

Interview

with

THEODORE FILLETTE

March 2, 2006

By Sarah Thuesen

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## **TRANSCRIPT—THEODORE FILLETTE, III**

Interviewee: Theodore Fillette, III

Interviewer: Sarah Thuesen

Interview date: March 2, 2006

Location: Offices of Legal Aid of North Carolina, Inc., Charlotte, North Carolina

Length: 1 disc; approximately 1 hour and 18 minutes

### **START OF TRACK 1**

ST: This is an interview with Ted Fillette at the offices of Legal Services of Southern Piedmont. Today is the second of March, 2006. It's about ten o'clock. My name is Sarah Thuesen. I'm conducting this interview for the Southern Oral History Program at the University of North Carolina at Chapel Hill, for our Long Civil Rights Movement initiative. I thought before we got into your work with legal services in Charlotte, I'd like to hear just a little bit about your background, your childhood. Tell me just a little bit about growing up in Alabama. Where were you born in Alabama?

TF: In Mobile.

ST: Did you live there until you went away to college?

TF: Yes, I did.

ST: Tell me a little bit about your parents. What did they do?

TF: Well, my mother was a housewife and my father ran a small steamship agency, a company in the port of Mobile.

ST: Tell me a little bit about the schools you attended.

TF: I went to an ordinary elementary school in the public school system and then in junior and senior high, I attended a local day military school, called University Military School, in Mobile.

ST: What was that experience like?

TF: Well, it was fairly intense for me. It was very important in some respects. It helped me get a fairly good education in some ways. I went on the debate team and I think that helped me become a public speaker and ultimately, got me somewhat interested in law school. It was also a severely conservative environment and, I think, very racially conservative, and very authoritarian. I never had a great deal of interest in joining the military after having experienced the arbitrary powers exercised over young men in that school.

ST: What year were you born?

TF: 1945.

ST: So you would have been growing up in the early civil rights era.

TF: Yes.

ST: How did that affect your worldview?

TF: Well, we were very sheltered from the immediate parts of the civil rights movement, because most of the important things in the early 1960s were going on in Montgomery and Birmingham and in the rural black belt area outside of Montgomery. For the most part, I was largely unaware of it. I can vaguely recall being at a Key Club convention in Birmingham and seeing the police take Dr. Martin Luther King away in a police wagon, but I did not understand what he was doing and why they were arresting him and the importance of that at the time. That's just because I was in a very sheltered, segregated environment, for the most part. It wasn't until I went to some international Key

Club conventions, where there were a lot of northern kids that were more aware of the civil rights movement than we were, that questions came up about how we could tolerate racially-segregated schools. I thought it was a very provoking question for me. Of course, it was something that my parents had basically engineered without my knowledge of it. I was largely unaware of what was going on in a serious way until I got to college.

ST: I'm curious, when you interacted with kids from the North and they asked you about the justification for segregated schools, what at that time would you have said, do you think?

TF: Well, I didn't have—I frankly was very ambivalent about it. We had candidates from Alabama that were running for these international offices and we were preparing them to answer questions in these political debates for the office. Our standard line that was developed by some of the older people was this is a matter for the states to determine. So it was sort of a states' rights rationalization, which had been essentially the argument used by Governor [George] Wallace and the governors of Mississippi and Arkansas to justify their segregated school systems. Other than hearing that pat answer, I did not understand the implications of that and I certainly didn't understand what the fourteenth amendment might mean. I didn't understand what the *Brown v. Board of Education* decision meant and its implications. There was no desegregation lawsuit going on in the state of Alabama. There wasn't an attempt to integrate the public schools in Mobile until the late 1970s, after I was finished with college. So, I didn't really learn much about what was going on until I really left Alabama.

ST: You mentioned the *Brown* decision. Do you remember when that ruling came down?

TF: I did not have any real awareness of it. I think the first awareness I had about what was going on was watching my parents watch the National Guard enforce the school integration in Little Rock, Arkansas on television. I think that's what precipitated my parents' decision to take me out of the public schools in 1957 and enroll me in a racially-segregated military school, because I think they thought that if it was happening in Little Rock, that it would be in Mobile soon thereafter.

ST: What was the name of the military academy?

TF: It was called University Military School.

ST: Is it still around?

TF: It is. And fortunately, they have demilitarized it and combined it with the private girls' school that was sort of their counterpart in another part of town. Now all the military uniforms are gone.

