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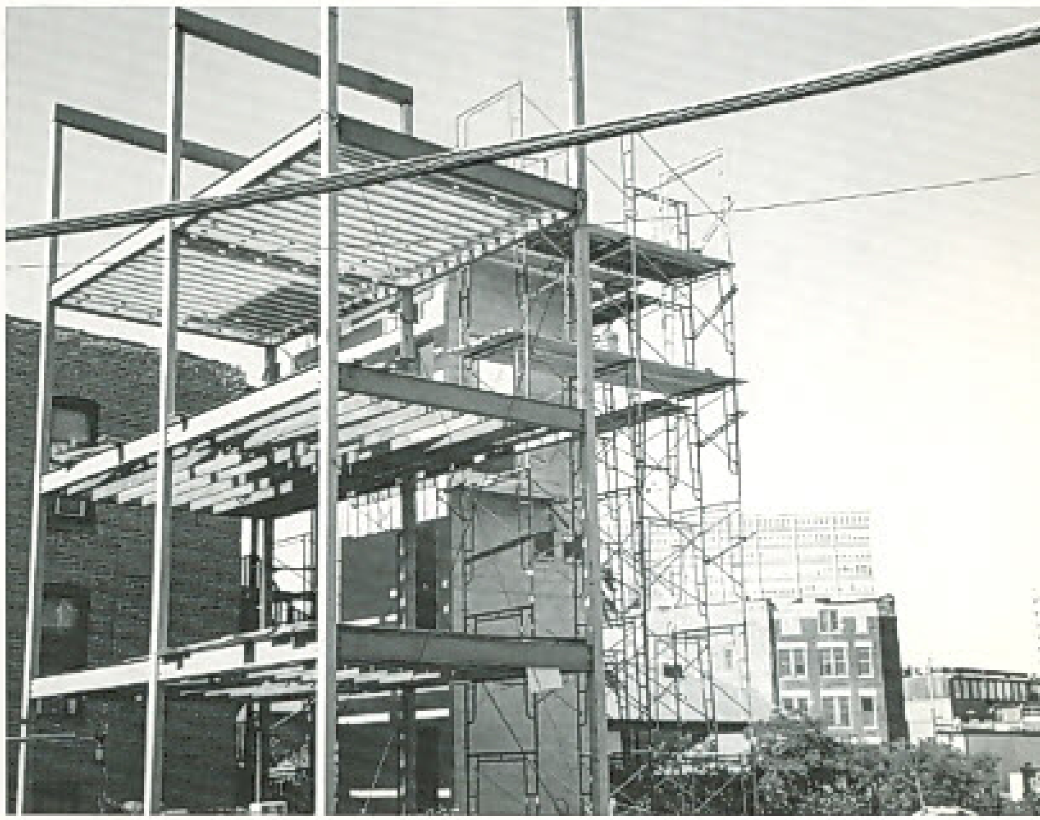

Consolidated Plan and Community Development Block Grant Advocacy

The Living-Wage Ordinance: A First Step in Reducing Poverty

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Whereas: The City of New Haven has many adult residents who, although they are employed, live at or below the poverty level, and thus are placed in a constant struggle to provide adequately for basic needs for themselves and their families while contributing as productive citizens to their communities./1/

Across the country, as the economy improves and businesses prosper, advocacy groups in cities, counties, and states are clamoring to raise the wages of the working poor. Some governments have responded to advocates' insistence. With the intent of increasing consumer income, decreasing poverty levels, reducing the demand for welfare subsidies, and invigorating the local economy, states are increasing the minimum wage, and cities are passing local living-wage ordinances that will significantly raise the wage floor for some workers. Whether and to what extent these goals will be achieved is not yet clear. What is clear is that living-wage ordinances are a solid first step in the right direction of assisting the working poor. As we face the impact of welfare reform, living-wage ordinances will bring former welfare recipients with previously little or no income at least to the federal poverty line.

Here we discuss the typical contents of living-wage ordinances, detail common provisions and distinguishing elements of ordinances which have been passed around the country, and examine the living wage from a community economic development (CED) perspective. We note limitations and highlight some of the stronger elements that certain cities included in their ordinances for greater impact. We also discuss the positive relationships and partnerships that grow among community groups as they mobilize support for a living-wage campaign. Specifically we explore whether living-wage policies really provide a "living wage" and compare the wages stipulated in various ordinances to self-sufficiency measures developed by Wider Opportunities for Women (WOW) and the California Budget Project. With specific attention to the role legal services advocates can play in this important work, we examine the main players involved in bringing about living-wage ordinances.

I. Living-Wage Ordinances: An Introduction

To understand the complexities at work in a living-wage ordinance, we must distinguish it from other mandated wage policies such as minimum-wage **p252** and prevailing-wage legislation./2/ While all three share some characteristics, they differ as to breadth and complexity.

