

## Whose Law Is It Anyway?

### Episode 2: Rent (Reform) Is Due

#### Transcription

Matthew Martinez Hannon:

Welcome to the second episode of *Whose Law Is It Anyway*, an American Bar Foundation podcast. I'm your host, Matthew Martinez Hannon. On today's episode, we'll be exploring the subject of rent and affordable housing in the United States.

First, some background. For the past 50 years, about one third of US households rented their homes. This figure has risen slightly over the past decade since the great recession and today, approximately 35.6% rent. But this growth in the rental market has been accompanied by persistent and growing affordability challenges. Vacancy rates are the lowest they've been in decades, pushing up rents far faster than incomes. Some groups that have traditionally been more likely to own, including higher income households and middle-aged adults -- me being one of them... I think I would call myself middle aged-- are increasingly turning to rental housing, rising demand, limited supply and changes in ownership and management of rental properties have reduced the amount of low and moderate cost units. And more recently, the COVID-19 pandemic has exposed the limited protections available for renters, including a lack of financial support and protection for renter households.

Now on a personal note, this topic is really interesting, because renting is all I've ever known. And given my current circumstances, it is all I will know for the foreseeable future. Although I've never had an issue finding a way to pay rent, my credit score has certainly been less than desirable and can give landlords reason to pause when reviewing my application. What can I say? I was young, choices were made, debt was acquired. I learned what a charge off was twice. And if you don't know you should Google it.

But enough about me, the real questions here are, what does the housing search process look like for renters with criminal conviction records, past evictions or severely damaged credit history? What are the economic social and health-related costs associated with the substandard housing options available for renters with stigmatizing backgrounds?

Our first guest, Anna Reosti, is a Research Professor at the American Bar Foundation -- that's where I work. Anna is engaged in research that addresses the consequences of modern background screening practices for rental housing access. She's currently studying the housing search process for renters with stigmatizing backgrounds and how landlords shape the housing search process through their ground level practices. After our interview with Anna, I'll speak with Jennifer Litwak. Jennifer is the executive director of Housing on Merit, a nonprofit organization with the mission to create a bridge to permanent affordable housing for populations. Both Anna and Jennifer will speak to me about what access to affordable housing looks like across the country, the obstacles that low-income renters face, and how the pandemic is impacting the way people rent. At the end of our discussion, our guests will offer up additional resources to help you take immediate action and learn more about the topics at hand. So now let's get started and discuss rent and housing.

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Matthew Martinez Hannon:

All right. So why don't you have you quickly describe your background and scholarship, if you will.

Anna Reosti:

I'm a sociologist by training and an American Bar Foundation research professor, and I'm currently living in Chicago. And I studied law and inequality in housing and criminal justice settings and particularly the capacity of civil rights law to ameliorate entrenched inequalities in those settings. And I grew up in Detroit and I think, you know, that has something to do with my maybe early sociological interest in things like race and class and inequality, given how starkly segregated the metropolitan area of Detroit is particularly in housing and schools. My parents were both really politically engaged. My dad was a civil rights and labor lawyer. My mom was active in her union. So I grew up in a household that was pretty attuned to the broader political issues in Detroit. I went to undergraduate at Michigan State and I studied sociology there as well.

After college, I came back to Detroit and I worked at a bunch of odd jobs, but one of the odd jobs I worked at was for a law firm that was in the midst, or really at the end point of a large class action suit against the Michigan Department of Corrections for sexual abuse and the women's prisons. It was at the hands of guards. I kind of came on this small role at the end of, I think what was like a decade long, maybe a decade-plus civil suit. But it ended up in a historic settlement for the formerly incarcerated women, but that was kind of what got me interested in the criminal justice system and its long reach in America. And then when I went to grad school a few years later at University of Washington, I heard, I think I heard the term like mass incarceration for the first time, which in 2008 was something that I don't think was as common as it is today. So that was what kind of sparked my interest in the criminal justice system, which led indirectly in a way to my interest in housing.

Matthew Martinez Hannon:

That is fascinating. There is so much in there, you've done so much. So then briefly describe since we are here to talk about rent, my idea was like, eh, rent is rent, you know, you pay it, it happens. I move on. But what can you describe about the current state of sort of rent and the housing market specifically in America?

Anna Reosti:

You know, COVID has really exposed and deepened a housing crisis in the United States now, as it has exposed and deepened crises in many other realms of life. But as in other cases like problems with the healthcare system, that crisis in housing is not at all new, there are many dimensions that crisis and the rental sector, but I would say that persistent on affordability is probably the most important component. And so I'm going to draw a little bit on data here from Harvard's Joint Center for Housing Studies, since the eighties, median rents have increased a lot faster than the median incomes of renters. And that gap between incomes and rents has grown particularly wide since the 2008 mortgage collapse. So this has led us to a situation in which today, roughly 46% of American renters in 2019 paid over 30% of their income and rent. And so I don't know if you've ever heard that before, where that's kind of the benchmark of affordability. So you're not supposed to spend more than 30% of your income in rent. So that makes them housing cost burden by federal standards. Since you also asked about discrimination, I would say that it's a big question, but housing discrimination definitely persists and it's taken on a lot of different forms and the 50 plus years now, since the 1968 passage of the Federal Fair Housing Act, but arguably the problem of housing cost burdens is one of the nation's most pressing civil rights issues because it definitely disproportionately impacts renters of color.

Matthew Martinez Hannon:

So you sort of touched on this a little bit, but like the players here, right? So we've got the renters, we've got landlords, I guess. Is there a more specific term for them?

Anna Reosti:

I think landlords is a decent general term for owners and operators of rental housing properties. Although there are definitely a lot of other intermediary players, so people like leasing agents and property managers. But yeah, I think generally, and kind of our social and political discourse like landlords and tenants are the main players, but there's definitely a big distinction between different types of landlords, especially in the US because our rental market is so decentralized. So it includes a lot of different types of landlords. And that can range from retirees who own a single building or a two flat that's the kind of thing you see a lot of in a place like Chicago, right? So things like private equity firms that own, you know, hundreds of units and hundreds of buildings

Matthew Martinez Hannon:

Does, uh, like power dynamics between those different types. Are they similar?

Anna Reosti:

Yeah. Well, I am like inclined to just say yes to every one of your questions. I say, no, my answer is actually no to that question. So, no, I will say that, like in terms of some trends of who controls, what portion of the rental market in the US traditionally independent those kinds of small, I mean, they're not mom and pop, but what would be called individual independent owners have dominated the US rental market. Even as a 2015, these individual non-corporate landlords still owned about half of the nation's rental units, according to Census Bureau data, the proportion of the rental market that's owned by the other category was your institutional investors. And these include LLCs, real estate corporations, real estate investment trusts. These increased significantly. So between 2001 and 2015, they increased across all types of rental housing. And that's a trend that's expected to really accelerate during the pandemic for reasons I can maybe get into later. But I do think that has really important consequences for tenants, because there are really important differences in the way that independence fall versus larger corporate landlords do business. So I'll make a couple of points on that front, kind of the independent more mom and pop side landlords provide a disproportionate supply of what's referred to as naturally occurring affordable housing, which just means private non-public affordable housing. And that's because they often set rent at below market rates. And so you might wonder why they would do this.

Matthew Martinez Hannon:

I was just going to ask, why would they do that?

Anna Reosti:

Yeah, so they have a lot of different motivations from what we know for setting rents below market rate. But an important reason is that when you're operating in a small scale, it's a lot more of an economic burden to turn over a rental unit and to re-rent it. So when they keep rents at affordable levels, it helps them retain long-term tenants and reduce turnover. And there's also some evidence that independent landlords file evictions at lower rates than corporate rental outfits, which can also be again, partially attributed to small landlord's interest in minimizing costs. They're associated with tenant turnover.

Matthew Martinez Hannon:

It also have to do with the fact that if the rates are lower, that it's more easy to afford, therefore there's less sort of failure to pay, right.

