council to change the route.¹⁴

While the South Cove Urban Renewal Plan shifted land from Chinatown to T-NEMC, no part of the adjacent Bay Village was taken by eminent domain for T-NEMC's benefit. To prevent T-NEMC from expanding into the Bay Village, the BRA allowed T-NEMC three acres of land for their expansion within the Chinatown portion of the Plan, displacing approximately 585 households.¹⁵ In fact, the BRA specifically prohibited T-NEMC from expanding into Bay

NAACP LDF Division of Legal Information and Community Service

Among the most important legacies for innovative lawyers is the Division of Legal Information and Community Service of the NAACP Legal Defense and Educational Fund (LDF) ("the Division"), founded with a Rockefeller grant in 1965 by veteran civil rights activist, Jean Fairfax. Over the subsequent 20 years the Division developed a multitiered strategy of enforcement, monitoring, study, evaluation, reporting and mobilization around civil rights issues. Its objectives:

- Exposing government failures to guarantee and enforce civil rights;
- Identifying and seeking to rectify structural impediments to effective civil rights implementation by civil rights administrators;
- Strengthening the capacity of organized minority citizens to work for their own liberation; and
- Initiating cooperative ventures with public agencies and minority citizens to fashion and test innovative approaches to civil rights enforcement and programs.

The Division provided LDF tactical flexibility when litigation had limited effectiveness. It developed long-standing relationships of trust with the permanent staff of federal agencies. It worked with a range of government actors from cabinet secretaries to local officials. Division staff worked simultaneously on the local, state and regional levels, with constituents gathering information and engaging in action projects.

Strong relationships with community leaders around the country, and a well-credentialed field staff listening on the ground, enabled the Division to gather information and to make assessments of African-American priorities on issues. It helped LDF legal staff to shape litigation programs, select issues, identify plaintiffs, prepare for hearings, shape remedies, monitor compliance and organize citizens. The Division used flexible problem-solving approaches to address ongoing discrimination. When research revealed entrenched discrimination in the paper industry, it helped organize the Black Association of Millworkers, which became an important force within the unions.

It is important to note that the Division's work was not limited to African-Americans. For example, it conducted an in-depth investigation of educational disparities affecting Native American children, and did significant research on issues affecting women and disabled people of all races. It worked on a wide array of issues from health-care delivery to hunger, regional planning and school-workplace linkages in local communities. Through all of these efforts, the Division served as a crucial tie between LDF, LDF's base and other groups.

Village under the plan.¹⁶ What's more, the city encouraged rehabilitation in Bay Village by making available federally funded low-interest loans, opportunities not offered to Chinatown.¹⁷ Another example of the disparate treatment between Bay Village and Chinatown was how the Plan handled traffic patterns in each neighborhood. The Plan specifically called for retaining the intimate character of Bay Village by blocking off outside traffic and orienting new construction away from major streets of Bay Village. On the other hand, similar street patterns in the Plan area outside of Bay Village were deemed wasteful, dangerous and incompatible for commercial, industrial and institutional use.¹⁸

Why was Chinatown treated worse than Bay Village? BRA believed Bay Village to be quaint and well-kept but Chinatown to be dilapidated and run-down,¹⁹ even though the housing stock in the two neighborhoods was quite similar. Official documents also reveal that the BRA viewed Chinese-Americans as "self-sustaining," gainfully employed, off welfare, relatively healthy and with more male-headed households than whites. These sweeping generalizations had no empirical support. Instead, they were simply stock stereotypes of Chinese, as people who can and will endure great suffering, in silence, simply "taking care of themselves."²⁰

Finally, notwithstanding numerous complaints about prostitution, drugs and violence associated with the Combat Zone businesses, Boston officials did nothing.²¹ They retorted that "the police have more important things to do than to 'cover the combat zone like a tent'." The city recognized that coming down too hard on the Combat Zone would force X-rated businesses elsewhere, and it wanted to protect Back Bay and Beacon Hill from such encroachment.²²

In short, since the 1950s, Chinatown has been forced to bear a disproportionate burden of the costs of urban renewal and highway construction. Its environment and its residents have suffered greatly while nearby neighborhoods and institutions either have been left untouched or have profited directly by the land stripped from Chinatown. The city of Boston has been willing to sacrifice Chinatown to benefit others, viewing its residents as politically docile and especially well suited to survive in a denigrated environment.

