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# Criticism leveled at county's non-profit Legal Aid Society

Attacks politically motivated, say group's attorneys

By STEVE PEREZ  
Sentinel staff writer

SANTA CRUZ — The local non-profit agency that provides free legal services to the poor has come under fire in recent months by a small but vocal group of critics.

Attorneys for the publicly funded Legal Aid Society of Santa Cruz County say the criticism is politically motivated, fueled by a disgruntled and "obsessive" landlord who has come out on the losing end of court cases involving poor tenants represented Legal Aid.

"We feel badgered," Legal Aid lead attorney Mary Thuerwachter said. "We feel we've done nothing wrong."

The woman leading the charge, Aptos resident and rental property owner Jeanell Montero, has a different view.

"I have this problem with them thinking they can do whatever they want and trample people wherever they go," Montero said. "I think of myself as a little guy."

One local judge says landlord-tenant disputes rank second in difficulty only to emotionally-charged child custody cases.

"By the time they get to court, each side is boiling mad," observes Municipal Court Judge Richard McAdams, himself a former director of Legal Aid.

Legal Aid attorneys call Montero's complaints a case of "post-judgment sour grapes" after coming out on the losing end in court a number of times. One Legal Aid staffer says the campaign has taken on "obsessive" qualities.

In recent months, the charges hurled against Legal Aid by Montero and others have ranged from taking unreasonable positions in landlord-tenant cases to violating its contract with the county for advising on small claims matters.

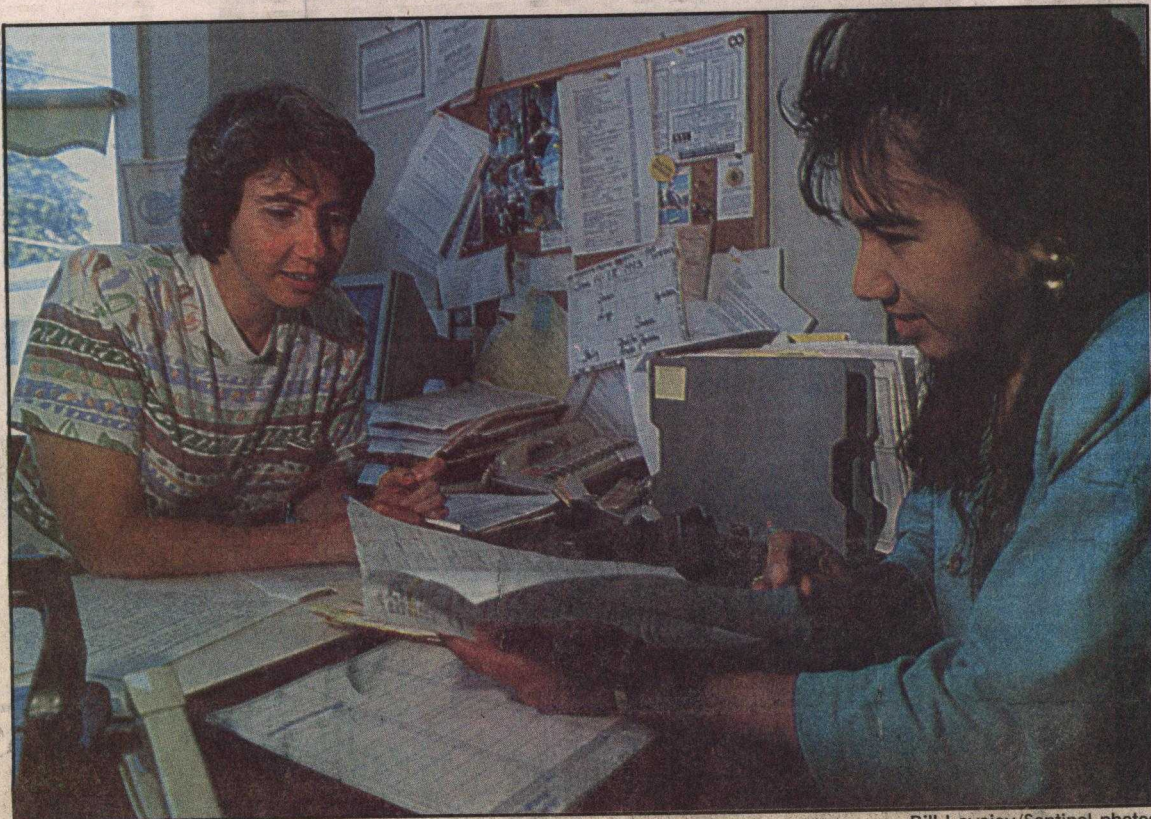
Inquiries by two separate county grand juries, complaints to the state Bar Association and Municipal Court and the federal Legal Services Corp. have turned up no legal violations.