Anna Reosti:

That could be it. Yeah. They want to avoid trouble and retain long-term tenants. So they definitely have an interesting keeping them in place. And I'd also say that, like, if you're really operating on the super small scale of things, then landlords might have very routine interactions with tenants over many years and develop like a personal relationship with them. So for instance, I lived in a three flat in Seattle for many years, but, you know, I moved like four years ago and a couple of weeks ago I got a call and I look at my phone and it's my old landlord. And I'm like, you know, does she need some information for like tax documents or something? Or is this just a misdial? And no, she just wanted to say hi and see how I was doing, which was very cute. I thought, but weird. I don't think that would have happened had I been, you know, renting from like a giant corporate landlord.

Matthew Martinez Hannon:

Yeah. I've only ever rented from one independent landlord. I mean, I've rented my entire life, but only ever from one private entity. Kyoko in Berkeley, if you're listening to this, you were fantastic. She was great if anybody's looking for a place at Berkeley -- Kyoko.

Anna Reosti:

Yeah. I guess I'll mention one more thing and it's like taps into the stuff I've studied. And maybe we'll talk more about this later, but I'd also say that independent and corporate landlords are pretty different in the way that they screen and select tenants. So we're independent landlords often. I mean, not all of them needed generalizations, but they tend to use more informal and flexible screening practices. And I observed that in my own work, but again, going back to the example of my past landlord, like she invited me over for tea at her house and we talked about like our families and then she decided to rent to me. That may be an extreme example, but they tend to be a little bit more flexible and less rigid and formal in their screening practices. And that can sometimes really work to the benefit of renters who have a hard time getting housing, but it can also open up opportunities as you might imagine for like arbitrary or discriminatory screening practices.

Matthew Martinez Hannon:

Yeah. Because if it is sort of being judged on a more personable merit, that can go certainly either way I would assume.

Anna Reosti:

Yeah. It's definitely something that would make people from the civil rights office pretty uncomfortable to learn that, oh, I just have tea with somebody and I just give them a real eyeballing. And then I decide whether I want to deal with them or not.

Matthew Martinez Hannon:

Right. Well, I know that we're going to talk in a moment about some of your recent research that you did specifically in Seattle, but I'm curious to know before we get into that. The housing market and the

rental market, state by state – Is it different? Is there something that you can see sort of similar that goes across the nation or does it really just sort of depend on states that have larger cities and whatnot?

Anna Reosti:

On the one hand, there's a lot of variability, there's tremendous variability, but the unaffordability issues are like pretty universal. There's a lot of, again, variability in kind of the way housing inequality manifests across different US states and cities. And that depends on a lot of things like the tightness or competitiveness of rental markets, the composition of the housing stock and especially the legal or policy environment, which includes landlord tenant laws and zoning regulations. So if you're kind of thinking about what it's like to be a renter in different places, you may be much more affordable in a place like a sprawling low density, southern city like Houston. But then as a renter, you're going to have far fewer protections under the law than you might have in cities like New York and Chicago and Los Angeles. As I mentioned earlier, if I were to correct one misconception about geographic variation in housing, what that looks like it would be that the housing and affordability problem is limited to these like affluent coastal cities, like New York and LA and San Francisco and Seattle, because in reality, the affordability crisis is really national and scope and research in the urban Institute has demonstrated that higher proportions of rent burdened households -- so again, that's people who are paying over 30% of their income in rent -- live in poor neighborhoods, more so than affluent neighborhoods.

Matthew Martinez Hannon:

And, gentrification, you know, I'm assuming that's a part in this, right? Like how have you noticed that sort of weave in?

Anna Reosti:

I think that kind of, it was another dynamic that receives a lot of attention. I mean, there are serious gentrification pressures, especially again, in those like very expensive cities, coastal cities that I've mentioned, but it tends to distract people from the unaffordability issues in core, less economically prosperous cities. For example, going back to the topic of rent burden in the last couple of years, there's been lists of cities with the highest proportion of rent-burdened residents. And in the last decade, two of the five largest US cities with the highest proportion of rent burdened residents were Detroit and Flint, Michigan. And these are cities that, I mean, although Detroit has experienced some gentrification recent years, don't scream gentrification, runaway rental costs, right. But yet they have really high proportions of people who cannot pay their rent. So in those types of areas versus a city like Seattle, the cost burden problem is driven more by like stagnant or declining incomes.

But it's really worth noting that in many cities, including Chicago, the average asking rents and the poorest neighborhoods are really not that significantly lower than those in middle income or affluent neighborhoods. So I think sometimes people kind of assume that, well, if you're low income, you can move into these really poor neighborhoods and you'll find low rents there. And that's just not the case. Like there's really a pretty stable floor below which rents rarely dip. Yeah, that's a dynamic that's been documented by Matt Desmond and his research on unaffordability and eviction in Milwaukee, but it also echoes historical accounts of racially segmented housing markets in places like Chicago and Detroit in the 20th century. And those accounts have revealed that some of the city's highest rents were in low-income black neighborhoods in places where landlords were really able to capitalize on racial segregation and the restricted residential choices of black households. So again, the housing burden cost burden problem is really universal and in different places. It might be driven by different dynamics, but it's something that affects definitely wealthy and core cities alike.

Matthew Martinez Hannon:

Yeah. You know, you brought up earlier the 30% sort of threshold of your income, and this might be sharing too much about myself, but I've always rented and have always been paying more than 30% of what I make in a month. And that just seems so commonplace for, you know, friends and everyone I was growing up with unless they came from families who are a bit more well off and already established. How did we get here? And this is maybe a lot of much larger question about how did we get to a place where that divide grew so exponentially?

Anna Reosti:

That's a good question. And a really big one. And one that is up for fierce debate, people on other sides of the debate might be like sociologists and housing advocates on one side and sometimes economists on the other. So economists might emphasize more so supply and demand issues, arguments that economists would make, for instance, against things like rent control and zoning laws. They argue that these regulations interfere with the pure market practices. And if it weren't these regulations, you would have more functional housing markets that respond to supply and demand pressures. So kind of getting more specific, they especially argue that regulatory restrictions prevent us from building sufficient amounts of affordable housing to meet the demand for affordable housing. I would complicate that by saying, you know, a lot of things, but first off that in a place like Seattle, where I lived and taught and studied for a long time, it was a really good example of this.

Like there was a really, really acute housing affordability problem, but there was also a housing construction boom, but one of the problems was that a lot of the new housing, the majority of the new housing was luxury rental housing. And that was kind of being constructed to meet the demands of financialized speculum housing market, but certainly not the working and middle-class people who lived in the city or near the city or worked in the city. So that's kind of one way in which I respond to the standard supply and demand arguments, not to say that there's no merit to that, but I would say that housing advocates and maybe other types of social scientists also tend to point to policy, but in a different way than economists do so rather they would emphasize policies that tend to fail, to control rental prices in any meaningful way, or to sufficiently assist core households that need assistance for meeting their housing needs.

And so, one figure that's often cited as evidence that in the US is that, you know, we have a variety of different affordable housing programs, but the largest federal rental assistance program is called the Housing Choice voucher program. And that's more commonly known or formerly known as Section Eight, but it's underfunded to the degree that three out of four households in the US who are eligible for it, don't get that benefit because there's just not enough funding to go around. So it functions as Michael pointed out more like a lottery ticket than like a reliable benefit for rental households.

Matthew Martinez Hannon:

I mean, I'm sure we could go down that road and be like, okay, so why is there not enough funding, but we'll wait. In terms of your studying and the research in Seattle, do you want to talk a little bit about that research? The goal of it and the scope?

Anna Reosti:

Sure. Yeah. I guess I can also say a little bit about what inspired me to research tenant screening and the first book. Early on in graduate school, I was working as a research assistant with my advisor on a project that was in conjunction with the Seattle city government. And we were looking at barriers to work in housing. There were faced by people with criminal records. So we interviewed about 50 Seattle

residents who had criminal records and perhaps unsurprisingly, we learned that they faced real challenges finding work and housing. They almost unanimously reported that finding an apartment with a criminal record was a lot harder than finding a job. And we also learned that respondents struggled to make sense of what factors were making it so hard for them to find a landlord willing to rent to them. You know, it, wasn't only the stigma of their criminal record was at other issues on the rental applications like past eviction or low credit score. Was it just, you know, how competitive the housing market was racial discrimination or potentially a combination of all those factors?

