



INNOVATIONS FOR SUCCESSFUL SOCIETIES

THE WOODROW WILSON SCHOOL OF
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Interviewee: Christy Kane

Interviewer: Gabriel Kuris

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KANE: *... This started with Malcolm A. Meyer as a Louisiana Appleseed project, although interestingly, we were at the same law firm when all of this started. I was an attorney on loan to Louisiana Appleseed from Adams and Reese's law firm. At the time we were partners there, law partners. But anyway, the firm heard about National Appleseed and said why isn't there one here. It was two years post Katrina and I think that's when systemic issues really started to bubble up to the surface in Louisiana. The recovery program took a really long time to roll out because it was the first and the biggest in the country's history that needed to take place.*

So, it did take it a while to get started but I think that's when the heir property problem really became more than obvious to communities that had not previously had to deal with—they didn't need the paperwork in their name, they really didn't. Because in Louisiana and this is where Malcolm (Meyer) knows way more about the technicalities of it, but in Louisiana you can inherit property—you inherit the property as soon as the person dies. Through the civil law system, you've inherited the property but the paperwork still needs to reflect that inheritance. That's where the snag is. Even though you're an heir and you became an heir when the person passed it still isn't technically—it's just not merchantable. You can't get recovery funds, you can't—.

KURIS: Bank loans?

KANE: *Bank loans? No way. Now it is starting to affect people and their tax assessments too because it is a complicated thing. A new law was passed last session to where tax assessors are receiving death notices now monthly from the Office of Vital Statistics. Now I know legal aid advocates and attorneys are concerned that that move is going to really hurt the low-income population, especially those who haven't opened successions, haven't even had time maybe to open a succession from the person who passed away, where if the home state exemption is yanked, which it probably will be now a lot sooner than it has been in the past. It will really hurt I think some low-income families especially if they accumulate taxes and then a tax bill goes out.*

If we thought the house was under the homestead exemption, we haven't dealt with the succession. So that is kind of an emerging issue that we're keeping—Louisiana Appleseed is keeping their eyes on—Malcolm probably doesn't know about but if he did he'd be so intrigued.

KURIS: Wow.

KANE: *Yes, that is kind of off topic but it definitely is about property ownership for low-income and low-wealth families for sure.*

KURIS: Exactly. Mostly I want to talk to you about how these efforts all developed because it's mostly the story of all these reforms.

KANE: Yes.

KURIS: You said that Appleseed in Louisiana was founded after the National Appleseed.

KANE: *There were some early efforts to get it started. In fact, when National Appleseed was founded in the mid to late '90s I guess, the concept was to—and this is so punny—to sow the seeds of justice in all fifty states. So, I think the folks, the*

Harvard Law School graduates got together and decided that that was going to be their reunion class gift to the school, to form this nonprofit that addressed systemic reform, not just pro bono case-by-case.

So, anyway, I think what they did is they contacted folks they knew in all the states and tried to kind of get one started. So, they did contact Lynn Luker an attorney at the time at Adams and Reese, the same firm I was talking about a minute ago. She was very interested.

Adams and Reese actually, on a pro bono basis in 1997, helped draft the 501c3 filings and articles of incorporation. So, Louisiana Appleseed was technically born in 1997 but had no staff. It was all just very well-intentioned lawyers. The concept, I have to say, of policy reform, even now, is a little bit different than it is say in D.C., Chicago, New York, more progressive places probably.

KURIS: Okay.

KANE: *I don't mean to be too—I'm from the south, I'm from New Orleans. I don't mean to speak disparagingly but it is just—I spent some time in DC and it was hard making the transition, especially when I did switch over to Appleseed to explain what we do. Solving problems at the root cause, people start to understand that. We have bad laws, they need to change. People understand that for sure.*

So anyway, 1997 is when it tried to get started, it did not start. They even had a Board of Directors that was statewide. They'd meet, from what I understand, every few months by conference call and really tried to get going and it just never did. So then right before Katrina they hired their first executive director, her name was Monica Taylor. She is now in the state AG's (Attorney General's) office. She was only on for a few months and then Katrina hit.

After that the world was just on its head. Katrina was in '05. Then '07 is when Adams and Reese, which again—it's a coincidence that Lynn Luker did the Articles of Incorporation, the early papers, but anyway that's when Adams and Reese heard about Texas Appleseed through a client and said why don't we have one here.

So, we called National Appleseed and said why don't we have one here? Well, we've tried a little bit but we've never been able to hire a full-time staff person, preferably a lawyer. I think they wanted to try something different so they asked Adams and Reese if they'd be willing to incubate Louisiana Appleseed for a couple of years.

