

## “Law Is Life!”: *Flag Wars*, Local Government Law, and the Gentrification of Olde Towne East

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Over the course of the four years during which I co-produced the documentary film *Flag Wars*, I discovered that, for the African-American residents of the traditionally working-class neighborhood of Olde Towne East in Columbus, Ohio, the law became a thread running through almost every aspect of their lives. As the neighborhood changed or gentrified, the legal system was no longer remote or unfamiliar. It was just the opposite—an uninvited guest dramatically overstaying its welcome. In a word, for the indigenous residents of Olde Towne East, *law is life*.

When Laura Poitras, the co-producer, and I first started shooting *Flag Wars*, we certainly did not anticipate that we would be spending so much time in court, at zoning board hearings, and at meetings of the Historic Resource Commission. We envisioned filming a story about what happens when people of a different race, culture, and class move into a racially, culturally, and socioeconomically homogenous community. We were particularly interested in whether gentrification of a black community by gay whites would be different given the history of exclusion and oppression shared by both groups in this society. During the four years, however, we ended up with over fifty hours of courtroom footage as four out of the five principal subjects we followed ended up in proceedings that grew out of the changing face of the community.<sup>1</sup>

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<sup>1</sup> In addition to long-time African American Olde Towne East residents Linda Regina Mitchell and Chief Baba Olugbala Shango Obadena, who both wound up in court proceedings before Judge Richard C. Pfeiffer, Jr. of the Environmental Court, there were

As it turns out, the judicial and executive branches of local governments are very instrumental in facilitating the changes that occur in communities that are undergoing what some call “revitalization,” or gentrification. Gentrification is not merely a result of the invisible hand of the market. Rather, local courts, the police, zoning boards, housing code enforcers, historic preservation commissions, city councils, and mayors’ offices have a direct impact on the well-being and livelihood of the people who have been long-standing members of gentrifying communities. Local government law is a tool by which the residents who have just moved in attempt to protect and advance their social and economic interests.

Neighborhoods undergoing gentrification often invoke historic preservation district legislation that is passed through the various levels of city government from community boards to city councils. The designation usually proceeds block by block. As new people move to a block, they request that their block be designated part of a historic district; as new people move into the next block, that block is designated historic as well. And so it goes—or at least so it went in Olde Towne East.

Designating a neighborhood a historic district raises the costs that a homeowner faces in maintaining a home or making renovations to a home because the codes for historic preservation require materials that are almost always more expensive than those used in new construction. In Columbus, after receiving notice of a historic code violation, neighbors would appeal to the Historic Resource Commission while also making their court dates before Judge Richard C. Pfeiffer, Jr., who presided over the Columbus

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Chuck Spingola, a Christian minister was prosecuted because of his protest at the Gay Pride Parade, and Curly McDonald, an African-American resident who was active in the neighborhood association and who appeared in court because he repainted his house pink in violation of the historic preservation code. We decided early on not to follow Curly McDonald’s ordeal with the Historic Resource Commission or the cases of other older residents who were cited for violations of the housing or historic preservation codes. The only principal figure not involved in legal proceedings was Jim Yoda, a single gay man who worked as an inhalation therapist during the week and fixed up a house in Columbus on the weekends. Nina Masseria, a real estate agent. (who is this and how does author get to X and Y?) X and Y were involved in the planning of a sting operation aimed at riding the neighborhood of prostitutes, which is described in more detail *supra*.

Environmental Court when we were filming.<sup>2</sup> Judge Pfeiffer would often re-schedule a hearing or trial if homeowners were attempting to reach a compromise with the Commission. Residents would also appeal to their neighborhood association for help in getting code violations removed. We taped several Commission meetings where homeowners would state their position as to why they could not or were unwilling to remedy the violation. The Commission was firm about its requirements, but would also at times find acceptable, less expensive alternative materials. Homeowners who did not have the money to remedy housing or historic code violations had little recourse other than applying for a loan from the city's Trade and Development Agency, community-based organizations that provided small homeowner loans, or non-profit agencies like Christmas in April. Ultimately, homeowners who did not qualify for loans or were unwilling to take out a loan faced the consequences of Judge Pfeiffer's decision and sentencing.

