A Decent Place to Stay: Housing Crises, Failed Laws, and Property Conflicts in Washington, D.C

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Abstract

In 1978 the District of Columbia City Council enacted a measure to tax up to 97 percent of the profits on speculative housing sales. In 1984 the District of Columbia voters approved an initiative to guarantee every resident who needed it access to overnight shelter for every night of the year. Both of these responses to the city’s housing crisis marked the beginning of a politically progressive moment in Washington, D.C., when residents won the right to self-governance after a century of Congressional control and the majority-black electorate created a majority-black legislature of civil-right activists. But both laws were made to fail and overturned by the end of 1990. Based on roughly 10 months of archival research and interviews in Washington, D.C., this dissertation examines struggles to access, arrange, and govern residential space from the 1790s to the 1980s, paying particular attention to the last two decades of this period. This dissertation shows how struggles over housing rights in Washington, D.C. contributed to the reproduction of the hegemonic property regime even as the speculation tax and right to shelter contested some of the materialities, discourses, and practices within the socio-spatial order. I find that the intersections between property, racial equality, and democratic governance were central to struggles over urban development and were constituted in ways that hindered effective housing rights formation, enforcement, and protection. Throughout the study, I advance an analysis of the ways in which the social and spatial formation of places like Washington, D.C. are reproduced and challenged through struggles over housing.
A DECENT PLACE TO STAY

Housing Crises, Failed Laws, and Property Conflicts in Washington, D.C.

By

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DISSERTATION

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To be honest, I find the number of people who have helped me with this project somewhat distressing. The list is long enough and the debts deep enough to make me wonder whether the words that follow are really mine. The shortcomings, omissions, and errors, I know, are mine alone. But the stories, ideas, and sentences have been shaped by years of patience, guidance, and encouragement from a mighty crew.

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Acronyms, Key Terms, and Main Characters

AMO               Adams-Morgan Organization
CCNV              Community for Creative Non-Violence
David Clarke      D.C. Councilmember (1975-1991)
DHCD              D.C. Department of Housing and Community Development
Home Rule         Limited self-governance for D.C. residents (1975-present)
Initiative 17     Voter initiative to create an overnight right to shelter in 1984
Mitch Snyder      CCNV leader
SNCC              Student Non-Violent Coordinating Committee
Referendum 005    Voter referendum to reinstate the overnight right to shelter in 1990
WRDC              Washington Residential Development Corporation
Chapter 1: Introduction: A City “For People Like Us”

Introduction

To Lavinia Harvey, “buying a house was the safest thing to do.”¹ In 1972, she and her husband, who had worked for twenty years for the Washington D.C. train terminal, received an eviction notice for their small, run-down house on Seaton Street Northwest. The owner wanted his house back. Harvey, in a D.C. City Council hearing on June 17, 1975, explained why she and her husband then began looking for a house to buy: “It seemed like everybody that was renting was being evicted, so we wanted a house to buy so we would be able to stay in the community.” Not far from Seaton Street Northwest, they found a house with a posted For Sale sign and, as first-time black American homebuyers who were unsure about the purchasing process, they went for help to the local neighborhood group, the Adams-Morgan Organization (AMO). What happened next was typical of real-estate practices at the time. The owner of the house, Gerald Dunphy, did not want to sell the house to the Harveys. He was holding out, according to Harvey, for a young white lawyer who would “upgrade the community, upgrade the street.” The Harveys sued with the help of AMO and eventually won a discrimination case against Dunphy. Still, in the meantime, the Harveys struggled to find a place to live.

They moved into one of the few nearby rental units they could afford, a place at 1704 V Street Northwest. The house was about to be boarded up, but they convinced the landlord to let them move in. What this negotiation meant was that the house was not up to code and that the Harveys would not report the infractions. After the Harveys “repaired

¹ Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, pages 167-169
it to living conditions,” recounted Harvey, the landlord raised the rent and, not long after, put it up for sale. The property then changed hands a few times in a matter of months—another typical practice of the period—and, after one of the sales, the Harveys were evicted and again faced the problem of where to live. A few months later, their search ended. They could not get financing, but the realtor of a house on U Street Northwest agreed to hold the mortgage for them if they put down a large cash down payment of $3,000. Harvey described the feeling of relief and, then, outrage at having had this problem:

Our house is renovated. It is not full of luxuries like air-conditioning, garbage disposals, but it is our house. Our struggle to find a decent, clean place to live with just enough room for all of us has been three long years…. We pay taxes just like anybody else in this city and we feel we have a right to a decent place to stay. We have our house now, but for us, being just one family in that community, and I know of many other families who are forced to leave right within a couple of blocks of us. On Seaton Street, where we used to live, all of the houses have been bought up by the speculators. And we’ve heard that they will soon be evicting more families who are our neighbors and friends. What is going to happen to them? I hope the City Council will really take the time to listen to us and understand this issue. We have to save the city for people like us to live in. \(^2\)

The end of their struggle, as Harvey said, was by no means the end of the city’s larger problem. Their struggle to find a “decent, clean place to live” embodied the reality of the 1970s and 1980s housing crisis in Washington, D.C., which was forcing city residents to contend with a deteriorating housing stock from years of disinvestment, an increase in evictions connected to speculation, and the possibility that much of the city would no longer be a place where people like the Harveys could live. In 1975, when Harvey

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\(^2\) Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, pages 167-169
Figure 1: No vacancy (The Washington Post 1975k)
testified at City Council, housing options were dire for poor and working-class residents. Abandoned, run-down, and foreclosed shells stood next to unaffordable, renovated homes on the same street. This landscape of uneven development was one of extremes. An estimated 22,000 vacant structures littered the city’s overcrowded neighborhoods while roughly 260,000 families could not afford or access decent places to live (Richter 1983). While incomes remained steady, housing prices skyrocketed, and the city’s small supply of housing for low- and moderate-income residents, as Harvey saw first hand, began to disappear (Zeitz 1979; Goldfield 1980).

This dissertation is about that crisis and contestations over its uneven landscape of housing. Through two case studies of Washington, D.C., I examine how radical responses to the city’s housing crisis in the 1970s and 1980s created two of the country’s most radical pieces of anti-displacement legislation and how and why these laws were so ineffective and short-lived. First, I tell the story of the country’s first (and only) tax on urban speculation, which went into effect in Washington, D.C. on July 13, 1978. The speculation tax was proposed to curb widespread flipping in the residential property market, which was seen as a contributor to the mass displacement and surge of evictions. One draft of the tax sought to levy a fee as steep as 97 percent on any residential property bought or sold within a year. The details of the tax were debated with vigor and raised critical questions about urban development and place-making. Who was responsible for the housing crisis? What role had speculators and private realtors played? And, who, if not the private sector, would remedy the lack of affordable and decent housing for city residents? But tax supporters did not publicly convey a coherent, counter-hegemonic

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3 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38
vision of how the speculation crisis could be ameliorated without the involvement of the private real-estate industry or how housing security and economic wealth could be achieved for black residents through means other than property ownership. Though the speculation tax had the potential to disrupt the housing crisis, the dominant property discourses that undergirded the commodification of housing proved resistant to change.

The second failure that I follow in this dissertation is that of the country’s first popularly established right to shelter. On November 6, 1984, Washington, D.C. voters overwhelmingly approved an initiative to create an overnight right to emergency shelter for every resident of the city on every night of the year. Homelessness had been dramatically and visibly increasing, the city’s nascent emergency shelter system had been overwhelmed with demand, and voters demanded an expansion of the social safety net. Like the speculation tax, the right to shelter was an attempt to shift some of the experiences of the housing crisis and was hotly contested. Who was responsible for the increase in homeless populations? What role had the city government’s downtown development practices played? And who, if not the city government, could address the crisis? But the city government’s newfound capacity to direct urban planning and its property practices safeguarded the capitalist tenets of the property regime and undermined the success of the right to shelter.

In a moment of the city’s greatest political success, which was also a moment of black American political success, political mobilizations in Washington, D.C. established some of the country’s strongest anti-displacement measures like condo conversion limits, eviction standards and moratoriums, squatter rights, and rent controls. But the most radical of these efforts—the speculation tax and the right to shelter, which called into
question the commodified nature of housing—were challenged, amended, and within a few years overturned.

In this dissertation I try to figure how and to what effect these laws were made to fail in a historically progressive city like Washington, D.C. and, on the flip side, how the social relations that supported speculation and homelessness were made to endure. These two cases in Washington, D.C. in the 1970s and 1980s offer evidence of some of the important ways in which political efforts toward creating new social relations around housing have failed and, secondly, how those around securing the hegemonic property regime have succeeded.

The focus of this dissertation involves more than a transition from contests over how to regulate housing speculation in the 1970s to contests over how to shelter homeless populations in the 1980s. I argue that the contestations over speculation and homelessness in Washington, D.C. are inextricably linked as struggles over housing rights and deserve to be told as one. The policymakers and city voters in Washington, D.C. by no means sought to make a wide-sweeping right to housing with either of these laws. Yet the two laws are gestures in that direction—gestures against an entirely market-driven distribution of housing. The speculation tax and the right to shelter were propelled, albeit differently, by visions of a city with a decent place for many, if not all, to stay. The point of my research is not that we need a right to housing (although that is one of my key assumptions). The question here is how and to what effects other rights—like private property rights—have been prioritized over rights to housing. To consider struggles over speculation and homelessness relationally and dialectically is not just to recover their deep connections to the commodification of housing and other conditions that have given
way to housing crises. To consider the legal failure of the speculation tax alongside that of the right to shelter, which I do here, is to rethink how property rights, relations, and regimes were mobilized and important to each of these cases. I frame these two housing struggles as property conflicts and policy failures. The goal of this project is not to examine why the speculation tax and right to shelter laws failed but to understand how they failed and to what effect on power relations and possibilities of struggles for justice like the creation of housing rights.

Rights to housing have been invoked by geographers and urban scholars in the past 35 years as the logical response to housing crises (see Bratt et al 1986, 2006; Geisler and Popper 1984; Hartman 1983; Brenner et al 2012; Slater 2009). Housing rights are presented as a practical first step away from the commodification of housing, which is the prioritization of housing for its exchange value rather than its use value (Brenner et al 2012). Housing as profit is diagnosed as the problem and, if there is to be a more just arrangement of residential spaces, it is this idea that must be challenged.

Housing rights have been envisioned as a measured solution to help shift “the understanding of housing as symbol of private initiative to an appreciation of it as a social product and part of the social culture of a decent society” (Brenner et al 2012:226). Just like any other fixed resource, land and space require a theory of justice for how they should be arranged. The goal with housing rights is to challenge the existing rationale about the just arrangement of housing and the role that market forces should play in this more utopian arrangement. Housing rights are a necessary, though not sufficient, condition for a more just society (see Hartman 2006; Lefebvre 1995; Waldron 1993). If housing is not recognized as a basic right for all, urban researchers have warned, there
will be a “whole class of people” who “simply cannot be, entirely because they have no place to be” (Mitchell 2011:11). The utopian visions of cities that support housing rights imagine a distribution, management, and arrangement of residential spaces based on human needs rather than market profits.

Over the years some housing scholars have disagreed about the utility of housing rights. Some have said that housing rights, because they leave in place key social relations, are a futile, defensive effort. Frederick Engels (1935) first cautioned in 1872 that the only way out of urban housing crisis is to knock down the entire set of social, economic, and political relations that undergird the profit system of housing. In 2003 Don Mitchell (2003:220) implied something similar, when he wrote that a right to housing is “no longer even considered legitimate” as a claim in contemporary cities. For him, the relevant research question about housing rights and other similar rights that challenge existing legal structures is “not whether property rights trump” other rights, like rights to housing, “but how are property rights made to trump, and to what effects” (Mitchell 2006:566, original emphasis). It is suggested here, as elsewhere, that housing rights have little hope of making anything but perverse victories. The reason housing rights are doomed and have often failed in the U.S. has to do with the structures and mobilizations of property rights. David Harvey (1982) has argued that the relationship between housing rights and property rights is inherently antagonistic and that successful challenges to the scarcity of housing must address the structures, mobilizations, and dominance of property rights. All housing rights do, this perspective suggests, is extend property rights to a new population. They distribute rights rather than dismantle the entire profit-based
organization of space. The thought for these scholars is that a theory of just housing, which would protect and prioritize housing rights, has no room for property rights.

But property rights, Nick Blomley (2004), C.B. Macpherson (1999), and Charles Geisler (2000) have contended, need not be reduced to the private ownership version that perpetuates and thrives within capitalist relations. These housing researchers have made a different conclusion about the relationship between housing rights and property rights and the possibilities for housing rights to coexist with property rights. Blomley (2004) specifically has argued that property discourses and practices can be re-appropriated to challenge and stop dispossessions—not just to facilitate them. The problem is not what property rights are (which is a historical construction and change-able), but how they have been used. The user error of a particular historical period should not, in other words, doom the entire property model. Property rights, according to Macpherson (1999), may be re-created under a new paradigm to function alongside rather than only in opposition to housing rights. I argue in this dissertation that this small debate about the relationship between housing rights and property rights is not minor in importance.

Urban researchers agree that rights—which are evolving ideas about obligations and entitlements—are always won, rejected, or re-arranged through political struggle. What is not clear in urban scholarship is when or even whether struggles over housing rights in U.S. cities are the right struggle. Peter Marcuse (2012:223), a planning scholar of urban crises, recently wrote that “every step” like a right to housing “that tends toward limiting the commodified character of housing…is worth doing…and contributes to solving the housing crisis.” This view of the commodification of housing and its role in perpetuating housing crises holds that such forces can be dismantled one brick at a time.
Must the dominance of property rights be addressed first if a just arrangement of housing, via, for instance, housing rights, is to be developed? Or are housing justice and property rights potentially compatible? This dissertation responds to these questions and offers two contributions about the puzzle of housing rights. First, this project provides an analysis of how and to what effect the discourses, practices, and materialities that make up a property regime condition and are enacted through contests over housing rights. Second, this project examines the nitty-gritty processes by which housing rights actually and routinely come to fail and, in turn, hegemonic discourses, practices, and materialities of property are made to persist.

These three themes—housing rights, property, and policyfailing—are explored through an analysis of Washington, D.C., whose approach to housing crises represents an extreme, but exemplary, case study (see Brenner 2003). The city has been described as representative of late 20th century American-style urban development. Because of its proximity to the federal government, the city has often served as a laboratory for federal urban planning policies, from urban renewal to model cities to downtown redevelopment (Gale 1987; Farrar 2008; Schrag 2006; see Chapter 3). What has happened there—in terms of both government programs and social problems—has impacted the trajectory of national agendas. That the city was an entirely planned one and never developed an industrial economy has also positioned it as a frontrunner for planning strategies in post-industrial metropolitan areas (Gillette 1995). Whether or not city officials and residents wanted it, Washington, D.C. has been made into a de-facto model for how to harness the pressures and opportunities of postwar restructuring urban economies. The real-estate market has been a central force in the city’s economy for almost fifty years, and at times
Figure 2: Washington, D.C. ward boundaries and neighborhood locations
in the 1980s the city was host to the hottest real-estate market in the country and some of the first instances of wide-scale gentrification (Knox 1987, 1991; Sherwood and Jaffee 1994). Despite Washington, D.C.’s “unique political” structure, in which the federal government holds formal power over some of city government affairs, in actual practice the city’s political institutions are not so unusual (McGovern 1998:48-49). The federal government, for instance, has only vetoed city laws three times between 1975 and 1995 (though this fact does not take into consideration the amount of informal influence the federal government may have wielded). As the city editor of The Washington Post stressed in a commentary in the early 1990s, the local government’s development agenda has been locally directed:

Take a look around downtown Washington. For better or worse, over the past decade—the home rule decade—it’s been almost totally redone. Look at all the new office buildings, the new plazas. Regardless of what anyone thinks about them (some find them ugly, monotonous, undistinguished), they were all built with the guidance of the District’s local elected officials… The pace, location and density of development have all been decided largely by the city’s local elected officials… The city government sets the tone for development. (quoted in McGovern 1998:50)

The city in the late 20\textsuperscript{th} century functioned “very much like any other American city” (McGovern 1998:50). City governments across the country were experiencing housing crises, promoting downtown investment, and trying to manage the clash of these forces. The city’s limited fiscal resources, its pro-development agenda, and the legacies of institutional racism are illustrative of the tensions that faced many American cities in the 1970s and 1980s. What was at stake in American urban politics in the last quarter of the twentieth-century was at stake in Washington, D.C.: the profits from booming housing markets and growing mortgage industries, the effects of white and black suburbanization,
the costs of increasing inequality, poverty, and unemployment, the decreases and
decentralization of federal safety net programs, and the possibilities of black political
empowerment. Significant relevance exists within the failed attempts to mediate the
impacts of Washington, D.C.’s 1970s and 1980s housing crisis for understanding some of
the critical conditions of and contestations over contemporary U.S. urban housing crises.

Overview of Chapters and Arguments

Engaging theoretical perspectives about housing, property, law, and power, this
dissertation examines struggles over housing crises in Washington, D.C. in the 1970s and
1980s. In Chapter 2 I review what is known in geographic scholarship about
contemporary housing crises and popular responses such as housing rights. From this
literature analysis, I make two arguments. First, I argue that the relationship between
housing rights and property rights needs to be more thoroughly addressed theoretically
and empirically. Property rights may be the antithesis to a right to housing in late 20th
century U.S. urban landscapes, as some claim, but such a condemnation requires further
study, which is one aim of the subsequent chapters. Second, I argue that the routine
failings of housing rights necessitates investigation into how policies are made to fail and
how such failings may strengthen the social relations, actions, and landscapes of the
dominant property regime. I offer initial conclusions about housing rights, property, and
policyfailing, but the primary goal is to set the stage for subsequent analyses. These three
foci are the theoretical scaffolding through which I examine the materiality of property
that has accompanied Washington, D.C.’s two-century housing crisis in Chapter 3, the
property discourses mobilized in the speculation tax’s failing in Chapter 4, and the property practices that impeded the right to shelter in Chapter 5.

In Chapter 3 I flesh out key historical and material conditions under which the housing crisis of the 1970s and 1980s in Washington, D.C. and the contestations over that crisis emerged. Drawing primarily on secondary literature, I explain how the city in the late 1970s became a place where the local government and community groups could create some of the country’s strongest anti-displacement and pro-tenant policies, like the speculation tax and the right to shelter. This historical narrative comes to a climax with the city’s long-sought achievement of limited self-governance—the single most important transformation of the city in the postwar period. I identify major policies, ideas, and practices that contributed to the city’s landscape of urban development and housing in the 19th and 20th centuries. Through this historical materialist analysis, I make two simple claims. I argue that the history of housing and property development in the city was intimately and extensively tied to histories of racial oppression and restrained political representation. Then I contend that the complex and changing intersections of these forces—urban planning, racial equality, and democracy—were the critical conditions for the rise and fall of the speculation tax and right to shelter in the 1970s and 1980s.

In Chapters 4 and 5 I examine how responses to Washington, D.C.’s housing crisis in the late 1970s and early 1980s created the short-lived speculation tax and right to shelter. I tell narratives of the conditions under which the laws were debated, passed, debated some more, and eventually repealed and the political actors who drafted, supported, adopted, and eventually rejected the laws. In each chapter, I flesh out how the
individuals involved in the complex political mobilizations around speculation and homelessness framed the city’s housing crisis, its causes and remedies and demonstrate how property discourses and practices are critical to understanding the failing of these struggles to make housing rights. I show how the defeat of these laws reinforced an urban landscape where material property existed as a lucrative space for investment, property rights were based on ideologies of exclusion and private ownership, government institutions supported the profitability of the private real-estate industry, and government practices facilitated the privatization of public property. I argue that neither of these laws significantly softened the effects of the 1970s and 1980s housing crisis but that both of their deaths shaped the contours of property relations in the city in important ways for the decades that followed. To conclude, I maintain that it is necessary to understand how property relations were mobilized and shaped in each struggle.

Chapter 4 specifically traces the life and death of the U.S. urban speculation tax. Following a detailed account of the rampant speculation and affordable housing crisis that plagued Washington, D.C. in the 1960s and 1970s, this chapter provides a brief discussion of windfall taxes in an international context and in housing and geographic scholarship. The remainder of the chapter centers on the practices and politics of the city’s first elected City Council. Though the speculation tax originated with a grassroots community group, the tax might not have passed at all had it not been for the interest of several D.C. Councilmembers. Through an analysis of the hearings, meetings, and writings about the speculation tax, I contend that the speculation tax was not only a material crisis about the physical housing stock but also a discursive crisis around the idea of housing commodification. I argue that supporters of the tax did not publicly
convey a coherent, counter-hegemonic and spatial vision of how the housing crisis could be solved without the real-estate industry or how black empowerment could be achieved without the profits and securities awarded through the existing property regime. These absences, I contend, were critical to the failure of the speculation tax. The struggle for housing rights clashed with struggles about economic justice for black Americans and struggles for improvements in the city’s long-abandoned housing stock. The debates that unfolded at City Council—even those in which the tax’s strongest community supporters participated—did not outwardly question the existing property regime or its underlying structures of inequality, yet these issues were exactly what were in question. The real-estate moguls, for one, knew this, and it was why the introduction of this tax—rather than any other policy proposal—led to the formation of the city’s first lobbying organization for the realty industry. The idea of a speculation tax was radical, I conclude, but the tax through a three-year drawn-out struggle was watered down and, when finally enacted, was made to reinforce rather than challenge the hegemony of the dominant property regime.

The realty industry was largely quiet in debates around a different struggle over the housing crisis in the following years. In Chapter 5 I examine the country’s popularly legislated right to shelter and consider the activism and repeated acts of civil disobedience by the Community for Creative Non-Violence that helped put homelessness on the national radar. The protagonists for this story, however, are members of the city government who vigorously opposed a right for homeless residents to 12 hours of shelter every night of the year. Before I turn to the specific challenge that the right to shelter posed to the city government’s management of public property, I contextualize the right
to shelter initiative within brief histories of U.S. homelessness and homeless policies.

Through the remainder of the chapter, I highlight how the right to shelter put into jeopardy the government’s pursuit of a particular kind of urban development. The right to shelter did not, as the speculation tax did, directly challenge the rights of developers and members of the real-estate industry. The right to shelter instead created obligations that the city government was supposed to fulfill. I argue that the city government’s efforts to protect the goal of downtown development and to a lesser extent the rise of a black development industry and the associated practices of shelter closures and reduced-market property sales made enacting the right to shelter difficult and ultimately untenable. In doing so, I also show how the city government’s urban development agenda was bolstered.