THE PARCEL C STRUGGLE

One of the last open Chinatown lots zoned for residential use, Parcel C is a piece of city-owned land, approximately 25,000 square feet. T-NEMC uses three small buildings on the northern edge of Parcel C as offices. Much of the space on Parcel C serves as a surface parking lot for T-NEMC patients and staff. The southeastern edge of Parcel C borders the Acorn Day Care Center operated by a nonprofit agency. The Acorn Day Care Center building serves as an adult-education facility at night. Parcel C is within 40 feet from a new family-housing development and one block from an elementary school, elderly housing and another low-income housing development.

¹⁶ Stainton, at 70.

¹⁷ See, e.g., Real Estate Research Corp., Urban Renewal Land Disposition Study, South Cove Urban Renewal Plan, at 196 (Washington, D.C., Dec. 1973) (hereinafter, Land Disposition Study); Stainton, at 70.

¹⁸ Boston Redevelopment Authority, Information on the Proposed South Cove Urban Renewal Project and on the Bay Village Community, at 1-2 (Dec. 1965). See, also, Boston Redevelopment Authority, Back Bay-Beacon Hill-Bay Village: District Profile and Proposed 1979-1981 Neighborhood Improvement Program, at 8, 12, 14, 25 (Boston, 1979).

¹⁹ *Ibid.*

²⁰ Land Disposition Study, at 185. See, also, Diagnostic Report of Residents. For more on the model-minority myth, see, Pat K. Chew, "Asian-Americans: The 'Reticent' Minority and Their Paradoxes," 36 *Wm. and Mary L. Rev.* 1 (1994); Frank H. Wu, "Neither Black Nor White: Asian-Americans and Affirmative Action," 15 *B.C. Third World L. J.* 225 (1995).

²¹ Twenty years after the BRA relocated the Combat Zone next to Chinatown, a newspaper commentator noted, "The fact that a community lived there [in Chinatown] seems hardly to register in the public consciousness. In well over 100 **Boston Globe** stories on the area from 1960s and early 1970s, there is not one mention of the Asian community" (italics in original), Adrian Walker, "The Fight for Chinatown: Its Long-Overlooked Residents May Be the Ultimate Winners," **Boston Globe**, Oct. 23, 1994, A3, col. 1.

²² Quoting Herbert P. Gleason, Boston City Corporation Counsel, Robert Jordan, "In the 'Zone,' It Will Be Business as Usual," Says Boston Counsel, **Boston Sunday Globe**, July 22, 1973, p. 27, col. 1.

Once home to Chinatown residents, the land that constitutes Parcel C was cleared of residential structures in the late 1950s to early 1960s during the planning for, and implementation of, urban renewal. The 1965 South Cove plan designated this area for urban renewal, but it was left undeveloped for 30 years, partly because no proposal was acceptable to the community. In 1986, T–NEMC proposed to build an 850-car garage on the property. At the time, the BRA recognized Chinatown's need for more housing and community facilities and rejected this proposal.

To address long-standing development conflicts, T–NEMC and Chinatown each produced a 10-year master plan in 1990, which unequivocally confirmed that Parcel C would be reserved for the community.²³ The BRA approved the plans and also zoned Parcel C as residential property, forbidding all institutional uses. In spite of this, less than three years later, T–NEMC submitted to BRA a proposal to acquire Parcel C to build an 8-story, 455-car garage. In exchange, T–NEMC would pay BRA \$2 million, as well as build a smaller, 10,000 square-foot community center or pay \$1.8 million in community benefits to the Chinatown Neighborhood Council (CNC), a community organization. Reneging on a prior promise, BRA heartily endorsed this plan.²⁴

On May 17, 1993, with BRA's backing and assistance, T–NEMC presented its Parcel C garage proposal to the CNC. Despite the vocal opposition of more than 100 community members²⁵ attending this meeting, the CNC approved T–NEMC's proposal. BRA characterized this as unequivocal "community approval" of the T–NEMC project.

BRA then swiftly designated T–NEMC as the developer of Parcel C at a public hearing on June 10, 1993. The day before the hearing, more than 250 community members protested outside T–NEMC. At the hearing, the BRA was presented with a petition containing more than 2,500 signatures opposing the deal. Despite this overwhelming opposition, the BRA gave T–NEMC "tentative designation" to develop the Parcel C garage.²⁶

After the hearing, community activists and residents formed the "Coalition to Protect Parcel C for Chinatown" (the Coalition). It was comprised of 21 community groups and hundreds of individuals. The Coalition's short-term goal was to defeat the garage proposal at all cost. Its long-term goal was to democratize community decision making by challenging the legitimacy of self-proclaimed Chinatown "leaders," such as CNC, which the city unjustifiably dubbed as the "voice" of Chinatown. Drawing upon lessons from previous struggles, the Coalition created six task-oriented committees and a steering committee.