ST: Getting on a slightly different topic, you were talking about your racial awareness at that age. Do you remember any incidents or just general memories about when you became as a child of the differences between classes, rich and poor?

TF: I remember the most vivid memory I have is the time I rode with my mother to take her housekeeping maid back to her house. I remember we were driving in my mother's old Lincoln Continental down an unpaved road by these completely run-down shacks. I saw these little black kids with no shoes walking around with very little clothes on and staring at us, like we were on some kind of a golden chariot. I didn't fully understand it, but my emotional sense of it was they must think that we are extremely privileged and somehow, I felt bad about that. I felt somewhat ashamed. And then I watched my mother drop this housekeeper off in front of her house and saw about three or four kids run up to her and realized that when she was gone, there was nobody there to take

care of her kids. I still have that memory pretty vivid in my mind. I was too young to ask any intelligent questions about it, but I never lost that memory.

ST: Did you, at the time, see the class divide as somewhat similar to the race divide, or were you also aware of class differences among whites?

TF: I was not that aware of class differences among whites. I think that that was because the lower-income white folks mostly lived out in other rural parts outside of the city of Mobile, very similar to what we have here in metropolitan Charlotte, frankly. The poor people in the city were almost all African-American. And so there was a heavy coincidence of class and race as far as I could tell. Then when I got into college and became much more aware of the issues and worked for an antipoverty agency after my junior year in college, I was much more acutely aware of how great the overlap of poverty and race, that is African-Americans, was in that community. When I was in elementary school, there were very few poor white kids in that school.

ST: So your family always lived right in town in Mobile?

TF: Well, actually not. The first nine years of my life, we lived in town and then the second nine years, we lived out in what was the country at that time, but it later became incorporated in the city limits. It was out about seven or eight miles from the center of downtown.

ST: So you decided to attend college at Duke University, right?

TF: That's right.

ST: What made you decide to head somewhat north for college?

TF: Well, I think that it was a combination of having a few very bright and insightful professors in high school. My German teacher, who was also the debate team sponsor, had taken us around to debate tournaments throughout the South, and to

Vanderbilt and Tulane and other places. He strongly encouraged some of the better students to leave the state. The two valedictorians in the classes ahead of me had both gone to Duke and I knew them fairly well. I also knew that they had applied to Ivy League schools and had not been accepted. When I applied to another school, I think it was Dartmouth, I was not accepted. So, I think that at that time, Duke was probably considered the best school that people with good academic credentials could attend, from Mobile anyway.

ST: What years were you there?

TF: 1964 through '68.

ST: So at the peak of the civil rights years. What do you remember about the civil rights atmosphere in the Durham-Chapel Hill area?

TF: Well, there was quite a bit going on, at least at Duke. I did not perceive that much going on in Chapel Hill, but I also was not there very much. But Duke had an amazing array of speakers that came to the campus from various parts of the civil rights movement. The most memorable was Dr. King himself during my freshman year, when I attended his speech and it was a pretty important life-changing event for me. Because he was not only eloquent, he was able to give the details about what living in a segregated society in the deep South meant on a daily basis for black people. It was more than just the symbolic injustices of the separate water fountains and the separate schools. It was the inability to get sufficient education and money to be able to live productive lives, to participate in the political system, and to be free from arbitrary police force, which was still the most important aspect. I mean the sheer force and violence of police activity in concert with private violence by the Klu Klux Klan or other groups was undeniable, unchecked by the whole power structure in the states of Alabama and Mississippi.

After hearing about Dr. King, there were other people, students who went to Duke who had gone to the Selma march and came back and gave talks and workshops that revealed what had happened to them. It was pretty evident that white people who acted in concert with the black civil rights leaders were just as much at risk, physically at risk, as the black people. In some ways, I think they were maybe more at risk, because they were viewed as betraying the presumed racial pride that a lot of white people were supposed to have, by participating in civil rights activities. They were viewed as being traitors.

**END OF TRACK 1**



## START OF TRACK 2

ST: As you were gaining a new heightened awareness of issues of race while you're in college, what was it like going back home?