Minimum-wage laws are the most traditional of these legislative efforts. Through these laws, governments, most often states, attempt to raise the minimum wage slightly above the federal level. The effect of minimum-wage laws is to set a new wage floor which supersedes the federal minimum wage to which all employers in that locality must adhere./3/

Prevailing-wage laws, another common legislative effort, require employers to pay their employees the prevailing wage for a particular occupation or set of occupations. The primary prevailing-wage law, the Davis-Bacon Act, originally passed by Congress in 1931 and amended several times over the years, requires that construction workers employed under certain government contracts be paid the prevailing wage for that occupation as determined by the Department of Labor./4/ Some states have enacted similar legislation often called "Small Davis-Bacon Acts," which require a prevailing wage to be paid to employees under state-initiated contracts. Surveys are conducted to determine wage levels, and then cities may choose whether to adopt. Most frequently prevailing-wage policies are limited to the construction industry.

Living-wage policies, which are typically city driven, though some cover whole counties, seek to apply a wage level often significantly higher than the federal minimum wage. Wage levels under these policies range anywhere from $6.50 per hour in Duluth, Minnesota, to $10.00 per hour in Santa Clara County, California./5/ The new wage is applicable only to employers who receive contracts, grants, loans, tax subsidies, lease abatements, bond financing, enterprise-zone credits, or other financial assistance from the city or county which enacted the ordinance. The new wage applies only to those employees who are employed under that employer's contract, subsidy, or grant.

Living wage, unlike minimum wage, is not a blanket policy that covers all employers and employees in a locality. It often applies to a single industry, such as the service industry or, like prevailing-wage legislation, to a set of occupations within an industry, such as janitors and security guards. Despite the differences among the three mandated wage policies, there is a tendency to confuse the terms. For example, a 1996 California ballot initiative that incrementally increased the minimum wage for the entire state over a three-year period from $4.75 in 1996 to $5.75 in 1998 was entitled the "Living Wage Initiative."/6/ In general, living-wage ordinances are more complex in nature than either prevailing-wage or minimum-wage legislation, as they have several requirements in addition to the wage level with which employers must comply.

At writing, 17 jurisdictions have passed living-wage policies: Baltimore, Boston, Des Moines, Duluth, Minneapolis, *p253* St. Paul, Durham, Gary, Jersey City, Los Angeles, Oakland, San Jose, Santa Clara County, Milwaukee, New Haven, New York City, and Portland./7/ These cities range in size from 7.3 million residents in New York City to about 85,000 residents in Duluth, Minnesota. The wages that are stipulated also vary, although they generally hover around the federal poverty guideline for a family of four. Several cities, such as Oakland and St. Paul, include benefit requirements in their policies such as health benefits and compensated time-off for vacation or sick leave. Other details may include the targeting of specific industry sectors or the application of varying degrees of penalties for employers who violate the ordinance. These and other common elements of living-wage ordinances are outlined in table 1.

[Insert Table 1 here.]

Details of the legislation of the 16 cities and one county that have successfully passed living-wage ordinances are outlined in table 2. This information may serve as a useful starting point for other cities interested in implementing similar wage ordinances. At least sixteen other municipalities across the country are at varying stages of introducing living-wage legislation./8/ They are St. Louis, Philadelphia, Pittsburgh, Albuquerque, Denver, San Francisco, Berkeley, Pasadena, San Jose,/9/ Albany County, Montgomery County, Missoula, Bozeman, Spokane, Louisville, and Knoxville.

[Insert Table 2 near here, if possible.]

II. Breadth and Depth of Living-Wage Ordinances: Internal Limitations

From a CED perspective, specific income- and asset-building strategies are important to ensure measurable gains for low-income individuals and communities. Implementing these strategies will help counter the trend of the gap widening between the wealthiest Americans and the poorest. Because opponents widely believe that living-wage ordinances raise wages to an unreasonable level, they view living-wage ordinances as a dramatic attempt to narrow this gap. Proponents and community advocates see these ordinances as a first step in the right direction toward higher wages for the working poor.

As strategies such as living-wage ordinances gain in popularity, we must scrutinize them closely for their breadth and depth in reaching economically disadvantaged individuals and households. Close scrutiny of the scope of those ordinances makes apparent the limitations that are often overlooked in the enthusiasm to pass such legislation. These limitations often include the following: (1) the difficulty in setting adequate wage levels overall; (2) the actual number of people served by the living-wage increases; and (3) the ordinances' effectiveness as an antipoverty tool. Notwithstanding these limitations, elements in some ordinances may make them more effective vehicles for promoting community revitalization. For example, some ordinances require employers to inform employees of their right to the Earned Income Tax Credit (EITC). Others require employers to use community-based hiring halls for recruiting new employees, or mandate the establishment of an oversight committee of community groups and businesses.