A historic preservation designation also requires that individuals obtain permission to do certain things to their homes. For example, long-term residents of Olde Towne East had for years been painting their homes various shades of pinks, purples, and blues; the idea that they would have to get permission before they repainted their houses again was shocking and insulting to them. More problematic was the fact that historic designations restricted those residents from painting their homes purple or pink at all, although we never quite discovered why it was that a single white male resident had no trouble painting the trim on the exterior of his renovated home in a varied palate of bold, colorful hues. parently, such trim was a feature of Victorian houses.

In addition to the role of historic designations in facilitating gentrification of Olde Towne East, there was also a surge of active housing code enforcement in the community. Anyone who had housing code or zoning violations received a ticket and ultimately ended up in the Judge Pfeiffer's court. This court was problematic for residents who had lived in the neighborhood for a long time

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<sup>2</sup> The Environmental Court (or technically the Environmental Division of the Franklin County Municipal Court) was founded by Judge Pfeiffer to handle cases. It got off to a slow start. Judge Pfeiffer is now the Columbus City Attorney.

because it was a complaint-driven system. Community residents had never before called City Hall and said, “You’ve got to go to my neighbors’ house because they have a code violation!” Residents usually talked to each other about what was going on in the community and resolved problems informally; they did not bring trouble upon one another by involving outside officials.

When neighbors complained about vehicles parked in long-term resident Linda Regina Mitchell’s backyard, as well as other housing code violations on the property, Ms. Mitchell<sup>3</sup> was summoned before Judge Pfeiffer at the Environmental Court. When Judge Pfeiffer subsequently suggested visiting Ms. Mitchell’s home in order to see the condition of the house for himself, it was one of the rare moments that I felt I had no choice but to switch off the camera and attempt to convince Judge Pfeiffer to do otherwise. (Direct cinema has its limits.) I knew that it would be detrimental to Ms. Mitchell’s case if the judge were to see the condition in which Ms. Mitchell was living. However, Judge Pfeiffer insisted on visiting Ms. Mitchell’s home. While there, he relentlessly grilled her about the specifics of her monthly income and expenses in an effort to determine whether she could afford to rectify existing code violations. Ms. Mitchell was forthcoming with her financial information, although the judge expressed skepticism about both the numbers she cited and her ability to afford to bring her home into compliance with the codes. Ms. Mitchell remained confident throughout her legal ordeal. Despite not having the resources to remedy the violations she had been cited for, she had made her deceased father a promise that she would not lose the house or the cars. She was determined to keep that promise.

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<sup>3</sup> Ms. Mitchell was hospitalized twice during the filming. She always granted informed consent to our filming, including prior to our filming in the hospital. The hospital was very vigilant about that. There was never any discussion that we observed or heard about Linda Mitchell needing a guardian. She was treated as a competent person able to handle her affairs. I will say, had a guardianship been attempted, Linda Mitchell would not have cooperated. Her actions and rationale for them were appropriate given what was happening to her. Where she differed from most people was in her insistence that her financial limitations should not define her right and determination to keep her home. What did not make sense to her was other people feeling that she should sell or abandon her home because she lacked the resources to remedy code violations.

The conflict between residents' rights as property owners and residents' responsibilities as property owners posed a major issue for residents faced with housing code violations. Linda Mitchell certainly felt that, because she had inherited her house and therefore owned it, she had a right to keep vehicles in her backyard regardless of whether it was a code violation. She felt that she had a right to keep her house in any condition that she chose to keep it in, or was, by lack of resources, forced to keep it in, and that this should not jeopardize her ability to keep the house. As we were filming, it became clear that there were certain arguments that were in accord with the law, and certain arguments that were in accord with the moral logic of Linda Mitchell—and her arguments were certainly persuasive: "It's my house. Why can't I park whatever? I should be able to do what I want with my backyard. The condition of my house, so long as it doesn't hurt anybody else, should be the condition of my home."