TF: Well, it was very interesting, particularly trying to talk with my parents and my other relatives. Although my parents, they were not active racists in any way, I think they were what I would consider more passive racists. They viewed the state of the racial power relationships as being something that was given, that was wrong, but unchangeable, and that people who attempted to change it were stupid or taking bad risks. It made them worry that I was interested in some of these activities. I can certainly remember a lot of very heated discussions at the dinner table that would rival anything that was in the TV sitcom called *All in the Family*. We basically just disagreed about everything politically, about the Vietnam War, about the Civil Rights Movement, about the War on Poverty, the role of President [Lyndon] Johnson. I can still remember watching live the Democratic Convention in Chicago when the police turned on these protestors and beat the pulp out of them. I said, "That's the worst police brutality I think I've ever seen." My father, who had just watched the same thing I saw, said, "What police brutality?" So then I think I began to understand how people viewed the same occurrences very differently from the filter lens of their value system, as to even what happened. I had never really understood that before. But I think that became very important later as I began to try to understand politics and lawyering.

I also remember that in my senior after the assassination of Dr. King, there was a great outpouring of distress and anger on the Duke campus. The black employees' union, that represented all the non-academic employees, decided to go on a strike and ask the

students to join in the strike and to shut down the university. This was in April of my senior year.

ST: So right after King was killed?

TF: Right after he was killed. The same thing happened at Columbia University and there was some national media about that. But I think unrelated to that, there were just some people at Duke that thought, "Well, this is the moment to try to bring the university's injustice to light and to try to get the black employees' union recognized by the university and have them pay better wages." And it was a way of, I think, channeling the emotions of the time into a concrete form of action. What that did was it divided the people on campus, because those of us that wanted to support the union and shut down the university were doing so at a time when their final exams and their last papers were becoming due. So there was a question right there that was very personal: Were we jeopardizing our chances of graduating from the university, from being expelled from the university? Then for the men, that meant: Would we be reclassified by the selective service system 1A and drafted? All of those were pretty important issues and for me, it was the first really important decision to make of whether I'm willing to make that kind of risk because of the importance of the political issue.

When I told my parents that I was going to join the strike, they thought I was crazy. I was also the president of my fraternity and when I told the people in the fraternity that that's what I was doing, they thought I was crazy. But it was a very important time and there was some very important national speakers that came. Joan Baez came and other people came to support the strike. A lot of the faculty supported it. What ended up happening is that most of my professors accommodated the strike by letting us write papers in lieu of exams. So we were out there in a demonstration in front of the Duke

Chapel for several weeks. It was an important local political event. I also remember the National Guard had helicopters that were circling the campus. I think that they didn't know whether there was going to be some kind of riot going on because of that. There were very fiery local black leaders that came to the campus to support the workers and support the strike. I think that it was a very emotionally electric time.

ST: How was the strike resolved by the time you graduated?

TF: It was resolved by the university, I believe I remember, making an increase in their wages, but not formally recognizing the union. So it was somewhat of a compromise that the union decided to accept, because they thought they had made progress and they knew that when the students left for the season, they probably wouldn't have that much leverage. I was not one of the negotiators, so I was not privileged to the inside view of it. But that's sort of what I remember as the outcome of it.

ST: Then did you go straight from Duke to law school in Boston?

TF: No, I joined VISTA, the Volunteers in Service to America program, which was what they called the domestic Peace Corps. So about three weeks after I graduated, I packed up and moved to the Roxbury community in Boston to undergo training.

ST: You worked for VISTA for a year was it?

TF: Actually two years.

ST: Tell me a little bit about that experience.

TF: Well, it certainly did educate me about what had happened in the northern urban centers with respect to the black leadership. The community of Roxbury had become very radicalized in leadership over a number of issues, police brutality being one of the main ones. It was evident from the day I arrived that Boston was polarized racially in a way that was even greater than what I had observed in Alabama. What I mean by that is all

the police appeared to be white Irish and they patrolled Roxbury with these large batons and large German shepherds. There were a lot of black leaders that wore dashikis and they were into a lot of the black separatist rhetoric. They were attempting to create their own community institutions that were independent of city government, and trying to fight various forms of urban renewal and other city programs that would displace any low-income black people. They had very little interest or tolerance for white liberal people wanting to help or being present. So even the VISTA class that was brought in that had probably fifteen to eighteen young people, mostly college grads, that were three-fourths white, became an issue for the black-controlled community antipoverty agency. So for the first time in my life, the validity of my presence and my interest in providing some kind of help was questioned purely on the basis of my status as a white person. That had never happened to me. It never occurred to me that there was anything wrong with me just because of what I looked like or how I talked. But it was an immediate issue when I got there.