A. The Federal Poverty Measure as a Wage Level

The first limitation of living-wage ordinances lies in the setting of inadequate wage levels. In many of the cities now implementing living-wage policies, workers can reach economic self-sufficiency only if they receive considerably higher income than the prescribed living **p254** wage--often double the amount the ordinances mandate as the base wage. The starting point for most of the new wage levels under these ordinances is based on the federal poverty measure. As a result, these "living wages" serve to bring workers only up to the federal line of poverty but far below a standard that would lead them to economic independence.

Much of the problem lies with the federal poverty measure itself. The measure is based on one of two sources. One is the poverty "threshold," updated each year by the U.S. Census Bureau. The threshold is the original version of the federal poverty measure and is used primarily for statistical purposes. Essentially unaltered since the original was adopted in 1965, the poverty threshold accounts for the cost of a minimum diet times a multiplier of three/10/ to allow for other expenses such as clothing and housing. While the threshold is updated by the Consumer Price Index for price changes, it is not altered for real growth consumption.

The second and more widely used standard for the federal poverty measure is the poverty guideline issued yearly by the U.S. Department of Health and Human Services (HHS). The guideline is a simplification of the Census Bureau's poverty threshold and is used for administrative purposes, such as determining the financial eligibility for certain federal or state programs./11/ The HHS guideline is based on the previous year's Census Bureau poverty threshold. Thus, for example, the 1998 HHS guideline is approximately equal to the Census Bureau's 1997 threshold. As a result, any city that bases its ordinance on the current year's guideline is generally applying an income level from the previous year. Table 3 shows the differences between the poverty threshold and the guideline./12/

[Insert Table 3 here.]

Compounding the problem of using a federal poverty guideline that is actually one year behind the true measure, some cities are basing their wage levels on an earlier year's guideline or threshold. For example, Baltimore's ordinance defines the "index" as the most recently available figure "published by the Bureau of the Census and updated on an annual basis, which defines the national poverty level for a family of 4."/13/ However, according to the Wage Commission, the enforcement arm of Baltimore's ordinance, the 1998 wage level is set at $7.10 per hour, which is $.81 less than the HHS poverty guideline.

Note that both the Census Bureau's poverty threshold and the HHS guideline only serve to indicate the amount it takes for a family to survive at the poverty level. They do not capture rising housing and child care costs or any geographic variations in costs. Neither do they indicate what earnings a family needs in order to rise out of poverty. Thus local ordinances based on these measures may do little for workers trying to achieve economic security.**p258**

B. Alternate Bases for Wage Levels

Two organizations, WOW and the California Budget Project, have created self-sufficiency standards at the county level that do analyze self-sufficiency wages by geographic area. Both agencies use approaches that dissect a family's budget, apply local costs, and determine the annual, monthly, or hourly wage needed for that family to be economically independent in that particular geographic area.

1. Wider Opportunities for Women

The WOW standard is unique in that it breaks down family self-sufficiency--defined by WOW as receiving no assistance from family, friends, or the government--not only by county but also by household size and by age of family members./14/ For example, a single adult with an infant and preschool child in Alameda County, California, would need to earn $16.63 per hour to maintain self-sufficiency, while a parent with two teenagers need only earn $9.22. The WOW standard is calculated in 1994 numbers, and costs are based on the assumption that adults work full time and will need child care for small children.

WOW determines regional living standards by county or, in some cases, smaller jurisdictions. When feasible, WOW attempts to create a standard for the smallest geographic area possible. WOW has calculated living standards for jurisdictions in Iowa, California, Texas, North Carolina, Pennsylvania, Washington, D.C., and several counties surrounding Washington, D.C. in Virginia and Maryland. WOW is also in the process of compiling standards for Illinois and Massachusetts, to be completed later this year.

Table 4 shows the estimated WOW self-sufficiency wage for one adult ($6.65 per hour), one adult with an infant and a school age child ($14.97 per hour), one adult with an infant, preschool-age child and teenager ($22.63 per hour), and two adults with two infants ($8.96 per hour per adult) living in Alameda County, California. A comparison of these self-sufficiency wages to the wage level set in the living-wage ordinance of Oakland, which is located in Alameda County ($8.00 with benefits and $9.25 without health benefits), indicates that the designated wage level falls significantly short if the employee has young children. On the other hand, an employee without dependents will actually earn more under the living-wage ordinance than is required for self-sufficiency in that city based on the WOW standard. *p259*

[Insert Table 4 here.]

In Massachusetts WOW created a standard for the city of Boston. As illustrated in table 5, the living-wage ordinance for that city also falls short in bringing an individual to economic independence. A comparison of tables 4 and 5 reveals that the cost of living is significantly higher than in Alameda County, particularly in child care costs; this demonstrates the importance of having a geographic variation in any standard used to determine a wage level for a living-wage ordinance.

[Insert Table 5 here.]