Chinatown residents and organizational representatives sat on *The Steering Committee*. It developed four main strategies for the Parcel C struggle: 1) persuade hospital and city officials to withdraw the garage proposal; 2) organize the community to support any necessary legal action; 3) alert potential supporters within and outside Chinatown about the Parcel C fight; and 4) develop alternate plans for Parcel C.

²³ See, New England Medical Center, Master Plan 1990-2000, § 1(B), at 5-9 (March, 1990). See, generally, Chinatown Community Plan, C.V, §§ C-D, at 50-70. T–NEMC's Master Plan affirmed the status of Parcel C as a community center no less than 11 times.

²⁴ See, Betsy Q. M. Tong, "N.E. Medical Garage Still on Table: Despite Protest, Officials Say Approval of Plan Probable," **Boston Sunday Globe**, June 13, 1993, City Section, p. 10, col. 1.

²⁵ The term "community" in this article generally refers to Asian-Pacific Americans and groups that supported the Coalition in its opposition to the proposed T–NEMC garage.

²⁶ Marie Gendron, "BRA OKs plans for Chinatown Garage," **Boston Herald**, June 11, 1993, p. 29, col. 1.

What to Do When You Just Can't Sue?

Whether a lawsuit ultimately will achieve clients' goals may be hard to determine in advance. The advisers considered what lawyers can contribute when faced with an issue in which litigation will likely be ineffective.

In many cases, the simple act of filing an action can result in adversaries sitting down at the table for fruitful negotiations. In some cases, a well-crafted demand letter from an attorney who has knowledge of the facts and the law can resolve a matter quickly. The ability of lawyers to understand the crafting of bills and passage of legislation, the functions and rules of administrative agencies, and their ability to use the tool of litigation, make them valuable allies in challenging unfair authority. Lawyers can apply their research skills to help trace sources of ownership, responsibility and authority in public documents and elsewhere.

Advice to clients about the possible legal consequences of their conduct is an invaluable legal service. Lawyers can counsel clients about how to conduct legal protests and how to avoid arrest, or minimize problems if the client—for example, Dr. Martin Luther King in Montgomery, Alabama—insists on getting arrested. In the Parcel C case, lawyers and community activists opted not to seize control of the disputed parcel, in order not to jeopardize the citizenship status of any residents. Instead, they obtained the appropriate permits and conducted an all-day street fair with a range of family amusements to demonstrate the potential of the site as a place for community recreation.

The Community Organizing Committee developed a threefold strategy: 1) educate the community about the garage proposal; 2) publicize the history of Parcel C and its significance to the community's long-term survival; 3) convince the community that it can make a difference by voicing its opinion.

The Legal Committee, a new entity that did not exist in previous community struggles in Boston's Chinatown, was comprised of legal-services lawyers, law students and college students. Its goal was to strengthen the community's position without reframing the community's struggle in narrow legal terms. The three attorneys on the committee, Zenobia Lai, Andrew Leong and Chi Chi Wu, were either current or former staff attorneys of Greater Boston Legal Services (GBLS). None of the members of the Legal Committee had substantial experience in land use, environmental or civil rights law. Originally, the Legal Committee intended to serve for a temporary period until another entity with more expertise could be found. However, the Legal Committee could find reduced-fee representation for only one aspect of the struggle—the city review process. Thus, the Legal Committee was thrust into the position of primary legal counsel for the Coalition to handle the *state* environmental review and any potential civil rights claims that may arise.

