

The Abell Report

What we think about, and what we'd like you to think about

Published as a community service by The Abell Foundation

A System In Collapse: Baltimore City suffers from an overwhelmingly high caseload of tenant evictions. Hurt in the process are tenants, landlords, the City of Baltimore and its neighborhoods.

Abell Salutes: “Ingenuity” — for taking Baltimore City public school students “all the way to the top.”

In December, 2002, two twelfth grade students from the Ingenuity Project were accepted into Harvard; five others competed in the prestigious Siemens–Westinghouse contest; nine into the Intel Science Talent Search. Ingenuity graduates are doing exceedingly well at Yale, Morehouse, the U.S. Naval Academy. An Ingenuity tenth-grade student was one of only 250 students in the nation to make it to the semi-final round of American Mathematics Competition, against 12,000 high school students—an unprecedented achievement for a student in the Baltimore City public schools. What is Ingenuity, and what is there about the program that so enriches students’ academic performance that they move quickly to the top tier of America’s achieving students?

The Ingenuity Project, now in its ninth year, represents The Abell Foundation’s support of an ambitious effort to provide an accelerated math and science

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The volume of cases and the practice of allowing tenant belongings to be deposited in the public right-of-way are unacceptable. The problem is fixable.

Few scenes reveal urban malaise so visibly and vividly as a sidewalk piled high with broken-down chairs, tables, blankets, mattresses—the furnishings of a life. This dismal experience represents a system in collapse, with unhappy consequences for the tenant who has been evicted, the landlord who has obtained the eviction order, the neighborhood that is littered, and the City of Baltimore and the State of Maryland—as unwitting enablers.

There are thousands such scenes in Baltimore City every year. The saddest aspect of it is probability: if you rent in Baltimore City, the chances of eviction are greater than if you rent in the comparable cities of Washington, D.C., Detroit, or Cleveland.

Tenants in Baltimore City are handicapped from the start. Compared with other cities, the eviction process assigns less responsibility to landlords to notify tenants of non-payment of rent and to dispose of tenant belongings. The combination of widespread tenant delinquency

and minimal landlord responsibilities results in:

- significant time and expense spent processing and serving an enormous number of complaints, compromising the ability of the courts to properly serve the citizenry
- a huge number of tenant judgments appearing on credit records despite the fact that the eviction may never take place, needlessly and unfairly jeopardizing the tenants’ credit rating
- a much larger number of evictions than there need be, overburdening tenants, landlords, city agencies, neighborhoods
- the demoralization of neighbors and neighborhoods, as tenant property is deposited in the public right-of-way following eviction; and

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- cost to the City’s Department of Public Works for storage and disposal of tenant belongings

These consequences adversely affect the quality of life in Baltimore City. But the effects can be reduced. This paper presents nine recommendations

Background and Discussion:

In the year 2002, Baltimore landlords filed 155,870 court complaints for eviction.¹ With few exceptions, these were filed alleging tenant nonpayment of rent. Averaged over the 128,127 renter households in Baltimore,² this means more than one complaint is filed per renter per year. However, landlords can and do file complaints against tenants every month a payment is missed, resulting in multiple filings against an individual renter in a single year.

The large number of landlord lawsuits for nonpayment of rent are endemic in Baltimore with the number of complaints holding steady in six digits for

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years. By comparison, landlords in Los Angeles County, a jurisdiction with 1.6 million renter households, filed a “record” number of requests for eviction, 82,644 cases, in 1999.³ For the year 2000, Baltimore had 7,442 evictions and a higher proportion of renters evicted than any other city studied.

Compared to the rental population of Baltimore City and the experience of other cities, the volume of eviction cases in Baltimore is staggering. By vesting

responsibility in the courts for this first step toward eviction, the Baltimore rent court is burdened with processing a weekly average of 3,000 landlord complaints. Large numbers of these complaints are filed during the first week of every month, sometimes up to 3,000 in a single day. The District Court assigns only one judge a day to Rent Court who consequently struggles to meet the State requirement that hearings be scheduled within five days of the complaint.