Chapter 6 synthesizes the histories of urban development in the 19th and 20th centuries in Washington, D.C., the speculation tax, and the right to shelter. I consider how the analyses conducted in Chapters 3, 4, and 5 contribute to knowledge about struggles over housing rights, the processes of policyfailing, and the hegemony of property rights—the three subjects I examine in Chapter 2. In doing so I argue that the clash between housing rights and property rights must be analyzed not as a case of either antagonistic relations or property’s plural, flexible forms. This dissertation makes the case that the plurality of property forms may be a driving force for the antagonism between property rights and housing rights. Property plurality must be explored with attention to how the kinds of justice that they facilitate may inadvertently prevent other, larger forms of housing justice, like housing justice. In the struggles around the speculation tax and the right to shelter, property rights, relations, and their regime were
mobilized for racial equality and for self-governance. They were not just the web of relations that created speculation, homelessness, and a housing crisis. I argue that it was this mobilization of property rights for racial equality and in support of self-directed urban planning projects that reinforced the hegemony of property rights and doomed the speculation tax and right to shelter. Before I turn to these stories of failed efforts for a more just landscape of housing, I outline the methods I used to gather and analyze data.

**A Study of Failures**

At one of the earliest interviews conducted for this project in March 2011, I asked an affordable housing developer what he knew about the 1978 speculation tax. He said, “Never heard of it.” That same month, I mentioned it at the end of an interview with a former community organizer who was active in homelessness issues in the 1970s. He, too, said, “I can’t recall.” A housing organizer who was working on tenant issues in the 1970s answered something similar: “I didn’t even know we had a speculation tax.” Over the course of the next nine months, I continued to elicit similar responses in my interviews, which were supposed to be about the current arrangement of housing and property in Washington, D.C. In more than 30 of the 59 interviews that I conducted, my question about memories of the speculation tax was a dead end:

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4 Interview of affordable housing developer with author, Washington, D.C., March 25, 2011
5 Interview of former community organizer with author, Washington, D.C., March 18, 2011
6 Interview of longtime community organizer with author, Washington, D.C., April 7, 2011
7 The most memorable response to my question about remembering the speculation tax came from an interview with a current non-government planner, who said, “No, I don’t. There’s always flipping. That’s part of the process. It’s part of capitalism. And it’s just part of it, you know. It’s the worse form of economics except for all the rest [laughs].” (Interview with author, Washington, D.C., October 26, 2011)
A major 1970s real-estate developer said, “Don’t know anything about that.”

A 1970s realtor said, “I don’t remember that.”

A former zoning board official said, “I’ve never even heard of it.”

A former city planner said, “Okay, I didn’t know about that.”

A nonprofit affordable housing developer asked, “How does that work?”

A current planning official guessed, “Does this have to do with the homestead exemption?” (It did not.)

My research questions, which started out concerned with contemporary affordable housing politics and real-estate dynamics, shifted in the early stages of fieldwork to the past, but for many months my research plan did not. In January 2011 I set out to examine how property regimes and homelessness politics intersected and shaped one another in present-day Washington, D.C. I had lived in the city on and off since 2004 and witnessed dramatic changes as my neighborhood’s auto-body repair joints, paint stores, used furniture shops, and laundromats were replaced by wine bars, coffee shops serving Wi-Fi to mobile workers (like myself), doggie daycares, membership gyms, and upscale restaurants serving $14 beers. I was a white face in a historically black and more recently gay neighborhood, Logan Circle, which was experiencing a dramatic property boom. I was the new wealthy, white, and (then) child-less young professional who had come to the neighborhood for its central location, amenities, and walk-able streets. I knew I was a gentrifier. What I did not know was whether there was anywhere I could live in

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8 Interview of developer Bob Carr, Washington, D.C., October 5, 2011
9 Interview of realtor, Washington, D.C., October 21, 2011
10 Interview of former city planning official, Washington, D.C., October 26, 2011
11 Interview of former city planning official, Washington, D.C., April 7, 2011
12 Interview of nonprofit affordable housing developer, Washington, D.C., April 14, 2011
13 Interview of zoning official, Washington, D.C., August 8, 2011
Washington, D.C. and not be one. Was my only option to live in the expensive, historically white, shady neighborhoods of the upper Northwest? Was that a more socially responsible place to live? I was curious about what was happening, to whom it was happening, my role in the process, and what could be done in response. I planned to use a series of methods in my research: literature reviews, archival research, semi-structured interviews, and, most importantly, participant observation. The bulk of this envisioned project would be ethnographic. I planned to take fieldnotes while living in Washington, D.C. for a year, attending City Council hearings and community events, and participating in two different activist campaigns. But, as Emily Billo and Nancy Heimstra
have discussed, translating “a clear, concise research proposal” into action can be messy. And for me it was.

By spring 2011, I had become fascinated by the discussion of a failed speculation tax in a paper in the 1970s *Working Papers for a New Society* journal (see Richards and Rowe 1977) and by Chester Hartman’s footnote about a failed right to shelter in the 2006 primer *A Right to Housing: Foundation for a New Social Agenda* (see Bratt et al 2006). How was it, I wondered, that the urban landscape in front of me had once been home to a speculation tax and a right to shelter for homeless people? The city government I knew seemed to welcome gentrification. What had gone wrong, I wanted to know. When I could not find answers in existing scholarship about how the city government, in the aftermath of winning limited self-governance, passed some of the country’s strongest anti-displacement legislation, I dug deeper into primary sources.

At meetings for two local campaigns with which I participated, I was not able to access much communal memory about the right to shelter and even less about the speculation tax. How was it, I wondered, that knowledge about these past efforts had not been transferred or made accessible to present-day activists who were concerned with many of the same issues? At an inaugural meeting for one of the campaigns, Save Our Safety Net, in January 2011 I participated in an exercise with about 50 other mostly white, highly educated progressives. We were asked by a facilitator to separate ourselves into one of four corners in the room based on our belief of whether the city government could respond to the plight of the city’s poor and to what degree. We then explained to the other folks in our corner and the group at large our reasoning for taking the positions we did. I did not write down in my notes which corner I ended up in. But I noted my
surprise that whether my peers—community organizers and leaders in their 20s, 30s, and 40s—spoke pessimistically or optimistically about the possibilities for urban change, they did not cite examples of how just a few decades back, Washington, D.C. was such a trailblazer in the U.S. for homelessness and housing rights. By the end of the daylong meeting, it seemed inconceivable to me that this room full of progressive policy wonks and community activists—who would benefit so greatly from them—were without knowledge about the local mobilizations of the 1970s and 1980s.

As my attention turned to what had happened in the 1970s and 1980s and why such movement and policy histories were not more commonly known, I slowly stopped reading contemporary scholarship on the city and turned to literature about the city, homelessness, urban development, housing, public policy, and real-estate in earlier decades. By spring 2011, I stopped taking daily fieldnotes and seeking out community events like audience discussions of Clybourne Park (2011), a play about gentrification, segregation, and housing in U.S. cities. But I clung to my plan to conduct 45 or so semi-structured interviews of experts on housing and real-estate with the hopes of triangulating data found elsewhere, which is why I ended up with a slew of dead-end responses to questions about the speculation tax. Between March and December 2011, I conducted 59 interviews with three primary sets of actors: realtors, developers, planners, and other experts on urban development, including journalists; homelessness advocates and affordable experts, including non-governmental social service providers; and former or current policymakers and government officials. I contacted the majority of these participants through snowball techniques or personal connections. I had a much higher rate of participation success with these kinds of interview requests than those through
cold-calls (or cold-emails) to potential participants. (Roughly 30 people whom I contacted did not respond to my requests or agree to participate, citing time constraints.) Each interview lasted about an hour, and all but 16 were conducted in person. Of those held in person, I asked permission to record the conversation so that I could later transcribe it; all but 2 participants allowed me to do so. For those interviews conducted over the phone, I took notes on my computer during and after the conversation. I did not present a preference when I asked participants to choose to be identified by their name or by a pseudonym in the study. About half of the participants chose to be anonymous (see Appendix). Collectively, these interviews offered tremendous insight into the current practices, discourses, and institutional structures of property development in the contemporary city. For this project about what had happened in the 1970s and 1980s, however, many of the transcribed and coded interviews ended up being of less value than I had expected, given the huge time investments in holding each interview, transcribing the conversations, and coding the hundreds of pages of text. Still, the collection of interviews is missing several key participants whom I did not identify as potentially important figures until I was well into the writing phases (e.g., Marie Nahikian who headed the Anti-Speculation Task Force but opposed the right to shelter initiative) or, in one case, whom I simply forgot to call back. If this project were to be re-done or extended, I would pursue conversations with a handful of these folks.

The richest trove of primary data for this research came from Gelman Library Special Collections at George Washington University. There, I looked through the personal papers of the late David Clarke, one of the co-sponsors of the speculation tax, and the Greater Washington Board of Trade, one of the main opponents to the tax. There,
I also looked at the collections of David Clarke, Polly Shackleton, Walter Fauntroy, Dennis Gale, and Howard Gillette. (The collections of John Wilson and Nadine Winter were also available, but they had not yet been processed and so did not have finding aids, which made research into the dozens of unorganized boxes unfeasible for this study.) For the right to shelter, I also relied heavily on George Washington University’s Special Collections, specifically the personal papers of Carole Fennelly, Mary Ellen Hombs, and Mitch Snyder, who were heavily involved in the right to shelter campaign. The second most useful source for primary data for this dissertation came unexpectedly from the archives at the Washington, D.C. City Council’s Legislative Services. There, I was able to access on microfiche transcripts of several City Council hearings on the speculation tax, submitted statements by witnesses for each hearing, and related committee reports. For the right to shelter case study, however, I was unable to access City Council hearing transcripts about its repeal. According to staff in the Legislative Services office, the microfiche tapes of 1980s hearing transcripts were lost years ago.\footnote{This was not hard to believe. In my notes on December 7, 2011, I wrote: “At legislative services there is no one at all scheduled for a research session this week. It’s in a hard back old school calendar she pulls out. Almost completely empty pages are turned. Of course, when I called to schedule an appointment, I was not able to come in on the day I called (Monday) and was told the first available was on Wednesday. I was also told that there are two hour windows—as if someone else would be coming here.”} To a lesser degree this dissertation was informed by the archives of Luther Place Church and archived reports from Delta Associates, a real-estate data analysis firm (in Alexandria, Virginia) as well as the Annual Housing Survey (now known as the American Housing Survey) from the U.S. Department of Housing and Urban Development. This research is also informed by the transcripts that political scientist Steven McGovern shared from the interviews he conducted in the early 1990s with city government officials and planning figures, many of whom like David Clarke, have since died.
Several other sources of data likely could have contributed to and improved this study. My attempts to access the archives of the Metropolitan Washington Council of Governments, the Hoyt Institute of real-estate research, Public Citizen’s Tax Reform Research Group (a group involved in the passage of the speculation tax), the D.C. Office of Planning, and the National Archives’ records of the D.C. government were unsuccessful for a number of reasons, ranging from research time constraints and the absence of finding aids to the inability to secure permissions. Had I started this project a few months earlier, my research into the speculation tax likely would have been enriched by letters, papers, and memories of one of the drafters of the tax, Jonathan Rowe. Rowe died a few months before I tried to contact him and, then, his personal papers were dispersed before I reached his friend responsible for them.

For both laws, I mined several local media sources from the 1970s and 1980s: The Washington Post (available online), The Washington Afro-American (which became The Washington Tribune and is available at George Washington University’s Gellman Library), and several newspapers available at the Washingtoniana Special Collection at the Martin Luther King Public Library in Washington, D.C.: Washington Star, Washington Business Journal, The City Paper, The Washington Blade, The Washington Times, and Regardies (which began as Real-estate Washington). The most useful media source for the speculation tax was editions of The DC Gazette (which became The Progressive Review before it ended). Some of the editions are available online, but many were accessed through personal communication with its former editor, Sam Smith. For the majority of these media sources, which were not searchable by key words, I used key dates in the cases of the speculation tax and right to shelter campaigns to look for relevant
articles. This tactic surely missed coverage of the laws, but it was a time-sensitive solution.

With these data in hand, I ordered the stories chronologically, to parse out what had happened when, and in doing so coded for themes (which really meant listening, looking, and hoping that there would be some connection between these stories). In the collected evidence about the historical development of the city’s material property, the speculation tax, and the right to shelter, the themes that kept coming up were struggles about racial inequality and self-governance. I was forced to address how these struggles were related to those for new housing rights. Though this question was not the one with which I went into this research, it addressed similar kinds of issues about the contestations of place-making and struggles for justice: Why is housing a persistent source of inequality and crisis in some places? What do just landscapes of housing look like? How can they be made? The task in the next chapter is to develop these questions conceptually. The job of Chapters 3, 4, and 5 is to think through them empirically. And, the job of Chapter 6 is to bring the insights from these analyses back to the core question of this research about how and to what effect some of the country’s most radical housing laws had such short lives in Washington, D.C. in the 1970s and 1980s.
Chapter 2: The Housing Question: A Problem of Property and Policyfailing

Introduction

In this chapter I review scholarship about housing crises. I examine how much of the early geographic literature on housing in the 1970s and 1980s used a political-economic framework and identified the root of persistent housing problems as the commodification of housing. I explore how rights to housing were proposed as a solution, and are today, though I contend that the subject merits a more thorough empirical and theoretical investigation. To this end, I examine the question of how housing rights are shaped by and, in turn, shape property rights and argue that studies of this relationship are necessary if we are to better understand how housing rights are challenged, negotiated, and, more often than not, rejected. To contribute to the slim geographic literature on housing rights, I parse through understandings of property, outline a framework for analysis of the role of property in struggles over housing rights, and offer several preliminary conclusions about how property rights may intersect with housing rights in contemporary urban landscapes. Property rights may be the antithesis to a right to housing in late 20th century U.S. urban landscapes, as some scholars suggest, but such a condemnation requires further analysis on how property rights are made to endure, which is one of the goals of this dissertation. Then, I address that lack of research on how housing rights routinely fail to become permanent features of legal systems. I turn to the recent scholarship in critical policy studies on the nitty-gritty of how, where, when and by whom policies are produced, enacted, and negotiated. I outline a framework for studying failed policymaking efforts, like those that attempted to establish a permanent speculation tax
and right to shelter in Washington, D.C. I argue that the critical policy scholarship can contribute to understandings of how housing rights are made to fail and the effects of such failings on existing governance structures. To conclude, I outline a model of analysis based on this chapter’s synthesis of ideas about housing, property, and policyfailing.

**Housing Crises**

When Frederick Engels (1935:47) declared that the poor conditions of the overcrowded “pigsties” where industrial workers lived were “no accident,” he was making a statement both about the particular crisis of European cities in 1872 and a more general problem that he attributed to capitalist relations. The so-called housing shortage of the time, he argued, was an inevitable outcome of a society dominated by capitalist production. Population booms, mass migrations to cities, increases in housing rents, and the rise of unstable employment had indeed contributed to the problem faced by many workers of finding a decent place to live. Some cities did suffer from an influx of workers at a rate quicker than that of housing construction. But, Engels said, the housing problem was not a Malthusian one of limited resources for a growing population or one of imbalances in supply and demand. There could be enough housing for everyone, Engels went on, if it were produced and consumed under different social relations. Housing by itself was not the problem, he wrote. The problem was all of the social relations that gave rise to and maintained the uneven landscape of housing. The root of the housing crisis, he said, grew from the everyday relations of consumption, production, and reproduction, which were dominated by capitalism.
In seeing the urban housing problem as deeply embedded in the political economy of cities, Engels (1935) argued that any state-sponsored or philanthropic solutions to the housing problems of industrial workers would be futile. To provide company or state-funded housing or to make workers into owners of their own residencies could not provide a “security of existence” (Engels 1935:13). To pay workers enough to afford housing at the inflating rates could undermine the exploitation that was necessary to maintain capitalist profits and could not be a realistic option. Solutions such as legislation, subsidized housing, higher wages, or tenant ownership could be only temporary answers because they would leave intact the social relations that gave way to uneven landscapes of housing. Engels (1935:74-77) explained:

In reality the bourgeoisie has only one method of solving the housing question after its fashion—that is to say, of solving it in such a way that the solution continually reproduces the question anew. This method is called ‘Haussmann’…. The breeding places of disease, the infamous holes and cellars in which the capitalist mode of production confines our workers night after night, are not abolished; they are merely shifted elsewhere! The same economic necessity which produced them in the first place, produces them in the next place also. As long as the capitalist mode of production continues to exist, it is folly to hope for an isolated solution of the housing question or of any other social question affecting the fate of workers. The solution lies in the abolition of the capitalist mode of production and the appropriation of all the means of life and labour by the working class itself.

Contrary to popular thought of the time, Engels said that tenants without land titles at the end of the 19th century were better off than peasants at the end of the 18th century with rights to land. Immobility could not lead to liberation or freedom in a capitalist society. A newspaper in Spain agreed: Small property owners with mortgages were the best insurance a ruling class could buy against worker uprisings (cited in Engels 1935).
Private property ownership, he said, could only maintain existing oppressive and exploitative social relations.

A hundred years later in 1972, David Harvey raised the issue that Engels had named—the urban housing problem—in geographic scholarship. Harvey (1972, 1978) and a handful of other Marxists (eg, Pickvance 1976; Stone 1986) pushed against the then-common trend in housing studies to look at issues of tenure and consumption (Smith 1985). In bringing Marx’s (1967) agricultural rent analysis to urban land questions, Harvey extended Engels’s arguments that market mechanisms were responsible for housing scarcity and that housing scarcity was necessary to the functioning of capitalist markets. Harvey said that the similarities between what Engels documented in England and the urban problems in the last quarter of the 20th century in the U.S. were not coincidences. The horrid housing conditions, he argued, were not aberrations but an economic necessity to capitalist processes of accumulation. The scarcity of housing in U.S. cities was evidence that the capitalist system and its institutions were working. This kind of broad-level synthesis made Harvey and his peers subject to criticism; they were said to offer a too generalized analysis of the housing crisis (see Basset and Short 1980; Stone 1986). But Harvey’s political-economic approach that treated housing crises as logical outcomes of capitalist relations endured and became the foundation for much of the critical housing research that was undertaken in subsequent decades (Berry 1981, Drakais-Smith 1980; cf Bourne 1981), including the first ones of the 21st century.

At the heart of this political-economic approach, which was exemplified by Harvey (1978), Manuel Castells (1979), and Henri Lefebvre (1995), was the belief that the profit-oriented nature of the housing industry was the fundamental source of problems
within urban housing (Atlas and Dreir 1986; Marcuse 2001). Though exacerbated by racism and sexism, the root of the problem was, according to these scholars, a relationship between housing and private capital (Achtenberg and Marcuse 1986). Housing, Harvey (1982) showed, simultaneously served as a means for rapid capital accumulation and a means for solving dilemmas of overaccumulation. The housing crisis was “an inherent consequence of an economic system, broadly called capitalist, in which housing and land are produced, sold, and managed for private profit, grounded in an economic system whose motor is the drive for increasing profit” (Marcuse 2009:351). Under such a system, housing was “only provided to those who can pay enough for it to make a profit for its supplier” (Shelterforce 2008:1). The problem of housing affordability, then, was the problem of a private housing market whose goal to maximize profits was antagonistic to the goal of providing a decent place for all to live (Bratt et al 2006). Housing crises from this vantage point were clashes that arose out of housing’s double function as a speculative commodity and a social need (Hartman and Stone 1986). The making of housing into a commodity did not by itself mandate the death of housing as a social good, this housing research suggested, but the profit-oriented industries associated with housing had historically been a central condition for this death.

This turn in the 1970s and 1980s toward the political economy of housing led to several insights about how the profit-oriented housing market was maintained and to what effect, which remain prominent in today’s housing scholarship (see Lees et al 2010; Brenner et al 2012; Newman and Wyly 2006; Slater 2009). Several forces undergird the for-profit housing market and its perpetual housing problems: a sophisticated credit system, state policies, labor-market restructuring, free-market ideologies, and the failures
of social movements. Land’s treatment as a financial asset—which is the basis of the private housing market—would not be possible, Michael Stone (1986) pointed out, without a credit system, mortgage debt tools, and the over reliance on these mechanisms by builders and buyers. But the financialization of the housing industry is not understood as a one-way relationship in which financial institutions and practices shape the housing industry. Residential mortgage debt has become a critical part of financial systems and has made housing both susceptible to the waves of larger economic forces and a wave capable itself of disrupting the larger economic forces. Changes in inflation rates and any restructuring in the banking industry can cause shifts in the increasingly complex housing finance machines (Achtenberg and Marcuse 1986). The tightening of credit in the late 1970s, for instance, resulted in a dip in U.S. housing starts from 2.4 million units in 1972 to 1.3 million in 1980 (Hartman and Stone 1986).

Government policies and state institutional supports have not challenged the profit-oriented structure of the U.S. housing industry or mobilized public resources to significantly address low-income housing needs, which had helped to maintain the crisis (Achtenberg and Marcuse 1986). Rachel Bratt, Stone, and Hartman (1986:xii) described the problem: “The central role that the state has played in the U.S. housing policy has been to aid the private sector in its profit-making endeavors” though as a country “it appears that we have forgotten that markets are social creations, operating on the basis of legal and economic incentives and disincentives established and enforced by governments” (Bratt et al 2006:9). Federal subsidies, specifically the mortgage tax deduction, have been regressive, and the federal government has withdrawn from subsidizing housing production, housing allowances, and existing subsidized stock
(Hartman 1986). Land-use regulation has been monopolized by developers, speculators, and other profit-oriented decision makers (Harvey 1985). Federal tax policy and local zoning ordinances have been used to turn housing into an increasingly lucrative and reduced-risk investment (Harvey 1985; Lauber 1984). Neither liberal nor conservative policymakers have been willing to consider the decommodification of housing, helping to ensure that a deep housing problem remains a prominent feature of the U.S. landscape (Marcuse 2001). Political leaders on the left have, in other words, failed “to recognize the structural causes of the housing crisis” (Bratt et al 1986:xiii).

Another tension in the web of forces that have contributed to the housing problem has been the labor market. “Most housing problems can be traced logically or historically to the problem of affordability,” Stone (1983:99) explained, “to the squeeze between incomes on the one hand and housing costs on the other.” The point here is not that more income subsidies or income equality could solve the housing problem. The housing problem is not simply an issue of poverty, as some have alleged (ie, Glaeser and Gyourko 2008; Kain 1983). The issue is housing scarcity—and the goal for scholars is to figure out how that scarcity is produced and to what effect. The failure of incomes to keep up with housing costs due to changes in the labor market, widening income inequality, and persistent housing discrimination has challenged the viability of a profit-oriented housing industry (Stone 1975). Stone (1986:64) explained:

the problems of incomes and housing costs cannot be solved within capitalism because the required redistribution of income would lead to the collapse of the labor market, while the required reduction of housing costs would lead to the collapse of the private housing market.
The coordination between labor and housing market investors makes it unlikely that the divide between costs of subsistence needs and resources available to meet those costs could reach a breaking point (Achtenberg and Marcuse 1986).

Underlying the housing problem has also been a deep ideological fallacy that free-market principles are the answer to social and economic problems (Atlas and Dreier 1986). Chester Hartman (2006:186) has said that pretending the market can provide access to housing for the vast majority of residents ignores the real history of the housing market in the United States and how it has disadvantaged and oppressed, and continues to disadvantage and oppress, the vast number of Americans without the financial means to function satisfactorily in that market.