It became then very interesting to see where we were allowed to be trained, what organizations were willing to accept white VISTA volunteers. And it turned out that most of the indigenous black organizations in Roxbury were unwilling to take any VISTA volunteers. Most of us were placed with an organization called the Massachusetts Welfare Rights Organization, which was the organization that attempted to organize welfare recipients, who were almost totally black in Boston, to develop economic power through numbers. That's where most of the VISTAs were placed and they were black and white. They were accepted because the national organization was led by a former chemistry professor who was glad to have cheap organizers from anywhere. That's what VISTA provided.

ST: This was the National Welfare Rights Organization that the Massachusetts branch was affiliated with?

TF: That's right.

ST: Did you have similar experiences working with African-American welfare recipients in terms of their skepticism about your involvement?

TF: Generally not. I think that's probably fairly understandable, because number one, most of them had never had anybody interested in helping them deal with their very difficult challenges with their lack of income, lack of clothing and food, insensitive landlords. And having college-educated people show them how they could use the legal system in a way to get them basic things they wanted was a victory in their minds. I think they largely appreciated that.

ST: What do you feel like you and the other VISTA workers were able to accomplish through that work?

TF: Well, I think there were some obvious short-term victories in that we got a lot of people who had needs some basic things like furniture and clothes and food, that they needed for their survival. I think that a lot of them learned about power and politics for the first time. They learned that, by organizing and acting in numbers, that they could change the psychological balance of power somewhat with the social workers in the welfare system. Prior to the organization coming, they didn't have any idea what their rights were, how they could get them, and they were pretty much subject to whatever the personality whims of the social worker assigned to them happened to be. If they didn't get along with the social worker, they weren't going to know that they could get clothes for their kids in the winter or furniture to have beds for their kids to sleep on. There were plenty of more poor white people in the suburban communities outside of Boston that I found were totally

powerless and essentially blamed themselves for everything that was going wrong. So I learned a lot about the psychology of powerless people and how that could somewhat change with an organizational framework.

I don't know how long those lessons lasted when the organization was essentially destroyed about 1970 by the governor changing the welfare system so that individualized needs could no longer be considered. The welfare system went to what was called a "flat grant" system where the amount of assistance became purely a mathematical function of the number of people in the household. If you had three kids and one parent, you got a flat amount of money and if that was not enough, it didn't matter. So there wasn't anything left to organize people around to get. About twelve months after that, all the organizations fell apart. I think some of them were reincarnated later by ACORN [Association of Community Organizations for Reform Now], because the head organizer for the Mass. Welfare Rights Organization was the guy that went to Arkansas and formed ACORN.

ST: What was his name?

TF: His name is Wade Rathke.

ST: So were you still working for the organization at the point that it started to fall apart?

TF: Actually, no. I had decided to go to law school. I had sort of made a decision that I was not that well suited to be an organizer for a career. I had been accepted at law school in 1968 and now it was 1970. The situation with the draft had changed and I was willing to take the risk of going to law school at that point.

ST: Did you see moving toward a law degree as a fairly sharp departure from your activist career or were you thinking about combining the two in some fashion?



TF: I'm not sure that I thought about combining them so much as I saw how the lawyers were a critical part of supporting low-income peoples' organizations. We did have lawyers. There was a VISTA lawyer who was assigned to represent the Welfare Rights Organization. His ability to advise us strategically was essential in terms of knowing what to do and what not to do and trying to get us out of trouble, even when we did what we thought was right. So I had a good chance to see how that worked while I was one of the organizers. Then it was of course, fairly evident that the civil rights lawyers who had worked with the Southern Christian Leadership Conference and SNCC and other people down in Alabama, had played a critical role in making some of those grassroots organizational efforts work. I learned later that had the lawyers not been able to sue the city of Montgomery regarding the segregated bus system, the original Montgomery bus boycott probably would have failed. But going to federal district court and getting an injunction was the key to the ultimate victory in making that happen. That lesson was not lost on me.

I think the other thing is I learned that if you don't have access to the political system or the legal system, the political system will learn how to co-opt or shut down grassroots movements. Massachusetts had the biggest grassroots welfare rights organization in the country and after two years of enormous success in organizing over seventy local organizations, including about eight really big ones in the city of Boston, it was completely demolished with one legal stroke by the governor, that was not challengeable.

ST: Who was the governor at that time?

FT: Francis Sargent.