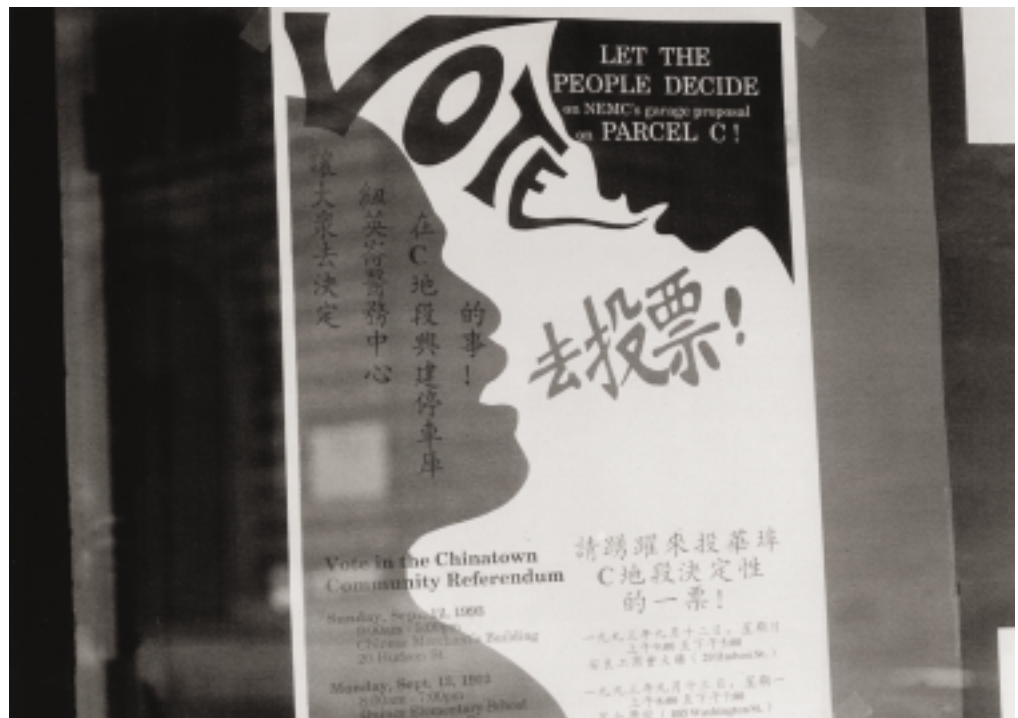
The Political Mobilization Committee sought to secure from mayoral candidates public statements against the garage. It made the future of Parcel C the rallying point for a Chinatown voter-registration drive. The committee made the fight against the garage a concrete example of democratic participation.

The Media Committee organized press conferences to publicize the Coalition's activities, coordinated letters to the editors and op-ed pieces and collaborated with Health Care for All (HCFA). HCFA is a coalition of unions, senior groups, religious organizations, community health centers, professional organizations and human service agencies that targeted T-NEMC for its perceived lack of community accountability and incessant expansion at the expense of Chinatown. This committee's work helped ensure the struggle's continuing visibility.

The External Outreach Committee was comprised of professionals from the health-care, union and environmental-health sectors. It framed the Parcel C struggle as a community control-and-survival issue.²⁷ It identified other Boston neighborhoods similarly besieged by unwanted developments and sought to form alliances with them to apply collective pressure on City Hall. Committee members also utilized their professional connections and brought in mainstream environmental justice and health groups²⁸ to support the Coalition in the environmental review process. Their support helped propel the Parcel C struggle into the mainstream, making it an important example of the burgeoning environmental-justice movement.

²⁷ The Coalition recognized that other communities of color might not immediately identify with the Parcel C struggle which, without more, could be looked upon as a local issue. When the Parcel C campaign was framed as a community-control issue, other neighborhoods in similar struggle for survival lent their support.

²⁸ These groups included: Environmental Diversity Forum, American Heart Association, Conservation Law Foundation, Sierra Club, Audubon Society, American Lung Association, Health Care For All and Boston University School of Public Health.



The Coalition's nonbinding community referendum, conducted and monitored by an independent third party, stimulated a very high turnout and established that Chinatown residents were opposed to parking-lot construction on Parcel C (above).

The Fund-Raising Committee, led by Coalition members with connections to private foundations, raised emergency-operating funds to supplement the time donated by member organizations. In addition to gathering outside financial support, the Coalition also realized that the community itself had to contribute financially. Not only would this produce additional funds, it would also raise awareness of the Parcel C struggle and encourage community ownership of the issue. To that end, the Fund-Raising Committee organized a variety show, collecting small donations and admission fees. It also took advantage of communitywide celebrations such as the August Moon and Dragon Boat festivals to raise money through T-shirt and button sales.

CENTRAL PRINCIPLES

The core principles of the Parcel C struggle were to ensure democratic decision making in Boston Chinatown by application of both conventional and innovative community-organizing techniques.

Democratic participation—letting the people decide—was the first principle of the Parcel C struggle. Actual residents of Chinatown, not self-proclaimed community “leaders” cutting self-interested deals with T–NEMC and City Hall, should decide whether a garage should be built on Parcel C. To get all residents involved, the Coalition conducted all meetings, demonstrations and rallies bilingually in both English and Chinese (Cantonese, Mandarin and Toisanese).²⁹ Community interpreters served at public meetings, negotiations, media interviews and speak-out sessions so that all residents could participate regardless of their English ability. Also, the community was asked to approve all major Coalition decisions in public meetings.

