

AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Nadine Cohen

Bass Connections

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PREFACE

The following Oral History is the result of a recorded interview with Nadine Cohen conducted by Neha Vangipurapu on February 17, 2021. This interview is part of the Bass Connections American Predatory Lending and the Global Financial Crisis Project.

Readers are asked to bear in mind that they are reading a transcript of spoken word, rather than written prose. The transcript has been reviewed and approved by the interviewee.

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Neha Vangipurapu: I'm Neha Vangipurapu, an undergraduate student from Duke University and a member of the Bass Connections American Predatory Lending and the Global Financial Crisis team. It is Wednesday, February 17th, 2021. I'm speaking with Nadine Cohen, Managing Attorney of the Consumer Rights Unit with Greater Boston Legal Services, for an oral history interview. Nadine has joined us via Zoom. Thank you for joining me today.

Nadine Cohen: Thank you for having me.

Neha Vangipurapu: I'd like to start by establishing a bit about your background. So, you earned your Juris Doctorate from Suffolk University in Boston, Massachusetts. Did you grow up in Boston? What led you to law school? And what year did you graduate from law school?

Nadine Cohen: Well, I did not grow up in Boston. I grew up in New York City, and I went to Boston after college. And I graduated law school in 1977, way before you were born. And, I was a political activist and a social activist, and I went to law school so that I would have some legal skills to effectuate change.

Neha Vangipurapu: So, what sort of legal work were you engaged in coming out of law school?

Nadine Cohen: Well, when I first came out of law school, I worked at Greater Boston Legal Services for about 10 years, and I did a variety of things, including some civil rights and housing and employment discrimination work. I then went to work for the Lawyers Committee for Civil Rights in Boston, and I was engaged in a variety of civil rights issues, and specialized a lot in housing discrimination and some in predatory lending. But I also did affirmative action [and] voting rights cases and a number of other civil rights issues.

Neha Vangipurapu: So, going back to your role in the Boston Lawyers Committee for Civil Rights, how would you describe your role there and what sorts of clients and consumers were you working with? I know you mentioned that you worked in housing discrimination. What sorts of cases were you looking at when you were working there?

Nadine Cohen: Well we, I helped start a housing discrimination project and we were doing testing for housing discrimination. And I think one of our main issues was looking at the segregated housing market in Boston. One of our first big studies was in an area right outside of Boston that was predominantly white. And we were trying to figure out why people of color didn't just move a few blocks away into this white area. And I think we were not surprised to find there was a lot of

outright discrimination. So, my focus was a lot on housing discrimination. I was involved in a big case that helped to desegregate public housing in Boston.

Neha Vangipurapu: I understand that you handled a couple class action housing discrimination cases as well in this role. Am I right?

Nadine Cohen: Yes.

Neha Vangipurapu: Are there any cases that stand out in your mind regarding these class action cases and what were some of the biggest challenges you faced when working on these?

Nadine Cohen: **Well**, definitely the case to desegregate the Boston Housing Authority. I represented the NAACP [National Association for the Advancement of Colored People], and HUD [Department of Housing and Urban Development] had also found there was discrimination at the housing authority. On average people of color had to wait nine months longer for housing than white people, and they were not placed in developments in white neighborhoods, allegedly because of concerns for their physical safety. So, I think that was a very challenging case, it was very politically fraught. Unfortunately, at the time, there was an African-American woman who was the head of the housing authority and suing the housing authority then was difficult. But I think it was one of our major accomplishments and we really thought that by desegregating public housing, we would be able to also desegregate private housing in those predominantly white communities of South Boston and Charlestown. So we were hoping to have a really big influence on housing segregation in general.

Neha Vangipurapu: So, moving a bit forward in the context of your work life, when and how did you first become involved with residential mortgages?