Over the course of the four years, we watched Judge Pfeiffer transform. Early in the project he said, "We live in a capitalist society and in a capitalist society you have to have money. If you want food, you have to have money; if you want clothing, you have to have money; if you want to have shelter, you have to have money. If you cannot afford to maintain your shelter, you have to sell it." For Judge Pfeiffer, a homeowner in violation of the housing code and unable to remedy the violation because she or he lacked the funds had to sell the house, or face the possibility the judge would condemn the house. Linda Mitchell was so exceptional in her persistence and determination that in the end she broke Judge Pfeiffer down. By the end of that four-year period, the judge found himself simply delaying and delaying resolution of her case, until ultimately a staffer in the historic district office actually put together a coalition of nonprofit organizations to help restore Ms. Mitchell's house so that it would be up to code.

Reasoning similar to that expressed by Ms. Mitchell also motivated another of the Olde Towne East residents that we followed during the shooting of the film. Chief Baba Olugbala Shango Obadena, a Yoruba priest, had an African-style carved relief sign with his name and address hanging from his front

porch.<sup>4</sup> This sign was against housing code because it was not Victorian and therefore not consistent with the original architecture of his home. Therefore, Baba was in violation and consequently found himself in court. In addition, Chief Olugbala was cited for conducting an art gallery in his home.<sup>5</sup> The Chief's prideful identification with and practice of African culture particularly irked his new neighbors for reasons that are not clear. They took offense at being called "European Americans." Their attitude was/is that "...we're all American so why does he distinguish people in that way." When the male "black elders" held their annual drumming at Kwanza Park across the street from the Chief's gallery, the new residents would call the police and complain about the noise. Baba Olugbala's cultural expression and gallery were much appreciated by the black community, however. It was his new neighbors who called the police to complain about noise, cars parked in front of their houses and his sign that triggered tension, not the old ones.

In direct contrast with the code enforcement directed at Chief Baba Olugbala, his sign, and his gallery, a newer owner of a house just down the block from Olugbala built a fence around his property that the Chief believed was in violation of the code and hung a German flag on his exterior for quite awhile. Yet code enforcers apparently said nothing to this resident. In addition, numerous new residents displayed gay-pride rainbow flags on the exteriors of their homes, and again housing code enforcers did not request that the homeowners remove the rainbow flags. These "flag wars" came to represent the discrepancy between the way city officials treated the older, poorer black residents and the way

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<sup>4</sup> It should be noted that Chief Baba Olugbala's house has been included on tours of showcase homes in the Olde Towne East community. See Joe Blundo, *Tour of Contrasts: Ingenuity and Elegance on the Olde Town East Tour*, COLUMBUS (OHIO) DISPATCH, May, 14, 1995, at 1J (describing the many examples of home improvements built from salvaged materials); Joe Blundo, *New Tour Is Meant to Showcase Homes Owned by Blacks*, COLUMBUS (OHIO) DISPATCH, Sept. 14, 1996, at 1H (reporting on the Nubian Home Tour of ten Near East Side homes all owned by African Americans).

<sup>5</sup> In 1994, Baba Olugbala was among the recipients of the Governor's Award for the Arts; he was honored for "arts outreach." *Gallery Owner, Riffe, Dispatch to Receive Arts Awards*, COLUMBUS (OHIO) DISPATCH, Mar. 9, 1994, at 10F. Olugbala's William H. Thomas Gallery "hosted] discussion groups, provid[ed] residential space for visiting artists and enable[ed] Afrocentric artists to display works." *Id.*

they treated the newer white residents. Chief Olugbala was able to successfully illustrate to Judge Pfeiffer that his address sign had existed prior to the adoption of the historic preservation codes. As a result, he was permitted to continue displaying his sign on the exterior of his home.

In addition to making frequent visits to court, Olde Towne East residents who had for the most part been living in the area since World War II, found that as new people moved into their community—people who were of a different class and race—and as the neighborhood underwent transformation, the responsiveness of law enforcement officials was transformed as well.