**END OF TRACK 2**

### START OF TRACK 3

ST: So you began law school at Boston University in 19—

TF: '70.

ST: At that point, were you already anticipating the types of law you wanted to get into?

TF: I was. I thought it would be what I used to call civil rights, which had a fairly wide spectrum to it. I didn't know whether that would involve community organizations, poverty organizations, race discrimination, or labor. I was still learning about a whole lot of aspects. But I knew that it would have something to do with troublemaking and change; I knew that much.

ST: Troublemaking on your part?

TF: Well, the trouble was being made. I was just going to be one of the engineers that tried to either improve it or protect it or whatever it was. In my first year, I was working for a campus organization called the Civil Rights Research Council. I decided to bring Angela Davis's lawyer to the campus to talk. If there was anybody that was well-known for troublemaking at that time, Angela was pretty high. This lawyer had been a graduate of Boston University and was an African-American and had been in Atlanta for twenty years or so. I thought he was a perfect person to come and talk to students about how you protect troublemakers.

ST: What was his name?

TF: I don't remember.

ST: This would have been early 70s?



TF: Yeah, it was probably 1971.

ST: So how did you make it back down to North Carolina after you finished law school?

TF: Well, that same organization was part of a national network that somehow connected law students with civil rights lawyers all over the country. Most of them were in the South and the woman that was the head of that organization selected me to be matched up with the ACLU [American Civil Liberties Union] lawyer in Charlotte. So after my first year of law school, I came to Charlotte to work for him. They gave a healthy stipend of fifty dollars a week to live on, which was the same amount they paid in VISTA.

ST: Wow.

TF: By that time, I had learned a lot about poverty.

ST: How long did you work with the ACLU lawyer?

TF: That was just for one summer.

ST: And that was right after law school?

TF: No, that was after my first year in law school. So I still had two more years of school to go after that. That was a very critical experience, because I got to come to a community and see what difference a courageous federal district court judge could make. We had the best one in the South. This lawyer had numerous cases with him and he let me argue a motion in front of the federal district court judge as a first-year law student. It was an enormous opportunity for me.

ST: Just to clarify, the judge you're referring to is McMillan?

TF: Yes.

ST: And who was the lawyer?

TF: George Daly.

ST: What did the case involve that you worked on that summer?

TF: It was an attempt to consolidate four or five individual suits against the city police for police brutality in violation of the Civil Rights Act. The procedural motion that I was arguing was whether or not it was proper to join all of those suits into one big suit, versus leaving them as separate cases to be tried individually. So it was a big strategic question.

ST: What was the upshot of that case?

TF: Well, the upshot of it was that the judge denied our motion to combine them, which surprised me greatly and surprised the lawyer. But the lawyer later explained to me that the reason the judge must have denied the motion is because we had made a stupid strategic decision to join them. The judge was actually probably making a better decision, strategic decision, because one of the four victims had been a drug dealer and he had shot at the policemen before they shot and paralyzed him. The lawyer I worked for realized in retrospect that if that case had been part of the bigger presentation, that the three other victims, who were much more sympathetic and innocent-looking, probably would have lost, because they would have been guilty by association with the drug dealer who was the fourth plaintiff.

ST: So McMillan was sympathetic with your cause in fact, even though initially it appeared otherwise?

TF: I think so, not that he said it in any of those kinds of terms. He just did what he thought was the right thing, even though we probably had a good legal argument to combine them. So I learned a lot from that.

ST: During that summer, was this the first time you had ever spent any significant time in Charlotte?

TF: Yes.

ST: Did it strike you as a place you might want to return to?

TF: It did, just because of the good people and the good relationships. There were very interesting and fun young people, lawyers, people that worked for the media, the *Charlotte Observer*. One of my friends already worked for the *Charlotte Observer* and so I sort of met some of those people at the same time.

ST: Any individuals stand out in particular you met that really made an impression on you?

TF: Well sure. My friend, Frye Gaillard, was a young reporter who was covering the school system and so he had a lot of interesting things. One of his best friends was Doug Marlette, who was the cartoonist. Then some of the people I lived with, like Marvin Sparrow, who was one of the leaders of the counterculture group. To the extent that there was any antiwar protests or civil rights protests or anything in that regard, he was going to be in the middle of it.

ST: And you lived with him that summer?

TF: I did.

ST: Did he sweep you up in any protests?