Housing has become wrapped up in dominant trickle-down theories of urban development in several ways (Davidoff 1983). First, there is the fantasy of single-family single-lot homeownership as the best kind of social arrangement and an achievable goal (Shelterforce 2008). Then, there is the myth that homeownership is a productive mechanism for building wealth (Brenner et al 2012). Finally, there is a belief that only through home ownership can security of tenure be achieved (Shelterforce 2008). The notion that renters do not deserve the same freedom from eviction has become ingrained in popular thought. Some of the beliefs that ground the consumption and production of housing appear calcified and natural, despite the very particular and situated conditions that gave rise to their dominance. To too many, there is no alternative. Part of the housing problem is the success of these ideas that promote housing-as-commodity as the only way to organize the reproduction of social life.
Throughout these political-economic arguments about the ideas, practices, and conditions that support the contemporary housing problem is the notion that social movements of the 20th century have failed to challenge the status quo. “The present housing crisis,” explained John Atlas and Peter Dreier (1986:380), “is a result of the failure of progressive forces to mobilize a majority for reform.” Some scholars have lamented what they see as an absence of a housing movement while others qualify that political mobilizations around housing are not non-existent, just utterly ineffective. Most activists, according to political-economic housing research, have not understood the root causes of the crisis—the increasingly complex profit system of housing—or acted upon such an understanding (Stone 1975). The wave of housing and neighborhood activism in the 1960s and 1970s, which was directly tied to the movements for civil rights and social welfare, did not come to terms with the systematic nature of the housing crisis, and this shortcoming doomed future activism, scholars have argued (eg, Achtenberg and Marcuse 1986). The housing activism of the 1960s and 1970s was able to achieve significant legislative and regulatory reforms (ie, rent control) (Achtenberg and Marcuse 1986:475), but it was not able to respond to the problems of mortgage interest increases, housing credit scarcity, housing deterioration, and general displacement. The struggle over housing in the U.S. all but collapsed in the early 1970s with the economic downturn, freeze on subsidized housing, and defunding of federal housing construction programs. Some blamed the failure of such struggles to decommodify housing on the way in which the movement fragmented along racial and tenure lines, while others maintained that it was ludicrous to imagine that all tenants of all tenure types—including homeless populations—could organize together. Kathy McAfee (1986), for instance, suggested that
alliances across tenure types may work but not across classes, while Tom Schlesigner and Mark Erlich (1986) reasoned that any effective campaign must focus on housing laborers rather than housing consumers. One housing organizer lamented that leaders of housing struggles in the U.S. “have approached the housing crisis as if it were a series of vaguely connected ‘housing issues’” (McAfee 1986:405). The solutions proposed in the research on late 20th century and early 21st century urban housing problems offer a number of smaller-scale and intermediate plans to reduce dependency on the mortgage finance system, get elected officials to shift public funds to meet the needs of low-income households, change tax benefits for renters, eliminate evictions, institute limited-equity co-operative ownership programs, build municipal land trusts, and expand public housing to plans to facilitate inexpensive credit access for small housing contractors.

The question of whether conflicts over housing production and consumption in the U.S. have ever stretched beyond the level of collective bargaining and into the realm of social movements is one that Peter Marcuse (1999) has taken up. Although the 20th century did not see structurally radical proposals for housing reform (even by otherwise radical groups) and although the strongest housing organizing was around “defensive” measures (ie, rent control), Marcuse (2001) said that housing issues can become broad enough to sustain social struggles that confront systemic social problems. Housing, he predicted, is unlikely to become the basis for a social movement (cf Hartman and Stone 1986)—something he saw as more organized and powerful than a social struggle—but its future is likely to be rife with moments of political conflict. Housing, unlike labor, has not been imagined by Marcuse to be the best motivator or catalyst for meaningful social
change. This is not an uncommon position. There is a repeated mantra in the housing literature that housing could never turn into a broad social movement anyhow.

Mass social movements that can link structural analysis of the housing problems to larger social relations are the only hope. Far-reaching structural reform that could move housing toward social ownership is needed, scholars argue, and widespread political mobilization is the way to do it (Hartman and Stone 1986:487; Hopper and Hamberg 1986; Stone 1986:63). Housing must be decommodified and converted into a use good that meets human needs (Brenner et al 2012). What must be changed to do such a thing is daunting. How housing is produced, financed, owned, and experienced must be restructured. How the banking industry interacts with mortgage-backed securities must be re-regulated (Marcuse 2009). To remove housing from the speculative or for-profit market, which Emily Achtenberg and Marcuse (1986:475) say is the first big step, requires a massive public debate that gets people on board with recognizing the limits of a profit-oriented housing system and the rationale for an alternative organization of housing:

Needed is a program that can alter the terms of existing public debate on housing, that challenges the commodity nature of housing and its role in our economic and social system, and that demonstrates how people’s legitimate housing needs can be met through an alternative approach.

Housing for all must be recognized, according to housing scholars of the past 35 years, as a desirable and obtainable project. At the center of this vision for a more just arrangement of residential space, one in which housing is decommodified, is a right to housing.
In Response: A Right to Housing

Housing rights, as a discourse, first emerged in international policy circles at about the same time that the United Nations was formed in 1945 (Leckie 2003). Housing rights talk began to show up in international policy circles and then after the passage of the National Housing Act of 1949 in domestic ones (Leckie 2003). It was not until the end of the 1970s, however, that housing rights, like housing crises, became a steady subject in academic and policy-oriented writing (Leckie 2003). Many of the geographers and scholars who turned toward the political-economic structures of housing crises in the early 1970s and 1980s invoked housing rights as the practical step away from a commodified housing market (eg, Geisler and Popper 1984; Hartman 1983; Michelman 1970), a trend that continues today (eg, Anand and Rademacher 2011; Azuela et al 1998; Harris 2004; Huchzeremeyer 2003; King 2003, 2009; Marcuse 1999, 2012; Stoner 1995; Weinstein and Ren 2009). But generally, the notion of housing rights has found more popularity, and has been used more widely, in international contexts than domestic ones (see Leckie 2003). This pattern may help to explain why, in Anglophone research, housing rights—though often called for—are under examined (but see Bratt et al 1986, 2006).

Housing researchers across the social sciences have overlooked housing rights and contestations over such rights (Anand and Rademacher 2011; Weinstein and Ren 2009). “Surprisingly few contemporary studies of urban change have made housing rights, particularly the changing policies and practices associated with the right to housing, a central object of inquiry” despite the attention to displacement and the ill effects of housing crises like evictions (Weinstein and Ren 2009:409). The dearth of
research on housing as it relates to social justice has exacerbated the dearth of research on housing rights. “The large-scale displacement caused by epidemic foreclosures and repossessions,” Tom Slater (2009:307) wrote, “should not only be analyzed as symptomatic of the fundamental flaws of three decades of economic deregulation; it should be analyzed as part of a wider intellectual project to bring social justice back in to research on the housing question.” Many countries have mobilized housing rights in the forms of tenant protections to help residents who face evictions, but critical analysis of how housing rights shape housing crises or how they are actually enacted has been slim (Leckie 2003). There is extensive research on policies that have contributed to housing crises (see Bratt et al 2006; Brenner et al 2012), including recent subprime mortgage crises. What is missing is attention to the responses to housing crises, like political mobilizations for housing rights or other laws that might protect tenants and homeowners from market forces. Little is known about how housing rights are actually made, negotiated, practiced, and changed (Anand and Rademacher 2011). Recent research has suggested, for instance, that legal service professionals play a larger role in achieving housing rights than previously thought (eg, Harris 2004). Other work has suggested that the practices of squatters, like those who sell to the highest bidder the title of recently earned properties, make the political dynamics of housing rights more complicated than previously thought (eg, Anand and Rademacher 2011).

In urban research a right to housing has been routinely approached, as Lefebvre (1995, 1996) did, as not sufficient alone to transform somewhere into a just place but as a necessary precondition. “A commitment to a Right to Housing,” wrote Hartman (2006:1), “should be the foundation not only for housing policy but also for a new social agenda.”
A right to housing is necessary for justice because, Hartman (2006:180) continued, housing is necessary for justice:

Housing has a special character, no only because it consumes so large a portion of the household budget, especially for lower-income families, but because it is...the central setting for so much of one’s personal and family life as well as the locus of mobility opportunities, access to community resources and societal status.

Jeremy Waldron (1991, 1993, 2008) has suggested that the right to housing might be one of the most significant rights, if not the most significant one (see also King 2006). Human beings need housing, he attests, to survive, and it is a fundamental right upon which other activities depend. That everything needs to be done somewhere, including sleeping and living, makes a right to housing critical (Waldron 1993). As Waldron has famously written, no one is really free to do something unless he/she has somewhere to do it. A right to the city, which is a vision of a just city, depends on a right to inhabit which itself, explained Mitchell (2003), must include a right to housing.15 Space, including space in which to house oneself, is needed and necessary. If housing is not recognized as a right and if the fixed resource of housing is not better distributed or produced, the world created will be one based on inequality and injustice. Land on which housing can be built is fixed, making its management, distribution, and arrangement a political question that necessitates a theory of justice or rationale about who should have what kind of rights to housing.

There may be the general agreement that a right to housing is necessary and a just response to housing crises, but a right to housing is “no longer even considered legitimate” as a claim in contemporary cities, according to scholars (Mitchell 2003:220;

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15 I hold steady the idea of a right to the city in order to break apart other ideas, like a right to housing (see Attoh 2011 for critical discussion of a right to the city).
Courts are framed in scholarship on housing rights as an increasingly futile tool. The concept of housing rights “is by no means foreign to our legal system or prevailing standards of justice” (Hartman 2006:183), but U.S. courts since the 1970s have made little progress on giving poor people access to affordable housing or residential spaces of their choosing (Bryson 2006). The courts may be of assistance, but they no longer advance economic and social rights related to housing as they once did. Whereas today, courts mostly only enforce existing rights, courts in the 1960s took several steps toward defining new rights of tenants and homeowners (Bryson 2006). They banned landlords from evictions based on racial discrimination (ie, white residents who had black friends could visit could not be evicted) or the filing of housing code violations (Bryson 2006). The rights that the courts created in the 1960s were negative rights—protections from, rather than liberties to. They protected private property rights, like the right not to be evicted from one’s existing home, rather than creating collective rights to housing. In the 1970s there was hope that federal courts would go a step further and establish a constitutional right to housing, but in the Lindsey v. Normet case, the U.S. Supreme Court decided that existing statues did not offer a basis for “asserting that there is a ‘right to housing’” (Michelman 1970, quoted in Hartman 1986:315). It said: “We are unable to perceive in that document any constitutional guarantee of access to dwellings of a particular quality” (quoted in Langdon and Kass 1985:324). Some legal advocates like Maria Foscarinis suggest that what the Supreme Court said was not that there is no right to housing but there is no right to adequate housing, and so it left open a possibilities for a basic right to housing to
emerge from the judicial branches of government. But today, the most common step in this direction is the “right not to freeze to death,” which requires city governments to open public buildings when the temperature goes below a certain level (Hartman 2006:183).

Part of the problem in securing a right to housing may be that there is little consensus about what is a right to housing (see Davidoff 1983). Some scholars discuss it as a right to things. For example, David Bryson (2006) considers housing rights to be a right to a form or quality of housing. For others like Mitchell (2003) and Marianne Maeckelbergh (2012), housing rights concern material things as well as the process by which people make decisions about where, when, and how to live. The difference between these views can be thought of as a difference between visions of utopian processes and visions of utopian forms (see Harvey 2000).

Marcuse (2012) has dissected the idea of a housing right into two categories. For him, a right to citizenship involves more than a right to vote and so a Right to Housing (with capital-case letters) involves more than a right not to face discrimination in the housing market. Housing rights, for him, are partial and generally concern protections against infractions, like housing codes, rent control, nuisance statues, due process in eviction and foreclosures and access to loans (see also Hartman 2006). Housing rights may be used to achieve a Right to Housing, which is the larger and more durable bundle of rights that allow housing to exist as a social good, but housing rights are not the real aim (see also Harris 2004; King 2003; Leckie 2003). Peter King (2003) has made similar distinctions. For him, housing rights are the various entitlements, laws, and institutions that are nested within a Right to Housing, which is the moral vision of what housing

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16 Interview with author, Washington, D.C., March 23, 2011
justice looks like. Just as E.P. Thompson (1975) distinguishes between legal rules—which are the codes and regulations that actually exist—and the Rule of Law—which is the motivating force or vision, King has approached housing rights as the products of efforts toward a Right to Housing. Housing rights are the set of legal claims that may contribute to a Right to Housing, which is the vision of a more just arrangement of residential space. A right to shelter, then, would not constitute a Right to Housing on its own, but would be one of many possible housing rights. Another way to distinguish between these two ideas is to invoke the language of rights (Jones 1994): Housing rights are claims about what is whereas a Right to Housing is a vision or demand about what should be.

King (2003) has argued that one of the problems with housing discourses in the past thirty years in the U.K. and U.S. is that a Right to Housing, the vision, has been seen as a socioeconomic claim. More success, he has said, could come to affordable housing campaigns if housing rights were discussed as freedom rights, which are non-competitive, universal, and not so dependent on a particular set of institutional structures or subject to issues of scarcity. When housing is discussed as a socioeconomic claim, as it often is, discussion circles around issues of need or equality rather than questions of morality. Freedom rights, by contrast, are not part of a zero-sum game. A discourse based on freedom rights—like the right to travel freely (see Davidoff 1983) or the right to self-determination (see Maeckelbergh 2012)—emphasizes common features of the population rather than what separates certain groups. To look at a Right to Housing as a freedom right, King said, is to see a housing right as equivalent in morality to property rights, which he positions as the highest spot on the totem pole of rights. His solution to the
problem of housing rights is to elevate a housing right to the protected status of property rights.

King’s (2003) argument is important for two reasons. It points to a critical and unresolved issue in housing rights scholarship about the role of property rights. And, it takes as a given that housing rights routinely fail to become permanent features of legal systems while private property rights are routinely safeguarded in existing governance structures. These three subjects—the intersection of housing and property, the stability of property rights, and the fragility of housing rights—are the central concerns of this dissertation.

**Housing Rights and Property Rights**

Some geographers like Mitchell (2003:20) have said that “the right to inhabit the city,” which includes a right to housing, “must always be asserted not within, but against, the rights of property.” For him, the relevant research question is how rights like a right to inhabit are made to fail in order to safeguard property rights (Mitchell 2006). His studies of U.S. laws that criminalize homelessness and limits to the use of public space for homeless residents have led him to the conclusion that property rights are antithetical to a social order in which everyone, or at least most, has a decent place to live. A right to the city is, for him, antagonistic to property rights.

Harvey (1982) also has argued that any attempt to combat the scarcity of land—or residential space—without addressing the fundamental capitalist relations is futile. Addressing the symptom of scarcities, he asserted, without the root cause of capitalist relations is fruitless. Rent controls, for instance, cannot co-exist with de-commodified
housing (which would lead to the end of the housing crises) because rent control by
default accepts the profit nature of housing (McAffee 1986). Self-help housing,
elimination of landlords, tenant ownership, state ownership of land, public policy that
promotes cheap housing construction cannot shift the terrain of housing enough to solve
housing problems. To build power for a right to housing movement, this thinking reasons,
activists “need to reject capitalist notions of justice based on the priority of property
rights” (McAfee 1986:423). Property rights cannot be tools against displacement, only
tools for displacement (Harvey 2008). Greater democratic control cannot come through
expanded property rights or even re-written property rights. Rosalyn Deutsche (1996:40)
saw the problem of property rights in the way they protect “the self-interest of each
individual against any concern of the social good.” Because property rights are essential
to economic and political oppression, she argued, they cannot coexist with a social order
in which there is access for marginalized people to make decisions about how they live.
Property rights can do nothing but maintain the uneven development and spatial
inequalities that are inherent to relations of oppression and domination. From this vantage
point, uneven landscapes of housing—like those that produce homelessness and
speculation—are inevitable outcomes of a social order organized by property relations
and rights.

For other housing-rights advocates, the clash between housing rights and property
rights is not really a clash. In his investigations of the ontological diversity of property
rights, Nick Blomley (2004:xix) found that property discourses and practices can be “a
critical political resource” used to challenge disposessions. Drawing on C.B.
Macpherson (1999) to theorize various property practices and discourses of racialized
city dwellers in Vancouver, Blomley optimistically said that property rights need not be antagonistic to a right to the city or a Right to Housing. He wrote that property was not reducible to private property, as Marx (1967) insisted. Property rights can be re-appropriated, and already have been, as a tool for justice. The “commons” is already a property discourse and practice based on the right not to be excluded and so, Blomley (2008a) has written, “the commons” could offer the possibility of a new just paradigm of property rights (but see Huron 2012 for critical discussion of the commons). Elizabeth Blackmar (2006), also drawing on Macpherson, has concurred that possessive individualism is not the only paradigm for property rights and has pushed for a new imagination of common property rights. Property rights, in this lens, are not reducible to private property rights. The hegemony of the ownership model, which is based on individual rights to exclusion rather than collective rights to inclusion, has shaped “our understanding of what property in the city actually is,” what it has been, and what it can be (Blomley 2004:3). The current model is, according to Blackmar and Blomley, just one of many possible iterations.

Macpherson (1999) made the case most thoroughly for the re-politicization of property rights in his review of different meanings of property over time and in various contexts. (His arguments on these subjects that most commonly shape scholarship on property rights and justice.) The category of property rights, he maintained, has never been static and so should not be perceived as limited to the form it currently takes. Like Thompson’s (1975) study of how enclosure laws in England ushered in new property relations and a new property-less population, Macpherson traced how the rise of capitalism shifted rights in things (usage or usufruct rights) to rights to things (absolute

\[\text{17} \text{ The ownership model distributes near exclusive control over discrete resources (see Mansfield 2008).} \]
and exclusive individual rights). Macpherson saw property rights as always in the process of becoming (see also Griffin 2010). They are not some structure that exists out there—they are a practice and an effect (Blomley 2008b). Property rights are “dialectically entangled with changing material conditions” (Blomley 2010:353), so a condemnation of property rights as an abstract and ahistorical concept is misguided. The question we should ask, then, is not what property rights are but how property rights are (Blomley 2008b).

Similar to Thompson’s stance that legal rules may be bad but the Rule of Law as a vision of order can be good, Macpherson suggested that property rights—regardless of how they have been abused and misused—can be good. Macpherson (1999:205) has attempted to de-link individualism and liberalism from property rights by reframing a property right to mean:

> a right needed by all to enable them to express their human essence… The narrow concept of property as an individual right to exclude others from the use or benefit of something became the paradigm of property for historical rather than logical reasons…it led to a denial of property as a right to what is needed to be human.

In other words, property rights are historically constructed rules about distribution and equality, so a new paradigm is possible. To get to this new broader paradigm with its collective and inclusive rights to all that is needed to be human requires, however, a confrontation with the traditions of inequality and unequal distributions of resources that have undergirded the rise of exclusive private property rights. A number of other

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18 Macpherson (1999) wants to change the external relations of property—how it functions as a collective right for humans not to be excluded from basic needs—but Joseph Singer (2000), another leading property scholar, pushes for change to the internal relations of property. Singer suggests that the obligations within exclusive property rights simply need to be strengthened for it to function for justly.
scholars support this notion that property rights can be restructured and are malleable enough to be used to create more equitable living arrangements (see Brown 2007; Mansfield 2008; Rose 1994; Singer 2000). In these works the differences and variances of property are sought out and held in tension with one another. The ontology of property, according to Charles Geisler (2000), may be best thought of as a branching structure. “Property forms,” he said, “are plural and evolving, as are the social values and social relationships that produce them” (Geisler 2000:80). A new paradigm of property rights, then, may be compatible with a right to housing in late 20th century U.S. urban landscapes, according to these property pluralists. To begin to address this question and parse out the relationship between this view and that of the property antagonists, I turn in the next section to theories about property and outline a framework for analysis of the role of property in struggles over housing rights.

**Theories of Property**

Property, as a term, refers to a whole host of things. But, it is not only a thing. Property refers to material entities, like buildings or land. It refers to discourses, which are ways of seeing and imagining. And it refers to individual practices and series of enactments, like systems of institutional power. This property triad—materiality, discourses, and practices—is based on Lefebvre’s (1995) understanding of how space comes into being and the basis for this dissertation’s analysis of property. These three different aspects of property come together to constitute conditions for social relations and the actual, everyday relations that take place. Property, tenuously, is both condition and effect. It is both social condition and individual experience. Property is both an outcome of social
practices, discourses, and materialities about particular arrangements of people, ideas, things, and territories at the same time that it conditions what those cultures, laws, and landscapes are. It is both a limit to what happens in the world and what actually happens (Deutsche 1996). Property’s structure and agency become nested in multiple sets and rarely have such simple things as causes or triggers that work in linear directions. Here, property as “structure is not a constraint on or a barrier to action but is instead essentially involved” in the reproduction of an action (Gregory 1981:10). Following E.P. Thompson (1975), I see a property order as something that arises at the intersection of structural determination and self-activity. This dialectical model puts property in constant formation and, as some scholars point out (see Blomley 2004), in constant contestation. One goal of this dissertation is to understand how these three different senses of property—material arrangements, discursive formations, and everyday practices—come together relationally in shaping particular places and times. To develop this analytic model, I draw out three aspects of property that are important to studies of property formation and contestation: property relations, property rights, and property regimes. These three elements do not map exactly onto the triad of materiality, discourses, and practices that I describe above, but a comparison is a useful place to start.

Property rights are most like the discursive arm of property. A property right is a rule about the arrangement of particular resources and, in their most fundamental sense, are rights to exclusion (Staeheli and Mitchell 2008). Though property rights are popularly thought of as a description of a relationship between a person and an entity, property rights actually describe a relationship between people and a sovereign body or state that guarantees or protects that relationship (be it in the present or future). For any property
right there are obligations imposed on other individuals, like landlords, sellers, lenders, neighbors, utilities, and on a sovereign power that must guarantee that relationship between the two individuals. The demand for a property right is the demand for a third body to recognize a claim for access to or control over a resource.

When a state or sovereign body does not guarantee a property right, the relationship between two people (or groups) that governs particular arrangements of things, people, ideas, or territories can be described as a property relation. A property relation, in its most basic sense, is an everyday practice or custom about how resources are organized, produced, and consumed. A property relation describes what is—not what could or should be (which a property right can do). Property relations are the actual enactments of ownership norms and ideologies, which are based on uneven distributions, differentiations, and exclusions of, for instance, land and housing. They may or may not be codified. While property rights may best be thought of as legal or moral discourses, property relations are everyday practices that happen both in tandem and in opposition to property discourses.