2. The California Budget Project

The California Budget Project publishes another self-sufficiency standard. Although this standard does not break down wages by household size, it does offer a typical monthly budget and a pared-down, "bare-bones" monthly budget to determine the minimum needed for a family to be self-sufficient. Data for the California Budget Project's analysis are based on 1997 dollars and therefore offer a more current figure than WOW to measure self-sufficiency. The California Budget Project has completed tables such as table 6 for 40 California counties./15/

As shown in table 6, the California Budget Project estimates that in Alameda County the standard income required for one adult to support an infant and a school-age child is $15.27, while the "bare-bones" hourly wage is $12.76. The latter figure excludes "food away from home," "savings/emergency," and "recreation and reading." It also assumes a one-bedroom apartment and child care in a family day care home rather than a child care center, which would be more costly.

[Insert Table 6 here.]

While WOW's and the California Budget Project's self-sufficiency standards for Alameda County contain different line items, note that, when comparing the same household size and the standard income, the two differ by only $.30. Again, from these data, clearly a single adult with two children in order to live independent of subsidies in Alameda County needs significantly more than what a living-wage ordinance generally stipulates as a base wage level. Table 7 graphically illustrates this shortfall in Oakland's ordinance for employees hoping to achieve self-sufficiency. **p260**

[Insert Table 7 here.]

III. Living-Wage Ordinances from the Perspective of Community Economic Development

CED is a practice that seeks to put low-income residents on a sure economic footing, thus creating assets that lead to stronger, more stable neighborhoods. CED is an empowerment strategy that targets for assistance those people who are society's most vulnerable. Although CED is alert to policies that are ostensibly designed to help people rise out of poverty, its design may not achieve that intent. That living-wage ordinances seldom offer truly "livable" wages for poor families is a major concern. A review of many cities' ordinances through the CED lens reveals other limitations that could be helped by better targeting, better leveraging, and closer coordination with community organizations.

A. Limitations

One problem with living-wage ordinances is their low impact, as they do not typically affect a larger number of workers. While both opponents and advocates tout the sweeping impact of living-wage ordinances on employers and city residents, the reality is that, with respect to overall city population, few individuals are affected by the legislation. Moreover, not all of those who are affected live in low-income households.

Studies have confirmed that living-wage ordinances do not have an extensive impact on workers. Before implementing its ordinance, the City of Los Angeles commissioned a study to estimate its cost and coverage and to evaluate the likely success of the ordinance in achieving its goal of poverty alleviation. This thoughtful study, conducted jointly by professors from the University of California, Los Angeles, and Carleton College (hereafter referred to as the UCLA study), estimated that in Los Angeles--a city of almost 3.5 million people--only 4,800 workers would receive pay raises, 2,500 would receive health benefits, and at least 10,000 would receive additional compensated days off./16/

In Boston the Boston Redevelopment Agency did a cursory wage analysis of direct and indirect employees who might be covered under Boston's living-wage ordinance at the $7.49 wage level./17/ In 1997 the starting wage for city staff was $8.97, significantly higher than the wage established under the ordinance. An examination of the service contracts, such as for janitors and library aides, showed that "few if any" employees would see an increase in wages because of the ordinance. Less clear was to what degree employees were covered under other areas of the ordinance, such as tax subsidies or bond financing.

Findings for the city of Baltimore report similar results. A study conducted by the Preamble Center for Public Policy assessed the impact of Baltimore's living-wage ordinance on the city and employers one year after its implementation. The study indicated that the number of individuals affected was "fairly small."/18/ A **p261** more recent study prepared by Johns Hopkins University for the Economic Policy Institute attempted to estimate what this "small" number might be by dividing the estimated working time necessary to complete each contract by the compensation costs. While useful, the figure gives only an estimate of the number of living-wage jobs. It does not estimate the number of workers. The authors concluded that an estimated 1,494 living-wage jobs were created in 1995, or 7.4 percent of the city's low-wage service workers./19/ Again, as was the case for Los Angeles, this is a small number: 1,494 jobs for the total population of Baltimore--736,014--means that less than 1 percent of the population is affected./20/

Another limitation of the living-wage ordinance, and one that is a common criticism of mandated wage policies in general, is that they are not sufficiently targeted to be an effective antipoverty tool. Labor economists have established that raising base wage levels among low-wage workers is not the most effective method for reducing household poverty since low-wage workers are not always from low-income families. While living-wage policies across the board benefit low-wage workers, no evidence shows that they will specifically affect low-income households, although these households may be affected incidentally. For example, the UCLA study found that in Los Angeles only about 20 percent of service workers earning less than $7.50 per hour were from families living below the poverty threshold. The study estimated that 33 percent of the low-wage workers in Los Angeles lived in families with incomes over $45,000 per year./21/ In other geographic regions the number of low-wage workers in low-income families may actually be lower since Los Angeles has a high number of recent immigrant households where the low-wage earner is the primary wage earner.