"I think we've acquitted ourselves admirably," Thuerwachter said.

Legal Aid has a number of letters from former clients thanking them for help in handling everything from resolving problems with brackish well water to helping someone receive Social Security benefits.

Founded in 1968, the local Legal

Please see LEGAL AID — A8



Bill Lovejoy/Sentinel photos

Attorney Phyllis Shafon-Katz, left, discusses case with Legal Aid office worker Sylvia Diaz.

## Case study: Two sides, no simple solutions

By STEVE PEREZ  
Sentinel staff writer

APTOS — Jeanell Montero insists she's not trying to put the local Legal Aid Society out of business.

But the 36-year-old Aptos resident thinks tenants whom Legal Aid represents should give a landlord the chance to correct problems before refusing to pay rent and calling authorities.

"I strongly feel they (Legal Aid lawyers) should have it as a policy to give owners a two-second phone call or note in the mail," said Montero, who owns numerous rental properties. "No matter what, instead of withholding rent."

Tenants are under no legal obligation to inform landlords of such problems, Legal Aid lawyers say. Besides, they argue, most landlord-tenant cases are resolved without a court



Landlord Jeanell Montero is critical of the Legal Aid Society, but says she has no vendetta against it.

■ Landlord-tenant case chart for '92 — Page A8

fight.

Legal Aid lawyers say Montero's complaints stem from a vendetta. They say Montero has lost previous landlord-tenant cases represented by the non-profit legal agency.

Montero describes herself as

the type of person who will spend time and money defending herself on principle, if she thinks she's right. She says she'll fight rather than allow a tenant to get away with not paying rent.

A check of court records shows she is no stranger to the local legal system, with a dozen Superior Court cases on file

Please see CASE — A8



# Legal Aid Society

Continued from Page A1

Aid chapter is based on the principle that poverty should not prevent people from receiving legal help.

If Legal Aid's own statistics are any indication, the need for legal help is on the rise.

In 1984, the year Thuerwachter joined the agency as a staff attorney, 780 people contacted Legal Aid for help.

By 1990, the number had mushroomed to nearly 2,200.

"It's really evident the caseload has gone up astronomically," she said.

"A lot of (our clients) who previously were not poor are now poor," Thuerwachter said. "They've lost their job at the computer company and used to have moderate incomes. All of a sudden, they can't make the mortgage payment. They can't do anything."

In 1984, she said, the agency "more or less did everything," with the exception of criminal law. Now, the agency's clients are strictly those with problems in three areas identified as priorities: housing, welfare benefits and unemployment insurance.

Among the highlights of Legal Aid's 25-year history in Santa Cruz County, according to Sentinel files:

- A federal court challenge against Cabrillo College's minority student admissions standards in 1976, opening the campus to more Latino students;

- A fight against overcrowding at the old County Jail on Front Street in 1976 by obtaining a court ruling the facility was uninhabitable.

• Providing free legal help to

## Legal Aid's track record in landlord-tenant disputes

Officials with Legal Aid say only a small percentage of landlord-tenant disputes they handle are decided by a judge. This chart shows the number of Legal Aid landlord-tenant cases in 1992 and their disposition.