Nadine Cohen: Well, I think when I was at the Lawyers Committee and doing a lot of housing discrimination, we found that, one, there was redlining, that communities of color were not able to get mortgages from the mainstream banks. And probably in the late 1980s, we found that a lot of mortgage companies, private, unregulated mortgage companies, were targeting communities of color. And it was interesting. **They** worked with home improvement contractors and they got a lot of elderly African American homeowners to sign these contracts for work. And they didn't know, but they were signing loans with very high interest rates and very onerous terms, and then these companies would try to foreclose. And I think that was when I first got involved in some of the mortgage lending areas. It was very stark to see the wealth that was really taken from homeowners of color in the predominantly black communities.

Neha Vangipurapu: What year were you seeing these ...?

- Nadine Cohen: I think this was in the late 1980s. It came to be known as the second mortgage scam because these mortgage companies and contractors would put second mortgages on the properties for the home improvements.
- Neha Vangipurapu: Were you seeing any cases in perhaps the mid-1990s regarding these residential mortgage foreclosures in the Boston area? And really when did you start to think that Massachusetts was facing a mortgage crisis?...
- Nadine Cohen: Well, I think during this time, and it probably went into the 1990s. And also in about 1992, the Boston Federal Reserve Bank released a study that showed that black and Latino borrowers, even when they had similar incomes and credit histories to white people, that they were denied mortgages about 60% more often than whites. And I think that that was something that we began to get involved in, the whole mortgage issue and redlining in Boston.
- Neha Vangipurapu: So, were there any specific neighborhoods in Boston that you saw were more impacted by the foreclosure crisis? Like were there certain areas or sectors?
- Nadine Cohen: Absolutely, the neighborhoods of color of Roxbury, Dorchester, and Mattapan were the most heavily impacted both by being targeted for these high-cost mortgages, and then for foreclosures. Then when you go back or you speed up to the 2008 foreclosure crisis, it's the same exact neighborhoods that are being impacted.
- Neha Vangipurapu: Again, going back a little, was there any inspiration that led to you taking this position in 2007 with Greater Boston Legal Services [GBLS]? What led [you to] taking this job?
- Nadine Cohen: Well, I think I had an opportunity to start up a new project at GBLS. They had not been doing consumer work and I saw predatory lending as one aspect of the consumer work. And then I came in the fall of 2007, and then the whole economy collapsed and the foreclosure crisis started. And although Greater Boston Legal Services is a very big legal services program, no one was doing foreclosure work at the time. I think they were doing it back in the '80s when this other foreclosure crisis happened, but they hadn't been doing it. So, I just naturally kind of evolved into that. The need was there because there are many low-income homeowners who bought houses that were affordable and then refinanced them and were totally targeted for very toxic mortgages with very onerous terms, and then they were all facing foreclosure.
- Neha Vangipurapu: So, at Greater Boston Legal Services, were you able to help everyone who was seeking help with their mortgage loans, or were your resources limited? And if so, how would you really decide what cases [to take on]?
- Nadine Cohen: Well, that's a good question. And under-resourced is an understatement. When I first came, our whole consumer unit consisted of me. And then, eventually, we got a few other people. And yes, there is no way we were able to take on all the

people who needed our help. And we worked a lot with community organizations. There is an incredibly strong community group called City Life Vida Urbana. And while they always focused on tenants, during the foreclosure crisis, they really expanded to low-income small homeowners. And we would work with them, and they would send people to us and we would send people to them. I think there was a really strong community lawyering component to our work, and then we had to limit it. We tried to focus on people, families with children, people with disabilities, elders, people who had no other resources. It was difficult.

Neha Vangipurapu: So, for the families whose cases you weren't able to take on, did the state of Massachusetts make any effort to provide counsel or an attorney for those consumers?

Nadine Cohen: Well, in the beginning no, and that was a real problem. And then I think, the Attorney General's office became involved in a lot of foreclosure litigation, and they were able to achieve some settlements. I think they were part of the nationwide attorney general lawsuit against a number of the big banks. And they brought other cases. With the money that they got from some of those cases, they were able to help fund a statewide program called Home Corps that funded additional lawyers to represent low-income homeowners. That was really a great thing for us because we then were able to develop a group of lawyers who specialized in predatory lending and foreclosure prevention and litigation, so we were able to do that.