Pragmatism—doing what works—was the second principle. Instead of focusing on purely legal remedies, the Coalition organized the community and exerted political pressure as well. Even in terms of politics, the Coalition went beyond conventional strategies. To be sure, the Coalition engaged in highly visible and strategically-timed activities such as petition circulation, rallies, demonstrations and pickets.

But the Coalition tried unconventional tactics as well, such as holding a full-blown community referendum and taking over Parcel C for a Community Recreation Day.

The Campaign Begins: A Chronology

In the 18 months following the June 10, 1993, BRA hearing giving a tentative green light for garage construction, the Coalition pursued a relentless organizing campaign.

AUGUST 1993: REQUIRING FULL ENVIRONMENTAL REVIEW

As part of its building proposal, T–NEMC was required under state law to file an environmental notification form (ENF) with the state's Secretary of Environmental Affairs. This provided the first opportunity for the Legal Committee to intervene. Familiarizing itself quickly

²⁹ Meetings were conducted in either 1) English and Chinese (Cantonese and Toisanese), or 2) volunteers interpreted the entire meeting in Chinese or English to the minority linguistic members present. The Coalition published all its literature, including leaflets, newsletters and referendum question in both English and Chinese.

with complicated environmental law, the Legal Committee filed written comments with the state agency and demanded a full environmental review. In helping negotiate the various legal processes, the Legal Committee reiterated to the community that the environmental process alone could not stop the garage. Instead, it could only ensure that T–NEMC go through rigorous, expensive and time-consuming study and review. While attacking the garage by utilizing the state environmental-review law, the Legal Committee also closely monitored any public hearings concerning the Parking Freeze waiver, zoning amendments, master-plans amendments and the city's project review. It set up liaisons with environmental law experts, such as the Conservation Law Foundation, and contemplated a joint legal action in conjunction with other communities burdened by unwanted garages.

Native American Rights Fund (NARF)

For over 29 years, Oglala Sioux Tribe in South Dakota has labored under inadequate environmental protections and failed federal environmental-enforcement obligations. During this period, the Bureau of Indian Affairs and the Indian Health Service neglected to provide necessary facilities for delivery of adequate, safe drinking water and waste-water and solid waste-management services. Rather, they dumped raw sewage into the Tribe's creek, dumped hazardous medical wastes into open landfills and refused to finance removal of underground waste storage tanks that the agencies themselves had installed. These agencies also failed to provide protection for tribal land against illegal hazardous-waste dumping from outsiders.

Today, the Oglala Sioux's existing waste-water systems are overtaxed, resulting in raw sewage flowing into surface water and ground-water sources that are primary sources of drinking water for the reservation. In some cases, elementary schools and other venues where children are dependent on these sources, fail to meet even the federal standards.

Greatly adding to this dilemma is the paucity of enforceable tribal laws for the management and protection of these resources. Many of the existing codes, developed in the 1980s without involvement from either the tribal agencies responsible for environmental-resource management or the tribal community, have gone largely unimplemented.

To address this problem, attorneys at NARF developed a program to draft a new set of environmental codes and provisions that: 1) fit the resource needs of the tribe, 2) are acceptable to the tribal community, and 3) are capable of administration by the tribal agencies tasked with implementation.

As the first step in this process, NARF worked with the Tribe to create a mechanism to gather and catalog development activities and their potential impact on the reservation. Adopted almost two years ago, the Tribal Environmental Review Code (ERC) requires anyone proposing to engage in development activity on the reservation that may impact the environment to obtain an Environmental Review Permit from the Tribe. To date, the Tribe has processed 19 such permits. This process enables the Tribe to track placement of potential environmental hazards, monitor compliance with relevant tribal and federal laws, and ensure revenue collection for services. As a result of the process used for its adoption—a thoroughgoing consultation process with members of the Tribe, political and financial committees of the tribal government, council of elders, local political representatives of Tribe subdivisions, and private landowners on the reservation—the ERC has enjoyed widespread acceptance. There is growing compliance among people engaging in development activity on the reservation.

The next step is to unfold a similar process specifically for drafting a Safe Drinking Water Code and a Solid and Hazardous Waste Code for the Tribe.