TF: He didn't sweep me up in them, but they had begun to—they were having meetings in our house to plan a demonstration when President Nixon was coming to town for a fundraiser with Billy Graham at the coliseum, which later became ensnared with part of the whole Watergate hearings later. But that's a whole different story.

ST: So the school desegregation battle was fairly intense at the time you were down here.

TF: It was, although that summer of 1971 was the time when the Supreme Court decision that upheld the judges' original integration order from 1969, was decided. I can't remember whether it had been announced before I got there or not. But during the summer months, there was nothing particularly evident to me about that. More of it occurred in 1972 while I was back at school. When the order was being implemented, then what happened was a lot of the so-called riots and fights were going in the school system, which resulted in massive disciplinary actions being taken against virtually only the African-American kids, which then resulted in another lawsuit by the Legal Aid office at that time against the school system for having no procedural rules for suspending kids from school, which was an important case, again decided by Judge McMillan.

ST: Were you reading about all that back in Boston?

TF: I didn't read about that actually until I came here in 1973 to start work. I did read about some things and kept in touch with George Daly about some of his civil rights cases that I had worked on. But I had my own other things to do. I did have to study and work at the Legal Office in Chinatown in Boston too. So I had plenty to do.

ST: Sure. So how did you come to work for the, at the time it was called the Mecklenburg County Legal Aid Society?

TF: It was called Legal Aid Society of Mecklenburg County.

ST: Okay. And you came here in '73 then?

TF: That's right.

ST: Right after law school.

TF: That's right.

ST: How did you make the decision to come here?

TF: Well, I made it obliquely. Originally, I had interviewed at four places in North Carolina and I had decided North Carolina was going to be where I would locate and I signed up to take the bar exam. I had offers from two of the Legal Aid programs, Winston-Salem and Durham. There was no offer in Charlotte, because they didn't have an opening at that time. So I accepted the position in Durham, had rented a house for a year, and came down there to take the bar review course in Chapel Hill, and then learned that the person who had hired me in Durham had resigned and gone in private practice, had not told me that. And the Durham Legal Aid Board was threatening to hire an unlicensed lawyer to be the director and had gotten a letter from the Office of Economic Opportunity saying that they were going to withdraw the funds for the program if they hired this fellow. None of that sounded very appealing to me.

Then while I was taking the bar exam, the three-day quiz in Raleigh, I met the director from the Legal Aid Society of Mecklenburg County, who said that the person that was holding the staff position had changed his mind and gone into private practice and now they did have an opening and wanted to know if I was interested in that. So then when I looked at that opening in Charlotte versus the impending financial train wreck in Durham, I decided it probably made more sense to go to Charlotte. So at the last minute in August, I changed my plans and I relocated to Charlotte and started right after Labor Day. I think that's when I got the results from the bar exam.

ST: When you first came here, some of your early work was picking up on work that had been done by your colleagues here, helping victims displaced by urban renewal. Is that right?

TF: Yeah, that was the first big case that I was assigned, shortly after I arrived.

ST: This was the *Margaret Green Harris v. HUD* case?

TF: That's right, in federal district court, one of Judge McMillan's cases.

ST: Could you tell me a little bit about Margaret Green Harris?

TF: Well, this was a lady who had lived in the community of Greenville, which was an African-American neighborhood just north of the downtown area, who had lived in a house that the city considered dilapidated and wanted to demolish it as part of the urban renewal program. The problem for her was that the city did not offer her an adequate replacement house that was affordable to her. The basis of the lawsuit was to challenge the displacement of people in the urban renewal neighborhoods, who were not offered a suitable alternative home that was affordable to them. That was the fundamental legal principle involved.

The suit was negotiated to a settlement in 1972, the year before I arrived, with fairly broad language about how the city would, from that point forward, not displace people that were in the urban renewal neighborhoods, without providing them the "suitable relocation housing;" that's what the phrase was. By the time I arrived, that lady had already gone somewhere else. But the lawsuit was aimed at the whole class of people that were similarly situated in other neighborhoods subject to urban renewal or what was then called community development, which was the same thing. It was essentially demolishing dilapidated housing without necessarily any other plan to replace it or substitute it, either in that neighborhood or anywhere else. It was essentially a demolition of poor people's housing is what that was.

ST: What was the eventual upshot of your work with that case?