They approached me, the firm approached me and said would you be interested in taking on this role, just for a year. You would have to put your practice on hold but your entire job would be to help get this nonprofit started and then we're going to spin it off. I was like, I love the idea. I had done a lot of pro bono work in my practice. The one-on-one though, case-by-case and as a class action litigator I never really felt like I should be handling divorces, adoptions, kids who had been taken from their families. If you ask me about class certification and the tobacco lawsuits, I can tell you about that, but to represent a kid in court was not my thing.

So that's part of why Appleseed appealed to me when I first heard about it, because I was like, a big firm lawyer, which in New Orleans is so different than a big firm somewhere else. So, I would have really enjoyed the idea of research, analysis, advocacy, I can do that all day; that's what I do for these folks. Taking a kid to court to explain why the mom shouldn't have her tonight—that's really hard. That's the hard stuff, that's the tough stuff. But anyway, they asked me to do it and I said absolutely yes. It was a time in my personal life where it really made a ton of sense. I had just had three kids in 18 months—a set of twins. Anyway, personally, this was a great time for me to try something different but also kind of be available to my family a little more.

So, I did that for a year. One year turned into two years. It was '07 and '08 when it was incubated at Adams and Reese and '09 is when I think Louisiana Appleseed was strong enough to hire an executive director full time. So, the board kind of came to me, of Louisiana Appleseed, that we had formed, and said we want to hire you but you'd really have to leave Adams and Reese.

I thought about it long and hard and decided to leave. So, in 2009 we left. I keep pointing this way because they're in One Shell Square, the tall, white building. We left there and moved to where we are now.

KURIS: Okay.

KANE: *Yes, I left the firm, I guess, eight years ago to do this full time. That's where we were. I was at Adams and Reese and so was Malcolm, two floors apart. In my first week of work or so as Louisiana Appleseed's interim executive director or whatever, I got a phone call from a secretary on Malcolm's floor, 44, I was on 46. She said, Christy, I've been doing a lot of volunteer work in the Upper Ninth Ward to try to help redevelop. I've been working with Habitat for Humanity, Baptist Community Ministries and there is this problem over and over. We keep going door-to-door and people keep saying, I can't get rebuilding money because I don't have the right papers.*

So, we started talking about it and she was like if somebody could fix that it would be great. So, I called a friend at Legal Aid who headed up the Legal Aid office here in New Orleans, Legal Services Corporation. I called him and said, hey this issue—. He was like oh, if Appleseed could fix that it would be great. It's been around forever.

He was like, it's not just this storm but it's worse now than it ever was, meaning the problem.

KURIS: Because they were dealing with—.

KANE: *The existence was already there but Katrina revealed problems for us as a community. It was not just in New Orleans, elsewhere too, but mostly here in New Orleans. Anyway, I talked to him and then sent out a firm-wide e-mail and said as you know we just launched this nonprofit. This issue has come up, who knows about it. Then Malcolm responded.*

I think his recollection of how it transpired is slightly different, which is funny, but regardless of the details, the e-mails, and whatever, he and I started working on "how do we fix this" at the root cause. Malcolm—he probably did or didn't tell you

this—but literally wrote the hornbook on real estate law in Louisiana. I mean it is Meyer's Manual on Louisiana Real Estate, he just knows so much, he has a wealth of knowledge. He has been a professor at Tulane, adjunct. He had been in practice though for a decade. He knows so much.

So, he right off the bat took a look at the law. I think he talked to Mark, the Legal Aid attorney that I called.

KURIS: Mark Moreau?

KANE: *Yes, and just kind of talking about the law, it is too complicated, it is way outdated. It's too expensive. It needs to be less complicated, easier and cheaper. It just is how it appeared to the community. That's what we started to figure out, how can we do this. Malcolm took a look and was like, I think we should form a study committee at the state legislative level but pick who is on the committee, not the person but the entity. So, we should have somebody there from the Martinet Society, we should have somebody there from the Law Institute. We should have somebody there from Tulane Law School, from Loyola Law School, from Legal Services Corporation. We kind of came up with a list of who should really be at the table to talk about this. Then that resolution passed. We met as a group and then the legislation went from there.*

We kind of went back each year—I'm glossing and skipping over times—but we went back once we made the major changes in '09 or '10. We would go back each year and try to broaden—cast the net of it wider of—who could use this expedited process to get clear title. I think that that was what we did for a while.

Then this past session—and this is when Malcolm decided, understandably, to retire from his position as a volunteer although he will always be—we called him for lots of advice along the way this year. We engaged Patty McMurray, an attorney at Baker Donelson at Baton Rouge to take the lead to make an even bigger change to the law. So that's what we did this session. I think it is a huge—it is going to help a lot of low-wealth families in Louisiana but I think it is going to help a lot of middle-class families as well, to get clear title, people who don't already have clear title.