Neha Vangipurapu: ... So going forward a little bit, Massachusetts is a non-judicial foreclosure state. So as an attorney with Greater Boston Legal Services, what challenges, if any, did this present to your client?

Nadine Cohen: Well, it's like trying to row a boat with kind of one oar, and you really have – in the very beginning we had very few options, because banks – I always say that Massachusetts is a very progressive state in some ways, tenants have lots of rights, and if you are a tenant for one month, you can't be evicted unless you have an opportunity to go to court and a judge orders you out. Homeowners can pay their mortgage for 29 years, and in their 30th year, if they have a medical emergency or lose their job, they can be foreclosed upon without ever having an opportunity to go to court. And that's a very difficult situation to be in. So in the beginning, we just tried a lot of different legal theories ... I think, the good part, in the beginning the banks didn't know how to deal with these cases either, and we were successful early on with some of our theories. I think loan modifications became a way that we were able to keep people in their homes. And, also there was an organization that helped homeowners buy their property from the banks and then resell it to them at an affordable mortgage. So, those were the things that helped in the beginning.

Neha Vangipurapu: So I know that the state of Massachusetts relies a lot on the honor system in terms of foreclosure firms and banks foreclosing on homeowners. So did you

see examples of these entities kind of foreclosing carelessly or not really following the statutes or rules in terms of foreclosing on homeowners?

Nadine Cohen:



Oh, absolutely. In the beginning it was kind of like the Wild West. There was a big case called Debanos where some people challenged the bank's right to foreclose when they didn't have the appropriate mortgage documents and assignments. And one of their arguments to the court was, "Well, judge, this is the way we've always done it. This is how it works." And I think it wasn't until a lot of legal services and other lawyers began to look at the system that we were able to get some legal handles and some strong case law and a little bit of legislation.

Neha Vangipurapu:

Did you see an increase in these types of cases where foreclosure firms would be foreclosing recklessly in the lead up to the crisis? Or was there like a specific period that you maybe saw an increase in these sorts of cases?

Nadine Cohen:

I think it was in the beginning of the crisis when the foreclosures were just overwhelming. You had law firms that were foreclosure mills, they just did case after case. They... cut corners, and they didn't follow even what little procedures you have in a non-judicial foreclosure state. So I think that it was pretty wild in the, those beginning days. We even wound up having a case that came out of this where ... one law firm published a foreclosure sale notice in the newspaper that had a restrictive covenant in it. And it said: "this property can only be sold to people of the Caucasian race." And we wound up suing the newspaper that published the notice, the law firm, and the bank. We were successful in getting some changes and some financial, money for groups that were involved in it.

Neha Vangipurapu:

In your experience, what did the foreclosure process typically look like for consumers in Massachusetts? And are consumers able to benefit from maybe a reinstatement period? I know you mentioned that homeowners in Massachusetts have a lot of rights, but what sort of rights do these consumers have during a foreclosure?

Nadine Cohen:

Well, most of the rights before we all got involved were limited to a notice of the foreclosure, a publication of the sale notice. We were able to get some legislation that increased the types of notices, a right to cure notice, and giving people a longer period of time in the beginning of the crisis, like 150 days, which then got reduced to 90 days. And also a notice about if there were loans that had certain characteristics, people had to be advised of their right to request a loan modification. And, I think those were really good changes and really have helped people. We did try to get stronger legislation. We would have liked to have gotten judicial foreclosure, we were trying to get mandatory mediation, where the banks had to sit down with homeowners to ensure that they were adequately considered for a loan modification. We weren't able to do that. So, we got some things in place, but not as much as we had hoped for. But some case law, as I say, really helped us.

Neha Vangipurapu: I know you mentioned the right to cure. Were you talking about the 2007 foreclosure prevention legislation? I think it was under [Governor] Deval Patrick. And if so, I was just wondering, did you or your organizations play any role in advocating for these sorts of state predatory lending or foreclosure legislation?