So that experience kind of led me to wonder whether the problems associated with background screening were more complex than perhaps policymakers assumed, and whether those problems were really impossible to separate from broader issues in the rental market, especially the on affordability crisis. And what did you find? Well, I'll just tell you a little bit about what I did for, you know, there's some awareness at the point in which I started this research that universal or kind of ubiquitous background checks were posing real problems for renters, especially given how common some of these stigmatizing marks on background records are.

So for instance, approximately one in three adults in the us has a criminal conviction record. So, you know, background checks are routinely screening people out of housing on that basis. It's going to jeopardize housing access for a lot of people. And in the last, I'd say 20, 30 years there's been a trend or an emergence towards more information, intense, more exhaustive screening methods and the rental market in terms of how landlords screen and select tenants. So today the majority of landlords evaluate applicants using commercial tenant screening services, that collect information from all sorts of databases, including criminal justice and credit report databases, they drawn civil court records. And those court records reveal evictions, landlord, tenant disputes, and a lot of different kinds of forms of debt.

So we know a little bit about what the shape of the problem is and policymakers and housing advocates have called attention to that. We don't really know much about how landlords actually use data from these reports and all these sources of information to choose tenants. We also don't know a lot about what that process looks like from the perspective of people who are trying to find housing. So that's kind of what I set out to do was fill in some of those gaps with my work. So I conducted 47 in-depth interviews with Seattle area, landlords, property managers, and rental industry lobbyists, as well as renters who had recently searched for housing and who either had a criminal conviction record, a past eviction record or damaged or severely damaged or non-existent credit.

Matthew Martinez Hannon:

Okay. So in those reports that they get and all the information that they get -- is no news good news? It almost seems like people are trying to find reasons not to rent to people.

Anna Reosti:

No news is good news in terms of the stigmatizing marks that I mentioned, certainly in terms of your background check coming back clean, that's what you would want. Ideally, I won't get into too much detail on this, but beyond the problems that I'm talking about with respect to people who are likely aware that they have some issue, that's going to come up on a background check, that's going to make it harder for them to obtain housing, like a criminal record, like a past eviction. There's also another problem that I don't really deal with in my work, but that has been examined in some recent journalistic work by someone named Lauren Kirchner and a few other people have like inaccurate information that comes in. These reports could stem from things as simple as tenant screening companies not using social security numbers and other forms of verification. And instead just going on names, which means

that if you have a common name, it could be a case of mistaken identity, basically. So there's that problem as well. But the problem that I was focusing is more on, okay, let's take it for granted that this information is basically accurate information, right? That's going to look very bad in the eyes of landlords, although there is, from what I've learned and from what other research exists there is variability in how landlords view the various sorts of discrediting or stigmatizing information that shows up in these reports.

Matthew Martinez Hannon:

Interesting. Can you give us an example of what one of those interviews looked like and sort of information you got from it?

Anna Reosti:

Yeah. So are you interested more in like the landlord side or the tenants?

Matthew Martinez Hannon:

I think both, but what would be a better place to start the person who's like looking for a place and the nest to submit the information, uh, and then how that was received?

Anna Reosti:

I can just kind of walk through what I learned from my respondents who were renters, who talked about what the housing search process look like for them since all of them had applied in search for housing in the last year. These again are people with stigmatizing background records, evictions, criminal conviction records, or damaged credit. And on one hand, and the results were not particularly surprising in that they confirm that again, they run into a lot of barriers in their efforts to find housing. And they're really at like a very acute competitive disadvantage when they're looking for housing in a tight market. Like Seattle's because you're competing with all these other applicants. Plus you have these stigmatizing marks on your record. But I also learned by studying their housing search processes, that regardless of the quality of housing that they either did or didn't eventually obtained at the end of their search, the search process itself was like a really prolonged, stressful, and even an expensive one for this population.

So I'll try to, again, walk through a little bit what that experience looked like. Say, you know, the people that I interviewed there was a striking similarity in the strategies that they tried to adopt to strategically efficiently search for housing and try to mitigate the stigma of their background records. So the first strategy that a lot of them undertook was targeting that independent or mom and pop sector of the rental market. And they did this in the hopes that landlords in that sector would be more likely to exercise discretion and flexible standards. And they also hope that with those kinds of landlords that have a better chance of meeting face to face, and that would give them an opportunity to give context to what they assumed would come up on a background check report. And I can also say drawing on my interviews with landlords, that those assumptions were somewhat correct.

So independent landlords that I talked to in Seattle did describe using a lot of discretion and flexibility in the way that they screen and selected tenants. So a lot of them maintain that they often overlooked background record. I've kind of spoke to earlier, especially when it came to things like credit problems or a less serious or older criminal conviction records. But that's going to vary a lot on a case by case basis. But those were things that people said, you know, if something comes up on someone's credit record, I'll hear them out. And if they have a compelling rationale for why that's not going to bear on their ability to pay rent, then I would rent them. Although I should note that they rarely described having that

sort of flexibility around recent evictions, which are seen as like a much more serious mark on someone's record.

Matthew Martinez Hannon:

Was there any reason why?

Anna Reosti:

Well, I think they just take that as like very strong evidence of a recent, you know, failure to pay rent or some other problem with maintaining the terms of the lease. So that really marks someone as a problem tenant.

Matthew Martinez Hannon:

Right. What about when renting from someplace place has bedbugs? You're like, I need to get out of here. You know, I had a window that would rain every time it would snow. Like it was just awful, but I was sort of bound by this lease. Now, if I were to have left that and broken the lease, that is technically a mark against me, even though it was not a reflection of my ability to pay rent, take care of the space or any of those things and stuff like that. Did you find any of that in your research that came up in terms of people having difficulty? Because of something that was like on paper, one thing, and then in reality, something else.

Anna Reosti:

So I would say that in response to your specific question, it all depends on like the local landlord tenant laws. You know, there's a lot of variation on that. And in places in jurisdictions where there are more protective laws that tend to benefit the tenant, then you have more rights to maybe break the lease. If there are serious habitability issues, like lack of heat, but that doesn't necessarily exist in other cases. So if you did happen to be in that unfortunate circumstance that you were taken to housing court and a landlord filed an eviction, let's say, cause you kind of skipped town and skipped out on your rent. Then if it ends in the landlord's favor, basically when he takes you to court, that's going to show up on your eviction record. And I would say that one of the more controversial circumstances in which eviction records are retained on people's records are when they actually end up winning in housing court, or even they come to an agreement to pay back rent that they owe their landlords. They're not actually evicted, but because the landlord filed the eviction in the first place, it's still stays on their record.

Some policymakers are considering ways to seal eviction records until there's a finding at the end of the process in favor of the landlord so that someone who was taken to court, but they end up in a settlement or the matter is settled in their favor, then they don't have to deal with this eviction record. And this could also affect people who are evicted because the house that they were living in or the apartment building was foreclosed upon, which I think to most people seems like really patently unfair, right? So, you know, it's 2009, your apartment building is for closed and you end up with an eviction that makes you look like a problem tenant and makes it really hard to rent. So that is something that policymakers in different parts of the country are looking at.

Matthew Martinez Hannon:

Wow. So if somebody submits, the landlords are now looking at all this information, do you want to talk a little bit about how landlords in your research, what are their reactions and processes?

Anna Reosti:

Yeah. So I'll just go back to the question of what the housing search looked like for these tenants. Getting back to the renter side of things, in addition to limiting their searches, the independent sector of the rental market, where they thought they'd find landlords who are most likely to rent to them, they would really try to get as much information as possible about their potential eligibility before they applied. Because, you know, they're really worried about spending anywhere from \$40 to \$60 on a background and or application check fee, that's going to result in a rejection, right? So they try to get all that information about their eligibility, but they're really rarely successful in doing that. And that's because landlords were really rarely willing to give them an unequivocal answer about whether they qualify. And they'd often say things like, you know, it depends you have to apply first.