KURIS: Can you tell me a little more about these regional reforms?

KANE: *Yes. I wasn't sure how deep you wanted me to go or not. Malcolm again—and Patty—are the true experts. They're the real estate attorneys who can walk you through, this is what this word means, this is what this word means. For me, again, this was never my field of practice.*

Basically, during that first legislative move—Louisiana used to allow for an affidavit—an heirship affidavit to be used on movable property meaning like a car, a boat, something that literally moves. Anyway, it had—there was a dollar amount, it was \$50,000 or less and it had to be movable. If you met those two requirements you could use an affidavit to quickly prove ownership and not open a succession. Like let's just prove heirship, now you've got the papers you need, go. You've got the title to your boat, great, done.

What Malcolm did was he looked at the process and said how can we make the affidavit—how can we make it useful for immovable property for the first time, houses, funeral plots—like land. So that's what we proposed after this study

committee met, that the heirship affidavit process be expanded to include immovable property for the first time and to up the \$50,000 or less value, to \$75,000 or less.

In other words, a lot more people could use it because now it included immovable property and then we just made an adjustment—especially since the law hadn't been touched in years—from the \$50,000 to the \$75,000 or less. So, the estate had to be valued at \$75,000 or less at the time of the decedent's death, so when the person passed away. That was well received.

People all over the state were just—he probably told you this but when we went Malcolm and I were just amazed. When we went to the legislature, we had described it as a New Orleans specific problem but figured it happened elsewhere. But when we went to the legislature there were so many legislators from rural communities elsewhere in Louisiana who said, "We have this problem, I have this problem in my own family. We need to fix this law."

KURIS: And not just related to the hurricanes.

KANE: *Yes, not related to the hurricanes. Tornados in north Louisiana, how do you handle that when maybe a farm was wiped out but grandpa died a long time ago, so what happens. So anyway—and it doesn't have to just be disaster related but that's when people open their eyes and say, wow, there wasn't a problem until there's a problem.*

Anyway, we went back, maybe the next year or the following year to the legislature. We had heard that the use of the affidavit was going really well. There were concerns of fraud. Every now and then people would kind of ask questions like how do you know people aren't going to lie? They can just, in theory, even go to a Notary Public and get this notarized and then put it in the mortgage office. How do you know that they're not going to lie?

There was a waiting period and a way to challenge that if you really wanted to. If another heir wanted to challenge but we still to this day have not heard of any fraudulent activity when it comes to people trying to pull one over on a cousin, another heir. It seems to be working really well. Is it flawless? No way, I'm sure it's not. But I think that was a concern that somehow didn't become a problem.

KURIS: Okay.

KANE: *We went back a year or two later to the legislature and told them the affidavit was going great, thanks so much for your support. It passed unanimously in both houses, but we asked them to forget about the value of the estate if the person passed away twenty-five years or more. If the person died that long ago, chances are heirs would have come forward in that time period, even in families where the value was \$75,000 or more.*

I don't recall how that change came about. I don't recall who Malcolm heard from in the community that that needed to happen but the legislature said yes, and so we made that tweak. Then time goes on and every now and then I guess we would go back to the legislature and propose something. Instead of the state of Louisiana—before they issue recovery funds, instead of them having to have a full-blown succession done or even a succession affidavit, if somebody is living in the house and can prove that they've been living in the house for, I think, three

years, that they've been maintaining the house, then we actually had the legislature pass something that says that the state of Louisiana can still disperse recovery funds to that person in order to rebuild and repair the home.

In other words, the affidavit that the succession process shouldn't stop the state from going ahead and getting that money out the door. They still probably have a lot of Katrina-related money, funds that haven't been distributed. So that kind of seemed like a good idea at the time. It kind of backfired on us a little bit in the Baton Rouge flooding that just happened last year. I can talk more about that in a minute if you want me to.

So, we've made changes, little changes through the years. The major change that we made this year was in response to the Baton Rouge flooding—there was huge flooding last year in the Baton Rouge area and I think 19 other parishes as well but especially in Baton Rouge.

We kind of took another look at the affidavit. We haven't done anything on it in a while, how can we make some changes so more people can use it to get recovery money, especially from FEMA (Federal Emergency Management Agency) because federal guidelines are a bit tighter when it comes to succession. How can we change it so that the net is cast even wider so that more people can use the affidavit process? And so, we changed the law to instead of the value being \$75,000 or less we changed it to \$125,000 or less.