County	Santa Cruz	Santa Clara	Monterey	CRLA
Total landlord/tenant cases	1,290	8,646	213	6,130
Closed after requests for information or counseling	993	8,478	NA	NA
Legal briefs or letters written	150	81	NA	NA
Negotiated settlements prior to court action	34	4	NA	NA
Settled after court filing	60	7	NA	NA
Court decision after legal action filed by landlord or tenant	16	5	2	50

Notes: California Rural Legal Assistance handles cases from 13 rural counties, including San Benito and Monterey. Other categories have been excluded from this chart.

**'The issue is, most of our clients are not well educated, many do not speak English. There may be nothing in writing to prove they contacted their landlord at all.'**

— Mary Thuerwachter, Legal Aid attorney

ters. A trust fund overseen by the state bar contributed \$85,000 to the general fund. County planning gave \$20,000 to assist with housing advice, and the city of Santa Cruz Finance Department gave \$95,000 for legal help on housing for the

local non-profit was found to be operating "in compliance with its ... standard grant conditions."

The federal agency also found no theft, embezzlement, malpractice or illegal transfer of funds.

Such information is regularly

initiated by either the landlord or the tenant.

"You can see the vast majority of our cases don't end up in court," Thuerwachter said. "Obviously, the ones that are the most contested are the ones in which the other side isn't willing to make any settlement that is reasonable to our client."

One local apartment manager says she finds Legal Aid attorneys to be "over-defensive when it comes to dealing with minorities."

"In a way, I understand," said Ann Barnes, who manages a local apartment building. "But they always approach me on the offensive when it comes to dealing with a minority tenant."

Barnes said she tries to defuse any future problems by using in-

## Case study

Continued from Page A1

and nearly twice as many in small claims. Most are eviction cases.

Their relationship, as laid out in *Montero vs. Rosas*, shows how complicated tenant-landlord cases can get.

Montero says she and her husband, Dean, spent \$50,000 sprucing up their four small cottages in the 2400 block of Freedom Boulevard and cleaning up trash in 1991.

Rosas was one of a number of tenants Montero inherited from the previous owner. An employee of Monterey Mushrooms, she lived at the location with the father of her three children and her 25-year-old son.

The rent was \$400 a month.

Montero claims the Rosas family lived in filthy conditions, allowing the area to become cluttered with piled-up trash and two junked cars.

According to Rosas, Montero said it was OK to have the cars on the property.

In January 1992, Rosas says she told Montero's workers and Montero's husband about several problems, including a leaky ceiling.

"He (Dean Montero) said he was going to fix it, and never came back," Rosas said.

Rosas did not put her complaint in writing. She could not recall if she had notified Montero, who says she would have fixed anything that needed fixing, if she had known.

Then Rosas began noticing sewage seeping up from a cracked pipe in the ground behind her house. She says Montero

Montero refused to accept those terms.

"That's just rewarding bad behavior," she said.

In early March, Rosas moved without giving notice, claiming Montero was harassing her.

Those who replaced her pay \$750 a month.

The case went to small claims court, where Tavera testified on Rosas' behalf. Referee John Mulligan found Montero had notice of the defect in the sewer system and awarded Rosas \$1,450.

Montero appealed.

In researching information on Legal Aid, she discovered Tavera's name on past minutes of Legal Aid board meetings and concluded that Tavera's involvement was unfair.

"I think her story (about not being aligned with Legal Aid) is a bunch of BS," said Montero's attorney.

After a lengthy hearing, Superior Court Richard Kessell reduced Rosas' award from \$1,450 to \$114, but gave no reason. Judges are not required to do so for small claims appeals.

Montero says she spent \$2,000 on legal fees.

She subsequently charged that Legal Aid violated its small claims contract with the county because Tavera acted as an "advocate" in a small claims matter.

The county contracts with Legal Aid to educate those involved in small claims court proceedings, but bars it from advocating for either side.

Municipal Court Administrator Paul Ahern reviewed the



against Cabrillo College's minority student admissions standards in 1976, opening the campus to more Latino students;

- A fight against overcrowding at the old County Jail on Front Street in 1976 by obtaining a court ruling the facility was uninhabitable.

- Providing free legal help to victims of the Oct. 17, 1989 earthquake and filing suit against local landlords and the Federal Emergency Management Agency on behalf of local renters.