And I think while some landlords may have been dodging those questions, that was confirmed in my interviews with landlords, I think a lot of others truly couldn't give them an unequivocal answer because they don't know one what's going to show up on their background checks. And they also don't know the pool of applicants, what that pool of applicants is going to be for the rental vacancy. So it kind of reminds me of when I was a teacher and students would come in at the end of the term and they would say, okay, I really need to pass this class. If I try really hard at this last assignment, am I going to pass? And I'm like, well, I can't tell you, you know, I just can't tell you that.

Matthew Martinez Hannon:

I didn't know you were one of my teachers....

Anna Reosti:

Sorry! So there's a real information asymmetry, I'd say, between landlords and tenants where tenants are really trying to figure out before they apply if it's worthwhile and they don't have a lot of tools to do that. So unfortunately for the response that I talked to, especially in a tight market, it was really hard to get that information. It could be even hard to even get a landlord on the phone to talk to, or, you know, by email, before they applied. So without information, you know, they bite the bullet and pay \$50 for an application fee, but they ended up facing a lot of repeated rejections. And sometimes they hear back that they were denied specifically an account of something that came back in the screening report. But often they were just told that, you know, the landlord had chosen the best qualified applicant, which really does not give them very much useful information to go on. And it doesn't help them make future decisions about where to spend whatever limited money they have on those application fees. And so, because of all these constraints, a lot of respondents that I talked to reported spending hundreds and in a few cases, even over a thousand dollars in fees, again, only to face these repeated rejection.

Matthew Martinez Hannon:

Do you know why the fees vary so much and are the landlords profiting off of some of these fees? Like, do they charge more?

Anna Reosti:

You know, that's a great question. So in my experience it all varies tremendously. I think they're usually around, if they are using a commercial tenant screening service, it's going to be somewhere from \$40 to \$60. Now that's in Seattle. Whereas in New York city, for instance, there is recent regulation like capping rental application and move in fees. And that suggests that maybe there's even broader variability there. And they're higher as to whether they're profiting from those fees. There's a lot of suspicion on that, on the part of renters who would say, Oh, they're just going to rake in all these applications and collect fees from everybody and then not do the background checks.

Matthew Martinez Hannon:

Absolutely. I'm of those people.

Anna Reosti:

Okay. Yeah. If they were doing that, that would have been illegal under Washington state law, but I didn't find any evidence of that, although I wasn't really in a good position to do that sort of investigation. But on the other side of things, there were definitely some landlords that I talked to who were conscientious of that issue and the burden that could pose for applicants. So what they would do was review one applicant at a time and only charge them the fee when they're seriously considering them. But obviously that wasn't necessarily standard practice. So their experience really shows that again, the housing search process for this population, these people who are trying to get housing with a stigmatizing background records, is it arduous one. And it can be really costly, even if they eventually find housing that meets their needs at the end of this process. But for some other renters and other adverse consequences of this process was that the search was so difficult that it might encourage them to move into units that are really substandard. And in some cases, even units that had hazardous conditions.

So in the case of one of my respondents, for instance, she was recovering from respiratory cancer and searched for months for housing spent over a thousand dollars on background check fees. And she quickly signed a lease when she had the opportunity. And then later discovered that the unit was infested with black mold, which poses a huge health risk for her in particular. She was not very successful in getting the management company to do much about it, but she really felt like she was kind of trapped there because it had taken her so long to find the apartment that she was super worried about. What is it going to look like if I leave, if I break the lease, am I even able to break the lease? But if I could, you know, how hard is it going to be to find housing after this?

Matthew Martinez Hannon:

Have you found any information on whether or not it is easier to sort of rectify a situation like that with like a private owner versus a corporate situation?

Anna Reosti:

No, I haven't really studied that so much in my particular research, although there has been some research on the efficacy of housing code enforcements, which is another feature of landlord tenant law. That varies a lot. So in some cities they have a housing code enforcement system where landlords have to be on some kind of registry. And then periodically there's going to be like a checkup, you know, whether they're meeting like the habitability standards of the housing code, but I didn't really look at that in my own research. I'll do my own research on that and get back to, you know, my research on this subject was done in a city with an incredibly tight and unaffordable housing market. So it's quite possible that, you know, these challenges might look differently in other types of housing markets where landlords don't have as many applicants to choose from, but at least the research that I've done in a tight market suggests that the problem that's posed by ubiquitous background screening processes is really one that's impossible to separate from the affordability crisis. Cause that's what puts so much competitive pressure on these rental markets.

Matthew Martinez Hannon:

And when you were doing this research, we were not in the midst of a pandemic, right? So have you been able to discern how the pandemic has been affecting this?

Anna Reosti:

So that's something that I'm in the very early stages of looking at with some of my own research, but I can just say that COVID has had enormous consequences for the housing market. And it has really brought the preexisting housing crisis to a head in the last year. So these might be familiar figures to some of the people who've kept up with this in the news, but our report from the Aspen Institute last year, warning that the economic fallout of the pandemic we've put as many as 43% of rental households at risk of eviction and also millions of landlords at risk of foreclosure in the next year.

And then now, you know, we're almost a year into the pandemic. Recent figures that I think were released by the Urban Institute last month suggests that about 18% of renters in America are behind on rent. And they're also accruing debt from late fees and utilities. And those renters owe an average of \$5,600. And what really struck me in the reporting on this report was that this means that 10 million renters are behind on rent. And that's a figure that exceeds the total number of people who lost their homes in the foreclosure crisis, which was 7 million people. But that process happened over a five-year period. So a lot of housing advocates have tried to raise the alarm, I think somewhat successfully in the last year, about what has been characterized at various times as a tidal wave, a tsunami, you can use whatever metaphor you like there of evictions that is going to occur when these various eviction moratoria are lifted and last there's significantly more federal aid for rental assistance.

Matthew Martinez Hannon:

Great. So I've got two questions and I'm just going to claim my ignorance on this. You've said foreclosure a few times now, what does foreclosure mean and moratoriums on these evictions? Again, I'm like a 30 year old kindergartner.

Anna Reosti:

Okay. Sure. Foreclosure is sort of the analogous process of eviction. You might say for homeowners or either landlords when they fail to keep up with their mortgage payments and the bank repossessed their home or their rental property. So that happened at a massive scale with homeowners, as we know, in 2008 and 2009. And there's significant fears that that might happen with especially small landlords in the current economic follow-ups in a pandemic.

And then your other question was about moratorium, right? It's actually a term that's worth delving into a little bit because, you know, in common terms, it's supposed to be a ban on evictions, illegal ban that prevents landlords from evicting their tenants. But as many people have pointed out, the term ban is pretty misleading because it, in many places doesn't actually ban landlords from either filing or carrying out eviction in all cases. And there's been this patchwork of eviction moratoria across the country that have had varying levels of advocacy. And then at some point the CDC issued a moratorium at the federal level on evictions, but that has perhaps been like the least effective of all of them. There are a lot of gaps in its enforcement. And the main reason is just basically, because it puts the burden on tenants who are facing eviction to file a declaration that they meet the criteria, which are specific for the benefit of the CDC moratoria.

And I mean, first off, a problem is that many tenants don't know that the CDC moratorium exists and at least with respect to the federal moratoria most landlords aren't required to warn tenants that that moratoria exists. And so it really kind of depends on the work of housing, advocacy and tenant advocate groups in the local areas to make sure that tenants know is moratory exists. But even that let's say they

are aware of it and they filed this declaration. There's no guarantee that a judge is going to basically affirm that declaration and that the judge will recognize the moratoria and affirm the tenant's declaration of their eligibility under it. But then in places like Illinois, we have a state moratoria, that's not perfect by any means, but it's fairly strong. Landlords have been filing evictions during the pandemic. And certain people have been evicted from their homes during the pandemic, but it's much less because of that, the state eviction moratorium than in a place like Texas, for instance, that for the most of the last 11 months has not had state or local protections against eviction and is relying only on that federal CDC moratorium. So a lot more people are falling through the cracks in places like that.