KURIS: Okay.

KANE: *So now a family can use the affidavit process for a succession if the decedent's portion of the estate is valued at \$125,000 or less. We made this change or if the person died 25 years—no, it used to be 25 years, now it is 20 years. So, if the person died 20 years ago you don't have to look at the value of the estate and do all that analysis, you can just use the affidavit process.*

KURIS: This must cover the vast majority of estates in the state, right?

KANE: *I think it does. I don't know that for a fact but I think it must because it is the decedent's portion. So, suppose you have a grandma and a grandpa who owned a house together and it was part of the community. Grandpa died and grandma never did anything about it, so grandma just lived there. Then grandma died and grandchild lived there but still needs now to access recovery money and needs to open succession for both of them. Now it is 125 plus 125 so the value of the estate is \$250,000 or less, they can use the affidavit process. Or, if grandpa and grandma died twenty years ago or more then they can use the affidavit. So, it really does open up this expedited process for a lot of people. I think we're going to start to hear hopefully about how great—that just went into effect last summer so we haven't quite gotten a chance to hear back other than Legal Aid attorneys in Baton Rouge who are using it all the time.*

KURIS: Okay. Are there any further things that you guys are thinking about?

KANE: *Not to that—I think we went big this past time. Our main opposition is the Louisiana Clerks of Court (Association), the clerks—if somebody qualifies for the affidavit procedure, they don't have to open a full-blown succession in court. They can go through an affidavit procedure, even get a Notary, hopefully a lawyer, somebody to do the document with them and notarize it. Then they can*

go file it in the conveyance office, the recordation office. There is a fee but it is small, it is probably \$40 or \$50.

If the person doesn't qualify for the affidavit and has to open a full-blown succession, then they have to go to civil district court right over there, walk in, and pay a lot of filing fees. So, you can imagine that the clerks of court who are used to getting those filing fees want more people in this line than that line. That unfortunately—and I don't think it is fair to the clerks, that's how our clerks' offices are funded in Louisiana, it is through fines and fees, which ends up hurting the community in the end.

KURIS: I see.

KANE: *So anyway, the clerks both in 2010 and this past time were the only people who showed up to potentially ask the legislature to vote it down. We were able to reach a compromise with them. Last time the compromise—last time meaning 2009/'10, I can't remember which year—we wanted estates valued at \$100,000 or less to be able to use the affidavit and the compromise was \$75,000 or less. This time we went for 150 and the compromise was 125.*

The clerks asked the committee to do this and they said yes, we didn't oppose it. They put in some language that in the successions that do go to court, since more are going to be in this line now, the conveyance office line, for the ones that do go to court that the clerks can charge—they can make up their own charges and fees or something for that process.

KURIS: Because it may be more difficult anyway.

KANE: *Yes, the more complex cases are going to go to court anyway now. So that does kind of make some sense. That's why we didn't oppose it because we were like well, okay. Plus, we wanted to help everybody but especially the folks who can use the affidavit process now.*

KURIS: How do you think you avoided any other political opposition, was that strategizing on your part or keeping a wide net?

KANE: *A wide net. I think the first time we went through the process we chose Sen. Edwin Murray to be our legislative champion. He was very good—he retired, that's why I say was, in the legislature. He was very good at building consensus with Republican and Democratic senators and even House members.*

I think the approach that we took was a very no-nonsense approach, like how can you say no, almost. That was especially because I think working with people on the front end, within the Appleseed world, it always helps to bring in who you think your worst opposition is and talk to them and say why. Tell us your needs—the clerks. Tell us what the problem is.

Well the problem is it's unjust how we're funded by the state. So, I would love somehow if Appleseed—and we're looking into it, we just got some funding from the Annie E. Casey Foundation to look into how our courts are funded. But meanwhile, we wanted to work with them. Okay, so how can we work with you? Unjust or just, this is the court fee structure so how can we work with you? What do you need.

I think that kind of helped, talking to folks ahead of time. I think that study committee—I think if we had to do it all over again, I would have said let's do that study committee again before this legislative attempt, even though it was perfectly executed, flawless, no opposition once it got to the floor, not even in committee once we reached the compromise that we reached with the clerks.

I think that that is a good way to sell it to the Legislature. Look, we met with these eighteen groups, gotten feedback from all of them. And it was an open meeting, it wasn't just the eighteen groups when we did it the first time. Let's have them all in the room. Let's have everybody in the room and talk about what can we live with. This is a problem, we proposed a solution, what can we do.

KURIS: Yes.

KANE: *So that's kind of how we felt the first time and then this past session too in the wake of the disasters in Baton Rouge in 2016, the two floods. We don't have time to go through all that.*

I know that—and Craig will talk about this I'm sure, the Uniform Partition Act—.