To control the docket, the number of cases is limited to 1,050 per day. On a day with a full docket, assuming an eight-hour workday for the presiding judge, the average case receives less than 30 seconds of judicial review. There are arguably fewer judicial resources and less due process devoted to these cases than to any other matters in the court system. It is worth considering whether due process is afforded when the end result is not a merely a fine, but, in thousands of cases each year, a person or family losing their home.

What Sets Baltimore Apart?

Although a tenant can be evicted for

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Eviction Cases Filed in Courts for Year 2000

	Number of Renters	Number of Evictions	Evictions per 100 Renters	Number of Court Complaints Filed	Complaints per Renter Household
Baltimore City	128,127	7,442	5.81	160,995	1.2 per 1
Cleveland	104,889	1,531	1.46	10,993	1 per 9
Washington, D.C.	147,124	8,384	5.70	51,474	1 per 2.8
Detroit	151,781	7,500	4.94	9,000	1 per 16
New York City	2.1 million	26,415	1.26	318,838	1 per 6.5
Philadelphia	240,438	6,586	2.74	26,646	1 per 9

Sources:⁴

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Outline of Eviction Process

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The process for eviction for nonpayment of rent in Maryland is roughly as follows:

1. The landlord files suit with the District Court, without prior notice to the tenant, within one day after rent is due.
2. The District Court issues a summons for a court date within five days of receipt of the complaint. The Sheriff's Office mails one copy of the summons to the tenant and posts one copy on the property.
3. At the court hearing, if the tenant does not appear, the judge can enter a default judgment in favor of the landlord. (If the tenant does appear, the tenant may dispute the amount of rent owed or may propose a rent escrow, either of which may ultimately result in a judgment in favor of the tenant and dismissal of the case.)
4. If a judgment for the landlord is entered, the tenant is ordered to pay or vacate within four court days. The tenant does not receive a copy of the judgment.
5. If the tenant does not pay or vacate within four court days of the judge's orders, the landlord can seek a warrant of restitution.
6. The warrant is served by the Sheriff's Office and states that the tenant can be forcibly removed from the unit on any date after the order, without warning.
7. Tenants can redeem a unit up until the time the Sheriff arrives for eviction, by paying back rent and landlord costs.
8. The landlord schedules the eviction date with the Sheriff's Office. On the day of the eviction, the Sheriff meets the landlord representatives at the unit to evict the tenant and observe the landlord's removal of tenant's possessions.

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nonpayment regardless of income, eviction and the court process leading up to it are symptoms of poverty where too often tenants simply do not have enough income to pay rent and balance their bills, especially when job loss or health problems pose immediate crises. Tenants argue that in many cases landlords are collecting rent for units that are ill-maintained and barely habitable; monthly rent is seen as unfairly high for houses and apartments in poor condition, and many tenants simply stop paying rent. In Baltimore, there is a process for the court to escrow rent while needed repairs are documented, ordered by the court and completed; tenants need to know about this option before they can pursue it. Landlords report that in many cases if a tenant is planning to leave the unit, many tenants will stop paying their last month's rent knowing that the landlord will pursue eviction which it will take 30 days to complete.

Court Action Comes Swiftly: The Eviction Process

Nearly every state has laws protecting both landlord and tenant. Many cities have additional landlord-tenant laws and housing codes that further govern leases and eviction procedures. In drafting laws and policies, there is a balance between the legal rights of landlords and those of tenants. Landlords cannot be expected to lease units to tenants who do not pay rent, so the law and court system offer a legal means to repossess a unit from the tenant who does not pay. But the law is also designed to establish tenant rights and protect the tenant against unfair actions by the landlord.

Baltimore City is bound by Maryland law, which requires swift action by the courts to process eviction cases. The period from the date a landlord files a complaint with the court to the date the tenant

is evicted can be as short as 30 days, depending upon the schedule of the Sheriff's Office. In comparison, the entire eviction process in Chicago can last for up to several months, depending on the timing of the notice served and the date of the court hearing.