B. Strong Elements

Fortunately there are examples of ordinances that include specific provisions to target the benefits of living-wage ordinances to low-income individuals and families. Cities such as Boston, New Haven, Oakland, and Los Angeles have taken steps to include additional elements in their living-wage policies to ensure that low-income residents and communities will benefit as much as possible from the legislation. Some of these steps are consistent with initiatives long advocated by practitioners of community-based economic development: targeting, leveraging other resources, and strengthening community institutions.

1. Linking the Living Wage to the Earned Income Tax Credit

The EITC goal is to "make work pay" by supplementing the income of low-income working families to help them escape poverty./22/ A study by the Center on Budget and Policy Priorities found that in 1996 EITC lifted 4.6 million people, including 2.4 million children, from poverty, making it the most successful program at moving large numbers of children from poverty./23/ One EITC benefit is that the tax credit may be applied to each paycheck, **p262** thus providing disposable income year-round rather than one lump sum at the end of the year. However, citizens and employers need to be informed about the advance-payment benefit; in 1995 less than 1 percent of recipients nationwide utilized this income-supplement option.

Banking on the continued success of this federal program, the cities of Los Angeles, New Haven, and Oakland all require contractors covered under their living-wage ordinances to inform, in writing within 30 days of hiring, employees earning less than $12.00 per hour of their possible right to EITC ./24/ Employers also must make available forms to allow employees to secure advance EITC payments./25/ The Oakland ordinance takes this requirement one step further by requiring that employers supply EITC forms in multiple languages if a "significant number" of limited-English-speaking employees are affected, although what constitutes a significant number is not defined./26/

Informing low-income residents of their EITC rights has many benefits. Some argue that EITC is potentially more direct and effective in fighting poverty than local living-wage ordinances. Drawing again on the Los Angeles ordinance as an example, the UCLA study pointed out that EITC was better targeted toward reaching the needy population than a mandated wage ordinance. The study further revealed an added benefit for Los Angeles: Since EITC is a federal program, it draws on federal, rather than city, resources. Yet, according to the study, in Los Angeles these federal resources are going largely untapped. The study estimated that the total value of unused EITC benefits in Los Angeles equaled about $100 million per year,/27/ and that an increase of citywide participation rates by 12 percent, from 48 percent to 60 percent, would generate roughly $50 million for the local economy, including about $2 million in additional tax revenues for the city. The study noted that a targeted outreach campaign to increase EITC participation in low-income communities could have a greater local impact than the living-wage ordinance alone. Used together, living-wage ordinances and mandates to employers to educate their employees about EITC are likely to strengthen significantly the antipoverty intent of living-wage ordinances.

2. Utilizing Community-Based Hiring Halls and One-Stop Centers

CED urges the strengthening of community institutions. Some living-wage ordinances require employers to utilize local training providers and community-based organizations specifically oriented toward working with low-income communities as a source for new hires. Boston's living-wage ordinance goes further, requiring a first-source hiring agreement, which stipulates that employers must go through one-stop career centers, community-based hiring halls, or both when hiring new employees./28/ Boston's ordinance defines community-based hiring halls as any nonprofit or union-organized job registry and referral service that meets certain criteria. Among the requirements, **p263** community-based hiring halls must have a computerized skills bank and a governing board comprised of a majority of low- and moderate-income Boston residents. Typically first-source hiring agreements require only that businesses hire a certain percentage of that city's residents. Boston's ordinance, however, requires that businesses first go through local nonprofit organizations and unions when recruiting their employees and mandates that these employees be low- to moderate-income residents, defined as 80 percent of the median income for the Boston Standard Metropolitan Statistical Area./29/

New Haven's living-wage ordinance does not target low-income workers as much as Boston's. Still it requires employers to post all openings as a result of new contracts with the city in the designated community-based hiring halls. Employers must give first consideration for vacant service-worker positions to those referred by the hiring halls, and they must inform these hiring halls in writing of all status changes in positions./30/

3. Employing Community Involvement and Oversight

Yet another CED principle that can be written into the language of a living-wage ordinance is community oversight and involvement. Here again Boston's ordinance is unique. The ordinance designates a "city assistance advisory committee" comprised of one union member, representatives from nonprofit organizations and businesses, and several appointees by the mayor to review "the effectiveness of the ordinance at creating and retaining living wage jobs in Boston, and in securing access to living wage jobs for low and moderate income Bostonians."/31/ Most cities, as seen in table 2, utilize an existing city department such as public works or the city manager's office to oversee enforcement of the ordinance. Others, such as the City of Los Angeles, have established entirely new entities for enforcement.