A property regime, by contrast, refers to a social and material order associated with property rights and relations. A property regime emerges out of codified laws about resource allocation, as well as cultural norms about the distribution of material or immaterial resources. A property regime is shaped by particular social relations of ownership at the same time that it, as a dialectical structure, conditions those same social relations. It mediates and is made. Just as there is not only one set of property rights or one set of property relations, there is never only one property regime (Blomley 2004; Geisler 2000; Macpherson 1999; Rose 1994; Singer 2000). Much of the literature on
property usefully focuses on how it is unsettled, iterative, fracturing, and always evolving (Blomley 2004; Brown 2007; Choko and Harris 1990; Geisler 2000; Mansfield 2007; Neeson 1996; Rose 1994; Waldron 1991). The material order, social relations, and norms and expectations that a property regime represents and conditions have been shown to vary widely across cultures and times and change significantly. This scholarship usefully highlights how laws have been essential to facilitating these changes, introducing and prioritizing certain ideas, practices, and social orders over others.

This conception of property regimes as always in the process of becoming makes sense for a number of reasons. It helps to avoid unproductive, singular abstractions of property that would make the term and idea worthless. By focusing on particularities and differences of property regimes and their iterations, it is possible to make sense of how capitalist property regimes in the U.S. and Scandinavian countries, for instance, have such different effects, like the number of people who experience homelessness. When diversity within property categories are at the forefront of studies, definitions and categories are harder to reify. One outcome of this mode is a reclaiming of property as a multiply contested discourse, practice, and material order. Breaking down property into its elements and parts helps to confront the hegemony of private property rights. (Hegemonic notions of property rights in the U.S. are discourses and ideologies that assign positive value to activities associated with exclusive ownership of resources and less value to all other relationships associated with the arrangement of things, people, ideas, and territories.) The problem today, some scholars have suggested (eg, Blomley 2004), is not just inequality in arrangements of landed resources but an inability to see the diversity of property—the ideas, practices, and material relations—that coincides with
such inequality. The implication is twofold. There is an impoverished theoretical ground for property. And, what is needed is an analytic model that recognizes a rich diversity of property practices, discourses, and materialities.

But Thompson’s (1975) remark fifty years ago still rings true: scholars have not paid enough attention to the terror of political stability or how some property regimes are steadied and strengthened. (The terror of revolutionary changes has, instead, been a favored subject.) This framework of property pluralism leaves unanswered at least one key question about how property regimes are made stable, which is critical to studies of struggles over housing rights. If property regimes are always in transformation, as scholars argue, how is it that some property regimes are made to endure? What are the constitutive parts—the property rights and property relations—that stabilize a property regime and make it resistant to change? The answers to such questions about how some property regimes remain stable while others are re-sculpted are important if we are to understand how property rights intersect with and often are made to trump housing rights.

Researchers concerned with the variability of property and its potential to contribute to landscapes of justice need to broaden the field of property studies to include the hegemony of particular property regimes. These scholars need to take the research a step further to consider the other manifestations of property—the durable, sticky, un-malleable, and dominant ones. Blomley (2003) has written that, despite a property regime’s ability to be securely spliced into the material world, property regimes are continually subject to change and contestation. This dissertation takes on this claim with its case studies about power struggles over and within Washington, D.C.’s hegemonic property regime. If, as Blomley says, some property regimes are indeed subject to
change, then two cases must be made: first, researchers must show how the materiality, discursive formations, and everyday practices of property can actually be changed; and second, researchers must show how and why some realizations of property are made to resist change.

This dissertation, which investigates how some property rights resisted challenge, contributes to the latter project about how some property regimes are made resilient and to what effect. Here, the entry point into questions about hegemonic forms of property is the political process by which one set of ideas, practices, and material orders is successfully prioritized and protected over other sets. To study the political processes by which property rights, regimes, and relations are made hegemonic, I employ as an analytic framework the property triad of materiality, discourses, and practices, and pay attention to the way power mediates these three property formations, which are not really distinct categories but can be productively analyzed as such. In the following three chapters, I demonstrate the utility of this empirical framework. In Chapter 3 I investigate the historic materiality of property in Washington, D.C. from the city’s founding to the 1970s and how it contributed to, and was shaped by, power struggles over housing. This focus on the physical order of the city is critical for contextualizing the property discourses and practices that are the subjects of Chapters 4 and 5. In Chapter 4 I examine the way power mediated struggles over place-making through an analysis of property discourse. In Chapter 5 I pay attention to the exercise of power in relation to urban development property practices. Although the named focus of each chapter is a bit artificial—each chapter includes considerations of all three parts of the property triad—
the division helps to highlight specific processes through which some property rights, relations, and regimes were made to endure.

**Policyfailing Knowledge**

On the flip side of the question about how property relations, rights, and regimes have been made to endure is the question of how housing rights have been routinely made to fail. Critical policy scholars make significant contributions to this subject. In recent years they have opened the black box of governance, and especially that of neoliberal governance. and put the scales at which “urban,” “regional,” and so-called “global” governance operate and the substance of such practices, contexts, and relations under scrutiny (Cochrane 2007). Questions have been raised about the nitty-gritty of how, “where, when, and by whom” policies are produced, enacted, and negotiated (McCann and Ward 2010:176). There has been an increased interest over the past ten years on the actual processes of making policy rather than evaluation-oriented analyses of what a policy does (eg, Peck 2001). These investigations into the mundane work of policymaking have traced the durability, successes, and detours of governance strategies across cities. Regulatory regimes and their policies have been shown not to exist as things in and of themselves but as the effects of intersections between a messy array of situated contexts, such as discursive paradigms and institutional frameworks (see Peck 2011; Wilson 2004), and a bundle of mundane micro-practices like networking and expert exchanges (see Peck and Theodore 2010; Rutland and Aylett 2008). The tangible, closed boundaries of policies have been swung wide open to reveal an “active” (Cochrane 2007:141), “open-ended and politicized” (Peck and Theodore 2010:173) process of
policymaking. The literature has shown how governance is messy, fragmented, and perpetually subject to re-making (e.g., Allen and Cochrane 2010; Cochrane 2007; Kingfisher and Maskovsky 2008; Larner 2003; Leitner et al. 2006; Mann 2010; McFarnlane 2011; Ong and Collier 2005; Peck 2001; Wilson 2004). Governance, then, may be best imagined as wildly varying (Wilson 2004), perpetually fracturing (Kingfisher and Maskovsky 2008), and full of constant experimentation (Larner 2003). Policies, the layered and often contradictory pieces that coalesce into a regulatory regime, have been similarly re-imagined by critical policy scholars as sites of and vehicles for transformation. This attention to the internal workings of governance and the claim that regulatory regimes are re-made more quickly and more often than previously thought (McCann 2008; Peck 2001, 2003) has contributed to a compelling argument that iterative mutations and ruptures constitute the nature of policymaking.

Policy scholarship repeatedly suggests that what has happened to housing rights may not in fact be an anomaly. Failing—the inability to implement a particular right, law, or policy—may be a critical process of any neoliberal regulatory regime. By policyfailing, I am not referring to policies, rights, or laws that have unintended consequences or policies that have not been met with great success. I am not referring to moments of mutation or experimentation (though mutation or experimentation may lead to policyfailing). What I am referring to are the under-examined moments in which policies—like the speculation tax and right to shelter—are defeated, stopped, or stalled, plain and simple.¹⁹ I use the word “moments” purposefully because the making of a policy may fail temporarily, repeatedly, or permanently. What demands attention is not

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¹⁹ For the remainder of this dissertation, I use the term policy as a generic umbrella category that includes rights, laws, and other government plans or strategies.
the end product of botched governance efforts or the faulty design and rationale of laws but the actual political conditions and exercises of power that create these moments of policyfailing, or in the case of this dissertation, housing-rights-failing. In other words, I have stepped back from the individual policy doctrine itself to all of the social conditions of the policy’s enactment, circulation, contestations, and eventual defeat. The subject here is not policy or rights failure as a singular, completed event but the on-going and incomplete processes of how a policy, right, or law is made to fail. Like the recent interest in the making of policy, the emphasis here is on the un-making of policy. A handful of policy scholars have recently stressed the importance of policyfailing to governance studies (though they employ the term policy or regulatory failure) (Brenner et al 2010; Kingfisher and Maskovsky 2008; Peck 2010, 2011; Peck and Theodore 2010; Prince 2010). Much of the consensus, however, about policyfailing ends there. There is debate about what exactly policyfailing does and whether policyfailing, for instance, can actually pose a challenge to existing power structures (Peck 2011:774).

Some researchers have argued that policyfailing is the antithesis of governance while others have taken the opposite position and presented policyfailing as a vital component of regulatory regimes. For Russell Prince (2010), the failure to maintain a policy showcases the limits of the everyday work that constitutes governance; policyfailing is an absence of political and technical policymaking efforts. The more persuasive argument that comes out of policy studies embeds failings within the larger governance structures. For Jamie Peck (2010, 2011) and Neil Brenner, Peck, and Nik Theodore (2010), the uneven, discontinuous, and heterogeneous terrain of policymaking is porous enough to embrace the process of policyfailing. The “encroachment of
neoliberalizing modes of governance, regulatory metrics and socio-institutional practices is necessarily contradictory, uneven, impure and incomplete” (Brenner et al 2010:216, original emphasis), and so any notion of a smoothly operating neoliberal project without failings is misguided (Peck 2010). To approach policyfailing as a limit to a governance structure, as Prince (2010) does, generates an idea of governance as homogeneous or whole, which is false. The processes of policyfailing are intimately and iteratively entangled in the processes of policymaking.

Peck (2010, 2011) and Brenner et al (2010), leading authors on the subject of governance, also consider whether neoliberal policyfailing is not just a part of but constitutes a principle motor within neoliberalizing regulatory regimes. Brenner et al (2010:209, original emphasis) write:

For reasons that deserve more systematic exploration elsewhere, policy failure is central to the exploratory and experimental modus operandi of neoliberalization processes—it is an important impetus for their continual reinvention and ever-widening interspatial circulation. Indeed, rather than causing market-oriented regulatory projects to be abandoned, endemic policy failure has tended to spur further rounds of reform within broadly neoliberalized political and institutional parameters.

Somehow, market-oriented reforms have been animated—not stalled—by flawed regulatory attempts (Brenner et al 2010:209). These failures are portrayed as springboards and driving forces. The “underperformance” of neoliberal strategies, Brenner et al (2010:209) continue, has served as a kind of “forward momentum” to continual institutional reinventions rather than debilitating limits. Failing, then, should not be seen as evidence that existing dogma is on the verge of a significant challenge but recognized as a shot of caffeine that could “redouble” policy reform efforts (Peck
“Neoliberal restructuring,” explains Peck (2010:23), “resembles not so much a triumphal, forward march as a series of prosaic ‘forward failures.’” Such failures are argued to be as critical to neoliberal policymaking as regulatory successes (Brenner et al, 2010:216), but how exactly failing takes place or how some forms of policyfailing function as mechanisms for the making of contemporary governance is far from understood.

Peck (2010, 2011) goes the farthest in proposing an answer. He suggests that first-round neoliberalizing regulatory failures end up becoming the rationale for more stringent measures in future policymaking rounds because neoliberal doctrines always coexist alongside other governance formations. The residues of these other formations, like welfare services, become the scapegoat for failed neoliberal policymaking efforts. Neoliberal policyfailing can be swiftly “excused by domestic political conditions (necessarily bold reforms had been diluted by political concessions) or by implementation problems (since the policies ‘work’ elsewhere, local delivery systems must be at fault)” (Peck 2011:782). There are lots of blame-able parties to go around—unions, bureaucrats, and advocacy groups—which leave unquestioned the policy itself and its underlying neoliberal doctrine.

But this answer—as well as the larger examination of policyfailing in critical policy studies—addresses only neoliberal policies that fail. It may be that the failing of policies is endemic to governance and may constitute the actual essence of policymaking efforts. It may also be that housing rights reinvigorate the existing governance structure just as the failing of a policy to privatize public property might do. But these cases remain to be made. Policy scholars have not examined the failings of socialist, leftist, or
anti-neoliberal policies within neoliberal governance structures. Yet, by theorizing policymaking as an iterative process and by identifying the unevenness of neoliberal governance, they have laid crucial groundwork for studies of housing rights and their failings. If failing, as these scholars have said, cannot be brushed aside as an exception or oddity—“the perturbations and experiments are the process” (Brenner et al 2010:201, original emphasis)—then they must extend studies of the actual making of governance to more closely investigate two subjects: first, the political processes and power struggles through which particular policies—including non-neoliberal ones—come to fail; and, second, the effects of such power struggles, such as the capacity of any policyfailing to create meaningful challenge to existing power structures. This dissertation contributes to these projects by developing the concept of policyfailing and demonstrating its analytic utility in examinations of housing rights’ historic failings in Chapter 3, the speculation tax’s failing in Chapter 4, and the right to shelter’s failing in Chapter 5. This description, however, is somewhat artificial. The empirical analyses that I undertake in Chapters 3, 4, and 5 are also theoretical ones that help to develop the concept of policyfailing, a subject that must be explored if researchers are to build a better understanding of why some rights—like housing rights—are often absent from U.S. governance structures.

Conclusions

This chapter contributes to the nascent scholarship on housing rights by developing a model of analysis for studying housing rights alongside property and policyfailing. I make the case that understandings of the perpetual failing of housing rights would benefit from a closer investigation of the broad intersections between housing rights and property
rights. I argue that the way the dominant property regime and its values, ideas, practices, and landscapes have been made to endure merits study if scholars are to understand both the way property rights have often trumped housing rights and the possibility that property rights need not do so. To these ends, I review theories of property and outline a conceptual triad based on Lefebvre’s (1995) work for thinking about and examining property. I show how this dialectical triad of materiality, discourse, and practice can be operationalized in studies as property rights, relations, and regimes.

This chapter secondly makes the argument that housing rights scholarship would benefit from close analysis of the nitty-gritty ways in which housing rights have been made fail. I argue that critical policy studies and its research on the ongoing processes that go into policymaking offer a model for studies of the political processes and power struggles through which housing rights have been made to fail. In doing so, I develop the concept of policyfailing by reviewing the existing literature on neoliberal governance. I then sketch an empirical approach to policyfailing that focuses on everyday political processes and power struggles and how and to what extent moments of policyfailing can re-shape or dismantle existing power structures. Through its analysis of housing rights, property, and policyfailing, this chapter presents a framework for the examination of struggles to create a more just landscape of housing in Washington, D.C.
Chapter 3: A Material History of Property in Washington, D.C. from 1790 to 1970

In this chapter I show how the material history of property in Washington, D.C. shaped the conditions in which the housing crisis of the 1970s and 1980s, and the contestations over that crisis, emerged. Drawing primarily on secondary literature, this chapter provides context for the case studies of the following chapters but it makes two arguments about the city’s dominant property regime. First, I argue that the haphazard and profit-oriented nature of property development in Washington, D.C. helped to make it a place where citizens and the local government in the 1970s and 1980s could pass radical housing policies, like the speculation tax and right to shelter. I show in this chapter how the city’s hegemonic property regime was strengthened through almost 200 years of struggles over housing, urban development, civic rights for black Americans, and rights to self-governance. Second, I contend that the politics of racial inequality and political repression entangled in the material development of property in Washington, D.C. helped to undermine the successes of the city’s radical housing laws. Although the laws of the 1970s and 1980s that sought to de-commodify aspects of housing were departures from the dominant profit-oriented regime of the previous 200 years, these struggles had to contend with the city’s histories of radical oppression and political repression. I highlight how the property regime’s intersections with concerns about physical infrastructure, civic rights, and self-governance intersected with struggles over housing.
Stalled, Speculative, and Racialized Beginnings

From its colonial inception on the land of the Nacotchtank American Indians, Washington, D.C. has been a place oriented toward real-estate speculation.

“Understanding what the speculators did to the city,” argued Bob Arnebeck (1991:113), “is as crucial to understanding the city as studying what L’Enfant did or how the White House and Capitol were designed and built.” The possibilities of cheap land and a clean slate on which to build a city free from the mobs and urban ills plaguing Philadelphia motivated the new U.S. Congress in 1790 to choose an undeveloped 10 square mile plot around the Potomac River as its new capital (Schrag 2006). Maryland and Virginia had offered a diamond-shaped plot of swampland between the port cities of Georgetown and Alexandria. Leaders like George Washington envisioned this spot as a geographical and political compromise between Northern and Southern interests and one that could set the tone for a more unified country (Modan 2007). The large size of the site was also shaped by George Washington’s desire to appease competing landlords in the area (Gillette 1995). When the first federal government employees arrived in Washington in 1800, however, they found themselves amidst an “unkept village” of half-built houses, unfinished public infrastructures, and unpaved and unlit streets (Gillette 1995:2).

In the ten years prior, the madness of speculation had run wild. “The political speculation of a new, rational relationship between citizen and government” (Luria 2006:xxiii) had gone hand in hand with the speculative activities of aggressive real-estate investors like James Greenleaf, who bought thousands of lots in the newly designated capital and seduced George Washington into below-market deals for some of the newly acquired government lands (Arnebeck 1991). It was not as if the U.S. Congress and the
commissioners responsible for designing the new city had not planned to sell the
government lands or build the city without the help of private investors. Like
Washington, who speculated heavily in western lands (Geisler 1984), many of the
“founding fathers” were real-estate speculators (Feagin 1986). And, “vigorous attempts”
had been made “to promote Washington, D.C. real-estate for European investment;”
President Washington, for instance, “had his secretary work up a pamphlet for London
investors” (Feagin 1986:105). Auctions of government land holdings acquired from local
proprietors had been planned to be the primary financing tool for French artist Pierre
L’Enfant’s urban design of broad boulevards, grids, and Baroque city squares (Gillette
1995). The auctions in reality turned out to be a bust, with disappointing sales and low
profits. The private investments that were supposed to support the city’s physical
infrastructure also turned out to be a bust. Investors—often offshore Europeans—made
higher profits on flipping rather than developing city properties. Some of the city’s key
speculators also ended up in debtor’s jail by the end of the 18th century, which helped to
make much of the city’s land as worthless as junk bonds. “Even before it became the
capital, Washington’s downtown was said to be dying” from these speculative disasters
(Smith 1974:41).

The reliance on private real-estate investors for the development of the new
capital city—however frustrating—continued in the first half of the 19th century. It
persisted in large part because the federal government, which retained control over the
city’s affairs, never stepped up fully or, as some argue, even marginally to fund the city’s
physical infrastructure and daily operations (Gillette 1995). Congress had granted
Washington, D.C. a city charter in 1802, but it had stripped city residents of their right to
vote for the president, to have congressional representation, and to elect their mayor. Local residents had been left with little power over the city’s social, economic, or physical developments. Though the city had been designed to be outside of state jurisdictions so as to protect the national government from local pressures, the city’s structure and charter were not designed to be protected from the whims of the federal government. The earliest members of Congress were largely anti-urban (Schrag 2006), uninterested in taking up a permanent residency in Washington (Gillette 1995), and not supportive of channeling tax revenues from other states into the fledgling city—which really did not merit the term “city”—in 1800 the population was roughly 3,000 (Zeitz 1979). When the federal government did decide to pay for urban development projects in Washington, D.C. in the early 19th century, it sought to support only the streets and buildings nearest to its operations—not the city at large. And, it sought to pay for such projects only with funds from the city’s increasingly disappointing public land sales (Gillette 1995). This lack of resources contributed to decades of delayed infrastructure projects and a series of failed campaigns to move the capitol to some less “backwater” place (Zeitz 1979:30).

In 1820 the Congress granted Washington, D.C.‘s 13,000 residents a new city charter and with it, a modicum of control over their city’s governance and physical development (Zeitz 1979). White male property owners became eligible to elect a mayor and set up a board of health (Gillette 1995). More importantly, Congress for the first time committed to pay for some of the buildings that the federal government used and the streets outside of those buildings. Though the specific amount of appropriations was not

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20 In 1800 the city’s population was much too small to make L’Enfant’s expansive streetscapes look sensible (Schrag 2006). Charles Dickens condemned these wanting spaces and “broad avenues that begin in nothing and lead nowhere” as a “City of Magnificent Intentions” (quoted in Gillette 1995:12).
defined and the only revenue stream identified for these payments was the federal
government’s dwindling public land sales (Gillette 1995), the commitment marked one of
the first times that Congress formerly acknowledged responsibility for physical
infrastructure in the city. The new charter set into motion an increased transfer of power
from Congress that bolstered the new city government to the point that it publicly debated
taxing the federal government for its share of property holdings in the city, a proposition
that would have been unimaginable a few years earlier. The federal government “had
acquired property [in the area] worth more than $2.5 million, a sum which, had it been
taxed, would have equaled twice Washington’s indebtedness” (Gillette 1995:21). The
suggestions by the city council and Congressmen outside the Washington region that the
federal government should pay half of the city’s expenses because of its occupation of
half of the valuable land, should put aside all of the proceeds from lingering sales of
government lots for city improvements and public schools, or should give the lots directly
to the city were ultimately rejected.21 Even though Congress later agreed to take on the
sizeable portion of the city’s debt from a financially disastrous canal that the federal
government had insisted the city government pursue (Smith 1974), the city government’s
relationship with Congress left the city at the beginning of the Civil War heavily indebted
and its physical infrastructure—including residential properties—largely abandoned.

Congress’ lack of trust in local policymakers and its lack of desire to fund urban
development in Washington, D.C. in the first half of the 19th century were deeply
connected to concerns about the city’s growing population of black residents and their
struggle for racial equality. In the early 1800s, though it had one of the most active slave

21 The federal government for much of the 19th century refused to fund schools in the city, though they did
so in other U.S. territories (Smith 1974).
depots (Huron 2012), Washington, D.C. had become one of the most common destinations in the U.S. for freed slaves in the early 19th century. The two largest slave-holding bodies in the country were the adjacent states of Maryland and Virginia and so many freed Americans had crossed the border into the city when Maryland began emancipating slaves in large numbers and Virginia required freed slaves to leave the state within a year of their liberation in the early 19th century (Smith 1974). In the 1830s black residents made Washington, D.C. a hub for the national abolitionist movement, opened a number of local private schools, and developed an expansive network of communal resources. By 1850 Washington, D.C. had become the U.S. city with the largest portion of free black residents (Gillette 1995). This rise of a well-educated and prosperous community of black residents became a source of anxiety for the local government, which increased the number of local codes governing freed black residents’ behaviors during these decades leading up to the Civil War, outwardly opposed emancipation, and voiced support for Southern property rights over slaves (Gillette 1995). The federal government, too, became concerned about what was happening around racial equality in Washington, D.C. and intervened in the 1840s and 1850s, when it felt the local government had veered off-course (eg, Congress forced the resignation of a progressive mayor).  