Maryland Courts, Not Landlords, Deliver The First Tenant Notice

If a tenant is overdue on rent in Baltimore or anywhere else in Maryland, the first notice required by law will come from the court, not the landlord. Unlike the majority of cities and states that require the landlord to first attempt to notify and collect past-due rent before proceeding to the courts, Maryland uses its court system as the collection agency of first resort. While some Baltimore landlords may attempt to collect overdue rent prior to filing with the Maryland District Court, the day after a rent payment is due and not received from the tenant (usually after a five-day grace period allowed by most landlords), many landlords or their agents routinely go to the courthouse and file a complaint. This first step in the process toward eviction is taken by land-

lords to "start the clock" should past due rent not be recovered from the tenant and eviction become necessary.

The cities of Los Angeles, New York, Philadelphia, Detroit, and Cleveland as well as the states of Oregon, New Hampshire and Michigan all require the first notice of intent to seek eviction to come from the landlord. In these jurisdictions, tenants then have three to seven days to pay their rent to stop legal action. The only exception to requiring landlord notice that we discovered in our research was in the District of Columbia, where the law requires the landlord to provide a 30-day notice to vacate the premises in the case of nonpayment of rent, but allows all landlords, except the public housing authority to ask tenants to sign a lease waiver of this 30-day notice requirement. With the waiver, landlords can proceed directly to court in the case of tenant nonpayment of rent. According to one D.C. Legal Aid attorney, 80 percent of landlords use the waiver.⁵ Even so, while Baltimore has 20,000 fewer renter households than D.C., the District Court in Baltimore handles more than three times the number of complaints filed in D.C. court annually.

That there are an inordinate number of court complaints in Baltimore and Maryland is not a new observation. The late District Court Chief Judge Robert F. Sweeney supported, unsuccessfully, the introduction of state legislation that would require the landlord to send notice of late rent and await a response before filing court action.

Whether a first notice requirement, by itself, would make a difference in reducing the number of landlord complaints is an open question. The Housing Authority of Baltimore City is the one landlord that does send notice to the tenant before filing with the courts. Bound by federal law, the Housing Authority sends a seven-day notice, following a seven-day grace period. The Housing

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Authority owns and manages 12,467 rental units, or approximately ten percent of the City’s rental inventory. Housing Authority records show 18,319 complaints for eviction filed with the District Court in 2000, or nearly ten percent of all local eviction complaints. While one might expect lower numbers of court complaints for nonpayment following a landlord notice, these tenants are also among the poorest in the City and their poverty puts them at higher risk for late payment and nonpayment.

Use of a Public Record

Baltimore’s high volume of cases and judgments processed not only taxes the resources of the court, but uses a public process to resolve private landlord claims of past-due rent which results in a public record. A judgment is a public record that becomes a blemish on the tenant’s credit record. Credit bureaus and renter screening companies routinely use the records of the District Court to record judgments against individuals, affecting whether a subsequent rental unit is offered or a mortgage loan is approved. By law, the tenant has the right to have the court record show that the judgment has been satisfied. However, in practice this almost never happens. The burden is placed on the tenant to correct or explain the court record in the event of a later dispute with a credit bureau.

Perception of Eviction Notice and Use of Courts as Collection Agency

The law, procedure and practice of eviction have evolved in Baltimore to the point that a rent court complaint is not taken seriously by either landlords or tenants. The summons is not viewed as a lawsuit, but is seen more as a notice of overdue rent. Rent court in Baltimore,

remarks one attorney, is essentially a collection agency that operates for the convenience of landlords. Landlords, in turn, argue that many tenants use the process to delay payment of rent, since there is no social stigma to receiving a court notice (they are so common) and most tenants eventually settle with the landlord and remain in the unit.

Tenant Right of Redemption

To prevent an eviction, a Baltimore tenant has the right to present the amount owed the landlord at any time up until the Sheriff arrives to evict and the first piece of furniture “hits the street.” If full payment is offered by the tenant in the presence of the Sheriff, the law protects the tenant from being removed from the unit, even if the landlord refuses to accept the money for any reason. Detroit and D.C. have similar legal requirements to Baltimore; New York, Chicago and Los Angeles foreclose the tenant’s right to redemption when the warrant is issued (the next court action after the tenant has been given time to pay or move following a court

judgment in favor of the landlord). There is one exception to this in Baltimore: the law allows the judge to order eviction without any right to redeem or pay the landlord rent due if the tenant has four prior judgments within a 12-month period. Landlords argue that the ability to “pay and stay” is a problem, allowing many tenants to make their payments long after the due date in the lease, after the court process has been exhausted, but immediately before the landlord schedules an eviction. The redemption comes at a cost to the tenant, because late fees and court costs must be offered as part of the full payment needed to stave off eviction, but perhaps compared to losing a car to repossession or gas and electric service for nonpayment, the added cost of late, court and landlord fees is a lesser hardship to the tenant than paying on time.