In the year since its passage and prior to its implementation in July 1998, the Boston jobs and living-wage ordinance ran into a great deal of opposition from the business community. Opponents were dismayed by what they believed to be rigorous reporting requirements and by the great deal of confusion regarding the meaning and interpretation of certain terms. The ordinance requires employers to issue detailed quarterly reports, including race, gender, zip code, and wage rate, about each employee. Employers must document the use of community-based hiring halls and one-stop career centers. Employers are also required to maintain and preserve for three years detailed records relating to the covered employees:

The records shall contain the name and address of each employee, the job title and classification, the number of hours worked each day, the gross wages, deductions made, actual wages paid, a copy of the social security returns, and evidence of payment thereof, a record of fringe benefit payments including contributions to approved plans, funds or programs and/or additional cash payments, and such other data as may be required by the Applicable Department from time to time./32/

Opposition to these and other requirements resulted in a flurry of editorials and prompted Boston's mayor to appoint the members of the city assistance advisory committee designated in the language of the ordinance to review the complaints. The committee meetings led to the passage of a new ordinance that delayed implementation of portions of the original ordinance until September, 1998. The committee's oversight also revealed **p264** the need to raise the wage level from $7.49 to $8.23 to reflect the yearly increase in the federal poverty threshold./33/

IV. Key Players in Living-Wage Campaigns

Behind every policy initiative is usually one strong, well-organized grass-roots coalition. For living-wage proponents this group is the Association of Community Organizations for Reform Now (ACORN). Established in 1970, ACORN is a national grass-roots organization of community groups made up of low- to moderate-income families in over 26 states and the District of Columbia. The goal of the organization is "to organize to win a fairer share and a greater voice for low and moderate income Americans."/34/

In addition to being a strong advocate, ACORN's role in the living-wage movement has been to keep its finger on the pulse of communities around the country where campaigns are being waged. ACORN serves as the central resource point and technical-assistance provider for cities that are exploring the possibility of a living-wage ordinance./35/ This year ACORN hosted a national conference to train community groups on the necessary elements to spearhead a living-wage campaign. Currently, in conjunction with Wayne State University, ACORN is producing a sourcebook/tool kit that will be available to member organizations and cities interested in engaging in a campaign.

Labor unions are another group of important players in the living-wage movement. Traditionally strong organizers, labor organizations around the country have worked well with ACORN in forming integral partnerships, marrying ACORN's community-organizing capacity with the unions' employee-organizing connection. Various labor groups get involved: The American Federation of Labor and Congress of Industrial Organizations is active at the national level, and local union groups educate and rally their work force and often secure testimony from employees in support of ordinances as they go before city councils or economic development committees.

Other groups involved in the living-wage movement are religious institutions, advocacy groups, and local community-based organizations. These groups, like legal services providers, are concerned about the economic well-being of their clients--often the low-income, working poor, homeless, and welfare recipients--and are therefore willing to unite their membership base in support of living-wage ordinances. As with labor unions, community-based organizations and church groups can supply members who are willing to mobilize others and to testify before city councils on behalf of ordinances.

Often these groups unite to form coalitions to pool their resources and organizing capacity. In Baltimore, for example, a coalition of community organizations and churches, Baltimoreans United in Leadership Development, joined with the American Federation of State, County, and Municipal Employees to create the Solidarity Sponsoring Committee to fight for Baltimore's living-wage ordinance. Likewise, other coalitions of organizations have sprung up in cities such as in Duluth (led by the American Federation of State, County, and Municipal Employees); Minneapolis (the Joint Twin Cities Living Wage Task Force, which included ACORN, New Party, and labor unions); and in Boston, where ACORN and the Massachusetts Federation of Labor led the 40-member Boston Jobs and Living Wage **p265** Coalition. These groups often seek technical and legal assistance to gather pertinent research or to draft an ordinance to take to the city council for introduction.

By necessity, the local city council and various city departments are involved at crucial stages of the effort. Typically these city departments include public works, economic development, and finance departments, all of which may rely on outside research or technical assistance to determine how a living-wage ordinance might affect their city. For example, in Oakland, the Department of Public Works approached the National Economic Development and Law Center for research and analysis of other living-wage ordinances and their impact on the cities that had adopted them.

V. A Role for Legal Services

Legal Services programs can play an indispensable role in the push for livable wages. They are able to decipher the language of local living-wage ordinances, and they have an intimate knowledge of the very constituency these ordinances seek to assist: poor people. Although staff must always be mindful of federal restrictions against lobbying and grass-roots efforts, legal services involvement in the push for living-wage ordinances may not always be restricted. Of particular note is the restriction that "recipients shall not attempt to influence: (1) The passage or defeat of any legislation or constitutional amendment; (2) Any initiative, or any referendum or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in any legislative capacity."/36/

In cities across the country, legal services programs have been approached by living-wage advocates for legislation-drafting or technical assistance to ensure that a draft ordinance contains clear and effective language. For example, in certain cities ACORN approached the local legal services provider and established a fee-based attorney-client relationship. In such a situation staff attorneys consult ACORN on the appropriate technical language required to put forward the elements that are critical to the client. In certain cities the city council seek a contingent of legal staff, some of them representing poor constituencies, to draft or review the technicalities of a living-wage ordinance.