TF: Well, what happened was some of the other residents of neighborhoods that were in the path of the community development work started to come to our office and complain that they were getting notices to leave, but weren't getting any offers of



alternative housing that was either in good shape or affordable to them. What we determined was that the federal law that was tied to the funding, that supported this program for the city, required that if they were going to remove people from their home, they had to provide suitable alternative housing that was affordable. So there was a formula to determine what was affordable for a family. Essentially, it was they would not have to pay more than twenty-five percent of their net family income for rent and utilities. And as a practical matter, most of the people that were in these neighborhoods lived on disability or welfare or minimum-wage jobs and it was virtually impossible for most of them to pay market-rate rent for houses that were decent, safe, and sanitary. So at that time, in the early 70s, to be able to rent a house that had any kind of good heating equipment, a furnace of any kind, would cost about three hundred dollars a month. But most of these people could not afford to pay that much rent plus utilities. The city was not finding places for them and paying the difference.

What we did was bring another motion in that case in the federal court before Judge McMillan and combined it with a new suit that my former employer had at that time, George Daly. The caption of his case was *Kannon v. HUD and the City of Charlotte*. That was a commercial lease in the first ward neighborhood, but there were also residential complainants in that suit too. So we combined those together and had a trial in front of the judge and showed the judge that the city was still not providing adequate relocation housing for residents or adequate relocation assistance for businesses. The judge ordered the city to stop displacing people. That then resulted in a new court order that was enforceable by contempt of court. So we then spent the next two years monitoring the performance of the city under that new order, to see whether or not they were actually offering suitable housing and/or financial assistance for people to find suitable housing.

**END OF TRACK 3**



#### START OF TRACK 4

ST: Just to clarify a couple of details, the new order came down in '74?

TF: Yes.

ST: This new order applied, whether the city was using urban renewal funds or community block grants--is that correct?

TF: That's right. It was any federal funds that resulted in demolition, because the urban renewal programs were essentially phasing out. They were almost finished. But there was a whole new set of funds that came from the Housing and Community Development Act of 1974, that was sending millions of dollars to cities like Charlotte to demolish deteriorated neighborhoods and do other things that were considered to be good for the total community.

ST: Could you tell me a little bit more about—the Mr. Kannon you referred to is Mitchell Kannon; is that right?

TF: That's right. Now that was Mr. Daly's client. I remember I met Mr. Kannon. He was an elderly white guy who had a laundry in the First Ward neighborhood that was a very convenient laundry for local people both in the neighborhood and for people that worked downtown. They said his laundry had to move and they were not offering him enough money to set up a business somewhere else. So it was going to destroy his business is essentially what it was doing.

ST: Did you generally find after the new order came down that the city changed it ways?

TF: I found that they changed their ways initially and certainly for all the immediate clients that we had presented to them and before the court, that they knew that we knew. But for people that were not part of the lawsuit, we found that more and more of

those people kept coming to our office. Eventually what we decided was rather than just have them come and have us discover their plight by happenstance, we were going to systematically go out and find them ourselves. So we did what was called "discovery." We forced them to provide us the names and addresses of all the people that they intended to displace. Then we would interview them either ourselves or with law students or other people that could help, to determine what they had been offered and whether it was suitable and met the legal standard for affordable housing, and determined that there were still many people that were not getting offered adequate, affordable relocation housing.

So we filed a motion for contempt of court, which then resulted in yet another order being entered that was done by negotiation. This time, the order did a couple of things. First, it included some new housing to be built by the city that would be considered permanent relocation housing, that would be accessible by the relocatees. What that did was provide some ready inventory of housing that would be identifiable and wouldn't have any market-rate rent charge. The minimum rents were fifty dollars a month. So that was affordable to almost everybody, even the poorest people.

We also got the city to agree to fund a monitor, who was a lawyer that we agreed upon with the city attorney, who would scrutinize all of the relocation decisions made by the department to see whether or not they would in fact meet the legal standard of affordable and up to code. What that did is it built in the enforcement mechanism at the front end, rather than us having to continually go back and chase and catch them after the fact and try to remedy the problem. In this instance, the monitor had the power to tell the city staff that they couldn't displace family X, because the housing they had shown the person didn't meet the housing code or the rent and the utilities combined for that unit were not affordable for that family. He had the authority to essentially veto any individual

displacement that wasn't going to meet the legal standard. I think what that did is that, by having someone who would provide that regular oversight and be a lawyer, it really did finally institutionalize the city's effort to do it right.

ST: Did having a monitor in place like that, did that position continue past the community block grant program?