Nadine Cohen: Absolutely. We were part of a coalition of legal services lawyers and community advocates who were really fighting for more protections for homeowners and to get the right to cure notice and other things. So, we were partially successful. We did get a right to cure notice, we didn't get judicial foreclosure or mediation.

Neha Vangipurapu: So what objections did you typically hear from lenders when you tried to negotiate new loan terms on behalf of your clients? Were there any like ones that stood out to you?

Nadine Cohen: Oh yeah. Well, I think the big one that all the banks use that, "Oh, this is such a moral hazard. Like if we let one person not pay their loan, somehow nobody's going to want to pay their loan." And I think that's such a fallacy because most people really want to pay their loan. But people got talked into loans that were terrible and that they never could have afforded from the beginning. I had a client who was a non-English speaker, worked in a factory, made \$25,000 a year, had been living in public housing. And was somehow sold a \$500,000 house with a \$500,000 mortgage, and ... it was a two-family, or maybe even a three-family house, but she was told to put her brother on the mortgage, her son on the mortgage, and maybe they each made \$25,000. And they had a teaser rate that was low and they just didn't understand anything. I think they were ones [that] had one of these 80/20 mortgages where you have a first mortgage for 80% and then a second mortgage for 20%. And they just never could afford that from the beginning.

Neha Vangipurapu: How would you describe your legal strategy on behalf of your clients when they were facing foreclosure on a home? And how would you respond to these lenders who were making all these objections? What would be your strategy?

Nadine Cohen: I think, in the beginning we kind of – I think with the law not developed, we sort of try to throw out the strongest arguments and appeal to some of their more human characteristics. And then when that didn't work, we really went to court and litigated and then got better loans. And also, I think once the federal HAMP [Home Affordable Modification Program] loan modification program came, we were able to get more loan modifications, but I can remember so many of these lawyers say, "Well, they just can't afford the house. They have to move." And these were people who had young children in school, had nowhere to go, had no money to go anywhere. And I remember saying, "Well, how would you feel if someone told you, you had to move out of your house and take your kids out of school?" It was not understanding people's lives and sort of blaming them for getting in that situation, when in fact it was the big banks, the securitized trusts, and the whole system that really took advantage of low-income, mainly homeowners of color, to give them these horrid loans.

Neha Vangipurapu: Could you maybe go into a little more detail about how, like following the HAMP program's implementation, how did that change your legal strategy? And did you find that it was maybe more effective in certain ways?

Nadine Cohen: Well, I have a lot of criticisms of the HAMP program. I don't think it was enough. I guess that's the main thing. We really wanted on the federal level that there be some principal write-down of mortgages. And I think low-income people were made to bear the financial cost of Wall Street that was out of control. All the people on Wall Street made the money, but then the low-income homeowners were stuck with these mortgages. ... Once the HAMP program came, we were able to get people modifications and keep them in their homes, but some of the terms were not really, really great. And, I'm seeing now there had at one point been a second loan modification program, and I'm seeing now lots and lots of foreclosures on these second mortgages that people thought were modified, and in fact, were sold to some of these bottom feeders who are now trying to foreclose. So, I think the modification program did keep people in their homes to some degree, but I think it could have been bolder and stronger in terms of reducing principal.

Neha Vangipurapu: So, how did you and other legal aid attorneys work with the Massachusetts Attorney General's Office in the years leading up to and also after the 2008 financial crisis? Did you collaborate with regulators from the Division of Banks? And if so, what did that collaboration look like?

Nadine Cohen: I think maybe in the beginning I did some work with the Division of Banks, and definitely with the Attorney General's office. They were very involved; they were litigating a lot of the cases. We shared a lot of information around the Home Corps program. There were Home Corps attorneys in their office and in our office. So, I think we had a lot of good collaboration. In terms of, it's hard to actually jointly litigate the cases, but I think we had a good relationship and worked with them.

Neha Vangipurapu: Were there any other governmental or non-profit agencies that you partnered with during this time? I know you mentioned the, I think you said the community organizations ...