KURIS: Yes, I wanted to ask you about that.

KANE: *It's nationwide.*

KURIS: So Louisiana hasn't signed on to that. It is one of the few states around here. Is that because that isn't much of an issue here or—?

KANE: *That's Malcolm's—well, it is still an issue in Malcolm's view. We had Malcolm look at it because who better to look at the uniform law and then Louisiana's existing laws than Malcolm. So, he did. He is of the opinion, I don't want to speak for him, but what he told us at the time is that he felt like the laws that we have on the books, especially being a civilian, like a civil law state, the laws that we had on the books he felt were not too bad. What we did add in was notice provision from other—so we did go to the Legislature on partition one year.*

KURIS: Okay.

KANE: *We did propose some changes that were accepted and went through well. I don't remember huge opposition. As far as the uniform act, I know that people from outside of Louisiana would love to see it passed here because it is a good thing. I think it is a very good thing.*

As to whether it happens here or not, we're not opposed to it. If somebody wants to propose it and supposedly Chris—there is a professor at Southern law who supposedly does want to go the Law Institute route and try to put the Uniform Act through the Law Institute. I think if they're going to do that that's the best way to do it, go through the Law Institute, let it go through the study process and see what fits in the civilian system and what doesn't, which isn't so different than the common law these days. I think that is really good. If they want Appleseed's help, that's great. I think we'd be interested in that communication but at the same time I don't think—we haven't felt that we're the ones to lead the charge when it comes to leading the Uniform Act, at least not right now.

- KURIS: Right.
- KANE: *Maybe in the future.*
- KURIS: So, the forum you mentioned, about notice and the other thing, you said that was kind of inspired by the Uniform Act.
- KANE: *Yes, definitely.*
- KURIS: That's interesting, that's an answer in itself.
- KANE: *Yes, the HP—the Heir Property Retention Coalition I think is the name of it.*
- KURIS: Yes. Under John Pollock?
- KANE: *John Pollock, yes.*
- KURIS: I'm talking to him on Monday too.
- KANE: *Good. We became part of that group. We just started hearing and learning more about the Uniform Act. I know Georgia Appleseed had great success in doing it. Texas—I know Texas passed it. I feel like Texas Appleseed might have been a little bit involved, I don't know that they led the charge on it. But yes, so many of these southern states have done it now.*
- I mean granted they're not civil law states but again it doesn't matter. I do think that that is one thing that the Law Institute takes as one of their duties, to stay as true to the civil law and that heritage as we can but understanding the need for progress in 2017. So maybe they'll look at it with that lens and then figure out kind of what—.*
- Now, if Malcolm came to us—it wouldn't just have to be Malcolm but if somebody came to us and said, look, this really—the Uniform Act, we need to do it here, I guess we'd think about it but nobody's done that.*
- KURIS: One thing I really want to know more about is collaboration between the different Appleseeds, especially in this whole process. I know that right after Katrina you had the report, was it after the storm report—.
- KANE: *One year after.*
- KURIS: That was several different Appleseeds?
- KANE: *Yes, it was Texas Appleseed—.*
- KURIS: And Georgia?
- KANE: *Yes, I think Georgia helped. I don't think DC helped but a lot of Washington, DC-based firms helped because that's where National Appleseed is, it is where their office is. So yes, that. Obviously, I think that probably since it predates me I probably don't remember enough to credit that with partially why our center was reborn and partially why that heir property issue was identified. Even though I recall it being the phone call that I got from the secretary, I'm sure at that point I looked at the report and was trying to put together a project portfolio based on*

here are the issues that still exist. That would have been about...we were a year after that report came out. So, it was that report was one year after Katrina. Louisiana Appleseed came to be about a year—it is missing my timeframe but after that report.

KURIS: Right.

KANE: *That has been—the collaboration, we as a network, the Appleseed network got funding from Kellogg, National Appleseed did, and then distributed it to centers to have a Gulf Coast Recovery Program. That's when I think the centers probably worked the closest, especially on heir property because it was Texas Appleseed, Louisiana Appleseed, Alabama, Georgia, and South Carolina to a certain extent since it is somewhat coastal but really this was Gulf Coast recovery. So those were the states that participated.*

We had a staffer—National Appleseed had a staffer fully devoted to that. Most of the work had to do with heir property, some had to do with access to financial institutions for Latino and African-American populations, but mostly it was heir property entitled. I was on that call—we met a lot by phone. Maddie (Sloan) was from Texas and me and then Allison Tiller was the Gulf Coast Recovery person at that time, she was the National Appleseed employee. She actually sat here in Louisiana though with me, which was nice. So, I felt really plugged in to that project in particular.