The first and most evident changes were centered on “criminal enforcement,” so to speak. I use quotation marks because in the four years that we lived and filmed in Olde Towne East, depending on whom you spoke to, “criminal” was defined very differently. For example, a young man from the neighborhood named Wink used to walk through the alleys and knock on back doors to see if he could make a dollar or two cutting someone’s grass or going to the grocery store. Wink was the son of a couple who had lived in the community for fifty years and who had known everyone in it. For the new people who had moved into the area only recently, however, Wink was evidence of a possible criminal element in the neighborhood. Inevitably, someone called the police, who would then come and investigate Wink’s activities. Many of the older residents became irate at this, given that their own efforts (starting in the late 60’s and early 70’s) to get the police to be more responsive to criminal activity the residents considered far more threatening than any risk posed by Wink had been in vain. Much changed when the new neighbors moved in. The newcomers started to work very closely with the police. They also organized block watches, which the older residents felt were extremely oppressive because they tended to focus on non-criminal activity that was normal for this particular neighborhood. Whenever teenagers gathered in a community park, for example, the new neighbors called the police and complained that the teens were making too much noise, regardless of what the teens were doing.

Prostitution was another issue about which the newcomers complained. They would moan to law enforcement about how the

prostitutes and the johns were destroying the community. Well, for six months we looked for ladies of the night in Olde Towne East, and we eventually did find some, but only after new residents in the community organized with the police a very bizarre sting, wherein approximately thirty women were captured, pushed into paddy wagons over the course of eight hours on a Saturday and Sunday, and then taken to court. The interesting thing about this operation was that it was purely a result of strategizing by the new residents with the police. Prior thereto, if a woman was picked up for prostitution, the fine was a minimal twenty-five to fifty dollars. The new residents, however, made the following proposal to the police: "What if you don't haul them in, but instead you just let them accumulate fines, so that when they go before a judge, the judge has to apply a stiffer fine, which they can't pay to get out?" This is exactly what happened. The thirty women appeared before a judge, who apparently was not very happy with the community's and the police's plan; he was essentially forced to set exorbitantly high bail levels for the women, which resulted in their not being able to get out of jail.

The criminal law, then, was part of yet another strategy used to mold the neighborhood into what the newcomers wanted. To some it seemed a nice change: community residents working with the police within the judicial system. However, this opportunity to collaborate was not afforded to everyone in the community, and it had not been afforded to anyone before the new people moved in.

Older residents took issue not only with law enforcement officials, but with the newcomers themselves. One African-American lady who had lived in the neighborhood for years voiced her concerns about the changes occurring in the neighborhood at a city zoning board hearing. She spoke about the disrespectful manner in which a new resident had spoken to her, calling her a "tough cookie." She expressed her concerns about people moving into the neighborhood and not caring in the least about what happened to the people already living there. At this particular zoning board meeting, the issue of a recent spike in the crime rate arose, and this older resident pointed out that there had not been nearly as much crime before the newcomers moved into the neighborhood. The woman seemed to be articulating for the rest of

the older residents their collective concerns about recent developments in Olde Towne East.

Law obviously provided a forum where the old-timers and the gentrifiers did battle over the identity of the community; the concepts of civility, neighborliness, and respect for one's fellow citizens; and the distribution of the benefits of change in the community. In the case of the zoning hearings and petition drives, the battles were face-to-face. The various petition drives were too in a way. New construction of low and moderate-housing units was a big issue while filming, as was the reduction of Section 8 housing. The effort to close down carry out restaurants (which sell liquor) and to limit liquor sales were major concerns that are covered slightly in *Flag Wars*.<sup>6</sup> The neighborhood association attempted to facilitate a reconciliation of the two interest groups by bringing in a conflict resolution consultant several times (before we began filming), but that proved unsuccessful. The law itself did not facilitate accommodation, but individuals working within the legal system did, individuals such as Judge Pfeiffer who asked prosecutors and defense attorneys for options and alternatives to punitive legal remedies as a way of dealing with the citizens who came before his court.

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<sup>6</sup> Under Ohio law, voters at the precinct level have the right to designate their communities liquor-free or dry and to otherwise regulate the sale of beer, wine and mixed drinks, as well as Sunday sales of alcoholic beverages. Individual stores or retail outlets can seek permission to sell various types of liquor or to sell liquor on Sundays.