Nadine Cohen: Yeah. City Life. Yes, we worked very closely with City Life. We worked very closely with a number of the housing counseling agencies, because we would refer clients to them to do loan modification. In the beginning we did our own loan modification applications, then I think we started sending clients to more of the counseling agencies, and then they would send us the cases that were more difficult and needed legal intervention. So, we had a lot of collaboration. I think we used to get together periodically and have meetings and discuss strategy and how to deal with the banks. I think one of the big issues that happened is in the very beginning, it was impossible to reach anyone at the banks to talk about a modification or anything, to even talk about a foreclosure. And I think at some point, through HAMP and efforts of the AG's office, we were able to get a single point of contact. So you have the name and a number of a

person. It didn't always work, but it was better than not having it. And I can remember being on hold for hours at a time trying to reach people at the bank. So, it's a very frustrating experience.

Neha Vangipurapu: ... Was there any work you did with community education regarding foreclosures and consumer issues in the period leading up to the 2008 crisis? And if so, what was your strategy for promoting awareness of these sorts of issues? And if not, did you engage in this sort of work later on after the crisis?

Nadine Cohen: I think definitely after the crisis we were out in the community and we would give trainings on the foreclosure process and some of the new legislation to the housing counselors, to staff of other community organizations, and to people. And I know, way before that, when I was at the Lawyers Committee, we did a lot of community outreach, particularly around that time of the second mortgage crisis. We used to hold meetings in the community with the NAACP and people would bring their loan documents. We would get pro bono lawyers to work with us and sit with people and review those documents and try to help them understand what exactly was going on. So, I think ... I've always been very focused on both educating and going out in the community to help people because ...mortgages and foreclosures are very difficult for people to understand, and many times people never even knew what their mortgage said.

Neha Vangipurapu: So, in preparing for this interview, I remember reading that Greater Boston Legal Services had held consumer rights clinics. Is that correct?

Nadine Cohen: Mhmm.

Neha Vangipurapu: What did these clinics entail and what were you hoping that people got out of them?

Nadine Cohen: Well, one of the clinics that we did hold had to do with helping people to understand their credit reports. And we actually had our computer room set up so that people could come and sit with a pro bono attorney or a law student, and actually pull their credit report and be able to understand it. And we taught people how to try to correct their credit reports. So, that was definitely one of the clinics we did. And then we did others on the foreclosure process, on loan modifications.

Neha Vangipurapu: I know that you mentioned that you held trainings for lawyers in the area. I was just wondering, were these trainings exclusively for legal aid attorneys such as yourself, or did private attorneys also benefit from these trainings?

Nadine Cohen: I can't remember on the foreclosure front. Probably not as many private attorneys because these are such difficult cases. There were just not many people. We now do a lot of debt collection cases and we do trainings for private attorneys and volunteer attorneys to work with us and our Lawyer for the Day Program. So, I think we do it in that area. In foreclosure, I'll just also mention

this both at the Lawyers Committee for Civil Rights, where we worked a lot with the big law firms in Boston who co-counseled cases with us, they would never be able to take any foreclosure or lending cases because there was always a conflict, because the big firms represented the banks. And even if they didn't represent the specific bank we were suing, they saw it as an issue conflict. They didn't want to establish stronger laws that would impact their client banks. So that was very difficult.

Neha Vangipurapu: I'm interested to hear a little more about the Lawyer for a Day Program that you were mentioning. Could you go into a little bit more detail about that?

Nadine Cohen: Sure. We represent people who are being sued for primarily credit card debt, and these are debts that are usually bought by big debt buying companies. And we go to court, we talk to people on the spot, and we represent them on the spot. And many times the debt buyers don't have the proper paperwork to show that they actually own this debt and they have the right to collect on it. And it's interesting because I'm seeing a lot of that in the foreclosure world right now with these second mortgages. They're being bought up by these debt buying companies or mortgage buying companies, and then they're trying to sue on them. Even trying to settle. And one company, I just saw said that they can guarantee their investors 10% returns. So there's a big business out there.