After the Civil War began, Congress shifted gears and made the enslaved population in Washington, D.C. the first in the nation to be emancipated as a whole (Masur 2010). Though there were only 3,100 people left enslaved, debates about a  

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22 Still, by the 1840s some residents feared that the city government and the Congress’s committee that oversaw the city did not strongly enough oppose the project of racial equality for the city’s growing black population. Residents of Alexandria (then part of the District of Columbia) successfully petitioned in 1846 to be adopted back into the state of Virginia on the grounds that their plantation-based economy would be decimated if slavery were abolished (hence the city’s awkward boundaries) (Schrag 2006).
Congressional emancipation act for the city served as a proxy for discussions about a nation-wide end to slavery. (At one point it was suggested that city residents vote on the emancipation proposal and at another it was suggested that funds be appropriated to compensate slaves for their unpaid labor. Neither was ever adopted into either the city’s or country’s emancipation acts.) In 1862, nine months before President Lincoln’s proclamation, Congress freed the city’s population, appropriated $1 million to compensate Washington, D.C.’s slaveholders at a rate of $300 per slave, and offered $100 to each newly emancipated resident who was willing to leave the city for colonial outposts in Haiti or Liberia (Masur 2010). The city’s population of black residents had already grown quite large.

The Civil War’s Housing Crisis

During the Civil War, Washington, D.C. underwent its first of several massive population booms (and not the last to correspond with a federal military campaign). Between 1860 and 1870 the city’s population jumped from 61,000 to 109,000 residents (Green 1967; Smith 1974). More than two-thirds of the black population and one-half of the white population tallied in the 1867 census arrived to the city after 1860 (Schrag 2006). The black population alone swelled to 40,000 from 11,000 after the war (Gillette 1995). Temporary government workers from the war—many of whom were young single women (Modan 2007)—did not go home, 6000 European immigrants arrived, Southern farmers left war-ravaged lands for the city, and newly freed black plantation workers streamed northward to find work and limited protections from racism (Zeitz 1979).
Alley dwellings were the landscape’s physical manifestation of this new population. The city’s housing provisions struggled to accommodate the Civil War population boom and were just as unfinished as the public infrastructure projects. Not unlike New York City’s tenements, alley dwellings, which were built in the divided lots behind existing houses and away from street fronts, began as the crowded, chaotic, go-to place for new residents—white and black alike—in the 1860s (Borchert 1980). The poverty of alley dwellers did not mean that the alleys were not spaces of prosperity. They were—but not for the people who lived there. The alleys became highly profitable spaces for the large number of generally white individuals who built and traded these rental properties during a 1870s speculation boom (Borchert 1980). Nearly none of alley families owned their residences. When the speculative market picked up speed, individual investors bought up entire blocks, contributing to a change in the spatial relationship between owner and alley tenant (Borchert 1980). Increasingly, fewer of the owners of alley properties lived adjacent to their properties. From the 1880s onward the distance between an owner’s residence and that of his alley property steadily widened, increasing the notion that a “secret city” lurked behind street corners (Borchert 1980:35). Until 1892, when Congress restricted alley house construction, the “return on investment for alley property was at least twice that for street property” and propelled a surge of alley subdivisions, sales, and constructions that helped to turn the city’s first major housing crisis into a lucrative venture (Borchert 1980:39).

The federal government did not come to the aid of city residents affected by this post-Civil War housing crisis. An almshouse had been built in the city in 1806 (Diner 1983) and the Freedman’s Bureau had created low-income rental housing for former
slaves after the Civil War (Richter 1983), but few other attempts to provide relief for the housing shortage—which had been created in part by the unmet needs of federal government workers for the Civil War—were made.

**Reconstruction-Era Progress**

The Reconstruction-era Congress reversed course. Largely to punish Washington, D.C.’s white-controlled Board of Trade, which had opposed to the city’s progress with racial equality during the Civil War (Gillette 1995), the post-Civil War Congress treated Washington, D.C. as if it were a Southern city under exclusive federal control and in need of revolutionary social reform (Gillette 1995). Congress sought to make Washington, D.C. a national model for democracy and racial equality and, as a result, won the ire of local newspaper editors who charged that these federal abolitionists were overstepping their bounds and trying to make the city a “hell upon earth for the white man” (Gillette 1995:37). In the late 1860s, Congress “established schools for black children, banned discrimination on streetcars and railroads,” and ushered in integration for jury service (Masur 2010:1). It recognized the right of black men in the city to vote in 1867, three years before the 15th Amendment passed (Masur 2010). This progress extended, rather than sparked, the participation of black residents in Washington’s local governance (Masur 2010). In 1865 black elites had campaigned Congress for black men’s enfranchisement based on both universalist arguments about equal individual rights and on more hierarchical notions of privileges owed to propertied residents (Masur 2010). To stress this latter point, some black leaders even made tabulations of how much tax revenue was pulled by the city from black property owners (Masur 2010). Black
residents, who had spearheaded the country’s abolitionist movement and steadily mobilized through churches, had been working toward racial equality for decades before Congress joined the efforts. During the 1860s the black working classes of laborers and mechanics had also mobilized to argue that they should receive one-third of the city’s contracts, which was proportional to their population in the city (Masur 2010). The mayor agreed and, in response to other concerns from the black working class about unemployment, arranged aggressive infrastructure projects that could hire black laborers (Masur 2010).

Beginning in 1868 black candidates ran in campaigns for every ward of the city, were elected in large numbers to city council (Smith 1974), and were appointed to the police force and as justices of the peace (Masur 2010). It was a moment of vast prosperity for the city’s economically and culturally diverse black population, but it was also a moment in which attempts to politically organize black residents as black residents were criticized as antithetical to ideas of racial equality (Masur 2010). In the end the city’s greatest moment of political possibility in the 19th century was “tragically short-lived” (Masur 2010:172). Progress toward racial equality stymied under the post-Reconstruction Congress and its frustrations about stalled urban development projects and mounting debts in the city.

During Reconstruction, the Washington, D.C.’s locally controlled Board of Public Works had tried to make the city modern (Masur 2010). In trying to remedy the city’s grim street conditions, the Board ran up huge deficits with democratic improvements that put paved streets in front of wealthy and poor residences alike (Masur 2010). In the first four years of the 1870s, black and white laboring men for the government “laid more than
150 miles of road, 120 miles of sewers, 30 miles of water mains, and 39 miles of gas lines. They built 208 miles of sidewalks and planted over 60,000 trees” (Masur 2010:232). To facilitate these projects, the Board levied bonds and raised property tax assessments. At one point there were sixteen pages of advertisements of properties for which taxes had not been paid published in a single month. The Board defended these practices and reasoned that if the federal government land holdings were taxable, the city government would not have to go to such extremes to sufficiently fund its operations like sewer maintenance (Smith 1974). The Board also publicly pointed out to concerned Congress members that the per-capita debt of Washington was less than that of New York, Boston, and Jersey City and not an outrageous sum (Smith 1974). City leaders defended the locally controlled Board of Health’s new aggressive policy to condemn houses and other structures that posed health dangers to residents. A major smallpox epidemic was the grounds for this action against the protests of property owners and some residents who feared there would be nowhere left to live (Green 1967).

In the wake of these expansive urban planning efforts, a “new” Washington began to take shape at the beginning of the 1870s. Real-estate agents, speculators, and property investors—who often included Congress members—became the city’s most important businesses, and integrated neighborhoods began to disappear (Masur 2010). An increase in speculation went hand in hand with an increase in segregation. The city’s northwest quadrant, for instance, which had housed large numbers of black residents and major black institutions, transformed into a predominantly white residential space by the turn of the century (Masur 2010). “Between 1870 and 1890…the proportion of African

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23 When Congress codified the city’s health laws after Reconstruction, it re-asserted the sanctity of private property rights and excluded from the health agency the power to condemn insanitary buildings (Diner 1983).
Americans in the District who owned their own homes increased from 10 percent to 15 percent,” but the majority of black residents at this time were renters who were subject to displacement pressures in the speculation frenzy (Masur 2010:234). Poor black renters, who some scholars have suggested were disadvantaged by black leaders’ efforts to prioritize civic reforms in public spaces rather than land reform (Masur 2010), had little control over their housing and were increasingly relegated to the city’s back alleys. Alleys became almost exclusively black (Borchert 1980). Those black residents who did have control over their housing through ownership responded differently than their white counterparts to rising property values and, as a result, became sources of resentment. African-American real-estate owners “held tenaciously to their land despite efforts to buy them out” (Masur 2010:234).

Congressional Retaliation

In 1873 the city’s mounting debts from infrastructure investments took center stage when an economic recession hit. As historian Kate Masur (2010:249) recounted, the Congressional committee that oversaw the city “could not square the welcome improvement of the District’s public services and real-estate values with the public debt that had made these changes possible.” After having extended voting rights to black males just a few years prior, Congress revoked suffrage for all Washington residents in 1874.

The loss of D.C. suffrage was certainly about the question of urban development, but it was also a question about racial equality. Though the head of the Board of Public

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24 At the end of the 19th century, Washington, D.C. was the only Northeastern city with a sizeable black population where black property owners were not paying 25-50 percent more for property than white property owners were (Zeitz 1979).
Works, as well as the majority of city leaders, were white, Congress, like elite Americans across the country, saw the source of urban problems as the enfranchisement of uneducated and un-propertied voters. Such a conclusion drew on post-Reconstruction-era discourses of black recklessness and fears that black political power could lead to wealth redistribution (Masur 2010). It would have been impossible due to sheer numbers for black voters alone to approve any of the loans for the Board of Public Works that Congress villainized, but it was this set of “novice” voters that was targeted as the responsible party for the city’s financial crisis (Masur 2010; Smith 1974). The problem with urban development in the city, according to Congress and the city’s white business elite, was both the black property owners who had held back the city’s property values and the inexperienced black voters who had failed to stop the expansive public works outlays and their accompanying property tax increases. That property value increases from the speculation boom had affected the cost of city improvement projects was not considered. The commodified status of land, as it would be for the next hundred years, was immune to critique in debates about the city’s urban development budgetary woes. A member of the Congressional committee responsible for the city’s affairs explained the need for this change. Alabama Senator John Tyler Morgan said it was necessary to

burn down the barn to get rid of the rats…the rats being the negro population and the barn being the government of the District of Columbia…[Negroes] came in here and took possession of a certain part of the political power of this District…and there was but one way to get out – so Congress thought, so this able committee thought—and that was to deny the right of suffrage entirely to every human being in the District and have every office here controlled by appointment instead of by election…in order to get rid of this load of negro suffrage that was flooded in upon them. (quoted in Jaffe and Sherwood 1994:24-25)
Congress, in other words, feared the wealth and power that black residents were obtaining in the city and sought to teach the city a lesson about proper social structure (Modan 2007; Smith 1974). Racial equality in the civic arena was not, Congress suggested, to be equated with political or social equality (Masur 2010). “The city that for more than a decade had stood as an example of biracial democracy thus became a model of precisely the opposite” (Masur 2010:10).

In place of self-rule, Congress set up a three-person commission that would be appointed by the President, for whom residents were still not able to vote. “Having tried giving the city power without adequate funds,” local journalist Sam Smith (1974:46) writes, “Congress decided to provide the funds but take away the power.” In exchange for voting rights, Congress promised to finance public works and agreed to pay half of the city’s debts, though without acknowledging that many of the debts were taken to fund infrastructure that primarily supported federal operations (Green 1967; Schrag 2006). At the expense of home rule and black political power, the city’s physical development seemed to finally get its due. But, the construction undertaken in the late 1870s was less democratic in nature than the projects during Reconstruction. The new projects were oriented toward monument building for grand spectacles rather than pedestrian byways for everyday use. Congress’ contempt for city residents and their concerns about racial equality and democracy had helped to fuel Congress’ interest in the City Beautiful movement and its notion that urban improvements could be achieved through designing better landscapes, like the National Mall and expansive parks, rather than investing in popular housing (Gillette 1995). The expansion of federal power at the end of Reconstruction replaced Congressional commitments to social programs with aesthetic
interventions in long-delayed physical improvements and the creation of the country’s first comprehensive urban plan, which advocated the eradication of slum areas (Knox 1987). While racial equality and democratic governance did not survive the city’s first major period of urban development in the second half of the 19th century, what did survive was the preeminence of the profit-oriented and haphazard nature of the city’s physical development.

**Housing Reform and Alley Clearance**

The turn to the City Beautiful movement at the beginning of the 20th century by Washington, D.C.’s political leaders was propelled in large part by the local housing reform movement, which sought to eliminate alley dwellings (Masur 2010). Geographer John Borchert (1980:52) explained the threat that the alley dwellings posed:

> While the compact city of the nineteenth century tolerated ‘alley ghettos’ within its blocks, the twentieth century ‘city beautiful’ thrived on order and segregation of functions and people. The alley, as a threat to that new social consciousness, had to be removed.

The alley-dwellers reform movement sought to clear even houses that were in good shape because they were located in alleys. Proximity itself was a hazard. “Housing reformers made the case, with considerable success, that the health and prosperity of the whole city depended on rooting out problems in alleys which could easily spread to other locations” (Gillette 1995:116).

A commission of upper-class housing reformers appointed by President Theodore Roosevelt found that there was no incentive for private capital to invest in low and moderate-income housing, but this study and the lobbying efforts of other white elites did
not propel the government to address the health hazards of alley dwellings (eg, lack of sewer connections and windows) (Diner 1983; Paige and Reuss 1983). Even President Roosevelt’s own urging did not compel Congress to address the dire conditions of the alleys: He unsuccessfully argued that the federal government had a responsibility, because of its jurisdictional control, to make Washington a model city with proper housing regulation (Diner 1983).

In the President’s commissioned 1906 study, the root of the city’s housing problem was identified as poverty and believed to be caused by low wages and unemployment (Richter 1983).25 The focus of campaigns by reformers and government officials was poverty—not the lucrative profits made through the housing market and especially alley dwellings or the possibility that the private market, which had been subject to rapid inflation in the 1870s, was an inadequate mechanism for addressing the city’s housing shortfall. Though some reformers and government officials acknowledged that “eliminating alley dwellings would only worsen the shortage unless the supply of sanitary, low-income housing elsewhere in the city could be increased,” demolitions were pursued without concrete plans to increase the housing stock (Diner 1983:12). The hope was that the private market forces would respond and remedy the problem. The exchange value of housing—the use of housing as a profit-making entity—went largely unquestioned and was not seen as a culprit for the city’s dire housing situation. Many times, advocates of government housing regulation blamed the poor, black, alley residents for the miserable conditions of the alleys or suggested that the residents did not know any better than to live as they did (Diner 1983). From written records of the period,

25 This concern for issues of poverty alongside planning largely disappeared from planning agendas and conversations by the 1920s. Poverty by that point was seen as outside the realm of urban development (Gillette 1995).
it is clear that the landlords who profited from the decrepit housing stock were not a major subject of interest.

In the end, the movement against alley dwellings, which began as a reaction to the city’s housing crisis, reduced the city’s overall supply of housing and exacerbated the crisis (Richter 1983). Unlike its counterparts in Europe, the federal government did not see itself as responsible for the provision of low- and moderate-income housing or capable of making such provisions. Until World War I, most government interventions in the housing crisis in Washington, D.C. were limited to housing regulations around building construction and a few failed attempts to increase housing for the poor through limited dividend housing (Diner 1983). Congress did not outlaw alley inhabitation in Washington until the mid-1950s because of the severe housing crises that accompanied both world wars. But, the majority of the city’s alley dwellers moved out of the alleys in the 1920s (Borchert 1980). “Where the progressive housing reforms largely failed, business, and especially Henry Ford’s inexpensive automobiles, inadvertently succeeded in removing many alley houses” by increasing demand for garages (Borchert 1980:48). The legacy of this first housing reform movement—the alley dwelling movement—in the city is not minor. Policymakers’ resistance to the efforts of the volunteer-based alley reformers (Richter 1983) set the tone for future Congressional disinterest in low- and

26 But, a “Municipal Lodging House opened in 1893,” which required tenants to chop wood in exchange for shelter (Blau 1992:13).

27 Peter Marcuse (2001) cautions against the use of the word “movement” to describe social change efforts around housing in the U.S. He argues that organized activities around housing have rarely constituted more than defensive strategies or coalesced into something greater than collective bargaining. Radical housing proposals have been scarce even amongst otherwise radical social groups in the 20th century: “One even looks in vain for structurally radical proposals for housing reform in the positions of groups otherwise radical in orientation. Neither the Socialist Party in the opening decades of this century nor the Communist Party in the late 1920s or 1930s, at the height of their involvement with housing issues, called for removal of housing from the private market” (Marcuse 2001:81). Social struggles around housing might have led to broad demands, but it is not clear that a housing movement has ever existed.
moderate-income housing interventions. (In a sense, the decisions not to regulate housing as firmly as it could have been were decisions to allow the government to bare the cost of inadequate social welfare conditions.) Though U.S.-based housing reform struggles emerged first in New York City (see Marcuse 1999 for discussion), some of the later proponents of Washington D.C.’s alley dwelling movement, like John Ihlder and First Lady Eleanor Roosevelt, used the alley platform to create the country’s first housing authority, the Alley Dwelling Authority (Diner 1983). This agency would become central to almost all major national housing and redevelopment policies in the first half of the 20th century. The case of alley dwelling reform in Washington, D.C. demonstrated how many of the decisions about property development in the city were not historically aligned with projects of racial equality or democratic governance.

**Federal Interventions**

The federal government’s first major intervention in housing in Washington, D.C. and by default the first of any major public intervention into housing in the city arrived in the form of rent controls in 1918. To ensure that the federal government would be able to fill the expanded roster of post World War I-related jobs, Congress imposed limits on the amount of rent that could be charged by landlords in Washington, D.C. (Diner 1983). Local landlords contested the regulation in courts, but the limits remained in place through 1925. Before they expired, Calvin Coolidge, the pro-business President, stunned his national constituency and local supporters from the real-estate industry when he pushed to extend these controls and make them permanent. Rent control was needed, he argued, because the federal government could not afford to pay higher wages to its
employees who needed higher incomes to afford the city’s expensive accommodations (Diner 1983). His arguments that escalating housing costs could inhibit the economic health of the government failed. But they are important as a foil. In subsequent decades, discussions about the housing crisis were dominated by the notion that the city’s and the nation’s economic strength depended on—rather than were inhibited by—a profitable housing market.

In the second quarter of the 20th century the issue of housing was wiggled away from questions of public health to a new association with economic development. Whereas the offensive sanitary conditions of the alley dwelling population had incited housing reform interventions at the turn of the century and a flu epidemic had spurred the adoption of zoning in the 1920s (Diner 1983), “by 1940 the ‘health’ of the city had entirely different (that is, economic) connotations” (Farrar 2008:81). In the 1930s, for instance “Senator Arthur Capper, the leading housing advocate on the Senate District Committee” had pressed the city’s decision-makers to take on the issue of housing regulation for physical health reasons: “There is no more reason why a man should be allowed to offer for rent an insanitary house than he should be permitted to sell spoiled or tainted food” (quoted in Diner 1983:24). Housing reformers in Washington, D.C. at the time believed that “with dwellings of a different type, the character of the people will be altered” (Gillette 1995:140). By the 1940s the discourse emphasized new dwellings for a new economy. Such a shift marked a new approach to urban housing, poverty, and planning. It is not as if the economic merits of property development had not been a part of earlier efforts to develop the city. It is simply that their perceived importance grew in size.
Much of this change was linked to the New Deal’s housing programs passed in the 1930s: The Home Owner’s Loan Act of 1933 (which provided aid to distressed mortgage holders), the Federal Housing Act of 1934 (which created the Federal Housing Administration and Federal Savings and Loan Insurance Corporation), the Federal National Mortgage Association (which bought mortgages from banks), and the United States Housing Act of 1937 (which created the first U.S. Housing Authority to build public housing) (Richter 1983). These programs to reduce foreclosures, take over defaulted mortgages, offer federal insurance for private lending institutions, and stimulate housing construction pivoted around the capacity of the private market to alleviate economic woes. The programs sought to increase participation in the private housing market—not redesign how or for whom housing was distributed, created, or consumed.

From 1935 to 1940, “practically no new private housing was built [in the U.S.] that the poorest one-third of families could afford” (Richter 1983:173). David Harvey (1985:28) explained

The social unrest of the 1930s pushed the bourgeoisie to adopt a policy of individual homeownership for the more affluent workers as a means to ensure social stability. This solution had the added advantage of opening up the housing sector as a means for rapid accumulation through commodity production.

Unlike the rent controls of World War I, housing relief programs in the New Deal period reinforced the importance of housing profits to the nation’s social, economic, and physical development. The housing market was not a rubber band stretched to its limits or an inherently faulty mechanism but a seedling that, if encouraged to grow, would provide endless potential. Liberal proponents of the legislation agreed with conservatives: “where the private market was functioning, public housing should not be allowed to
enter” (Marcuse 1999:726). Many policymakers saw the specific situation of tenants—rather than the prevailing land tenure system—as the problem (Geisler 1984). The goal was not to impact the entire housing market. Officials argued that the country, and Washington, D.C. in particular, needed private housing market investments (Richter 1983; Zeitz 1979).

The housing goals of the New Deal were generally aimed at Depression-era problems of moderate-income populations for those most adversely affected by the Great Depression rather than the longstanding housing problems of the poor. Next to no low-income families benefited from the Federal Housing Administration’s programs (Downie 1974). The public housing programs, which funneled federal money to local housing agencies like the National Capital Housing Authority (the former Alley Dwelling Authority), tore down substandard housing to construct new low-income rental units, a process that displaced residents and temporarily worsened the housing crisis.28 Despite black residents’ protests, almost none of the new public housing in Washington, D.C. was made available to them. And the federal shelters for homeless people in the 1930s, which in Washington, D.C. provided relief for 3,700 people, were only temporary facilities (Richter 1983). Rather than aimed at solving the dearth of adequate low-income housing in U.S. cities, the pioneering efforts of the New Deal were designed to be short-term solutions to short-term problems of unemployment. The Housing Act of 1937 in particular was lobbied for and organized by the labor movement as a way to create jobs through construction unions and provide housing for union members (Marcuse 1999).

The New Deal programs were not designed to be solutions to urban housing problems

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28 Still, the D.C. Home Builders tried to build opposition to public housing by labeling it socialist (Richter 1983) and a local real-estate association published pamphlets in which public housing was called private enterprise’s most serious threat (Gillette 1995).
like those facing low- and moderate-income residents in Washington, D.C. As it happened, the expansion of the federal government to administer the New Deal programs actually put more pressure on Washington, D.C.’s stressed housing market (Gillette 1995).