Tenant advocates argue that the right to redeem provides a safety net to tenants in true need. Even with the right of redemption, tenant advocates argue, there are too many cases of tenants having in hand the rent they owe, but not enough money to satisfy the court-ordered amount which is calculated by the landlord and recorded on the warrant. Besides rent owed, the redemption amount may include late charges (which cannot exceed five percent by law), court costs (\$39) landlord agent fees (from \$20 to \$60, depending upon the number of court filings), and in some cases a portion of a bill, such as a water bill, attributable to the tenant. Landlords are only required to produce records substantiating these amounts if there is a dispute in court. The absence in most cases of verification of rent and redemption amounts may be a contributing factor to evictions, as the court-ordered amount due can exceed the amount the tenant calculated is due the landlord to prevent an eviction.

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Tenant Eviction Prevention Programs

A number of publicly funded and church-sponsored programs throughout the City provide eviction prevention services. Baltimore City Department of Social Services offers up to \$400 in emergency assistance to tenants with judgments who can document a temporary crisis that makes it impossible to pay full rent, as well as gas and electric bills. The number of households requesting eviction prevention services from BCDSS averaged between 650 and 750 per month in the middle of 2001. The number of cash grants to rental households averaged \$100 per month during the same time period. The Samaritan Center, a social service center operated by Associated Catholic Charities, Inc., receives several hundred requests and helps 18 to 19 households with cash assistance each month. With average monthly rents of \$300 and incomes of \$500 per month, Samaritan Center reports tenants have very little income to pay expenses, much less unexpected health or other bills. The Fuel Fund, the Maryland Energy Assistance Program and the Electric Universal Service Program all offer one-time grants to offset unpaid utility bills. In addition, tenants can seek legal assistance or tenant advice offered by the Public Justice Center, Legal Aid and Baltimore Neighborhoods, Inc., among others. (The effect of these programs on evictions, and whether comparable programs in other cities have more resources and greater success in preventing evictions, are beyond the scope of this study.)

Filing Fees

Baltimore District Court filing fees are the lowest among comparison cities. The complaint for eviction is a one-page form that the landlord or agent of the

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landlord completes and pays \$9 to file. Court fees for the entire eviction process are \$39. In comparison, the filing fees for other cities are much higher.

Court Filing Fees

Baltimore City	\$9
Cleveland	\$78
Washington, D.C.	\$23
Detroit	\$50
Los Angeles County	\$92
New York City	\$50

The late District Court Chief Judge Sweeney was partially responsible for keeping court costs as low as possible as, in his view, these fees were passed on to the tenant as part of the amount needed to redeem a unit. Although Baltimore's filing fees are low, cumulatively the case-loads represent more than \$1.4 million in fees collected each year for complaints and \$1.8 million for warrants of restitution, the next step of the court process prior to eviction. To the extent they are ultimately collected by landlords, they represent millions of dollars that tenants are paying collectively to maintain occupancy of rental units.

Need for a Database System

Critical to the ability to file, track and query case status is a database system, which the District Court lacks. Each of the 155,870 complaints is processed and filed manually. The court docket is typed manually each day. Tenants who do not have the court summons in hand must come to the courthouse the same day and review the docket to see if the case will be heard at the 8:00, 10:00 or 1:00 court sessions. In the absence of an automated system, the potential for mistakes is great, the retrieval of basic case information difficult and the ability to research patterns and trends extremely limited.