Matthew Martinez Hannon:

How do landlords plan to pay the mortgages if they're evicting people?

Anna Reosti:

Well, you mean if they're evicting people or in general with the loss revenue?

Matthew Martinez Hannon:

I guess both, because right now there is lost revenue. And is there also like a moratorium on mortgage payments, or...

Anna Reosti:

Well, it depends on what type of financing the landlord has. So for landlords who their building purchase was financed using any kind of federal source of funding like Fannie Mae, for instance, they are eligible for mortgage forbearance. So to put off or negotiate downward their mortgage payment obligations. But a lot of other landlords may not be in that position. So what means, and this relates to something that was maybe going to bring up later, is that the pandemic definitely when you look at it from the way that it's impacting landlords is going to have a much bigger impact on small, again, independent landlords than larger corporate landlords. And that's because the independent landlords have less cash reserves and also borrowing power or like credit lines than larger entities do. So they're going to be much less able to weather the storm of the pandemic. So that's why people are predicting potentially like either a wave of foreclosures amongst small landlords or sell offs of small landlords who are really desperate to get out of the market. And that's going to benefit larger financial entities, like potentially private equity firms who are ready and willing to snatch up a lot of that distress property.

Matthew Martinez Hannon:

So why don't the landlords and the tenants band together and, you know, pull up Les Mis situation.

Anna Reosti:

Yeah. I mean, it is interesting in that, around the issue of rental assistance, asking the federal government to increase their funding for emergency rental assistance, which there has been some funding through the cares act. And then there's a second round of funding through the recent December federal stimulus bill. But it's definitely not been enough to meet the need for it, but they have coalesced in some cases, oftentimes politically on a policy front, obviously the rental industry and tenant rights advocates are fiercely opposed on many issues. But I can say that they're united in the cause for more money for the federal government to bail out renters and landlords, but they haven't been entirely successful on that front yet. And of course, we're going to see in the next few months, a lot of your political struggles at the federal level about the scale of relief packages.

Matthew Martinez Hannon:

So if I'm a tenant and I'm unable to pay rent and because of the moratorium, I'm not getting evicted when the moratorium is lifted, am I expected to pay all the back rent that I have been unable to pay because of circumstances? Do you have any idea?

Anna Reosti:

Yes. Yes. Under the current circumstances. Yes you are. Okay. And the little thing that would help you in that circumstance is rental assistance. So the rental assistance programs, again, that were funded by the federal government and distributed through states were ones, for instance, in Illinois last summer, when that cares act money became available, you could apply for this rental assistance, but there is a \$5,000 cap. So if that was all that you owed, that's great and you can repay your back rent that way, but that doesn't do anything for you going forward. But the recent package that was approved in December will provide tenants who are behind on their rent with, I think something like nine months of back rent and four months of rent for the future. But the question is given how much money has been allocated for that program. How many people is it going to reach? And I think most housing advocates have said, well, it's very much welcome. It's not going to meet the scale, the challenge. So a lot of people, perhaps once the applications for those programs open up those funds are going to get eaten up really quickly. And people are going to be left without any help for repaying that background.

Matthew Martinez Hannon:

And then that I'm assuming ties into other issues which are interwoven with this, which is like accessibility to, like you said, the fact that these programs exist in the first place, right. And then being able to apply for the rental assistance programs.

Anna Reosti:

I know at least in Chicago groups on the ground housing advocacy groups, legally groups tend to advocacy groups are doing round the clock work to help make sure that tenants do know about the rental assistance when it is available. But right, there could be a gap there in terms of either knowledge about the program or accessibility, the program, for instance, I'm pretty sure in Illinois, the first part of funding, I'm hoping that correct on this front, tenants would apply the money. At the end of the day, it goes directly to the landlords in the next round of funding that was recently approved and will be soon dispersed either tenants or landlords could apply. So there could also be problems with even some very small scale landlords, not knowing about the existence of this program or how to obtain those funds,

Matthew Martinez Hannon:

What a fun situation to be in. So given your research, what you've learned and what you've shared with us today, what does the future look like? Whereas far in the future, as you can see, what does it look like is going to be happening?

Anna Reosti:

Well, I don't have a crystal ball. Um, and I'm going to try not to be too grim in my predictions, but I think in the immediate, yeah, the future looks pretty grim. Obviously we have this immediate threat of what people keep referring to is this eviction cliff, because the various moratoria are really only like temporary solutions. They don't do anything to deal with the back rent that people have been incurring all this time and that are going to continue to accrue for the coming months. So that's one problem. And there's also the associated problem of potentially if this eviction cliff happens and there are all the

renters who are going to be marked with this stigmatizing record of an eviction, which is going to jeopardize their housing access for not just the immediate future, but potentially years into the future.

Currently fair credit laws, prohibit credit bureaus and tenant screening companies from reporting eviction records that are seven years old. There are some enforcement problems with that, especially given that there are just hundreds of tenant screening companies. And once this information is disseminated online, it's really hard to put the genie back in the bottle and regulate how that information is shared, but even assuming right, that the seven year regulation is enforced effectively, that's a really long time, right? So that's the duration of a child's entire primary school education will be kind of consigned to housing insecurity because of this mark on their record. So that's something that clearly could the future shape of this crisis. Again, if there is not a more meaningful solution to the eviction crisis, then these temporary moratoria, there's also what I already mentioned about the special impact on small mom and pop landlords, which would accelerate the corporate consolidation of the U S rental industry. Again, by enabling these mass purchases of traditional rental housing by financial firms.

This happened in 2008 or in the wake of the 2008 foreclosure crisis when wall street firms bought up large numbers of foreclosed homes and then turn those into rental units. And the reporting that's been done on that suggests that these wall street firms turn landlords operate in a way that's again, really different than traditional landlords and in ways that often harm tenants. So their business models really involve cutting costs on maintenance, raising rents and fees and pursuing evictions at higher rates. From what we know that would not be a good development for renters either if the small independent sector of the rental industry gets squeezed out.

But I will say, I'll try to put a positive spin on this. If I can find one I'm so frustrated right now, I need this positive space. Yeah, I'd say the flip side is that pricing is like the one that we're in now also create opportunities for, uh, maybe more meaningful reckoning with our current systems and that reckoning to drive social and political progress. And I wouldn't say that the last year has really seen a flurry of policy activity at the local state and federal levels, all in an effort to keep tenants in place. And for the reasons that I've talked about, a lot of the interventions have been far from perfect, but there's still been a lot of policy activity. And there's also policy debates going on right now that are addressing, again, really long-standing housing problems. So as they might've already mentioned, lawmakers in multiple States are considering automatically sealing some eviction records before they're made public or sold to data brokers, especially in the case where the tenant is actually successful in their housing court case. So they would seal the eviction record upon filing in those cases. And so that's by no means a new problem, but if it took the pandemic to force policy makers to do something about it, because they're afraid of what the consequences are going to be like, if there's this tidal wave of evictions, then we can take that as a win, I suppose. Yeah.

Matthew Martinez Hannon:

So what can people then do individually? I mean, it's sort of from everything that I've learned today, which thank you so much for doing this, I feel like I'm actually in a decent place right now in terms of my ability to rent, which was not always the case, but it still feels very helpless, right? So what can we do individually to improve this?

Anna Reosti:

Well, I have to say that this is probably because I'm a sociologist and this is my bias, but these are like really systemic problems. And they were courses that I policy solutions. So there's not a whole lot, and I may be missing something here that individuals could do on an individual. But I would recommend that, you know, if you're really concerned about housing insecurity, for instance, that individuals look to

joining with affordable housing, for housing, tenants, rights, advocacy groups in their area, and then working together at those groups to put pressure on policy makers, to really respond to this crisis and create a more equitable and affordable housing system. And that way, you know, we're really better equipped to face the next crisis.