Then eventually National Appleseed, once the funding had expired from Kellogg she came to work as our policy director with Louisiana Appleseed. It was nice for me to have a staffer ready to go.

KURIS: Yes.

KANE: *She worked with us too even when she was with the National Appleseed technically being paid by them but she still worked with me at times.*

KURIS: So, it was both the Heirs Property Retention Coalition would have key phone calls and then there was the Appleseed that had its own—.

KANE: *Yes, like Gulf Coast Recovery which was more than just heir property but we ended up talking about that almost all the time because all of us were working on it because it was such a problem for all of us after Katrina and Rita, for Texas Ike and Dolly, for Alabama Katrina and people moving—just sort of disaster after disaster.*

Then Georgia is really focused on the rural aspect of heir property. They've done well doing that.

KURIS: Do you know—is there any reason in particular why Mississippi is left out? Is it because it is a smaller state?

KANE: *Isn't it interesting? I know, there is no Mississippi Appleseed. When I've asked that question in the past I've been told that because the Mississippi Center for Justice has such a strong presence in Mississippi that maybe the thinking at least—I don't know if it is in Mississippi or outside of Mississippi—is that they just do such a good job on the direct services, policy, advocacy that maybe they're*

fulfilling some needs there. But I don't know, I've never heard talk about—it is kind of strange, we kind of go like that and then not Florida.

KURIS: They have their own issues.

KANE: *Exactly, so I don't know.*

KURIS: How much do you collaborate with Southeast Louisiana Legal Services (SLLS)?

KANE: *How much do we collaborate? Tons and tons and tons. I'm emailing Laura Tuggle, their Executive Director today, we work with them a ton. I love working with her, and Mark Moreau before her. But she and I have definitely—like our organizations, we now apply for grants together. Southeast Louisiana Legal Services being the direct services component, Appleseed being policy, advocacy and the community outreach—after we changed the law, going into the community with SLLS to say here's the problem, here's how we fixed it, here's your lawyer.*

KURIS: So great. I guess I want to talk about being the awareness raising component of this. I guess that's a big part of this right?

KANE: *Yes, it is. There is no point in changing the law if nobody knows about it. So, we've been trying to educate lawyers, like having CLEs, continuing legal education classes, trying to get them to know more so they can talk to their clients about it but then also direct outreach to the community through faith-based organizations, maybe cultural and community organizations, maybe community centers. We have an outreach coordinator in Baton Rouge who is full time. He is full time right now on this project alone. Flood Proof is the name of the Baton Rouge title clearing collaborative with us, SLLS, Southern Law School, LSU (Louisiana State University) Law School, Baton Rouge Bar Association. It is funded by the Baton Rouge Area Foundation, a community foundation there but the money is really from Kellogg, it is just wrapped as overseer.*

That is an example of where we applied for a grant together and got it and now we're doing work there. Before Laura's time, when Mark was around, we applied together to the Greater New Orleans Foundation for a two-year collaborative having to do with title and heir property specific to New Orleans. So that was kind of where we really started to get our feet wet with this. It was around the time of the policy changes at the capitol.

Now we're just starting, Laura and I, as of November 1st, so we're like just starting, a project for SLLS and Appleseed in two coastal parishes, in Terrebonne and Lafourche parishes, like people who—it is not necessarily disaster-related but they are very disaster prone. That is about sustainability in the communities. The Greater New Orleans Foundation funded that from a sustainability grant pool. So, we're starting that work. We've already started it technically but we're still ramping up.

KURIS: So, the process for the average person in a target community here would be education and then getting people to get clear title and then hopefully getting the heirship affidavit after clear title and—.

KANE: *The affidavit will get them clear title.*

KURIS: You mentioned in the Baton Rouge floods. You said there was a bit of a backlash?

KANE: *It was like an unintended consequence. I think sometimes like in Appleseed you need to look at what are some of the intended consequences and the benefits, the pros and cons of those, mostly pros. Then the unintended consequences. One of the unintended consequences of the law that I mentioned—it doesn't have a ton to do with the reforms that we talked about in '09 and '10 or even the one this session itself but rather it is the statute that Malcolm kind of had the idea for, after working with the state to try to understand why funds were so delayed in getting out to folks.*

They were like, we could just release the funds to the person living in the house—the person who has been living in the house. At least they could get started on the repairs while the succession progresses, either through affidavit or court.