Tenant Property Hits the Streets

Evictions take a human toll on the household that is evicted. But when tenant belongings are left behind, the eviction becomes a burden to the rest of the neighborhood as well. Once the Sheriff legally evicts the tenants, the landlord can then remove any belongings from the unit and place them in the public right-of-way, or in the case of a private multi-family development, on a privately-maintained street. Under Maryland law, at the time of eviction tenants forfeit their rights to belongings and landlords have no further responsibility to store or dispose of belongings. The only way tenants can retrieve their belongings after an eviction is to pick them up from the street. While the tenant's possessions may initially be neatly stacked, they are often picked through by vandals and scattered along the street and sidewalk. Baltimore's littering laws, designed to prevent dumping and littering in the public right-of-way, are not applied to tenant evictions.

In Baltimore City, the City government picks up the tab for items left on the street. Ten-day storage is available from the Baltimore City Department of Public Works at a cost to the tenant of \$1 per day,

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but the tenant must call to request the service at least 48 hours prior to eviction. Within 24 hours after notice from the Sheriff that the eviction has been carried out, the Department of Public Works is scheduled to arrive at the site to clean up and dispose of remaining items.

Other cities handle this differently. New York and Philadelphia both require the landlord to store items for 30 days at the tenant's expenses. After 30 days, if the tenant does not claim belongings, the landlord is free to dispose of them. Landlords in Baltimore argue that the responsibility for storing and disposing of tenant belongings makes landlords vulnerable to suits by tenants for missing property. The insurance, storage fees, transportation, auction or landfill costs are not likely to be recovered from the evicted tenant, it is argued.

Attempts have been made at the local and state levels to create new laws designed to change the practice of allowing tenant belongings to be placed in the public right of way. In 1997, out of frustration, Councilman Abeyome introduced a City Council bill requiring landlords to dispose of the unclaimed belongings at a landfill. The bill did not pass. Also in 1997, a Maryland Senate bill sponsored by Senators Trotter, Young, Lawlah, Hughes, Currie and Conway would have required a landlord to provide notice to the tenant of the actual eviction date and allowed the tenant five days to remove belongings. This bill also did not pass, like many efforts to reform state landlord-tenant law. The reason may lie in strong lobbying efforts on the part of statewide and local landlords and the relatively weak lobbying power of tenant advocacy and support agencies.

In 1993, Baltimore County passed a law that prohibits abandoned property from being placed in the public right-of-way, allows the landlord to designate a storage area in close proximity to the unit and allows the tenant time to reclaim

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***Maryland and
Baltimore City would
greatly benefit by
revising legislative
positions and court
processes to require
landlords to take more
responsibility.***

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belongings. The law also declares property to be abandoned at the point of eviction. (The status of property as "abandoned" eliminates landlord vulnerability to lawsuits for missing property.)

What to do? Where Does Baltimore Go from Here?

An eviction is everyone's loss. The tenant loses not only the right to live in the unit but, possibly, his belongings and good credit record. The landlord, having gone through the eviction process, loses one month's rent, time and expense. Belongings in disarray on the street signal neighborhood distress to existing and potential residents, visitors and investors. The State-funded District Court and the City lose staff time and resources that could be put to more productive use.

The minimal notice to the tenant, along with the ease and speed with which the landlord can legally evict, result not only in the absurdly high number of initial landlord complaints and warrants, but also may contribute to the higher number of evictions taking place in Baltimore City relative to other cities. Further, the ability of tenants to preserve their tenancies by

paying the court-ordered amount up until the moment of eviction, though it does protect many tenants, may also make it more difficult for landlords to collect rent when it is due, contributing to the high case numbers.

The volume of cases is unacceptable in terms of its claim on public resources, the public records thus created and the lack of due process afforded. The number of evictions in Baltimore should, at a minimum, more closely resemble other cities' eviction numbers. The practice of allowing tenants' belongings to be deposited in the public right-of-way should be eliminated.

In other cities and states, the courts are the last place the landlord turns to resolve a dispute over unpaid rent, and tenants have some stronger protections against landlord actions. Maryland and Baltimore could benefit by revising legislative provisions and court processes to require landlords to take more responsibility for rent collection, reduce the costs to the City and the State courts for eviction, and eliminate the number of unnecessary judgments which are attached to a tenant's record. The eviction laws and procedure should be unraveled under further scrutiny to understand and analyze tenant, landlord and court practices that lead to the huge volume of cases.