In other situations legal services staff may be asked to attend community meetings to explain policy or to attend consultative meetings with several other attorneys to verify that the ordinance language is legally correct or that it is, to the extent possible, fully meeting the needs of the low-income population. Legal services staff also may be asked to testify before city councils and other public bodies in order to detail the finer points and legal requirements of proposed legislation.

An implementation, oversight, or monitoring role also may be appropriate for legal services offices. For example, legal aid staff may be appointed to serve on an advisory committee that guides city staff in implementing the ordinance or that serves as a technical resource when complaints or discrepancies arise. When nonprofit community organizations are specified as oversight agents, legal services programs also may be eligible. Whether the legal services organization receives federal funding from the Legal Services Corporation will largely determine the extent to which the organization may be involved in the living-wage process. If nothing else, as advocates of the poor, legal services attorneys must stay abreast of efforts to raise the wages of the working poor and those making the transition from welfare to work.

VI. Conclusion

The living-wage campaign is a critical first step toward reducing poverty in our communities. Legal experts and advocates can play an important role in this effort to ensure that the needs of low-income clients are being met by the provisions set out in living-wage ordinances. Provisions that can be incorporated into living-wage ordinances to help increase their effectiveness include the following: (1) an employer requirement to notify employees **p266** of their right to advance payment of EITC; (2) an employer requirement to utilize community-based hiring halls or local one-stop centers to ensure that low-income residents are being hired into living-wage jobs; and (3) the appointment of a community advisory council to review and oversee the ordinance upon its passage.

Although living-wage ordinances' limited scope and range of effect should not dampen enthusiasm for them, we need to be aware of their limitations. Living-wage ordinances are not a solution but a first step in the effort to assist low-income communities. Most living-wage ordinances, because they are based on the federal poverty threshold, will serve only to bring individuals to the poverty line; they will not bring workers to self-sufficiency. Likewise, ordinances will not automatically affect low-income individuals, households, or communities unless they are very specifically targeted since most low-wage workers are not the primary wage earners of their households. Living-wage ordinances keep alive the critical issue of livable wages for all citizens. As advocates, we must continue to work toward that goal. **p267**

Footnotes¶

/1/New Haven, Conn., Ordinance 1195 (May 1997). This excerpt is from an ordinance establishing a "living wage" for service workers in New Haven.

/2/.See ROBERT POLLIN & STEPHANIE LUCE, LIVING WAGE: WHAT IT IS AND WHY WE NEED IT (1998), for a history of mandated wage legislation including minimum-, prevailing-, and living-wage policies. See also JARED BERNSTEIN, ANOTHER MODEST MINIMUM WAGE INCREASE (Economic Policy Inst. Issue Brief No. 124, Feb. 23, 1998) <http://epinet.org>, for a historic look at minimum-wage legislation.

/3/As of March 1998, six states and Washington, D.C., have set minimum wages above the federal level. See JARED BERNSTEIN, ECONOMIC POLICY INSTITUTE, LIVING WAGE CAMPAIGNS: A STEP IN THE RIGHT DIRECTION (1998).

/4/40 U.S.C. Secs. 276a et seq.

/5/See Duluth, Minn., Ordinance 9340, An Ordinance Adding Article XXVI to Chapter 2 of the Duluth City Code Requiring Nothing Less Than a Prescribed Minimum Level of Compensation (a Living Wage) Be Paid to Employees of Financial Assistance Recipients of the City (July 14, 1997); Santa Clara County, Cal., Citation, Manufacturing Personal Property Tax Rebate Santa Clara County Growth and Job Creation Policy (Sept. 7, 1995).

/6/Proposition 210, the "Living Wage Initiative," passed by a wide margin in the 1996 general elections, garnering 62 percent of the vote. See California Secretary of State, November 5, 1996, General Election <http://vote96.ss.ca.gov>.

/7/For copies of these ordinances contact the Association of Community Organizations for Reform Now (ACORN), 739 Eighth St. SE, Washington, DC 20003; 202.547.2500; fax 202.546.2483.

/8/For current information of cities working on living-wage legislation see id. ACORN has served as the leading advocacy group for living-wage legislation.

/9/San Jose's first ordinance in 1988, later amended in 1989 and again in 1991, required city contractors to pay union-scale wages for direct services, including street sweeping, convention-center food services, parking-lot management, janitorial services, other routine contracts over $1,000, and construction. The city is now amending the ordinance to include employers who receive tax subsidies.

/10/A multiplier of three was chosen because the average family of three or more persons was found to spend one-third of its after-tax income on food. See CONSTANCE F. CITRO & ROBERT T. MICHAEL, MEASURING POVERTY: A NEW APPROACH (1995).

/11/Programs using the guidelines to determine eligibility include Head Start, the Food Stamp Program, and the National School Lunch Program.

/12/Hourly wages are based on a 40-hour work week and a 52-week work year. See U.S. DEP'T OF COMMERCE BUREAU OF THE CENSUS, HISTORIC POVERTY TABLES <www.census.gov/hhes/poverty/histpov>; U.S. DEP'T OF HEALTH AND HUMAN SERVS., THE 1998 HHS POVERTY GUIDELINES <aspe.os.dhhs.gov/poverty/98poverty.htm>.