The recent barrage of letters and complaints against the society by a group of unhappy landlords, those who disagree with Legal Aid practices and supporters of the taxpayer watchdog group, Alliance of Concerned Taxpayers and Involved Voters, has only increased pressure on an overworked and underpaid staff, according to Thuerwachter.

Funding for Legal Aid's more than \$500,000 annual budget comes from an array of public sources, including the city, the county, the state bar and the federally funded Legal Services Corp.

In 1991, for instance, Legal Aid received \$15,000 from the county to give "procedural advice" to those involved in small claims court mat-

ters. A trust fund overseen by the state bar contributed \$85,000 to the general fund. County planning gave \$20,000 to assist with housing advice, and the city of Santa Cruz Finance Department gave \$95,000 for legal help on housing for the city's low-income residents.

The most recent audit by the Legal Services Corp., completed in February 1992, turned up no major violations, and the federal agency certified the local agency as operating within federal guidelines.

The minor problems are usually corrected on the spot, Thuerwachter said.

Among them, according to the federal report:

- At the time of the previous audit, a collective bargaining agreement prevented complete access to employee records, but has since been revised.

- Had no standing committee to deal with client grievances. Thuerwachter said one was formed soon afterward.

- Had board minutes that did not accurately include all actions at meetings. The LSC recommended more detailed minutes be kept.

But, according to the report, the

local non-profit was found to be operating "in compliance with its ... standard grant conditions."

The federal agency also found no theft, embezzlement, malpractice or illegal transfer of funds.

Such information is regularly available for public inspection at the non-profit's main office in Watsonville.

"Public accountability is fine," Thuerwachter said. "We go through a regular audit process, both fiscal and otherwise, by various agencies regularly. It's nothing that merits anything at all."

"They haven't found any fault with our work," she said.

According to statistics compiled by Legal Aid, the vast majority of its landlord-tenant cases are handled without any court action.

In 1992, Legal Aid handled 1,290 "landlord-tenant" cases. Of those cases, 993 were closed after requests for information or informal counseling. Legal briefs or letters were written in 150 cases.

There were 34 "negotiated settlements" prior to court action, while 60 were settled after court papers were filed.

Sixteen cases ended in some type of court decision after legal action

comes to dealing with minorities." "In a way, I understand," said Ann Barnes, who manages a local apartment building. "But they always approach me on the offensive when it comes to dealing with a minority tenant."

Barnes said she tries to defuse any future problems by using interpreters to make sure tenants clearly understand their responsibilities.

Thuerwachter says many of her clients are unaware of rights they may possess.

"The issue is, most of our clients are not well educated, many do not speak English. There may be nothing in writing to prove they contacted their landlord at all."

"Obviously they're coming to us because they feel as though they have no recourse. People don't generally come to us and ask us to do a demand letter prior to talking to their landlord first."

Many local attorneys have worked for Legal Aid. Few of those interviewed had unkind words, in general, for the work they did.

"All I've heard about them is good," said Bob Anderson, a local attorney who served on Legal Aid's board of directors 15 years ago. "I know they're a hard-working bunch and seldom get any thanks."

# Citizen's guide to the planning process

By ROBIN MUSITELLI

Sentinel staff writer

"Then you should say what you mean," the March Hare went on.

"I do," Alice hastily replied; "at least — at least I mean what I say that's the same thing you know."

"Not the same thing a bit!" said the Hatter. "Why, you might just as well say that 'I see what I eat' is the same thing as 'I eat what I see!'"

Alice may have had it easy compared to someone trying to figure out land-use rules in Santa Cruz County, according to Doug Marshall, an attorney and former Santa Cruz County planner.

Marshall is the primary author of "The Directory of Planning and Land Use Services," for Santa Cruz County, a recently published guide to what happens to a development application submitted to the county or in Scotts Valley, Watsonville, Santa Cruz and Capitola.

The directory details the planning and permit process from start to finish, including likely

costs and includes background information regarding land-use consultants and other professionals.

The publication also includes statistics, maps, flow charts, checklists, planning staff directories, and addresses of governments and licensing agencies.

It's not light, bedtime reading. In fact, Marshall admits his wife, Katie, found his book "boring."