We loved the idea of doing that and we went to the legislature and they saw the reason, yes, that's great, let's get that done. That was post Katrina. We were trying to be a little bit—anticipating—before the next disaster, let's see if we can streamline the process to help, especially in the low-wealth communities who don't have their own money or access to credit or lines of credit to try to get their house back. Let's see if we can kind of expedite the process for them.

What I would like to see, what we didn't put in there, is a requirement that the person initiate the succession process or something. I feel like we kind of unintentionally put a Band-Aid on the problem and said okay, let's get those recovery funds out, but then that might just be enough. A family might be—we've got the money to repair the roof and to get going; we'll handle the succession another day.

KURIS: They want clear title.

KANE: *They want clear title. So, the state says, we love it. We can get the money to the people who need it, out the door faster in a very legal, statutory way and we again applaud it. We were behind it initially along with lots of other people, not just us. But now I think we're seeing that post flooding in Baton Rouge last year that the state is relying very heavily on this statute saying they don't have to have clear title. We're going to release the funds according to the statute and Legal Aid—Laura and I have talked about but the families still need clear title. In order to build wealth and assets and not be so vulnerable if another disaster strikes.*

So now we're trying to figure out whether something needs to be done there, whether we can do anything with the law as it stands that would help both objectives, help the state disperse funds—I don't want to say in a regulated but—in a logical, methodical, correct, legal way but then also have the families also actually get clear title somehow.

KURIS: Okay.

KANE: *I would like something that meets both objectives. We don't have that yet; we're just kind of toying with the idea.*

KURIS: That's interesting.

- KANE: *Yes, unintended consequences, we didn't think about that.*
- KURIS: Are there any kind of metrics that you use for measuring results here?
- KANE: *No, but if you can tell us—if somebody can help us with that that would be good. Laura Tuggle and I went to a meeting at the Federal Reserve Bank of Atlanta—.*
- KURIS: The Lawyers Property Conference (Heir Property in the South conference. Sponsored by Federal Reserve, Atlanta, June 2017).
- KANE: *Yes, did you go to that?*
- KURIS: I wasn't working on it at that point but—.
- KANE: *Yes, we went to that, I did a little presentation on some of the work that we'd done in Louisiana and we talked to—I feel like it was an academic department at the University of Georgia that was kind of looking at metrics. We were saying that would be great. Since we have in Louisiana, I'm not sure what other places do—we have a decentralized court system meaning each court can make up its own rules. The same with the clerks of the court, that's decentralized too so they can make up their own rules about fines and fees.*
- My point is, we don't know how many times the affidavit is used every year. We don't have a way to track that. I would love some kinds of metrics to tell us, other than anecdotal—attorneys from Shreveport saying thank you so much, this has helped so many of my clients. You know, kind of hearing back, especially from Legal Aid attorneys, but then also practicing attorneys, that this is such a great process, we love it. Or hey, can you tweak this next time. I wish that there was a way for us.*
- I know that Georgia has somehow figured out a way to at least measure how bad the heir property problem was in Georgia.*
- KURIS: They do it by county—certain counties.
- KANE: *It's hard. Malcolm and I talked about that early on. Do we need to quantify the problem? He felt no, it's a problem. Do we need to say this many houses in this district—if the legislature already sees it is a problem and they're already willing to work with us on changing the problem, then we probably don't need the statistics to convince a policy maker or just to know for our own benefit.*
- KURIS: Yes.
- KANE: *It's not like Legal Aid—the LSCs (Legal Services Corporations) can't then solicit clients. So, if we did figure out like fifty houses on this block are heir property, we know which ones they are, then it's not like the Legal Aid folks can then go say—it's just their solicitation rules. We don't have them because we don't represent people. It's—I don't know.*
- KURIS: That's the challenge, you can't see the impact.
- KANE: *No, and funders would love to know that. When we partner—the good news is when we do partner with SLLS we can—right now in the Baton Rouge Flood*

Proof, the project in Baton Rouge, because we partner with SLLS, we know that at least within their office, at least within their world, they're helping I think 305 families get clear title. The economic benefit is almost at 5 million dollars. So those are statistics that Appleseed—we thrive on. Those are the only metrics we have, when we work with direct services—the policy and advocacy work is just so hard to quantify, it's impossible.

KURIS: For example, what you'd have to do is talk to each parish individually, that has their own rules, get them to report to you—.

KANE: *How many affidavits were filed last year. If we really wanted to see how impactful the law is we had this past session, we would be able to look—in an ideal world we would say how many affidavits were filed before the change in 2009? Then between 2009 and 2017, how many were filed? How many people used the affidavit between 2017 and some other time in the future? How many more people used it because of the bump from \$75,000 to \$125,000? I would love to know that.*

KURIS: You would have to get the clerks to do all that work and they're very busy and—.