/13/Baltimore, Md., Council Bill No. 716, An Ordinance Concerning Prevailing Wage, Sec. 26A(A)(1) (Dec. 13, 1994).

/14/To obtain copies of its self-sufficiency standards, contact Wider Opportunities for Women, 815 15th St. NW, Suite 916, Washington, DC 20005; 202.638.3143.

/15/The California Budget Project, a nonprofit organization, creates standards only for California. Similar organizations in other states may have the same type of data. See CALIFORNIA BUDGET PROJECT, WHO IN ALAMEDA COUNTY WILL BE AFFECTED BY THE CALIFORNIA LEGISLATURE'S WELFARE REFORM DECISIONS? (1997). For additional information contact the California Budget Project, 921 11th St., Suite 701, Sacramento, CA 95814; 916.444.0500.

/16/See RICHARD H. SANDER & E. DOUGLASS WILLIAMS, AN EMPIRICAL ANALYSIS OF THE PROPOSED LOS ANGELES LIVING WAGE ORDINANCE 19 (1997).

/17/Telephone Interview with a Staff Member at Boston Redevelopment Agency (June 26, 1998). Due to the passage of a new ordinance since this study, Boston's wage level has increased to $8.23 per hour. See Boston, Mass., An Ordinance Revising the Boston Jobs and Living Wage Ordinance, Sec. 2 (July 1, 1998).

/18/See MARK WEISBROT & MICHELLE SFORZA-RODERICK, THE PREAMBLE CENTER FOR PUBLIC POLICY, BALTIMORE'S LIVING WAGE LAW: AN ANALYSIS OF THE FISCAL AND ECONOMIC COSTS OF BALTIMORE CITY ORDINANCE 442, at 9 (1996).

/19/The 7.4-percent figure assumes one job to one person. Depending on how the living-wage jobs are allocated to workers, one job could equal anywhere from one to four persons. The study points out that some jobs are seasonal and good for less than eight hours per day of work. Therefore the number of individuals that may be affected by the ordinance is difficult to estimate. See CHRISTOPHER NIEDT ET AL., DEPARTMENT OF GEOGRAPHY AND ENVIRONMENTAL ENGINEERING, JOHNS HOPKINS UNIVERSITY, THE EFFECTS OF THE LIVING WAGE IN BALTIMORE 19-21 (1998).

/20/U.S. Dep't of Commerce Bureau of the Census, 1990 <www.census.gov/datamap/www>.

/21/See SANDER & WILLIAMS, supra note 16, at 41-46.

/22/See M. JEFF HAMOND & LYN A. HOGAN, PUBLIC POLICY INST., GOP CUTS IN THE EITC: RAISING TAXES ON THE WORKING POOR (1995).

/23/See WENDELL PRIMUS & KATHRYN PORTER, STRENGTHS OF THE SAFETY NET 20, 21 (1998) <www.cbpp.org/snd98-rep.htm>.

/24/Several factors will determine if, and at what level, employees are eligible for the Earned Income Tax Credit (EITC), such as total household income level and the number of qualifying children. The Center on Budget and Policy Priorities is conducting a national EITC outreach campaign and has available multilanguage forms and flyers that can be posted in the workplace. For more information contact the center at 820 First St. NE, Washington, DC 20002; 202.408.1080.

/25/See LOS ANGELES, CAL., ADMINISTRATIVE CODE art. 11, Sec. 10.37.4 (1997). Language regarding the EITC for New Haven is very similar to that of Los Angeles. See New Haven, Conn., Ordinance 1195, Sec. 2-225.e.

/26/See Oakland, Cal., Ordinance 12050, Oakland Living Wage Ordinance, Sec. 5 (Apr. 7, 1998).

/27/See SANDER & WILLIAMS, supra note 16, at 61.

/28/See Boston, Mass., The Boston Jobs and Living Wage Ordinance, Secs. 4a, 4b, 4d (July 30, 1997).

/29/See id. Sec. 4c.

/30/See New Haven, Conn., Ordinance 1195, An Ordinance Establishing a Living Wage for Service Workers (May 2, 1997).

/31/See Boston Jobs and Living Wage Ordinance Sec. 5.

/32/Id. Sec. 3 (Living Wage Reporting (a)).

/33/The Boston wage level, based on the Census Bureau's federal poverty threshold, is calculated on a 50-week year.

/34/ACORN: Association of Community Organizations for Reform Now! (last modified July 1996) <www.igc.org/community>.

/35/For a living-wage information packet with detailed information on other city ordinances and cities waging campaigns, or for information on specific activities taking place in your locality, contact Jen Kern at the national ACORN office, 202.547.2500.

/36/45 C.F.R. Sec. 1612.3 (a) (1-2) (1997).

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