Before the Office of Environmental Affairs issued its decision, it held a public hearing on August 31, 1993. In preparation for this hearing, the Coalition identified key spokespersons among residents and community-based organizations and presented oral and written testimony of more than 20 witnesses who addressed the topics of public health, safety, traffic, environmental justice, institutional-expansion history, historical and cultural preservation, and alternative land use and design. It also produced a new traffic study, based on research by Chinatown youths who counted and charted key intersections most likely to be affected by the T–NEMC garage. The study showed that the T–NEMC transportation study inaccurately predicted the rush-hour time in the community, counted only one half and in some instances one third of the actual automobile trips at the four major intersections most affected by the proposed garage and totally omitted the traffic impact of the impending construction of the Central Artery/Tunnel Project.³⁰ Finally, the Coalition garnered the support of mainstream environmental and health organizations.

The Coalition's forceful presentation convinced the Massachusetts Executive Office of Environmental Affairs to require T–NEMC to undergo a full environmental-impact review. This was the first big success for the Coalition. At the very least, it bought the Coalition some time.

AUGUST TO SEPTEMBER 1993: COMMUNITY REFERENDUM

While the Coalition was steeped in the environmental-review process, it also engaged in a high-risk political move: a referendum that would challenge the Chinatown Neighborhood Council's (CNC's) claim to be the sole voice of Chinatown.³¹ It would also test the sincerity of T–NEMC's pledge to withdraw the garage proposal if the community truly opposed it. However, with little time to organize support and to educate the community, the Coalition might actually lose the election. Nevertheless, the Coalition thought the referendum was worth the risk.

The Coalition designed the election process carefully to pre-empt any potential CNC challenge of the vote's integrity. Instead of creating new voting-eligibility requirements, the Coalition adopted those of the CNC. In addition, the Coalition made various improvements to the CNC voting process, including prohibiting anyone affiliated with the Coalition or the CNC to "help" voters complete their ballots and contracting with an independent third party to conduct and monitor the balloting process.³²

Held on Sept. 12 and 13, 1993, the referendum asked one simple question, which required a Yes or No answer. More than 1,700 individuals voted in the referendum, 654 of who were Chinatown residents. One thousand six hundred and ninety-two individuals voted No to the garage, only 42 voted Yes.³³ The referendum conclusively settled any claims by the CNC or the BRA that the community supported the garage proposal.

³⁰ Coalition to Protect Parcel C for Chinatown Comment to the Executive Office of Environmental Affairs, Attachment H, Aug. 25, 1993 (on file with authors). Although not scientifically rigorous, this community-collected data helped cast serious doubt on the overall validity of the T–NEMC project's impact report.

³¹ Robert O'Malley, "What Is the Community and Who Represents It?" **Sampan**, June 4, 1993, p.1, col.1. During the three months leading up to the referendum, the BRA repeatedly refused to meet with the Coalition and referred to the CNC's overwhelming vote in support of the garage as dispositive. See, e.g., Paul L. Barrett, BRA letter to the Coalition to protect Parcel C for Chinatown, July 23, 1993 (on file with authors).

³² Kevin Kempeskie, "Chinatown Garage Heads to Referendum," **Boston Tab**, Aug. 31, 1993 p. 10, col. 1: "The referendum will be run by the American Friends Service Committee according to rules of the Chinatown Neighborhood Council."

³³ Marie Gendron, "Chinatown Vote Says No to Garage," **Boston Herald**, Sept. 15, 1993, p. 35, col. 1.

NOVEMBER 1993: CNC ELECTION

Riding on its high-profile successes in the environmental-review process and referendum, the Coalition attempted to gain control of the CNC by running a Coalition slate for vacant seats on the 21-member elected body. The Coalition slate included two Chinatown residents, three community-based-organization representatives, and two business owners. Their platform was clear: stop the garage and ensure bilingual access to the CNC through democratic participation. Because CNC meetings were conducted only in English and because the leadership refused requests for interpreters, the CNC had effectively excluded the majority of its constituents from the process.

Bruised by their loss in the community referendum, the CNC vigorously organized its own supporters for the election. Although many elderly and grassroots people supported the Coalition, the business interests succeeded in turning out their workers in large numbers to vote in favor of the candidates supported by the CNC. Some even went so far as to bus their employees to the polling station, monitor and, in some cases, write in their ballots.³⁴ The Coalition's slate lost the election by a 2–1 margin.

AUGUST 1993 TO AUGUST 1994: DESIGNING A CONCRETE ALTERNATIVE

The Coalition recognized that to show it was not merely obstructionist, it needed to offer a concrete redevelopment plan for Parcel C that would benefit and revitalize the community. The Coalition retained the pro bono service of an architect to design a community center and hired an architecture student to build a small-scale model.