Matthew Martinez Hannon:

Which answers sort of what the last question was, which is systematically, what needs to change to improve?

Anna Reosti:

There are a number of immediate steps that need to be taken to prevent again, what many have warned could be an unprecedented housing insecurity crisis and there are competing proposals, but what that might look like, but at the end of the day, it really has to involve large-scale financial relief for renters at risk of eviction, as well as distressed homeowners and landlords. And I've already kind of talked a little bit about some of the policy actions that could be taken on eviction records. So I won't belabor that too much in general, looking forward. I think we need to really vastly expand the supply of permanent affordable housing so that we're not in the same situation again, that we were in when the pandemic hit. And that's a situation in which nearly half of all rental households are housing cost burdened, which means that they're chronically at risk of falling behind on rent and chronically at risk of eviction.

Matthew Martinez Hannon:

That makes sense to me. And ultimately it would be like best for everybody, right? So that we're not dealing with all of this.

Anna Reosti:

Right. And I think that was really the messaging around the CDC eviction moratorium was that even if you, for some reason, don't care about the prospect of millions of people being put out of their homes, it has so many collateral consequences and ripple effects for our society. And the most immediate of course, in the pandemic or like the public health consequences of having people either be houseless or kind of doubled up with people in cramped living situations.

Matthew Martinez Hannon:

Great. So Anna Reosti, also, that's such a great name for a sociologist, Anna Reosti architect. You know, if you had a restaurant, I would definitely eat at Reosti's like every week, or have it delivered. Thank you so much for educating me and enlightening me and answering all the questions that I didn't even know I had.

Anna Reosti:

Oh, perfect. You're very welcome. Yeah. This has been fantastic.

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Matthew Martinez Hannon:

Now that we've heard from Anna on her work studying the housing search process for retros was stigmatizing backgrounds. We'll hear from Jennifer Litwak, who resides in my hometown of San Diego, California as the executive director for housing on merit. Jennifer is overseeing the development

preservation and renovation of more than 4,000 units of affordable housing nationwide. In addition to her work with housing on merit, she serves as an appointed member of the urban land institutes, affordable and workforce housing council. I, on the other hand am a gold tier member of urban Outfitters rewards program. Different paths, people. Jennifer is also on the board of trustees for the national housing conference and serves on their research committee, which advises the center for housing policy.

So we're very excited to have Jennifer Litwak, who is, uh, you joined the ABF in 2019. And you are now a sustaining life fellow, which is very exciting. Congratulations.

Jennifer Litwak:

Thank you. I feel very honored to join such a distinguished group of individuals that want to continue to support the work of the American Bar Foundation.

Matthew Martinez Hannon:

That's the best answer I will probably ever hear. So thank you for doing that. So we're going to jump in and I'll just sort of ask you some questions about yourself before we get into the work you do. And you can talk a little bit about your background, where you grew up your education, and we know you currently live in San Diego where I'm from. So that's already been discussed offline. We don't need to go through that again, or any fun background.

Jennifer Litwak:

I would love to claim growing up in America's finest city, but I did not move to California until 2009. So I grew up on the East coast, a combination of the suburbs of Washington, DC on the Maryland side and North Carolina. I did my undergraduate at Wake Forest university. So go Deeks for life. And then I went to law school at the university of Denver and subsequently got recruited to DLA Piper in their Los Angeles office. So I worked there for a few years before moving down to San Diego, or as I say, kind of leaving ELLs, which was law litigation in Los Angeles and found my way to San Diego and have been here ever since and do love San Diego. I really, really, really do.

Matthew Martinez Hannon:

It's the best I try. I try to tell everybody, but words can't quite do it justice. I don't want to embarrass you, but I read your bio. And one of the lines is something that nobody will ever say about me and I thought it was magnificent. So I'm going to read it back to you and this'll sort of lead us into our chat about your work. You are recognized as an innovative thinker and disruptor within the affordable housing industry. And I will probably only ever be recognized as an innovative thinker, loyal, placing an order in and out. So I'm so excited to talk to you about what you do. Why don't you tell us about your work with housing on merit, uh, the mission and sort of how you go about achieving that with your team?

Jennifer Litwak:

Yes. So housing on a merit is an organization that actually I started. So probably a little bit of my bias will come through when talking about the organization, I love it. We were founded to advance and create bridges to permanent affordable housing for vulnerable populations. And when we created the organization, which is a five Oh one C3, meaning a nonprofit, we wanted that mission to be very broad and how to create these bridges to permanent affordable housing so that we could be impactful in many areas. And a lot of, I think that the different way with which we approach our work will come

through throughout the interview, but it is everything from advocacy and policy work to being actual owners and operators of affordable housing across the nation. We have about 4,000 units in our portfolio to a passion project, which has our research and design arm of the organization called the housing innovation collaborative. So I would say that we have taken sort of a holistic approach to our mission. And once you find any in all ways to address and increase access to affordable housing for low income and vulnerable populations,

Matthew Martinez Hannon:

Amazing. And what drew you specifically to this kind of work?

Jennifer Litwak:

I was drawn to this work from what I now realize is a solutions framework. I absolutely cannot say that that's how I would have identified it almost a decade ago, but being in Southern California and appreciating and recognizing and understanding the social justice issues for me around homelessness, a lot of the solutions that I saw to that social justice issue that is very, very near and dear to my heart is housing. In my opinion, homelessness can be solved by an adequate supply of housing because once an individual is able to occupy a home, they are no longer homeless. So I would say that I was drawn to this work for wanting to provide solutions to something that I was very exposed to once I moved to Southern California.

Matthew Martinez Hannon:

So what is the current process for low income people who seek housing and what barriers or obstacles are they facing? I'm sure that there are some that we can think of off the top of our head, but you've probably got experience with knowing things that are a bit more insidious.

Jennifer Litwak:

Yeah. So the process for low-income individuals to seek housing is really a very multi-faceted approach. So it could be anything from individuals that are looking for some sort of subsidy. So the one that I think we most often think of are very familiar with would be a housing subsidy. So whether that is a section eight voucher or some thing that would attach to you as a renter, that would help you subsidize your rent. So then it can be affordable. We probably also, I think the general public really knows and appreciates that those are a very scarce resource. So there are incredible timing to being able to qualify for one of those vouchers. A recent statistic in Southern California is that you could be on the list for anywhere from 10 to 15 years in order to get one of those vouchers. So I think sort of that governmental subsidy is one Avenue for being able to occupy affordable housing.

Jennifer Litwak:

The other is being an individual that makes under a certain economic or income threshold that is set by the federal government. In theory, when you make under certain amounts that will allow you to qualify for the affordable housing stock or pool that's available in your community. I have a lot of data that I would love to talk through in terms of how many affordable housing units we need in order to meet that demand. So that's kind of the second path forward to being able to occupy a low-income unit. But that process that I just described and being under a certain income threshold presupposes, that there are enough units in the market for you to access.

Matthew Martinez Hannon:

And I'm assuming that there's not,

Jennifer Litwak:

There is not that as correct, but those are really, you know, if we're taking this from a very macro perspective, that's what I would say are the two most direct path forward for accessing affordable housing.

Matthew Martinez Hannon:

Great. And then how does housing on merit address the affordability issues and support the populations that are vulnerable and are having issues getting into these spaces?

Jennifer Litwak:

Right. So I would say our primary role is being an owner and operator of affordable housing. And a lot of what I'm going to talk about relative to housing on merits work is what we call big a capital, a affordable housing. So this is affordable. Housing has developed because there are federal and state and local financing mechanisms that get infused into the capital stack, which allow us to develop these types of projects. I'm making that distinction from what those of us in the affordable housing world called little, a affordable housing or Noah naturally occurring, affordable housing. And in that secondary sort of terminology, that's where we can think about housing that may just be affordable because of where it is geographically, or there is a landlord that perhaps is charging below fair market value for that unit. So there is kind of that distinction between capital a affordable housing that's developed with state federal local financing mechanisms and then naturally occurring affordable housing.