TF: I think that it did not. I can't remember exactly which year his role ended, but it was probably in the late 1970s or early 1980s. It could have been as late as 1980 or '81. So it went on for a pretty good while.

ST: Your work on these issues extended into the late 70s. I know you worked fairly closely with the Cherry community, right, on similar issues?

TF: Yes.

ST: Could you tell me just a little bit about that?

TF: Well, the Cherry neighborhood was one of the historic black neighborhoods. It was somewhat of a mix economically. It had a fair number of middle-class people who owned their homes. It was predominately rental with most of the rental homes owned by one particular family and rental company. Most of those rental houses were in very deteriorated condition by the middle 1970s. Cherry was one of the nine neighborhoods targeted under the community development program for demolition. The original plan in 1975 called for the virtual complete demolition of the neighborhood.

But in 1977, there was a new city council elected, which created district representatives for the first time, and the representative for district number one in the city, which included Cherry, was willing to entertain some other approach other than complete demolition. The president of the neighborhood association at that time, whose name is Phyllis Lynch, thought that it was unnecessary and, I think, just plain wrong to demolish

the entire neighborhood. She came to our office, the Legal Services of Southern Piedmont office, and asked us to assist the neighborhood organization to try to get a change of that plan. There was over a million dollars allocated to that neighborhood and all of it was budgeted for acquisition of the absentee landlord property and demolition of the houses. So what we did was assign one of our young lawyers to help draft a new plan for the neighborhood, which essentially was demolish only the structures that were totally beyond rehab, acquire the rest of the rental housing from the absentee landlords, and sell those homes to a new non-profit organization that would own and manage them for low-income tenants. Our organization, that is the Legal Services organization, incorporated that non-profit, which became the Cherry Community Development Corporation, so it could become the owner of the rental housing for the lowest income people.

The other part of the plan was to have the Housing Authority build fifty new units of public housing that would be affordable for the very lowest income people, so that the subsidy was built into the housing itself. That was owned and operated by the Housing Authority and put into the areas where the demolition had to occur for the poorest structures, so that we ended up with the city council in 1979 did approve the redevelopment plan that had been designed by the neighborhood association and our lawyer, to save the neighborhood from demolition. It was a very different approach.

ST: What was the new public housing complex called that was built? Or was it more a scattered-site structure?

TF: I don't remember what the Housing Authority called it, but it was actually sort of a series of duplexes and four-plexes that sort of were put out on the street and added up to fifty units. So it was not a tall brick building or a sort of old, conventional public housing at all. It was blended in fairly well with the neighborhood.

ST: I'm just curious how the original plan that you eventually helped to overhaul, how that even made it as far as it did, given the ways in which the city had been forced in the past to make accommodations for folks who'd be displaced by development projects.

TF: Well, you had the city staff saying to the city council, "There is this enormous stream of federal money and it can be used for these purposes. We have housing inspectors who have been through these neighborhoods and seen that a lot of the housing is old and in bad shape and the landlords have not maintained them well." The staff basically had the view that the only thing that you could do was demolish everything that looked bad. No other alternative view had been discussed before. If this had been in Roxbury, [Massachusetts], you would have had community leaders out in the streets saying, "You're not taking our neighborhood." There were no militant folks here that had that kind of ability to challenge authority. The authority of the city was generally viewed as unchallengeable. So until the Cherry fight happened, other than to try to use the federal litigation to help individuals, no one had really thought about trying to save the whole neighborhood itself. But once we saw that that could be done—and it was done mostly politically. There was not an order from Judge McMillan or anybody else that said to the city, "You have to stop demolishing this neighborhood." It was not part of the Harris-Kannon lawsuit. It was a political decision.

ST: And do you think that reflects the changes in the structure of the city council?

TF: I think it was a perfect confluence of the new city council being much more responsive to the constituents in their district, and that particular council member happened to have been a lawyer who had been a law clerk for Judge McMillan for two years, back when the school case was going on. So I think he had a particular sensitivity. And then it just made sense to try to save a neighborhood if it could be done. So having a positive

alternative plan with a neighborhood that was somewhat organized made it an attractive alternative.

ST: Who was the city council member you were just referring to?

TF: Don Carroll.

ST: I realize we're getting close to the time you need to set up for a staff meeting.

So why don't we stop right there and hopefully pick it up later?

TF: That's fine.

**END OF INTERVIEW**

Transcribed by Emily Baran. March 2006.