Collectively, the New Deal programs set into motion the federal government’s turn away from the country’s problems of urban housing, poverty, racial tensions, and financial stability and its turn toward the possibilities of suburbanization and aggressive forms of suburban planning (O’Connor 2001). The support for white suburbanization hit Washington, D.C. forcefully, and its outmigration led national trends.29 By the end of World War II, the Washington, D.C. metropolitan region had the highest mean salary per family and education levels of any area in the country, giving a large number of residents the financial leverage to move to the suburbs (Schrag 2006). Whereas between 1900 and 1940, three out of four residents in the metropolitan area lived in the city, for the first time less than half—only 38 percent—of metropolitan residents did so in the 1950s (Gillette 1995; Zeitz 1979). During this decade the city reached its peak population for the 20th century. Outmigration of white residents and new waves of southern black migrants made Washington, D.C. the first majority-black population of any U.S. city (Gale 1987; Gillette 1995).30

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29 In the Washington, D.C. metropolitan area between the years 1934 and 1960, for instance, two-thirds of Federal Housing Authority commitments went to the suburbs (Richter 1983).
30 In the 1950s alone the white population decreased by 167,000 and the black population increased by 131,000 (Schrag 2006).
Urban Renewal

Washington, D.C. in 1941—with its low vacancy rates, unmet demands for housing, and unsafe and unmodern housing stock—was declared the nation’s worst housing problem (Gillette 1995). During World War II, approximately 4,000 people had moved to the city each month. As a response, Congress in 1945 passed the D.C. Redevelopment Act, which expanded its control over local development, created a redevelopment agency that could use eminent domain to redo large swaths of the city, and re-positioned the city as a test case for national urban policy. This act marked the “legislative manifestation” of aggressive, large-scale urban planning in Washington, D.C. (Farrar 2008:78). At the time, the city still lacked a comprehensive housing policy and strong housing regulations (Diner 1983) and so the new act and its project of urban renewal created a master plan of sorts for the city.31 The project of urban renewal, which the act enabled, was not a detour from earlier attempts to build a symbolically beautiful and commercially functional city, but the magnitude in speed and scope of urban renewal put it on the urban development charts in a category of its own. If alley clearance was the dress rehearsal for housing reform in Washington, D.C., the big show opened with urban renewal.

Shortly after, Congress passed the U.S. Housing Act of 1949, which was the closest thing the country had to a national housing policy. The Housing Act sought to provide a decent home for every American family (Gillette 1995) and renewed commitments to fund public housing (though it resulted in no significant expansion of low-income housing) (Marcuse 1999). It was based largely on the D.C. Redevelopment Act, and like it, the U.S. Housing Act catered to conservative politicians and

31 However, it was not until the U.S. Housing Act of 1949 provided funding that wide-scale urban renewal projects took off in Washington, D.C. (Schrag 2006).
homebuilding lobbyists who wanted a mechanism to reclaim downtown real-estate and make city land profitable again (Marcuse 1999). Both acts approached housing investments as a step toward the larger goal of economic development. They prioritized the private housing industry over public housing production and framed the private sector as offering the only viable solution to housing problems (Gillette 1995). This approach meant that residential urban property was treated as a vehicle for capital accumulation rather than as, first and foremost, a human necessity.

A chief architect of the nation’s first and largest urban renewal project—in Southwest Washington, D.C. in the 1950s—explained this profit-oriented vision of urban planning:

Let us not be afraid to plan the city… Our cities were built for the sake of making money. If we wish to rebuild them with the same energy we displayed in the first instance, we should make it profitable for the entrepreneur to undertake the task, unless we are prepared to make profound changes in the profit system. (quoted in Ammon 2009:183)

Ninety-nine percent of buildings in the Southwest quadrant of the city were torn down through this federally funded initiative (Gillette 1995). The rat-infested area was regarded as one of the city’s worst in terms of housing structures. Of the 5,600 housing units in the area that housed 23,500 people in 1950, more than 76 percent of the dwellings were evaluated as substandard in plumbing, central heating, electricity, or sanitation (Thursz 1964). The new constructions, however, were not meant to service those living in these poor conditions. Some of the razed houses had been as “sound” as some of the up-scale houses in the tony Georgetown neighborhood, which reinforced this conclusion (Gillette 1995:161). Of the 5,900 new units built through this project, 310 were intended for moderate-income families and zero were marked for those with low-incomes (Gillette
1995). The Southwest project led to massive displacement of the area’s black residents and swiftly destroyed a community under the guise of improved living for all (Ammon 2009). When the new structures were finished in 1965, 88 percent of residents in the area were white (Schrag 2006). A city commissioner with significant responsibility for the project explained:

our objectives were not to recreate the area for the blacks who lived there, that would have been patently impossible, because the dregs of the community had migrated to this particular area, because this was the cheapest housing in the area. You couldn’t possibly rebuild the area and put these same people there and permit them to live there. (quoted in Schrag 2006:209)

The federal government agency that oversaw urban renewal funding had refused to approve a plan for the city’s Southwest neighborhoods that focused on rehabilitation and rental housing rather than bulldozing and clearance (Gillette 1995). What happened to the physical and social development of the Southwest was, in other words, what was intended to have happened.

It is unclear whether what happened to the former residents of the Southwest was what was intended to have happened. A survey in 1964 found that the majority of residents who were displaced from the Southwest ended up in better physical living conditions (see Thursz 1964). Their loss of community and the lack of self-determination over their housing options remained vital signals of urban renewal’s many failures, but the quality of their new housing raised complicating questions about inadvertent benefits (see Ammon 2009 for discussion).
New Kinds of Urban Planning

The failure of urban renewal in Washington, D.C. to create a meaningful change to the experiences of the city’s housing crisis for the low- and moderate-income residents in Washington, D.C. had another inadvertent effect. It contributed in large part to the city’s mobilizations of black residents whose numbers were growing in a region undergoing massive white suburbanization. Urban renewal had created in Washington, D.C. what political scientist Margaret Farrar (2008:104) called a “geography of injustice.” These urban development projects became “material evidence that [low- and moderate-income] communities did not matter to the life of the city” as envisioned by city and Congressional leaders (Farrar 2008:105). Amidst rising rents and inflation, decreasing funds for public housing, and growing demands for economic equality by black residents, tenant struggles and resident mobilizations escalated in the mid-1950s. Low- and moderate-income residents demanded to be involved in decisions around neighborhood planning. Black residents wanted better housing where they lived rather than bulldozers, clearance, displacement, and buildings from scratch. The passage of the U.S. Housing Act of 1954 responded to these changing political dynamics. It required for the first time that residents be involved in neighborhood planning and shifted urban housing priorities from new construction to the renovation of existing stock. The federal Model Cities program of 1966, which was part of the War on Poverty slate of projects, took this goal farther. For the first time in mass numbers, low-income residents and black community groups had their voices heard in public debates about the city’s housing situation.\footnote{As they had in the 19th century, black churches continued to play a key role in these civic actions.} Model Cities, which began with a demonstration neighborhood in Northwest Washington, D.C., sought comprehensive neighborhood planning; it went beyond housing to include other social
welfare and other anti-poverty initiatives (see Gillette 1995 for discussion). “The federal programs of the 1960s established the principle that program recipients, poor, relatively unskilled, tenants as well as homeowners, had the right to be heard and had to be organized and assisted to that end” (Diner 1983:99). These programs also trained black administrators and convinced some black leaders that the local and federal governments had resources to address blatant and institutional racisms and change the city for the better (Diner 1983). Questions about neighborhood planning in Washington, D.C. became frequently discussed alongside questions about civil rights (Gillette 1995).

At about this time same, in the mid-1960s, demands for new kinds of neighborhood planning turned into direct actions against landlords for inadequate maintenance, protests at City Council, and the city’s first rent strikes (Richter 1983). Black middle-class tenants modeled their organizing efforts on tenant councils from public housing communities as tenants across class and racial lines participated in efforts around housing policy and contributed to a growing sense of urgency about questions of decent and fair housing. Tenant-landlord issues were becoming citywide issues.

Since World War II, the housing industry had become vertically integrated, centralized, dominated by a group of large multinational corporations, exploitative, and thus highly profitable (Feagin 1986). Despite claims in 1947 and 1948 by Fortune and The Nation, capitalism and industrialization had not bypassed the housing and land sector (Schlesinger and Ehrlich 1986). Across the country homes were increasingly seen as commodities, as good investments (Boyer 1973). In Washington, D.C. median property values rose 91 percent between 1940 and 1950 alone (Zeitz 1979). Between 1960 and 1970 median property values again rose by 83 percent (Zeitz 1979). And, the median sale
price of a home within the first four years of the 1970s increased by nearly the same amount: 80 percent (Zeitz 1979). An inflationary spiral amplified the profitability of residential property at the same time that it put pressure on property to perform.\footnote{A report from the new federal Department of Housing and Urban Development claimed that, “from the first quarter of 1971 to the fourth quarter of 1974 land costs went up 62 percent; construction financing 148 percent; labor costs 39 percent; materials 36 percent; overhead 54 percent; and marketing costs 73 percent” (Perin 1977:9).}

As the prices spiraled upward and federal mortgage assistance remained inaccessible, black residents in Washington, D.C. had struggled to become homeowners and house builders. Between 1940 and 1950, home ownership rates increased citywide by 39 percent and continued to rise into the next decade, but not for everyone (Zeitz 1979). Land ownership was largely inaccessible to black residents and black developers through the 1960s. A columnist for the \textit{Washington Afro-American} newspaper publicly argued in 1965 that the city’s history of zoning policies had consistently frustrated “attempts of colored property owners and businessmen to rezone land and build high-rise apartments” for low- and moderate-income renters (quoted in Diner 1983:41). Such arguments about urban planning were de facto arguments about white privilege. The Board of Trade, for instance, which was largely responsible for making the first draft of any zoning map, was dominated by white real-estate investors. The zoning commissioners’ meetings with citizens in churches and public buildings were often followed by closed-door sessions with the Board of Trade, which helped to make the final determinations (Diner 1983).\footnote{Though it was often these same business community members who “for years resisted other forms of regulatory interference with private property,” they posed “strikingly little resistance” to “this most intrusive form of government interference with property rights—which has told property owners what they could and could not build on their land and how they could and could not use their property” (Diner 1983:36). Not all residential property regulation was then, to local land owners, a bad thing (Diner 1983).}
Citywide Revolts

The uprisings that shook Washington, D.C. in April 1968 after the assassination of Martin Luther King, Jr. can be seen as a response to the centuries of urban planning injustices and inadequacies. The riots were “against private property, not against people” (Seigel 1998:70). In the country’s history, only the Watts and Detroit uprisings created more property damage (Gillette 1995). In Washington, D.C. 1200 buildings burned, property damage reached $24.7 million, and 2600 people were arrested (Gillette 1995). Of those arrested, some estimate that almost 90 percent had jobs—and many with the federal government (Siegel 1998). This was a riot not about unemployment or poverty per se but about the lack of black capital, the lack of black power in urban planning projects, and the persistent housing crisis for the city’s residents (Jaffee and Sherwood 1994). In 1967 Marion Barry, who would later become the city’s longest-serving Mayor, had suggested that violence might erupt if the city did not deal with its housing problem (Siegel 1998). In the aftermath of the uprising, he supposedly offered a similar warning: “When the city rebuilds the riot corridors…if you don’t let my black brothers control the process—and I mean all the way to owning the property—it might just get burned down again” (quoted in Jaffee and Sherwood 1994:86). As Farrar (2008:107) said, “the Washington ‘riot’ was a radical act of spatial disobedience that countered the ruthless logic of a century of urban planning.” The city’s political leaders did not miss this message of the riots. The chair of the (presidentially appointed) City Council said:

35 For a full discussion of the riots, see Gilbert (1968) and Gillette (1995).
The black community of Washington should have a central and powerful role in the planning and implementation of policies for rebuilding and recovery. Policies must be realistic in recognizing the need for economic and political power in the Negro community, particularly in housing and economic development. (quoted in Gillette 1995:180)

Such acknowledgements, however, were not the same as immediate shifts in urban policy, which did not happen and which in any event likely would have been too late to reverse altogether the effects of centuries of haphazard and profit-oriented urban planning.

The U.S. Housing Act of 1968, for example, reaffirmed the U.S. Housing Act of 1949’s goal of a decent home for all, but its strategy placed a greater emphasis on private market subsidies as a means to produce more and better homes for low- and moderate-income families, encouraging the industry’s expansion. The U.S. Housing and Community Development Act of 1974 also pushed rent subsidies through its Section 8 program (Richter 1983). If the U.S. government had financed housing production itself, rather than supported the middleman industry of real-estate, the U.S. government could have saved $2 billion per year—and come closer to solving the country’s urban housing crisis (Downie 1974). Such failures to mobilize local and federal planning for just ends helped to create the conditions for Washington, D.C.’s severe housing crisis in the early 1970s and a groundswell of radical political responses.

The influx of an affluent white population and mass suburbanization of the city’s black middle class added another—and an important—layer of politics to the city’s unfolding housing crisis and its contestations. In 1970, the city’s population was 72 percent black and 28 percent white—an exact reversal of the racial composition of the city in 1950 (Zeitz 1979). But, in the 1970s, a different trend began to unfold. The
percentage of black residents began to fade. More and more black residents who could afford to moved to the suburbs, which had finally become accessible, and by 1975 more white residents were moving into the city than out. Of the 41,000 households who moved into the city between 1970 and 1975, roughly two-thirds identified as white. The new influx of people had higher incomes and levels of education than existing residents and with their greater purchasing power became homeowners at a rapid pace (Zeitz 1979).

A demographic dichotomy emerged: In the 1970s the city’s population became increasingly either white and wealthy or poor and black. The landscape of housing began to reflect this composition. In the Dupont Circle neighborhood, for instance, the proportion of black and white owners and black and white renters had been roughly the same in 1970. By the decade’s end, there was an almost four-fold rise in the share of white residents who owned their homes (Gale 1987). The city saw a rush of condominium conversions, spiraling rents, and a “mushroom”-ing of gentrification (Gale 1987:65). A U.S. Census study of 1981 found that the city was gentrifying faster than almost all other major cities (McGovern 1998).

The 1970 census came too early to see the effects of the federal Fair Housing Act of 1968 that banned housing discrimination, but by the mid-1970s the number of black residents living in the city officially shrank for the first time in history (Grier and Grier 1982). All of the post-1970 increase in the metropolitan area’s black population went to the suburbs (Grier and Grier 1982). The notably rapid suburbanization of black residents in the Washington, D.C. region can be attributed in large part to the city’s affluent black community, which had the highest median income level in any U.S. city. Such economic self-sufficiency was linked directly to the presence in the city of the federal government,
which had a long history of employing black residents and at the beginning of the 1970s employed nearly one-half of all black residents in the city (Wilson F 1985). Vigorous citizen campaigns for fair housing and anti-discriminatory lending practices also contributed to mass suburbanization of black city residents (Grier and Grier 1982). Such campaigns, however, were the source of worry for some who envisioned the economic stresses that the outmigration of the black middle class would have on the city (Grier and Grier 1982).

The 1970s witnessed a citywide tenant revolt (Huron 2012). By 1968, 40,000 to 50,000 families—almost all of whom were black—were estimated to have unmet housing needs, and the number of families who lacked the financial means for adequate housing topped 260,000 (Richter 1983). Waiting lists for public housing grew, the number of low-income rentals fell, and the public housing supply shrunk. These extreme conditions appeared even more dire next to the city’s 1972 surplus of unrented office space (Downie 1974). Before 1970, most citizen efforts on housing concerned government improvements around building regulations, zoning codes, anti-discrimination laws, and judicial mechanisms for landlord-tenant disputes (Diner 1983). Rent controls, which the Nixon Administration imposed on the nation from 1971 to 1973 and city tenants widely supported, fit into this category of concerns (see Diner 1983). In the 1970s, citizens began to make different demands and ask different questions about the role of the local government in encouraging the property market fluctuations, mass displacement, residential segregation, and new waves of gentrification (Diner 1983). If the metropolitan region had indeed become the wealthiest in the U.S. (see Siegel 1998), for whom had benefits accrued? For black residents?
The moment for answers arrived in 1974, when the city finally achieved limited self-governance after a hundred years of denied political rights, regressive race relations, and destructive urban developments. That year, Congress’ Home Rule Act went into effect. Washington, D.C. residents, who had earned the right to vote in the U.S. presidential election in 1964, elected their own mayor and a 13-member City Council, all but two of whom were black (Huron 2012). More than half of the new City Council had some kind of alliance with the Student Non-Violent Coordinating Committee (SNCC), and the city’s second elected mayor, Marion Barry, originally came to the city to chair the local SNCC chapter (Walters and Travis 2010). A longtime community organizer in an interview described the sense of hope attached to these new political dynamics when she explained why she moved to the city in the 1970s:

D.C. was… the center of the civil rights movement…. All the major groups had offices here. SNCC, [Martin Luther King, Jr.’s Southern Christian Leadership Conference] had offices here in this area… It was like a central point…. When the folks even went on the campaign to desegregate transportation, you know, folks gathered here…. It’s right across the Mason Dixon line… so D.C. was the gathering spot…. People came here, they got the training here. So D.C. was like emotional for justice everywhere…. A whole lot of progressives rushed in [when the city won home rule].

The precursor to this monumental political change had been the defeat of a South Carolina U.S. Representative who led the Congressional committee for the city’s affairs and deeply distrusted and disliked of the city’s new black majority population (Gillette 1995). The Civil Rights voting registration drives, which had brought increasing numbers of black voters to the polls beginning in the mid-1960s, contributed in large part to his defeat—and the city’s victory. The achievement of self-governance, however, by no

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36 Interview with author, Washington, D.C., April 7, 2011
means amounted to a complete break with existing governance structures. Congress retained the right to veto city legislation, manage budgetary decisions, oversee the court system, and prohibit the city from taxing commuter workers (Gillette 1995). The city’s delegate to Congress also remained a non-voting member. Still, there was progress. In January 1975 the city’s newly elected leaders were sworn into office and, in response to significant tenant mobilizations which I discuss in the next chapter, put the problem of low- and moderate-income housing at the top of their agenda. Housing in the city for too long had been a profit-oriented tool of the right, the white, and the Congress.

**Conclusions**

This chapter shows how the dominant property regime in Washington, D.C. for the majority of the 19th and 20th centuries was profit-oriented, the project of urban planning was haphazard, and the housing stock was largely abandoned. I argue that these conditions show the speculation tax and right to shelter, which sought to decommodify aspects of how residential space was allocated and treated, were departures from existing discourses and practices about property. The speculation tax and right to shelter, along with many of the other anti-displacement policies passed by the first home rule government, sought to address the city’s longstanding housing crisis with new tools. But the historical materiality of property in the city—with its racial overlays and jurisdictional power struggles—also set the stage for the 1970s’ and 1980s’ embrace of property development as a means for racial justice and for locally directed responses to the city’s long-abandoned urban housing problem. Property, which was pulled back and forth between competing visions and powers, took on multiple functions by the 1970s.
By no means did the physical condition of property in 1975 determine what happened with the new home rule government, but its form and history constituted critical conditions for the passage and subsequent failing of the city’s speculation tax and right to shelter, the two issues to which I now turn.
Chapter 4: The U.S. Urban Speculation Tax

So, I sat at the settlement table…I, like, tripled my money. That was a good time for buying and selling. I was lucky, really lucky, and I was looking at the money thinking, well now I could either go out and buy a Jaguar, which was, my mother always wanted a Jaguar, so I could go out and buy a Jaguar, or I could buy two houses. And so I took that money and bought two houses. And then I sold those two houses, and I bought four houses…. It sort of became this mission for me to sell urban properties… You know, was I pushing people out? I was absolutely pushing people out, but I felt like I was doing it for a good cause. You know, I was helping young people who couldn’t get mortgages get into real-estate.

—A realtor describing her experience in the early 1970s

Introduction

On June 8, 1974, several community groups in Washington, D.C. came together to hold a public forum on something they called “reverse” blockbusting (Paige and Reuss 1983; Zeitz 1979). Newspaper writers, local realtors, and a few academics participated as panelists for the forum, “Blockbusting—1974 Style,” but the majority of attendees were members of the host groups the Adams Morgan Organization (AMO) and the Capitol East Housing Coalition. The issue at the heart of the conference, and the keynote speaker’s address (“What is unscrupulous about blockbusting?”), was the growing threat of residential displacement for the city’s low-income renters (Zeitz 1979). Residents were “appalled by the existence of vacant land and abandoned buildings” at the same time that there was inadequate housing for the city’s residents and massive displacement (Paige and Reuss 1983:62). Speculation, which swept the city’s poorest neighborhoods in the mid-1960s, was rampant again, and the beginnings of a citywide gentrification wave—

37 Interview with author, Washington, D.C., September 14, 2011
which at the time was called private urban renewal and the rehabilitation movement—
were taking over at least two neighborhoods, Adams Morgan and Capitol Hill.

In Adams Morgan, the city’s first neighborhood to integrate, a row of houses that
were in use as rentals sold one week for $26,000 and a few weeks later—with no
remodeling—for $65,000 (Zeitz 1979). Across the city, tenants were being kicked and
priced out of their homes. On Capitol Hill an entire block of six-bedroom townhouses
that were in use as rooming houses was converted to single-family dwellings and sold to
nineteen new homeowners in a single summer (Zeitz 1979). A realtor who was active at
this time, Brian Logan, described the fervor in an interview:

It was sort of like the Wild West back then. Oh…they would do flipping
where you would get a contract on a shell, you know, for $4,000 and that
person would flip it to another one for $5,000 and it might change, the
contract might change hands two, or three, four times before you actually
got to settle it for $10,000. I mean, prices were going up high then, I mean,
quickly. People were just flipping. There was a bunch of guys who made
enough money that they moved to Costa Rica and bought a big farm and
are now doing something in Costa Rica, I don’t know. Anyway, there was
a whole lot of people, little developers, and contractors that would buy
these things and actually fix them up a little bit and then sell them and
other people would just buy them and sell them without fixing up. It was
great. It was a lot of fun.38

Another realtor of the early 1970s said in an interview: “There were so many people
making so much money… There were people from California coming here because they
heard about money. A little man from Iran came with a suitcase full of cash because D.C.
was the most underpriced capital city in the world.”39

38 Interview with author, Washington, D.C., October 24, 2011
39 Interview with author, Washington, D.C., October 21, 2011
“Little old ladies” were being “badgered to death” by speculators to sell their homes, according to Councilmember John Wilson (quoted in *The Washington Post* 1975g). One of the many unsolicited letters that Robert Love, a resident in the city, received in 1975 said simply: “If you are thinking about selling this property, please call me.”

A study by the Washington Urban League found that in 1979 “two-thirds of all home-owners in close-in neighborhoods had been approached by real-estate interests about the possibility of selling their homes” (McGovern 1998:205-206). More than thirty real-estate agents in the city admitted to a news reporter in 1981 that they had pressured “elderly, black homeowners in gentrifying areas” to sell their homes (quoted in Gale 1987:163). If residents were unwilling to sell their homes, they often found housing inspectors at their doors who were looking for code violations. Then, if the homeowners lacked the means to repair the identified infractions, they would be forced to sell, which

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40 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38
often meant selling to the speculator who they had refused in the first place (McGovern 1998).