Neha Vangipurapu: While you were working at Greater Boston Legal Services, what financial challenges did it face during your tenure there? And also did the financial crisis in any way limit its ability to fulfill the mission that it was intended for?

Nadine Cohen: Yeah, obviously there was a general economic collapse in 2008 and beyond, and that totally impacted the budget of a legal services organization like GBLS. Many of the law firms were laying off lawyers and we rely a lot on the law firms to make financial contributions. So, our contributions went way, way down, and we did have to cut staff at that time. It's a time when low-income people need more legal help, but because we didn't have the same financial base and the state, we had some – we get some state money and that was cut. We were in a very difficult situation for many, many years. And I think it impacted a lot of nonprofits and legal services groups. The whole financial downturn really impacted us and obviously our clients.

Neha Vangipurapu: ...What impact do you think that the financial crisis had on the city of Boston in the short and the long-term? And I know you mentioned that there were certain neighborhoods like Roxbury that were particularly impacted by foreclosures. Do you see any long-term impact of the foreclosure crisis on these neighborhoods even now?

Nadine Cohen: Oh yeah. I think there were... Well, first Boston has a lot of two and three family homes. I think there were a lot of small owners who lost their houses in those neighborhoods. And they were bought up either by the banks and then sold to developers when the prices went up, or they were sold to developers on the cheap. And now what we're seeing is a huge eviction crisis. I mean, even before

COVID, but COVID has made it so much worse. So, you now have these big developers who own these little two- and three-family houses, and they just raise the rents incredibly and force people out. So we have a lot of displacement, a lot of gentrification of previously affordable neighborhoods, and it's most impacted on black and brown people as so much else is in COVID and in the financial world. So, I think it's had long-term impacts and because of high housing costs in an area like Boston, we're just losing so many poor people, and it's really hard.

Neha Vangipurapu: Over the last decade, we've seen a number of different narratives emerge to explain the financial crisis. How do you understand what caused the crisis?

Nadine Cohen: Good question. Well, I think the simple answer is greed. People on Wall Street saw this as a way to make a lot of money by devising these securitized mortgages that really insulated the people making the loans from having any responsibility for them or any impact when they failed, and the people on Wall Street [were] just bundling them and selling them as securities. So, I think that whole financial structure is really to blame. I think the other thing is that for so long banks were redlining neighborhoods of color and would not lend there. And then, all of a sudden people said, "Oh, this is a really good place. We could like sell our products to these unsophisticated people and make a lot of money off them." So we like to say that's reverse redlining. And I think that happened during the lead up to the foreclosure crisis.

People were given loans with really bad terms, loans they couldn't afford from the beginning. And that – again, it comes back to greed. People saw it as a way to make money. Who cares whether the people could really afford it and if they're going to lose their home two years down the road. So, I think it's really a history of disinvestment in communities and then a way to make money off of those communities without really caring what the needs of those communities are. And then the general structure of our housing finance system, which is terrible.

Neha Vangipurapu: So, looking back on the crisis over a decade later, what do you see as its most important lessons that policymakers and nonprofit leaders like yourself should be engaging with?

Nadine Cohen: That's a tough one. I think one, we have to be able to be flexible and see problems as they arise and be able to devise solutions that are really going to address those problems. I feel like sometimes we're two or three years behind. We have a solution that dealt with the problem three years ago. I don't think the federal government and the state governments were able to move fast enough to really stop the tide of foreclosures and hold the banks accountable right on the spot. My frustration was I saw the Attorney General and others get these big, big settlements, and then none of that money went to the -- not none -- most of it did not go to the homeowners and did not help people stay in their homes. So, I think we have to be very agile and be able to change our policies. And a group like a legal service organization -- in the beginning when I came, people said, "Well, we don't really represent homeowners. We represent

tenants." But it's a whole different world now. So, we have to change our perspective and be able to adapt and now represent low-income homeowners who are bearing the brunt of the crisis. That's what I would say.

[END OF SESSION]