So for us, going back to that big a being owners and operators of affordable housing is one of the main ways that we execute on that mission that I discussed earlier. And in thinking about that mission as owner and operators, something that we're very passionate about and very involved in is big, a affordable housing preservation. So a lot of affordable housing there'll be term limits on how long it has to be held as affordable. And we really like to step into projects where that affordability covenant may be expiring and where we can step in, do a preservation and continue to extend out that affordability.

Matthew Martinez Hannon:

How easy is that to accomplish?

Jennifer Litwak:

I would say everything relative to affordable housing is somewhat complex because as I'm sure you can imagine there's immense amount of regulatory environments with which we all operate. So I wouldn't say that it's easy per se. I think obviously it's challenging work, which is why it captivates me on a lot of different levels. But what I would say is that there is a great, I think national conversation percolating around recognizing kind of what we call our aging housing stock and wanting to address and create solutions so that we can preserve this housing stock that is affordable housing for decades and decades to come,

Matthew Martinez Hannon:

Just to give us an idea how long is a typical, if there is a typical sort of time or length as to, as, as you know, when you step into preserve something or continue the preservation, how long has it been in play and how long do you hope to extend it?

Jennifer Litwak:

Yeah. So that's a great question. And it's going to really vary state by state. So I can speak really definitively to California. If you have low income housing tax credits involved in your project that comes with an agreement to deed restrict. So a deed restriction as the actual legal instrument that gives ownership to the asset. And when you're restricting that deed, that is when you are making guarantees that it will be held affordable for X amount of time with the low-income housing tax credits. It's 15 years. If there's a bond that would run with the project for 55 years. So it can really vary. It's, it's hard to answer kind of nationally. There's probably some averages around that that we could speculate. And it's going to be tied to sort of state regulatory frameworks as well as looking at the financing tools that go into the projects.

Matthew Martinez Hannon:

Cool. And that's actually bringing up for me a question. So ABF researcher on a rusty mentioned that one major misconception she often sees is that housing and affordability issues are limited to affluent coastal cities like New York, San Francisco, LA San Diego in this case, but she sees these problems in less expensive cities as well. Do you notice the same thing in a national scope?

Jennifer Litwak:

Yes. So when we look nationally, there is literally no state or County where a renter that is working full-time at minimum wage can afford a two bedroom apartment. And so I just want to repeat that first part. There is no state or County in the entire nation where a renter working full-time at minimum wage can afford a two bedroom apartment. So this issue that we're addressing, which is housing affordability is absolutely not limited to major metropolitans. It is not limited to cities, coastal States. It is touching every single state and County in our nation.

Matthew Martinez Hannon:

Wow. That's upsetting to say the least.

Jennifer Litwak:

Yes. And to cite that research because I do think it's really important. It comes from the national low income housing coalition. They're out of reach 2020 report. So NLI see, as they're referred to in the industry is an incredible source of a lot of this type of data. If anyone would want to learn more in order to afford a two bedroom housing unit, you would need to make \$36 and 96 cents an hour, an hour in the state of California in their report, you can break it down by state. So I being a Southern California resident, a San Diego, and I looked at what that would take in the state of California. So I would have to make \$36 and 96 cents an hour in order to rent a two bedroom house anywhere in California. And our minimum wage at the state level is only \$13 an hour. So you can see there's quite a differential there.

Matthew Martinez Hannon:

Yeah. And this is a much larger question. So if you don't want to answer it don't, but how did we get to a place where this differential is so wide?

Jennifer Litwak:

Yeah. I'm a strong believer that there is a way out of this housing affordability issue just as there was a way into it.

Matthew Martinez Hannon:

Please tell us.

Jennifer Litwak:

So when we think about the built environment, we as humans have created everything that exists in our built environment. And so I think if we can shift our mindset and our frameworks around the built environment and being receptive to innovations that are occurring, whether that's within our country or looking to other countries that have very innovative housing type apologies, housing rules and regulations, I think that we very much just like we've built ourselves into this crisis, can build ourselves out of it, but it will take an immense amount of innovation. And I think regulatory reform in order to make that possible. But I do think that there are a lot of, again, now that this conversation has been percolating nationally, I do think that a lot of solutions will be coming forward because just a little fun fact for those of us that are in the housing industry during this year's presidential debates housing as a topic, it was the first time it was ever discussed. So for those of us that work in housing, we're very hopeful and optimistic that, like I said, this is a conversation that is percolating nationally.

Matthew Martinez Hannon:

And some of the work you were doing now obviously is, you know, trying to push us out of this situation, right? At Housing on Merit, you are a member of a variety of organizations that support women. I was reading, you know, San Diego women's foundation when we gift San Diego, a member of women on boards, national women's history, museum council. And one of the, um, programs that you have at housing on merit is a program for women veterans in California.

Jennifer Litwak:

Yeah. So a lot of the organizations that you had mentioned that I'm involved with, they span all facets of women empowerment. So the national women's history museum just kind of taking a detour is around building and creating a national museum for women's history, which we currently don't have. 50 50 women on boards is about promoting the conversation to get more women on to corporate boards. And then there's organizations that I'm involved in that promote women as philanthropists. And I think there is a part of philanthropy where women should have and are entitled to a very strong voice in how philanthropic funds get allocated in communities, especially when we looked at marginalized populations, which for a great part of our history women have been. And then I think kind of tying it back to commercial real estate. There is an immense amount of under-representation of women that are involved in commercial real estate.

Jennifer Litwak:

So when you think about commercial real estate in the asset classes, multifamily is one of them. And then affordable housing is within kind of that multifamily asset class. And so I am all for supporting in a lot of different ways, bringing women into commercial real estate, which led me to kind of all of those experiences we wanted to look at. And again, you know, I spoke about it at the beginning of the call, what I'm passionate about, which is solutions for those people that are unhoused. And so we did some research, my staff and I around were there specific funding programs available for women, veterans that are experiencing homelessness and you're a native San Diego. And, you know, then in San Diego, we have an immense amount of military concentration. We have several bases. It's something that San Diego is very proud of. And when I looked throughout the Southern California from Los Angeles down to

San Diego, there was not a single entity that had an emphasis or was funding female veterans that were experiencing homelessness.

Jennifer Litwak:

So we basically, as an organization, take all of our excess cashflow and we assist women and help them move from homelessness into housing. And that research, what it led to for us was an unmet need. So we noticed an unmet need in our community. We wanted to step in, we had the fiscal resources to do so. And for me, it was just very meaningful because it was kind of a convergence of my passions, which were women rights issues and homelessness and housing. And so that is where the awards of merit for housing assistance program was born.

Matthew Martinez Hannon:

That's great. And some of the statistics that you have listed on your site were so surprising to me because it's something that I hadn't even thought about in terms of how difficult it is for specifically women veterans to be employed afterwards. And obviously employment is, you know, a way to earn money in order to pay for housing and stuff. So

Jennifer Litwak:

That is correct. And one statistic that I think is really important to note is that women veterans are somewhere between two and four times as likely to be homeless as their non-veteran counterparts. So we're seeing an increase in that vulnerability when you are a women veteran than if you were just a women more in the general population and not one that comes from military service.

Matthew Martinez Hannon:

Well, we only have a few minutes left and there's so much more I'd like to cover, but I'm going to sort of hop us over as a rather sharp pivot. How has COVID changed the state of affordable housing in the United States and your work in particular?

Jennifer Litwak:

That is an incredibly interesting question. We used housing as a defense to COVID. So when COVID happened a year ago, our first line of defense was retreating into our homes. And for the work that housing on merit does, which is marginalized populations that are either without home or incredibly difficult to access the home, that sort of national response, I think exposed more of who does not have access to that resource in our country. So I think first and foremost, COVID impacted it from just a public awareness standpoint. Then when you look at what is happened because of COVID, we had the big news is passing of the American rescue plan act. There is about 25 billion in that act around emergency rental assistance. And so without going into sort of all the plan details, there is an immense amount of increased funding for affordable housing coming into being diffused into markets, you know, while COVID has been devastating, that side of it is going to be, I think, incredibly impactful.