FEBRUARY 1994: RESPONDING TO THE FULL ENVIRONMENTAL-IMPACT REPORT

When T–NEMC completed the Draft Environmental-Impact Report on February 28, 1994, the Coalition's Legal Committee was again ready to respond. Believing that the "public comment" requirement under the Massachusetts Environmental Policy Act³⁵ required that the entire public—including non-English-speaking Chinatown residents who would be gravely affected by the proposal—should be able to participate, the Legal Committee demanded that T–NEMC translate the report into Chinese. In response, T–NEMC produced a seven-page Chinese summary of the almost 1,000-page document. Although the summary was partly incomprehensible because of technical jargon and incorrect Chinese translation, this was the first environmental-impact report that most community members had ever read.

In its lengthy Comment on the Draft Environmental-Impact Report, the Legal Committee provided specific criticisms framed in the historical context of Chinatown and the legacy of urban renewal.³⁶ The Comment also offered a concrete alternative that the Coalition had been developing since August 1993: a Parcel C community center, complete with architectural schematic drawings and construction-budget projection. Not only did the Coalition's response convince the state agency to require T–NEMC to revamp its environmental study; it also provided a thorough, well-documented account of institutional expansion within

³⁴ Since most of the restaurant workers tended to be new immigrants, they had no experience in voting in the United States or in their home country. The voting "booths" were set up on the teller counters in a bank, without partitions. Any voter could monitor how the others voted. Under such surveillance, employees voted as they were instructed. Andrew Leong, "Voting Irregularity or Sour Grapes?" *Sampan*, Dec. 17, 1993, p. 4-5.

³⁵ Massachusetts G.L.C. 30, §§ 61, 62; 301 C.M.R. § 11:00, et seq.

³⁶ The Comment challenged the sufficiency of the New England Medical Center environmental-impact report on 11 fronts. See, Zenobia Lai, Chi Chi Wu and Andrew Leong, "In re Comment to New England Medical Center Hospital Plan for Parking Garage on Parcel C," *Clearinghouse Review*, 49874, July 1994.

Chinatown. The community won another partial victory when the Secretary of Environmental Affairs required T–NEMC to translate meaningful portions of any subsequent environmental-impact report and suggested that T–NEMC meet with the Coalition to negotiate a solution.³⁷

JULY 1994: SEEKING A 99-YEAR LEASE ON PARCEL C

When the Coalition unveiled the Parcel C community-center idea, it immediately drew criticism from City Hall, T–NEMC and other garage supporters on the grounds that the community could not afford such an undertaking.³⁸ To respond, the Coalition's Legal Committee researched the cost of buying Parcel C from the city. To its great surprise, the committee discovered that the BRA had let T–NEMC use Parcel C virtually rent-free. The land swap agreement between the BRA and T–NEMC allowed T–NEMC to continue to lease Parcel C (including the three office buildings) for four years, starting in September 1990, for one dollar per year.³⁹

Outraged by this discovery, the Coalition decided to seek from the BRA a 99-year lease on Parcel C on identical terms. At the July 1994 press conference publicizing the Recreation Day (described below), the Coalition offered a stack of 99 one-dollar bills to the BRA. This embarrassing episode likely contributed to the BRA's decision finally to meet with Coalition delegates two weeks later.

AUGUST 1994: RECREATION DAY

Frustrated by the city's indifference, the Coalition considered occupying Parcel C for a weekend and converting it into a "shanty" town. This idea drew upon a historical effort in the African-American Community. In Boston's South End, in the late 1960s, a group of African-American activists occupied a parking lot that had once been the site of a vibrant African-American community. When 4,000 people converged on the lot in a three-day demonstration, building makeshift tents, they gave birth to a "tent city."

The idea of such a demonstration excited many of the younger activists who were largely unschooled in civil disobedience. This suggestion, however, made the Steering Committee uneasy because it could put unsuspecting community members in harm's way. An arrest, even if caused by justified civil disobedience, could affect the naturalization prospects of the many Chinatown residents who were not yet U.S. citizens. For them, arrest could mean deportation.