KANE: *And they've got a lot going on. It would be tough to ask them to cooperate. I mean they might cooperate but it would be a hard ask for us because there are so many other administrative duties that they have. And really, it would just be for our own curiosity and to report back to funders. Still, in theory it would help us help more people but I don't know. I would love to know though, I really would. I'm sure Malcolm would too. He estimates—I don't even know what his latest estimate is and how many people he thinks use the affidavit. It's definitely in the thousands.*

KURIS: Twenty, thirty thousand, something like that?

KANE: *It's just crazy, a lot.*

KURIS: It just seems that each state has the same problem, measuring the response. Nobody knows how much.

KANE: *I would love to do that.*

KURIS: You've answered all my questions.

KANE: *I'm trying to think if there is anything else.*

KURIS: Is there anything I should be aware of? Any frontiers where there are property issues here? It seems like you guys have a pretty good handle on everything.

KANE: *I mean I hope so. I think that one challenge that we found and Laura and I have talked about this a lot, Laura Tuggle and I, in the Katrina/Rita world down here, by the time we got to this issue, I think people, some people, the psychological effects of the storms were still around, but people were actually living—maybe in Houston or Atlanta or a relative's house—but they had food, clothing, shelter, their kids were in schools, that kind of stuff.*

In the post Baton Rouge flooding world of last year, we were like ready, ready to go. So was the Baton Rouge Area Foundation with this money from Kellogg,

ready to go. We were ready to clear titles in the community. But they weren't ready, the community members weren't ready because they were still like—I'm sorry, I'm living in a hotel, I need to get food for tonight, find my kids school, and I can't think about title, clear title to my property, whatever that is. I can't think about that today; I've got to do other stuff.

So, the psychological effects, I feel like even when the community is ready to respond the legal community, the philanthropic community, sometimes it is the actual person who has the need who might not be ready to take that particular step yet. That has been kind of tough when it comes to outreach for us. We have Gerren, our outreach coordinator in Baton Rouge who—actually I went to canvas with him one time. Take me to one of the flood-impacted communities, let's drop these Flood Proof flyers off at every door, talk to the people who are there. He said absolutely.

So, four of us went. So many of the houses are not occupied, so many in the worst devastated places, there's nobody there. There is nobody to talk to. So that has been a challenge for us. Even some of the faith-based communities, like in New Orleans when we reached out through—especially in the African-American communities—some of the preachers and ministers in Baton Rouge, when we tried that same route to outreach the churches themselves were devastated and flooded.

So, it's like—they weren't still in water but it was hard to locate the minister because he or she was not only dealing with probably their own home but also the church structure and trying to get it back up and running for the community. So, there have been some stops and starts where we're kind of ready to go but the community is not, or we're ready to do door-to-door outreach but we realize that a lot of the houses are vacant still. So, it is kind of strange.

We have found as an organization, Texas I think has a different perspective on this, we found—and Laura would probably say this too—FEMA has been a lot easier to work with this time than they were after Katrina. I think it was just all so new and crazy and unexpected. They've been easier to work with in the sense that—even if they have a lot of turnover and they send us in, people in the latest disaster, Texas whatever—we have case managers that we can talk to. There are people on staff at FEMA that are down here that you can talk to regularly to say, hey, we need to get these flyers out and you all are canvassing soon, just kind of working together, even information sharing. We were able to fill out a public records request to ask for the amount and the names of the families who have been denied FEMA assistance because of ownership issues.

We don't solicit clients, we don't have any clients, because we're a policy and advocacy organization, but we were able to then—FEMA has this provision that if you're trying to fill an unmet need and you're a nonprofit, that they will release the homeowners' information to you.

So, we were able to reach out individually to like a thousand people whom we knew had been denied federal assistance because of home ownership issues. That, for the first time, we were like wow, this is at least a thousand families that most likely have heir property problems that we can reach out to directly and say, "You have a problem, you've been denied FEMA assistance, we know you have," in in a friendly way. We're here to help; it won't cost any money. We're here with

our friends SLLS if you want to reach out to them. They've gotten I think a positive response from that.

KURIS: Do you think there is anything that can be done at the federal level? You're talking about better response at FEMA. Is there anything else to help ameliorate the property issues? I mean obviously this is a very state and local issue.

KANE: *That's a good question. Malcolm has a son-in-law who is a congressman now out of Texas. He has talked about it. How can we—is there something we can change at the national level? I don't know. It would be interesting to see. Maybe folks with more of a national lens like Thomas Mitchell or even John Pollock would have very concrete thoughts on that. Sitting here I can't think of how.*

KURIS: Great.