The outcome of the 1974 reverse blockbusting forum, which lacked the fire of some of AMO’s other more militant actions (ie, picketing weekend open houses for rehabilitated townhouses or splattering paint on billboard announcements for newly converted luxury condominiums) was a simple one (Richards and Rowe 1977). Organizers created a task force. The Anti-Speculation Task Force, which brought together community leaders from AMO, Capitol East (from Capitol Hill Southeast), and the Shaw Project Area Committee (based around the gentrifying U Street Northwest corridor) with paid employees from the United Way-funded Metropolitan Washington Planning and Housing Association and at the Tax Reform Research Group at Ralph Nader’s Public Citizen, sought to push policy recommendations for tenant rights and lobby the city’s first elected City Council to pass neighborhood stabilization legislation (Richards and Rowe 1977). The emphasis was less about public education than using public resources like regulation to address low-income tenants’ housing problems. Soon after the city’s first City Council elections in November 1974, task force leaders approached council members representing the gentrifying Adams Morgan and Capitol Hill neighborhoods, David Clarke and Nadine Winter, and urged them to introduce legislation to curb the profits of flipping and the pains of housing market inflation (Zeitz 1979).

On April 1, 1975, Clarke and Winter did just that with a six-page bill to levy a tax of up to 70 percent on the gross profits of anyone selling more than one residential property within a year’s time. The bill, the “Residential Real-estate Excise Tax,” which
had been drafted by Rick Halberstein, a tax lawyer connected to the task force, and Jonathan Rowe, a staff member in Public Citizen’s Tax Reform Research Group, was referred for review to the City Council’s Committee on Finance and Revenue (DC Gazette 1978c). But it would be three years before a watered-down version of the tax would be turned into law. And when a version of the speculation tax was finally adopted, it would last only three years, would be paid only seven times, and, in the end, would be declared by its supporters and opponents alike a complete failure. A reporter for The Washington Post (1981a), the city’s largest circulating paper, said it might best “be remembered as a law that never was.” An analyst in the tax assessor’s office was more dramatic: “The whole thing is just a big joke” (quoted in The Washington Post 1981a).

In this chapter I argue that the history of the speculation tax is a history of discursive crises around property rights. I show how the debates that unfolded at City Council—even those in which the tax’s strongest community supporters participated—did not outwardly question some of the core principles of the existing property regime. Tax supporters confronted speculation head-on yet failed to publicly address fundamental problems about, first, needed repairs and additions to the existing housing stock and, second, homeownership as a vehicle for black residents’ economic mobility and tenure security. Supporters of the speculation tax did not publicly convey a coherent, counter-hegemonic and spatial vision of the city under a different property regime. For tax supporters, some kinds of housing investments were good, and even welcome, in a place that had thousands of abandoned and deteriorating units and a city government that had done little in previous decades to address the housing crisis. Supporters of the tax also struggled with the idea of homeownership as economic power for the city’s marginalized,
black population. In the aftermath of the Civil-Rights movement, property development offered the possibility of wealth, as well as housing security for the city’s black majority population. As a result, a blurry and ultimately unsustainable line emerged in debates between “good” and “bad” kinds of property rights. To conclude, I argue that this blurry line was critical to how the speculation tax was made to fail and how hegemonic property rights were made to endure.

**Defining Speculation**

The contemporary meaning of speculation, the risky strategy of financial investment, comes out of the term’s pre-19th century notion of a kind of deep philosophical thought about how the world could and should be:

Speculation, from ‘specula,’ or watchtower, and ‘speculere,’ to look, to look at, is the grounding of reality in the future. You invest in real-estate now because you think it will be worth more in the future…Speculation is thus in part about how fiction—imagined grand scenarios, often the grander the better—helps to sell things (Luria 2006:xxii-xxiii).

To speculate in land is to make a vision about what a space and society might one day become and put a stake on that vision. In this way, speculation acts as a kind of urban planning but is generally distinguished from other kinds of urban planning like real-estate development (or gentrification) in a key regard. Whereas speculators seek first and foremost to invest in land for the single purpose of making money through a sale, developers often opt to invest in improvements or additions to land in order to gain a profit (Luria 2006). There is “a vital distinction,” wrote geographer Neil Smith (1985:25), “between the speculator proper who buys a house to sell it unaltered, at a profit, and the developer who buys a house to rehabilitate it before selling.” In fact, speculation, by
raising prices and tying up money in “unproductive” efforts, often hinders development (Swierenga 1977). Speculation in land or the buildings on land is also a different beast from capital ventures in the industrial sector (Feagin 1986). Investment in machinery, for instance, produces a good or service. The only thing a real-estate speculator hopes to produce is a rising land value. Therefore, land, when traded or treated as a commodity, becomes a form of fictitious capital (Harvey 1982). What is actually being traded when land is sold is the claim upon future revenues, profits, or uses of the land (Harvey 1982:347).

What creates concern about speculative real-estate practices is the claim that speculation amounts to a kind of theft. Speculators, some scholars argue, monopolize and individualize the value of land that a community at large creates. They “unjustly and without productive effort” secure the increased value of land that has been generated by the community (Feagin 1986:103). John Stuart Mill explained: “Landlords grow richer in their sleep without working, risking, or economizing. The increase in the value of land, arising as it does from the efforts of an entire community, should belong to the community and not to the individual who might hold title.”

Self-taught economic writer Henry George, too, argued against the practice of speculation because it usurps the benefits that should accrue to the community (Feagin 1986). If there is “respect for the rights of property which induces us to leave to the individual all that individual effort produces,” then there should be respect for the rights of the community, which collectively grow and improve the value of land (George 1999:214-5). Speculation of finite resources like land does not and cannot happen in

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41 Quoted in “Testimony statement submitted by Jonathan Rowe” (City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38)
isolation, and so its effects must be contextualized at a social (rather than individual) scale. “Speculation in land,” agreed British land reformer William Dawson in the 1890s, “may justly be regarded as one of the greatest evils associated with the institution of private property in the soil. Rightly described, it is nothing more or less than gambling over the probabilities and possibilities of social progress in one form of another’” (quoted in Swierenga 1977:288). The problem of housing shortages at the end of the 19th century in New York City, explained George (1999:216), is not because there is not enough capital to build more houses, and yet not because there is not land enough on which to build more houses. Today one half of the area of New York City is unbuilt upon, is absolutely unused. When there is such a pressure, why don’t people go to these vacant lots and build there? Because, though unused, the land is owned; because, speculating upon the future growth of the city, the owners of those vacant lots demand thousands of dollars before they will permit any one to put a house upon them.

Rather than contributing to a just arrangement of resources, the speculation of land exacerbates an unequal distribution of wealth, power, and space itself (Swierenga 1977). Harvey (1982:369; see also 349) has suggested the capacity to unequally distribute capital may make speculation in land necessary to capitalism. Smith (1985:25) has similarly claimed that speculation in housing markets is endemic to capitalist economies. Whether it is and whether attempts to regulate speculation are futile, however, remain unresolved. The issue of real-estate speculation has not been studied systematically in housing literature (Feagin 1986).

Real-estate speculation in the United States took off with European settlers in the 18th century. Many of the oldest fortunes in the U.S. came from this kind of land dealing, many of the country’s founding fathers participated in this kind of investment activity
(Feagin 1986), and many acts of the inaugural government supported this kind of buying and selling. A congressional decision of 1785 to sell government-held lands at basement prices has been cited as one of the culprits for speculation’s rise in the fledgling U.S. (Swierenga 1977). As Chapter 3 recounts, the founding of the new capital in Washington, D.C. was underwritten by speculative real-estate dealings. Many other cities across the country, too, were affected by speculative sales that drove up land prices, carved up lots into simple shapes so their values could be approximated from a distance, contributed to the deterioration of cities through incentives of depreciation (Downie 1974), and, in the case of Chicago, relocated the city’s downtown business area. Even the narrowing of lots away from a street (lots that are wide at the street and narrow in the back) is a mark of speculation’s significant impact on the shape of American cities (Feagin 1986); the more street frontage a property has, the higher price the land can generally command.

In the early 1800s the unequal distribution of land amongst classes became a cause of distress in the U.S. By the 1850s, land reform became as prominent as slavery in federal elections (Geisler 1984). Even President Lincoln reportedly supported the goal of giving every poor man a home (Geisler 1984:11). The Homestead Act of 1862 awarded working classes land titles, the Southern Homestead Act of 1866 distributed leftover farming land to freedmen (Oubre 1976), and, in the land rush for Oklahoma, a number of black Americans were given the rights to American Indian land to create all-black towns (Littlefield and Underhill 1973). But many Americans were prevented from benefiting from these redistribution attempts by the federal government, and the land giveaways

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42 Andrew Carnegie reportedly said “ninety per cent of all millionaires become so through owning real-estate” (Downie 1974:4).
actually enhanced the possibility for speculation in some cases. These facts propelled debates about land reform, the “natural” right to own land, the right of the landless to public lands, and the possibility of limits on the amount of land any individual might own, and continued to loom large in both of the country’s political parties through the 19th century (Geisler 1984).

Henry George’s proposal for a single land tax on land value rather than a tax on improvements gained particular traction at the end of the 19th century and was thought to be a possible tactic to slow or stop speculation (Geisler 1984). He explained the basis for a tax on land value:

Our present system is unjust and injurious in taxing the improver and letting the mere proprietor go. Settlers take up land, clear it, build houses, and cultivate crops, and for thus adding to the general wealth are immediately punished by taxation upon their improvements. This taxation is escaped by the man that lets his land lie idle, and in addition to that, he is generally taxed less upon the value of his land than are those who have made their land valuable. All over the country, land in use is taxed more heavily than unused land. This is wrong. The man that holds land and neglects to improve it keeps away somebody that would, and he ought to pay as much for the opportunity he wastes as the man that improves a like opportunity (George 1999:156).

A tax on land value measures the growth and improvement of the community, not anything that a single user of the land does or does not do, discouraging speculation in individual properties. Dog taxes, George pointed out, were used to get rid of dogs when there are too many of them. Why then, he asks, “should we impose a house tax unless we want to get rid of houses?” (George 1999:210).

The prominence and popularity of land reform did not last. By the mid 20th century the Conservation and City Beautiful Movements (both rooted in the aesthetic
ideals of elites) emerged as the new kind of land reform (Geisler 1984), speculators began to be seen as service providers (Sweirenga 1977), the Federal Housing Administration offered new mortgage products, multinational corporations entered real-estate speculation, and debt from land-based mortgages overtook the country’s economy.43 Rural landownership and the radical resettlement programs of the New Deal, which gave poor people access to rural land, lost national attention as suburban middle-class homeownership and its associated debts took center stage. Many began to see tenants and their debts—rather than the prevailing land tenure system—as the land reform problem (Geisler 1984). The vast agreement between the liberal and conservative approaches to housing policy for much of the 20th century, and their refusals to confront the inequalities of the housing market for anyone but the middle classes, contributed to the burial of land reform (Marcuse 1999). “Land redistribution in the United States was no longer seen as an effective solution to the problems of inequality” (Geisler 1984:24). Even land historians, who prior to the 1940s had preached against speculators and large landowners, began in mid century to question the idea that speculation negatively contributed to the nation’s economic growth and redistributed wealth from the poor to the rich (Swierenga 1977).

By the 1970s land reform had almost disappeared completely from the public consciousness (Geisler 1984). One 1978 federal government study found that the top 5 percent of all non-agrarian landowners owned 75 percent of land while the bottom 78 percent of non-agrarian landowners held three percent of land, but unequal land distribution had become naturalized (Geisler 1984). When the issue did arise, land reform

43 “Between 1900 and 1929 residential nonfarm mortgage debt grew from $2.9 billion to $29 billion; by 1965 it would grow to $260 billion—the largest single item of credit in America’s new debt-based economy” (Geisler 1984:24).
signaled the issue of land-use planning or efficiency of production rather than one of distribution. This fact helped to usher in a new surge of U.S. urban speculation—a survey in the 1970s found significant speculative activity in 44 cities—and one that was largely uncontested (Feagin 1986).

“Mink Prices for Dyed Rabbit Houses”

In 1969 abandoned, unsalable homes dotted Washington D.C.’s over-crowded neighborhoods. Unoccupied houses and apartment buildings with astronomical mortgages were deteriorating and contributing to a growing housing crisis. More than $5 million worth of mortgaged properties in the city had been foreclosed in the previous two years, and nearly 1500 homes and apartment buildings had been foreclosed in the first five months of 1969 alone (which was almost five times the number of foreclosures in all of 1968) (The Washington Post 1969a, 1969k). The “incredible decade” of housing speculation in the 1960s had come to an abrupt halt with the national economy’s crash and a hike in borrowing rates (The Washington Post 1969i).

In a ten-part series published in January 1969, two reporters at The Washington Post (1969a-j) investigated what happened in Washington, D.C.44 They traced how much of the city’s low- and moderate-income housing stock was destroyed by the speculation bubble and outlined what factors had contributed to the rise and fall of the well-oiled speculation machine. The so-called “ghetto” or “slum” speculation system in the 1960s flourished in large part, the reporters said, because homebuyers who were black could not obtain home loans through any sources other than speculators. Until 1968, most black

44 When the series was published, the newspaper lost about $1 million in advertising revenues from the savings and loans industry (Himmelman 2012).
homebuyers could not get the federally backed mortgages that their white counterparts could, so the commodity sold by speculators in the 1960s was not just the bricks and mortar of houses but actual financing. In this way, the savings and loans industry—specifically the local banks who refused to make loans to black homebuyers but would provide loans to speculators—created a vacuum of housing finance that speculators filled (Downie 1974). Len Downie, one of the reporters, explained: “Ghetto speculation is Negroes’ paying mink prices for dyed rabbit houses, because they have no place to get the money except through white speculators” (The Washington Post 1969b). The dearth of viable financing options for tens of thousands of black families was exacerbated by the dearth of access to expertise on housing finance:

They don’t have a real-estate broker to trace the sale history of a property. They don’t have the expertise to go through land records to find out what the slum speculator paid and when…. In effect, the prospective home buyer is merely a plum ripe for picking. (The Washington Post 1969b)

This pattern of black homebuyers falling prey to speculators was sometimes described as a form of reverse redlining—the targeting of the very residents who had been excluded from home loans in previous decades (Richards and Rowe 1977). Leo Bernstein, one of the city’s legendary speculators, offered a defense of these practices and said speculators provided a needed service, which was partially true and an issue that would haunt the following decade’s attempts to quell speculative activity: “Maybe they charged a lot for it, but at least they housed people” (The Washington Post 1969b).

Homebuyers were not the only ones affected by the speculative surge that took over the city’s poorest neighborhoods in the 1960s. Rental units were also swept into the frenzy. Aging apartment buildings, for instance, would be bought when a savings and
“Speculation Ode”

They took our house and put us out,
    for just a little while;
They’d build new ones and let us back
    They told us with a smile.

A big high rise stands on that land;
The prices are so great
    We couldn’t pay the hallway rent
At that enormous rate.

Then our new place – soon it was sold,
    And so we moved again.
“The slums must go – the inner town
    Must be made fit for man.”

Now must be built a freeway broad
    For auto drivers’ speed.
We gathered up our stuff once more,
    To serve the city’s need.

The tow’ring blocks of building rise,
    The streets help traffic zoom;
Expensive, grand, but now we know,
    For people there’s no room.

—A letter by V. L. Grimes to the editor of the DC Gazette (1978c)
loan bank gave a speculator a mortgage loan large enough to cover the original investment. Then, an unsuspecting buyer would be lured by an initial small cash payment and end up with a mortgage so large he could not make mortgage payments or pay for maintenance of the property. At the end of this cycle, an already-deteriorating building would wind up in worse shape as repairs went unmade, units became uninhabitable, and the building was put on the auction block or abandoned altogether (The Washington Post 1969e). These practices often forced “conscientious” homebuyers or building owners to abandon their properties if they ever wanted to move, letting their houses or buildings foreclose, further ruining neighborhoods, often shrinking the city’s supply of rental units, reducing the city’s tax base, and “keeping in motion the economic wheels that make the man next door also abandon his property” (Boyer 1973:12).

Another strategy of real-estate speculation that affected the availability and quality of rental units in the city in the 1960s was the use of a residential property’s depreciation to offset tax responsibilities. Sidney Brown, one of the city’s largest slum lords in the 1960s, bought Clifton Terrace, a large apartment building just across 13th Street Northwest from Cardozo High School, without ever intending to maintain it or make a profit on it. Instead, he leveraged its depreciation as a tax deduction (Downie 1974). Such disinvestments in the housing stock became commonplace as income and real-estate tax laws encouraged the buying and selling, but not maintaining, of properties. (An article in the local real-estate magazine Regardies (1979) explained how to “appreciate” your depreciation and find tax shelters.) The lack of regulation over title settlement companies and lawyers who advised speculators on how to take advantage of tax laws, as well as the decision of local officials not to confront slum speculation despite
“deep knowledge of its harm to the city,” sustained the speculative forces and wreaked havoc on much of the city’s least expensive housing stock in the 1960s (*The Washington Post* 1969). The housing crisis that followed “did not just happen—it was created” (Reed 1981:87). “The planned development of the housing market, withdrawal of public housing resources and encouragement of speculation,” according to one observer, “were direct results of the combined efforts of finance, real-estate, and governmental programs” (Reed 1981:87).

By the end of the 1970s, the shortage of housing in the city doubled to 91,000 units (Richards and Rowe 1977), the waitlist for public housing grew to 7,000 families (Zeitz 1979), the number of boarded-up houses reached 22,000, and the vacancy rate oscillated between two and three percent (Zeitz 1979). (HUD considered a vacancy rate less than five percent to be an emergency situation.) Decent, affordable housing was in high demand while decrepit houses and apartment buildings were in dire need of repair. The city’s supply of housing for low- and moderate-income residents was disappearing (Goldfield 1980). A decrease in public housing resources, a decline in housing construction starts, and a rising median property value exacerbated these conditions. Between 1970 and 1974, the median sales price of a home increased in Washington, D.C. roughly the same amount as it did in the preceding ten years: 80 percent (Zeitz 1979). The median income of homeowners in the city did not match pace; it only increased by 43 percent in those years (Gale 1987). Housing expenses in Washington, D.C., among

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45 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38
46 The housing supply peaked in 1970 in the U.S. In the 1970s new construction declined by 2 million units per year. Demand rose ahead of supply (Zeitz 1979).
47 National land prices, too, outstripped the consumer price index; U.S. land prices jumped an average of 7 percent per year while the index increased only an average of 2.7 percent between 1946 and 1974 (Teachout 1974).
Neighborhood Units Ask Tax on Realty Speculation

Figure 5: Speculation tax mobilization (The Washington Post 1975j)
the nation’s highest (Richards and Rowe 1977), consumed a larger and larger share of residents’ income as the decade wore on and property tax assessments sometimes increased by as much as ten percent from the previous year (Moore 1978). The city ended up with a lot of homeowners who could not afford the upkeep of their properties and a citywide sense of urgency about questions of decent and fair housing.48

**Windfall Profits**

In 1973 legislators in Vermont created a statewide tax to discourage the short-term speculation of rural land (Teachout 1974). The market value of rural land had skyrocketed, and the sale of large properties to developers for ski resorts and second homes had become increasingly common—and increasingly concerning. Residents worried about rising property taxes, the threats posed by speculation to the “pastoral” landscape, the public costs of development, and the economic morality of windfall profits (Teachout 1974).

Windfall profits are excessive gains or unearned increment from an increase in the value of property rather than from an actual effort to improve property. For this reason, the profits of speculative sales are often considered unjustified, and a tax on real-estate transfers is seen as a kind of redistributionist strategy to right this wrong. A speculation tax, in theory, discourages the practice of speculation directly by penalizing the offender and then using the tax revenue to benefit the community at large that has been harmed by speculation. If it is successful, such a tax can discourage speculation by “taxing away some of the short-term gains that make the speculative buying and selling of residential real-estate so lucrative” (Davis 2006:369). If the tax does not deter speculation, it can still

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48 Interview with author, Washington, D.C., November 21, 2011
serve a useful purpose by capturing a portion of the speculative sales when properties change hands and funneling those revenues into housing resources for low- and moderate-income residents (Davis 2006).

The idea of Vermont’s measure to slow down development and protect local rural residents who were having a hard time affording property taxes and improvements to their properties made sense to residents and gained popular support during the 1972 campaign of Governor Thomas Salmon (Baker and Anderson 1981). The tax, which sought to protect collective resources like the land’s “natural beauty,” was implemented in April of the following year and made Vermont the first state in the country to institute a tax on gains from land sales. The tax rate operated on a graduated schedule based on the duration of ownership and amount of profit from a sale. Land owned for more than six years, for instance, was exempted, and the maximum rate of 60 percent could be incurred only if a piece of land was bought and sold within one year with a 200 percent profit (Davis 2006; Teachout 1974).

The Vermont Supreme Court upheld the tax as constitutional even after the persistent lobbying work of realtor associations and a legal challenge by three developers and a large landowner (Teachout 1974). But the effects of the tax were unclear. Some claimed that out-of-state speculators disappeared in Vermont and speculation of rural land slowed (Teachout 1974; The Washington Post 1975g; DC Gazette 1975c). Others said the implications for land prices were inadequately studied and so difficult to assess (eg, Baker and Anderson 1981). Henry Ferry of the Vermont Department of Taxes wrote

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in a 1977 letter to George Washington University professor Dennis Gale that he felt the tax had been effective but, “due to the fact that several economic forces have been at play during the course of this tax, it has been extremely difficult to zero in on its effectiveness.”

The speculation taxes that New Zealand and Ontario, Canada passed in 1973 and 1974, respectively, resembled the Vermont act but emerged simultaneously rather than having been exported from one place to another, as far as experts on these laws know. The Ontario Land Speculation Tax came out of a moment in which the global economy spurred land inflation and people in Canada on a large scale began to believe that housing was not a good whose consumption should be subject to the usual income constraint but rather was a basic right, and that decisions concerning its production and distribution should not be left to the market but must be politically determined. (Smith L 1981:338)

The Ontario iteration sought to impose a tax of twenty percent on gains from real-estate except when the property was a primary residence or had been owned for longer than ten years, or had been significantly improved through construction (Smith L 1981). This latter exemption, which would appear in the D.C. version and become an important subject of debate, ultimately doomed the Ontario tax by excluding large developers from the law. What it meant was that some kinds of investment in real-estate, like the renovation of large apartment complexes, were acceptable and viewed as positive improvements to the landscape. This exemption, or protection, of one kind of capitalist

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50 Letter dated February 24, 1977 (Dennis Gale Personal Letters, Gelman Library Special Collections, George Washington University, Gale, Series 2, Box 7, Folder 6)

51 Donald G. Hagman, “Windfalls for Wipeouts? Betterment Recapture and Worsenment Mitigation Techniques as an Rx for a Healthy and Just Environmentalism,” The Dennis O’Harrow Memorial Lecture at the 1974 National Planning Conference of the American Society of Planning Officials in Chicago, Illinois, May 12, 1974 (Dennis Gale Personal Letters, Gelman Library Special Collections, George Washington University, Series 2, Box 7, Folder 6)
property market activity undermined the entire tax. The exemption created a fuzzy line between development and speculation because the law did not stipulate what exactly merited renovation. Did a new coat of paint count? Speculators in Ontario quickly responded to the new tax and modified their practices to include minimal forms of “renovation.” The compromised tax, which was repealed by legislators in 1978, reduced property sales, increased selling costs, discouraged investment in rental properties, raised rents, and exacerbated the struggle of residents to obtain decent and affordable housing—the very things it sought to prevent (Smith L 1981). A more comprehensive version of the tax—a version that did not exempt development—might have led to different outcomes, but history has not produced such a case.