Instead of a shantytown takeover, the Coalition came up with the idea of a "Recreation Day," a creative demonstration that would violate no laws. Planned by the Coalition's youth team, Recreation Day was intended to regain the momentum and show what Parcel C could be, and how it could provide the desperately needed recreation space for children in Chinatown. A logo design competition and art-display contest gave the youth a way to join

³⁷ Trudy Cox, Certificate of the Secretary of Environmental Affairs on the Draft Environmental-Impact Report of T–NEMC for a parking garage on Parcel C, April 29, 1994. Robert O'Malley, "State Rejects T–NEMC Environmental Report," *Sampan*, May 20, 1994, p. 1, col. 3. See, Andrew Leong, "The Struggle Over Parcel C: How Boston's Chinatown Won a Victory in the Fight Against Institutional Expansion and Environmental Racism," 21 *Amerasia J.*, Winter 1995/1996, at 99, 112-113.

³⁸ See, e.g., Robert O'Malley, "Moy Says Yes," *Sampan*, Sept. 3, 1993, p. 1; Robert O'Malley, "Parcel C Coalition Continues Plan to Stop Hospital Garage," *Sampan*, April 1, 1994, p. 1, col. 2.

³⁹ Suffolk County Registry of Deeds, Book 16512 (Sept. 28, 1990), at 171, 226.

the struggle and taught them an early lesson in community service and participation. The Recreation Day drew more than 200 people, who participated in the games and activities set up just outside of Parcel C.

OCTOBER 1994: PREPARATION OF A CIVIL RIGHTS LAWSUIT LEADS TO VICTORY FOR THE COALITION

Notwithstanding the state Office of Environmental Affairs' order to T-NEMC to redo the environmental study, City Hall still refused to meet with the Coalition. This convinced the Legal Committee that a civil rights lawsuit had to be prepared. The Committee researched claims under the Equal Protection Clause of the 14th Amendment of the U.S. Constitution and the Federal Fair Housing Act.⁴⁰ Identifying T-NEMC's Parcel C garage proposal as the latest in a series of discriminatory public policies toward Chinatown, the Legal Committee incorporated 40 years of public acts and omissions by City Hall as the basis of the civil rights complaint.

⁴⁰ Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601, et seq.

After two months of intensive research, analysis and fact gathering, the Legal Committee felt confident about filing the complaint. It then set out to meet again with the named plaintiffs to answer questions and concerns and to ensure that they fully understood what filing this lawsuit meant. Although the Legal Committee could not guarantee that there would be no retaliation from the city, its promise to represent the plaintiffs against any such action reassured them.

The Coalition instructed the Legal Committee to file the lawsuit the day after a planned community rally. With the Coalition's approval, a week before the filing date, the Legal Committee informed the city's counsel of the Coalition's plan to sue. A few days later, City Hall struck a deal with T-NEMC, terminating the garage proposal and transferring the control of Parcel C to the Chinese Consolidated Benevolent Association. Instead of staging another protest, the community launched a victory rally on October 25, 1994, ending the 18-month struggle. Although the city did not formally involve the Coalition in its abrupt change of plans, all involved knew that it was the Coalition's efforts that stopped the T-NEMC garage and regained Parcel C for Chinatown.⁴¹

⁴¹ Even the representative of T-NEMC recognized the Coalition's role: "[T]he Coalition to Protect Parcel C for Chinatown effectively killed the garage with a skillfully orchestrated media campaign and a series of high-profile events that painted the plan as a sellout of the community." Adrian Walker, "Chinese Community Group Wins Say on Development of Parcel," *Boston Globe*, Oct. 22, 1994, p. 24, col. 2.

Epilogue

The success of Parcel C as a community movement and as a demonstration of good community-based lawyering grew out of a synergy of good fortune and good practice. It took place when the community was ready to fight and when a group of energetic, young, daring and committed lawyers, law students and activists were eager to assist.

The effectiveness of the struggle hinged on a combination of community empowerment, relationship building between lawyers and community, and opening communication between languages and cultures. These components paved the way for a pragmatic attainment of community goals. The lawyers were able to use the tremendous strengths of

the community, utilize new areas of law and tap the resources within the legal services program. In the process, they also helped train law students to become the next generation of community lawyers.

Broader Implications

Land use and environmental issues will continue to plague Chinatowns and other old urban and heavily minority communities across the country. The pressures are likely to intensify as cities undergo rapid redevelopment in efforts to compete in global markets, and land becomes scarcer. In Philadelphia's Chinatown, a land-use case quite similar to that of Parcel C recently erupted. Local residents were pitted against the proposed construction of a major new stadium that will encroach upon the crowded neighborhood's limited space. The approaches developed in the Parcel C struggle may well provide important tools for the Philadelphia Chinatown community and others engaged in such struggles.