Marshall said the book is an attempt to help would-be applicants sort through which regulations might be pertinent to their project.

It is not a publication for "insiders," but is intended as a primer for anyone who is making their way maze of regulatory rules, he said.

"At least this should give them an outline and information to ask questions," said Marshall.

People attempting to plan a development project have had little or no land use planning information at hand, he said.

While land use rules are complicated

throughout California, they are more so in Santa Cruz County, said Marshall.

"People don't understand how the system works. Rules have been added upon rules," said Marshall.

For example, the county's land use rules contain a set of procedures for implementing the codes. "It was added as a cookie cutter on top of all the other rules," said Marshall, "like another set of stairs in the Winchester House."

The planning directory does not criticize those rules or the process, he notes.

"The idea of book was to explain the process," said Marshall. "The process here has been a major obstacle for many people and hopefully this book will make it easier."

Richard Kuhn, a member of the PLUS Publications publishing team, said the book is the only single source of such information.

Similar publications for other counties are planned, the next in Monterey, he said.

The directory costs \$25 and can be ordered by calling 800-834-1869.

Rosas did not put her complaint in writing. She could not recall if she had notified Montero, who says she would have fixed anything that needed fixing, if she had known.

Then Rosas began noticing sewage seeping up from a cracked pipe in the ground behind her home. She says Montero's workers from the house next door heaped dirt from that project on top of the leaking area and dug a trench for the sewage leading to a nearby creek.

Blanca Tavera, director of Defensa de Mujeres and a member of Legal Aid's board of directors from 1986-90, knew Rosas, who had volunteered for the group that helps physically, sexually and emotionally abused Latinas.

She urged Rosas to call Legal Aid.

Rosas did.

A county health officer inspected the property, certified there was a "failing septic system" and ordered Montero to fix it in a letter dated Feb. 4.

Other problems noted in a follow-up letter dated Feb. 7 were a broken refrigerator, a buckled ceiling, mice and roach infestations, among others.

Montero says she called Legal Aid the day she got the letter and told them the problems were being taken care of, but blames Rosas for the damage.

Repairing the pipe cost "about \$10," she and her attorney, J.D. Wells, said. The property was cleared by the health department a few days later, Montero said.

When Rosas continued to withhold rent, Montero served her with a three-day notice to pay or move, along with a 60-day notice to terminate the agreement.

But the three-day notice was worded incorrectly and thrown out of court when Montero tried to initiate eviction proceedings.

In a Feb. 21 letter, Legal Aid attorney Gary McNeil proposed a \$100 deduction for the three months Rosas claimed the sewer pipe was broken and other repairs not made.

He forwarded \$100 to Montero's attorney.

vacate" in a small claims matter.

The county contracts with Legal Aid to educate those involved in small claims court proceedings, but bars it from advocating for either side.

Municipal Court Administrator Paul Ahern reviewed the matter last month.

McNeil and Legal Aid's Directing Attorney Mary Thuerwachter said Tavera was not affiliated with Legal Aid when she testified in the Rosas case and that Tavera had a right to testify.

Ahern said he found no contract violation.

Montero says she has had at least two other "negative experiences" in cases involving Legal Aid clients.

After losing one such case involving a Watsonville property, she sued the Legal Aid attorney, trying to recover the damages she thinks tenants did while they weren't paying rent.

"I couldn't do anything except watch my house get trashed," she said.

The case was thrown out of court.

Rosas' current landlord described her as "an outstanding tenant."

"Ella esta loco (the woman is crazy)," Rosas said of Montero in a recent interview.

The suggestion that she is a problem landlady makes Montero bristle. Her current tenants have high praise for her. And neither the Housing Authority nor a publicly funded program for those with psychiatric disabilities which have clients who rent from Montero, report "habitability" problems like those described by Rosas.

"I take good care of my properties," Montero insists.

Montero continues to appear before the boards of Legal Aid and Defensa de Mujeres to complain about the policy of withholding rent.

McNeil describes Montero's campaign as an "obsession."

"Most landlords, we work with them, we have run-ins, everybody moves on from it," he said.