Baltimore should research and consider the benefits and costs of the following:

- Invest in a computer system to create a database of all eviction cases filed. A properly designed database system will allow court dates to be scheduled faster, allow tenants to file satisfaction of judgments when back rent is paid, and will result in a more accurate system.
- Require landlords to serve and document notice to the tenant to pay or move out prior to initiating court action.

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- Raise the complaint filing fee and the eviction warrant fee to encourage landlords to use alternate means of recovering past due rent.
- Provide a notice of the amount of the court-ordered restitution with the date and time of eviction.
- Prevent tenant belongings from being placed in the public right-of-way at eviction through City legislation or support of state legislation. This could be accomplished a number of ways including requiring landlord storage of personal property, landlord notification for bulk trash removal, landlord payment to the city for storage or removal of tenant belongings, and/or allowing landlords free disposal at the landfill, as suggested by Councilman Abeyome.
- Increase accountability for the accuracy of landlord claims and amounts required for redemption by requiring landlords to file copies of rent records and documentation with the initial complaint and summons.
- Evaluate the use of the right of redemption and determine to what extent it encourages non-payment of rent as an unintended consequence. Though last-minute right of redemption may help those tenants with legitimate difficulties in paying rent or who did not receive court notices, it may actually drive up the number of tenants who delay rent payment until the end of the court process.
- Expand outreach and awareness of tenant advocacy organizations. Publicize renter and landlord responsibilities and rights through City and State agency efforts, including information links on web sites, printed information available at the courthouse, and other methods.
- Strengthen tenant assistance programs that prevent evictions, through increased funding and staff training, to ensure that renters in need are informed of government benefits and tax credits that may be available to increase their incomes.

Footnotes

- ¹ District Court of Maryland, Baltimore
- ² U.S. Census, 2000
- ³ Los Angeles Times Magazine September, 2000
- ⁴ District Court of Maryland, Baltimore; City of Cleveland Year 2000 Consolidated Plan; Superior Court of the District of Columbia Landlord and Tenant Annual Statistical Report, 2000; Detroit United Community Housing; New York City Department of Investigation; Philadelphia Municipal Court; U.S. Census, 2000.
- ⁵ Phone interview with Julie H. Becker, Esq., staff attorney, Legal Aid Society of the District of Columbia, October, 2001.

ABELL SALUTES:

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curriculum to Baltimore City middle and high school students, grades six through twelve at three middle schools and Baltimore Polytechnic Institute. Its goal is to nurture and develop students from Baltimore City's public schools early and intensely, so that they can achieve the project's symbolic goal of competing and winning in the Intel Science Talent Search (formerly the Westinghouse Talent Search). One hundred percent of Ingenuity's high school students enter four-year colleges; the class of 2002 total scholarship awards exceeded \$3,000,000.

There are 120 Ingenuity students in each grade at the middle school level but only the highly qualified eighth grade students are selected each year for the high school portion of the program housed at Baltimore Polytechnic Institute. In fall, 2002, 50 students were accepted in the ninth grade — the largest number ever to have qualified. Ingenuity has recently started a math and science program at Federal Hill Elementary for grades one through five.

Karol Costa, Director of Ingenuity, is in the fortunate position of watching the whole process at work. "We begin by looking for promising fifth grade students who are then chosen to attend selected middle schools—Robert Poole, Roland Park, Southeast, and In September, Garrison. To watch these kids starting out in the sixth grade and to see them go all the way to the top, on to winning prestigious awards, and being accepted into the best colleges in the country—it is all incredibly gratifying."

The Abell Foundation salutes Ingenuity, its leadership and its staff, first, for identifying promising students within the Baltimore City public school system, and then—for taking them "all the way to the top."

"A System In Collapse: Baltimore City suffers from an overwhelmingly high caseload of tenant evictions. Hurt in the process are tenants, landlords, the City of Baltimore and its neighborhoods." is available on The Abell Foundation's website at www.abell.org