Jennifer Litwak:

And then when you kind of think about COVID affordable housing who has access to housing, when you look at it from the legal perspective, cause you know, this is the American bar foundation podcast, right? We're now having a lot of conversations around the eviction moratorium that was put in place by the center for disease control. So in late February, the Texas court had an opinion on that and they were blocking the eviction moratorium. And then I know HIO court followed suit with Texas. They also

blocked the national eviction moratorium. And though HIO court went further than Texas in terms of clearing a path for landlords to resume evictions against tenants in most of the state of Ohio. So I also think legally there is a lot of stuff that's going to come from COVID and how it has impacted housing, affordable housing financing of housing, housing as a national defense strategy. I just think there's a lot of ways that COVID has impacted housing. And I could probably speak about that for a whole nother hour.

Matthew Martinez Hannon:

Does that -- what I'm about to ask you the answer's going to be yes -- does that worry you, or does it like sort of fuel you and sort of light your fire to figure out more ways or sort of expand beyond the work that you're doing now to make sure that people all across the country are getting the assistance that they need and deserve?

Jennifer Litwak:

It fuels me, absolutely.

Matthew Martinez Hannon:

Good. Cause it makes me feel really sad. If I'm being honest, I feel so helpless, which this is a great thing to ask you. What could somebody like me do to support the work that you're doing and support the people in need?

Jennifer Litwak:

So there's many ways to get involved with this conversation of housing and housing affordability at the advocacy and policy level. I had already named one of them, but national low-income coalition, as well as opportunity starts at home. Those are two federal advocacy and policy organizations that are really driving a lot of what needs to happen in terms of bills and federal financing. And so I would absolutely use them not only as a resource for information, but absolutely a way that people can get involved in the conversation nationally. I would say if you're an attorney or even paralegal that would be listening to this podcast, you can absolutely get involved and do some pro bono work at landlord tenant clinics. Those are probably happening in your community and being an advocate and making sure that tenants rights are observed advocated for, and to make sure that they're not taken advantage of or discriminated against, I think is incredibly meaningful work.

Jennifer Litwak:

And then locally, if you're maybe not so much interested in the federal conversation around advocacy and policy and or you're not an attorney, every single one of our communities, again, thinking back to how as individuals we've created this built environment, your community is going to have plans that are being passed and they are going to be looking for citizen involvement. So whether that is your general plan, that has a regional housing needs allocation or a housing element, or if you have in your community planning groups that have citizen advisory boards for zoning or, you know, different master plan overlays, I would absolutely say that there is a way that you can get involved at a local level so that you can be pro development that perhaps makes sense and increases access for those individuals that are low income or vulnerable.

Matthew Martinez Hannon:

That's great. Well, in our last few minutes, is there anything else you think I like, I guess the people listening, but I, is there anything else I should know? I know you mentioned before that you could talk about some stats and stuff. I don't want to put you on the spot, but if there is anything that you feel you want to make sure that we get out there, we'd love to hear it.

Jennifer Litwak:

Yeah. I mean, I think just to set the stage for the context of how much we need to build nationally, again, I pulled this from national low-income coalition, but according to their report, the gap, a shortage of affordable rental homes nationally, we have a shortage of more than 7 million affordable homes for our nations, 11 million plus extremely low-income families, extremely low income families mean something very specifically. And that means those individuals that are making no more than 30% of our area median income. So we know we have 11 million people that are classified as such and we need to build at least 7 million homes. So again, I think just to end on optimism because I am incredibly optimistic, I think as a nation, we have to realize that we can tap out every federal financing source, state financing source, local financing source, and that might not allow us to build our way out of this.

Jennifer Litwak:

So I really think having regional state and national jurisdictions embracing innovation in the housing space, and again, whether that's from a regulatory reform, innovation, a zoning innovation, a financing innovation, a housing typology innovation, I think there's so much that we can innovate in this built environment. And I, the more that we can embrace that the quicker we will start to chip away at that need of 7 million. And so for me, even though I think it's important for us to be rooted in what the actual need is. I think maintaining an immense amount of optimism and hopefulness for the fact that there's a lot that can be done moving forward is just where I need to keep my mind and my motivation in everything that I'm trying to do and accomplish.

Matthew Martinez Hannon:

Exactly. Can I actually ask one more question? So for individuals or organizations who are not experiencing this issue or are removed from it for whatever reason and may be asking like, well, what's in it for them to make sure that people who are without homes are able to be housed and stuff like that, what would you say?

Jennifer Litwak:

I would say that this issue touches all of our lives, whether we're aware of it or unaware. So it is incredibly costly from an economic perspective to have individuals on house. There's a lot of research and a lot of reports that suggest that cities experience cost savings and sort of a reduced pressure on their tax base when individuals are housed versus unhoused. So that is, you know, ambulances responding, the impact that it could have on our justice systems. You know, those kinds of economic impacts. We could talk about indefinitely. So I think while it might not be something like it keeps me up at night, right. And while I recognize that it doesn't keep everyone else up at night, it is having a direct impact on us. So if you know your local state election, they might be passing bonds, they might be increasing taxes.

So I would say that that is maybe where everyone kind of has a touch point on this issue. And then of course the more we develop in our community, there is a quote that I believe in wholeheartedly, which is that a rising tide lifts all boats. And so I think when we think again about the built environment and who we're building for, and having sort of inclusive and diverse communities when we are having cities

that work well, meaning that we have housing for where our jobs go to sleep at night and that community then is going to function better than a community that does not think and build and have housing for those that may work in these minimum wage jobs as we talked about. So again, it doesn't always have to be something that we're consciously thinking about, but I think if you look anywhere around your community at all, you will see how this does have an impact to you on a daily basis.

Matthew Martinez Hannon:

Thank you so much for your time. And is there anything you'd like to ask me? I can't, I can't talk to you about housing, but anything else?

Jennifer Litwak:

Well, and I mean, I guess the other thing I would say, and it's just kind of sort of light and making a little bit of a joke is for anyone that's out there that has children that are moving back in with them, that that's why you care. You want your child to be able to afford housing. It affects all of us. It really does whether we think about it or not.

Matthew Martinez Hannon:

The most solid points saved for the last.

Jennifer Litwak:

This has just been an absolute pleasure. And like I said, I could talk for hours about this topic. So I just really want to thank you for allowing me to speak a little bit about one of my passions. And I really want to thank the American Bar Foundation for having this be one of their research focus areas. I read the article that was written, and I just think it's really refreshing to see that this is being touched on. So just thank you all the way around.

Matthew Martinez Hannon:

Thank you right back. And if people want to learn more about what you're doing, is the website the best place for them to go, or is there an Instagram account or anything like that?

Jennifer Litwak:

All of the above. Yeah. The main organization is [housingonmerit.org](http://housingonmerit.org), our research and design arm that I talked about. The housing innovation collaborative that is [housinginnovation.co](http://housinginnovation.co) both entities on Instagram, Facebook, LinkedIn. So connect with me at any point in time. I love these conversations and either myself or our director of housing, innovation would love to continue the conversation with anyone that's interested.

Matthew Martinez Hannon:

Thank you again to our guests Anna Reosti and Jennifer Litwak. And thank you so much for joining us for episode two revenge of the Sith or return of the Jedi -- I'm not a Star Wars fan. This has been Whose Law Is It Anyway? An American bar foundation podcast. This podcast was produced by Whitney Peterson and Crissonna Tennison with associate producers, Nina Darner and Natalie Shoop. And yes, I am still your host, Matthew Martinez Hannon. We'll see you or you'll hear us on the next episode where we'll be covering the issue of consent to sex on college campuses. Subscribe to the show on Apple podcasts, Spotify, or anywhere else you get your podcasts. If you've enjoyed what you've heard so far,

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