The subjects of windfall and speculation taxes are not often taken up in geographical, public policy, or urban studies literature (eg Feagin 1986), making inquiries into the success and failures of laws like Ontario’s difficult and, for the very same reason, crucial. Part of the problem likely has to do with the fact that speculation taxes are not very common. To this day, no jurisdiction in the U.S. apart from Vermont and Washington, D.C. has gone very far in trying to stop speculation (Davis 2006). State legislatures in California, Hawaii, Maryland, Massachusetts, Montana, Oregon, Virginia, and Washington have at one point or another considered, but not adopted, windfall taxes (Davis 2006).

The idea for a tax in Washington, D.C. to discourage speculation circulated as early as 1973 in a monthly magazine, the progressive DC Gazette (1973). In September 1974, during the run-up to the city’s first City Council elections, candidate Gwen Reiss included the proposal in her campaign literature, and David Clarke, another candidate for
City Council, promised to introduce a speculation tax bill if elected (DC Gazette 1975b, 1978a). Later that year, the Anti-Speculation Task Force adopted the tax as its number-one policy recommendation. It was drafted, as mentioned above, by a local tax lawyer and a staff member of a tax research group—not community organizers—and, after much lobbying by the Task Force, was introduced by Councilmembers Clarke and Winter on April 1, 1975. It was Bill No. 1-57, the fifty-seventh bill of the first session of the City Council and one of 35 bills proposed during the first session to address the problem of displacement. The bill, the “Residential Real-estate Excise Tax” or as one council member wanted to call it, the “Healthy Community Tax Act,” proposed levying a tax of up to 70 percent on the profits made by a speculator on the sale of a row house and requiring anyone who sold more than one row house to register with the city. The broad purpose of the tax was to stop price inflation, the destruction of the housing stock, and tenant evictions related to flipping (The Washington Post 1975a; see also Zeitz 1979). The bill itself was only six pages long and, as a short-term solution to the emergency housing situation, was not intended to be in place but for twelve months. The proposal did not create an exemption for the city government’s redevelopment land authority, which was responsible for its own share of speculation-induced displacement. More importantly, the tax did not include an exemption for the renovations of row houses. At

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52 Reiss lost the election, became a realtor, and in 1975 testified against the speculation tax at the first City Council hearing on the matter (Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, page 32).

53 Some critics thought the Council should have pushed to include the tax in its larger revenue package, which was passed in January 1975 and offered few opportunities for public input—like that from realtors (DC Gazette 1975a).
Capitol Hill Realty Dealer Target of Residents’ Protest

By Thomas W. Lippman
Washington Post Staff Writer

Carrie Carmichael nails an effigy of dealer to door.

Figure 6: Effigy of real estate dealer (The Washington Post 1975h)
this point the bill treated alike speculators who simply bought and sold without improving properties and developers who repaired and remodeled homes.

The Anti-Speculation Task Force’s strategy to use legislation to protect tenants and homeowners was largely a response to a weakened local rent control law. After President Nixon removed national rent controls in 1973, residents in Washington, D.C. created uproar and propelled Congress to give city officials the authority to institute new controls (Diner 1983). The City Wide Housing Coalition, which was made up of several neighborhood organizations, created public demand for progressive rent controls by publishing a guide to tenant rights, operating a tenant hot-line, distributing a newsletter, and mobilizing tenants to put pressure on city officials (Paige and Reuss 1983). However, the People’s Rent Control Bill, which the Coalition supported, “was quickly gutted of its political intent as it moved through the legislative process in City Council” (Reed 1981:69). The lesson for housing organizers was that they needed to be more involved in the nitty-gritty details of the legislative process (Paige and Reuss 1983) and spend less energy on street action (Reed 1981). The legislative work that dominated the broader housing movement in the city in the 1970s, including the efforts around the speculation tax, reflected this realization (Reed 1981). If the new city government was to institute progressive anti-displacement laws, supporters of those laws needed to be where the policy decisions would be made—and that was at City Council.
The Problem of Bonafide Builders

On June 19, 1975, the D.C. City Council’s Committee on Finance and Revenue held its first public hearing on the proposed speculation tax.\(^5^4\) In the hearing room at City Council, the Anti-Speculation Task Force put on an “impressive display of community support” with a slide show of properties that had been subject to speculation in the Capitol Hill and Adams Morgan neighborhoods and printed lists of speculators who had flipped entire blocks (Richards and Rowe 1977:56). The Association of Black Social Workers, a group of black police officers, members of the city’s teachers union, and a number of black ministers testified amongst roughly 50 speakers who voiced support for the tax and told stories of their own struggles, mostly in Northwest and Southeast neighborhoods, to secure decent and affordable housing (Richards and Rowe 1977; The Washington Post 1975b). Members of the Task Force, with the help of a number of evicted tenants, also acted out “some guerrilla theatre vignettes” after the hearing (Zeitz 1979:81).

Opponents of the bill were present, too, and at several points after testimony from these realtors, bricklayers, developers, and government officials who called the tax confiscatory, unconstitutional, and a negative approach, “the hearing erupted in anger” (Zeitz 1979:81). Supporters of the tax booed these speakers to the point that a council member on the dais had to ask the audience to be quiet (Moore 1978). At other points the council members provoked the sense of hostility in the room. Councilmember Douglas Moore, for instance, said to the Department of Housing and Community Development’s

\(^{54}\) The purpose of hearings in the city government is to solicit feedback from community members as well as government agencies.
(DHCD) director who opposed the tax: “Why are you all such patsies for the landlords and real-estate industry?”

The Chair of the Committee on Finance and Revenue, Councilmember Marion Barry, opened the daylong hearing by saying, “We cannot afford to allow the value and availability of our housing to be manipulated” by speculators. But, before he turned over the dais to his fellow council members, he pointed to an issue that would become a stumbling block in debates about the speculation tax for years to come: “How do you stop the speculator without also stopping the bonafide builder or restorer who provides decent and sound housing at justifiable prices”? In a city in which the Congressionally controlled local government had repeatedly failed to build and protect decent housing for low- and moderate-income residents, the real-estate industry held a unique position. The city lacked a manufacturing or commercial base, and so the real-estate industry had assumed a disproportionate importance (Reed 1981). The industry was also the largest contributor to local political campaigns in the 1970s and 1980s (Richards and Rowe 1977; McGovern 1998:210), and it had been said that “what steel means to Pittsburgh, cars to Detroit, tobacco to Durham, cattle to Kansans City, oil to Houston—that’s what real-estate means to Washington” (*The Washington Post* 1969g).

At the hearing the speculator was villainized as the real-estate industry’s evil incarnate. Councilmembers sympathetic to the tax called the speculator a “cancer,” a “perilous enemy,” a “highway robber,” a “rip-off artist,” the “scourge of their

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55 The official, Lorenzo Jacobs, replied: “Mr. Moore, that is one of those questions like, ‘When are you going to stop beating your wife?’ If you are not beating your wife, it is kind of difficult to respond to it.” (Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, pages 34-35)

56 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 5

57 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 5
community,” and a “despicable bunch [who] ought to be cast from the center” of the city. A member of the Anti-Speculation Task Force said speculators posed the “most fundamental threat” to the future of the city’s health. Rowe, a drafter of the original bill, described speculation as “one of the few major afflictions that we D.C. residents can do anything about. Wars, inflation, famines, the waste of our resources, including land, are beyond our direct control. Real-estate speculation is not.” Rowe also invoked Abraham Lincoln’s thoughts on speculators: “I respect the man who properly named these villains land sharks. They are like the wretched ghouls who follow a ship and fatten on its offal.”

To make their point, many supporters of the tax, including Rowe, delineated this evil character from the good homeowner or even the semi-decent home restorer: “The speculation tax is not aimed at homeowners who renovate their homes.” Another supporter of the tax agreed:

Although renovators and rehabilitators play the same role as the speculator in moving low and moderate income families out of their homes and neighborhoods, they do provide some benefits to the District through improvement of the housing stock.

In other words, the renovation, restoration, and development of housing were not by themselves a problem to residents concerned about speculation. The city’s housing stock

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58 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 3-21
59 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 71
60 “Submitted Statement by Jonathan Rowe,” City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, np
61 “Submitted Statement by Jonathan Rowe,” City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, np
62 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 196
needed attention. To supporters, the private housing market would be necessary to any efforts that would alleviate the city’s severe housing conditions. The problem, for them, was speculation—not all private property sales, not all commodified housing. Even Councilmember Winter, who introduced the tax bill, toed this same line and announced that the private redevelopment of dilapidated housing could have a beneficial impact for the city at large. Such a standpoint that vilified speculation while endorsing the involvement of the private property market proved a complicated—and ultimately damaging—position (as it had in Ontario). This exemption undermined the ability of tax supporters to form a coherent narrative of speculation as unjust. Tax supporters never came to terms with the real question about what it would take to create a new set of property rights in which speculation was banned.

Supporters of the tax struggled with questions about what kinds of profits were justifiable—not whether housing should be profitable. At the hearing, Councilmember

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63 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, 60
Barry asked a realtor who was testifying against the bill if he thought the city ought to control profits.64 (He, not surprisingly, said no.) Barry also responded to a letter of opposition from the Metropolitan Board of Trade with questions about what the Board thought might be a “fair” profit on real-estate transactions.65 Though opponents to the bill made “sarcastic comments about ‘socialism’” and gave speeches about capitalism, free enterprise, and the “sanctity of private property rights” (Zeitz 1979:81), supporters of the bill—with the exception of Councilmember Moore and few others—did not outwardly portray the issue as one about the existing property regime, which is exactly what it was.

In City Council debates about speculation in the late 1970s, the private housing market was tenuously regarded as both a key contributor to the housing crisis and one of the only mechanisms that could provide a feasible way out of the crisis. There was significant wavering on the part of tax supporters about the need to both stop speculative real-estate activity and engage the real-estate industry in the expansion and repair of affordable housing.

By contrast, real-estate industry insiders understood what was at stake with the speculation tax and said things at the hearings like “there is nothing wrong with making profit” (The Washington Post 1975f) or regulating speculation is “like telling somebody he can’t invest in the stock market” (The Washington Post 1976c). Brian Logan, a Washington, D.C. realtor active in Capitol Hill and Adams Morgan, echoed this notion of

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64 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 194
65 Response letter to Joseph H. Riley, President of Metropolitan Board of Trade from Barry, dated June 30, 1975. See also: Letter from the Metropolitan Washington Board of Trade dated June 18, 1975 and letter from Judy Rogers, Special Assistant for Legislation to Marion Barry dated 16 May 1975 (George Washington University Gelman Library Special Collections, Greater Board of Trade, Box 373, Folder 10)
speculation as a natural and harmless practice when I asked him about his work in the 1970s:

_Brian (B):_ And you know, they were trying to make a special tax, a speculator’s tax on flipping and all that, ‘cuz they got upset that people were making money.

_Katie (K):_ What was that all about?\(^{66}\)

_B:_ Oh you know, because they said, ‘oh yeah, these people are flipping contracts and making all this money blah blah blah, we need a speculator’s tax.’ So, they tried to tax the profit out of us. I don’t know why they were doing it.

_K:_ You don’t know why they were doing it?

_B:_ Well, yeah, they were jealous that people were making money. I guess they were thinking, that well, they’re taking advantage of these older people or these (pause). I don’t know, who knows why they did it.

_K:_ Was there taking advantage?

_B:_ Well, I mean, one person would buy something for $10,000 and then sell it for $12,000. I don’t know. Is that taking advantage? I don’t know. Why didn’t the person offer it for $12,000 or hold it even longer, you know?\(^{67}\)

Another realtor active in the 1970s said something similar to present housing speculation and lucrative property markets as commonplace and innate in American society:

_When we look at the proposed legislation, the arguments for the proposed legislation are based on the speculators and the people who are really looking … to make a quick buck. Now, you can argue that that’s wrong, But you can also argue that that’s the American way. You know, I work with investors. I don’t sell anymore. I work with investors all the time. They have a right to make a living. And they have a right to make a profit._\(^{68}\)

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\(^{66}\) I did not admit in this interview that I knew about the speculation tax because I wanted to hear how Brian would describe it.

\(^{67}\) Interview with author, Washington, D.C., October 24, 2011

\(^{68}\) Interview with author, Washington, D.C., September 14, 2011
Opponents of the tax projected similar representations of profit seeking as intuitive, benign, and inevitable.

At the hearing Councilmember Moore was one of only two supporters of the tax who rallied against the entire real-estate system. Moore declared that housing for too long had been “left to the private market and the private market doesn’t give a damn about poor people.” Moore was explicit in his response to the DHCD director, Lorenzo Jacobs, who opposed the bill:

The old capitalist way of doing business just ain’t going to work no more. The great barbeque is over. The time that we could leave it to the private sector to do what they do, ain’t going to happen no more. And you just seeing the tip of the iceberg when you see it here in Washington, D.C. Now when you talk about investment in residential property in the District [becoming] even less attractive, good. …We are going to make it unprofitable for those who live in Miami and New York to keep boarded up houses in D.C. …I hope that you will work with us to come into a new social order, which says that Washington, D.C. is not going to let one speculator, if we can find it, destroy this City for their money.

A member of the task force said that housing was too vital to be left to people only interested in profits. These arguments, which pointed to the bigger question about whether someone’s right to sell a house for profit trumped someone’s right to have a decent and affordable place to stay, never gained much traction in the City Council room or the media. The majority of speculation tax supporters did not publicly take on the whole of the property regime or the capitalist principles that shaped its existence.

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69 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 19
70 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, pages 33-38
71 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 71
Realtors and other opponents of the speculation tax were able to discredit community organizers’ arguments about the need to curtail speculative profits in large part because of this ambivalent approach to property rights. Opponents of the tax suggested that few distinctions existed between speculators and other kinds of real-estate actors and, secondly, stressed the city’s dependency on the real-estate market for housing development. At the hearing opponents said that it was hard to draw a line between a speculator and the person who fixes up his house for a profit. The DHCD director said specifically, “When you say ‘the speculator,’ you see, I don’t know who you are talking about.”

A representative of the Washington Residential Development Corporation (WRDC), a new lobbying group formed to counter the speculation tax, responded to a question about his own activities with seeming unfamiliarity about what constitutes speculation: “I supposed I have speculated. If you mean that you buy something hoping to sell it at a higher price, yes, I have done that.” Here, speculation was framed as ordinary and unremarkable. In the media, a realtor who was known to flip houses said that a speculator was simply “a man who buys and sells for profit. That’s all it means” (The Washington Post 1976c). Bob Carr, a Washington, D.C. developer whose father Oliver Carr was one the city’s most successful developers, echoed this naturalized portrayal of speculation when I asked him in an interview about the speculation boom of the 1970s. He replied:

> Whenever there’s a big rush and increase in value there’s always opportunities to buy and flip, or take quick profits. And some people may buy land and expect to develop it. And somebody comes along and offers

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72 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 49
73 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 274
them a lot of money for it. Well, they’ll sell it to ‘em and take the profit and not build. So you know, there was some of that going on. You know, and some people who had more of an interest in, kind of, building and selling and taking the profit. But I wouldn’t say, to me, that typified that time. Although in any hot market…some people may do more short-term transactions. But [the 1970s] was kind of…a value fever, right. You could say that happened. But I wouldn’t say it distinguished that time. I mean, you know, there was also a lot of demand, a lot of excitement to do important projects that helped transform the city. So, you know, you could describe it in many ways.

As it was in Carr’s account, speculation was portrayed at City Council and in the late 1970s media as no different from any other kind of mundane and conventional capitalist practice.

One of the most common points made by opponents to the speculation tax bill was a kind of threat that a regulation on speculation would “virtually end” all private market housing investments and bring the restoration movement to a grinding halt (*The Washington Post* 1975b, 1976c). At the hearing the director of DHCD warned that the act “will frustrate the District’s efforts to massively engage private interests in rehabilitating the existing housing stock,” which was one of the government’s major policy objectives.75 A representative of WRDC cautioned that the speculation tax would “stifle” redevelopment and run developers out of town.76 Another WRDC member said later that year that the tax would in effect deprive “low- and moderate-income residents of their only means of purchasing a home,” negatively affect small minority businessmen, lower the employment rate for skilled and unskilled construction workers, and decrease the property tax base (*The Washington Post* 1975c, 1975e). The outcome, wrote a consultant

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74 Interview with author, Washington, D.C., October 5, 2011  
75 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 25  
76 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 249
Figure 8: Building and rehabbing resurgence (*The Washington Post* 1976h)
to the WRDC (who at the time was misleadingly identified only as a university
professor), “can only be housing abandonment and desertion of the city” (*The
Washington Post* 1975f). A newsletter from the local board of trade reiterated that the bill
would be “fatal” for the city’s real-estate development firms.77

As a result, a false choice emerged around the subject of speculation. The choice
(which is reminiscent of today’s gentrification debates) was housing development
through an unregulated housing market or no housing development at all. John O’Neil of
the Office and Apartment Building Association was explicit: “It’s not a choice between
houses for poor people and houses for rich people. It’s a choice between houses for rich
people or no houses at all” (quoted in Richards and Rowe 1977:55). An editorial in *The
Washington Post* (1975d) reinforced this set of choices:

> Are you haunted by the vision of slick operators who buy up whole blocks
of Capitol Hill or Adams-Morgan, turn the residents out into the street and
then, after a minimum of rehabilitation, sell for three or four times what
they paid? Or is your favorite specter a row of boarded-up houses waiting
to be destroyed by vandals—housing which, with proper incentive, could
be added to a diminishing supply?

A different version of this all-or-nothing perspective emerged in a letter to the editor of

*The Washington Post* (1976e):

> Your articles left me with the impression that The Post would rather see a
crime-ridden, rat-infested, dilapidated neighborhood where all the houses
are owned by absentee landlords who do nothing to improve living
conditions for people who have the misfortune to live in them, than to see
a revived interest in the city by whites who in former times would not
have been seen mixing with blacks on any level, much less living among
them.

Bill Takes Aim at Neighborhood Renovations” by Edward Stevenson (Washingtoniana Special Collections,
Martin Luther King, Jr. Public Library, Washington, D.C.)
The specific question about whether to regulate residential flipping so as to protect the city’s dwindling affordable housing stock and prevent displacement of low- and moderate-income residents was reframed as a much more general question about whether the city’s substandard housing stock should be repaired, a proposition with which few would have disagreed. In these portrayals of the housing crisis and its players, the private property regime and its inner workings of private property rights took on the guise of a largely untouchable black box. The possibility that the regulation of speculation or other kinds of property sales would not jeopardize the whole of a profit-making system of buying and selling homes—or, more radically, that housing need not be a profit-oriented business—was not seriously considered.

Rowe tried to unearth the shortcomings of opponents’ ideas in the *DC Gazette*. Saying that speculation helps restore the decaying housing stock, he wrote:

> is like saying a hurricane is good because it helps to water the grass. It is possible to clean up and fix neighborhoods without the inflationary profits going in other pockets of the speculators…and without disrupting whole communities. (*DC Gazette* 1975c)

It was a false proposition, in other words, to suggest that unregulated speculation or desperate housing conditions were the only options. There was a spectrum of possibilities between the hurricane of speculation and the drought of a deficient housing stock.

Although the speculation tax was a monumental foray into questions about how housing should be used, organized, and distributed in society, the tax failed to mobilize examinations of the full array of property relations that undergirded the speculative real-estate system. While they were willing to take on speculators, supporters did not publicly convey a coherent, counter-hegemonic, and spatial vision of how the city’s dire housing
stock could be repaired and expanded without heavy involvement by the rest of the real-estate industry. Commodified housing was one of two unresolved—and ultimately jeopardizing—issues in supporters’ public discussions about how to make a more just city.

The Problem of Ownership Power

Amongst most of the speculation tax’s supporters and opponents, there was vast agreement about the importance of homeownership to the city’s future. Supporters and opponents alike stressed the social and economic value of residential property ownership. Though they disagreed about who should be the owners of the city’s housing stock—wealthy newcomers or poorer long-term residents—they both propelled the vision of a social order in which homeownership was a dominant social relation. This consensus, which undercut supporters’ arguments about the need to curtail the kinds of property rights that allowed speculators to profit from the sale of homes, was costly for the speculation tax proposal.

Between November 1972 and August 1974, what happened to a house that was home to three black families—about 19 people—exemplified some of the racial politics of the city’s booming residential market. The house, which was owned by a white contractor and rented out to the three black families, was sold to a black minister for $13,000 cash. A few months later, the same house was re-listed for $65,000 and bought by a white, professionally employed couple that moved in, renovated, and within the year refinanced for $95,000 (Zeitz 1979). A cardboard sign taped to the window of a different
Washington, D.C. house that had been flipped in the city’s H Street Northeast corridor offered an explanation of what was happening (The Washington Post 1976d):

Black families who have paid to live on this st. for 30 years have been given 30 days to leave by whites who seek status of an in-town address: their status—our homes. I hate you white vultures and spend all my waking hours thinking how best to drive you away. You will get exactly what you deserve.

At the very moment that the city’s long-term population of black renters became eligible for federally backed mortgages and won protections against discrimination in leasing, affordability in the home ownership and rental markets disappeared. The federal government’s recent regulatory changes through the U.S. Housing Act of 1968 had come
too late. The segregation that racism had birthed was recreated by the displacement wrought by speculation.

At the June 1975 City Council hearing, community organizers and council members repeatedly expressed concerns about the incoming flux of white homeowners. They discussed fears about the city becoming full of “little Georgetowns” (The Washington Post 1975b).78 Supporters of the tax supported the goal of increased homeownership in the city but not in the way that would dismantle existing neighborhood communities. At the hearing real-estate developer Donald Boyle observed as much, “Everyone seems to be in favor of increasing housing ownership. The basic question is who is going to obtain that ownership”?79 Councilmember Clarke who represented the racially and economically diverse Adams Morgan and Mount Pleasant neighborhoods similarly said, “There remains the question of for whom rehabilitation is being done, the people who lived there or the newcomers” (The Washington Post 1975e).

Councilmember Winter provided a direct answer: “I am talking about the minorities in the District of this City owning a piece of the rock…I am not talking about bringing back people who live in the suburban areas.”80 Other council members agreed that the purpose of the speculation tax was to make housing more affordable for “the people who stuck it out,” the “poor black people” and “Spanish-speaking people” who “stayed there through

78 Georgetown, a wealthy neighborhood that used to be home to a large population of black working-class residents, underwent significant gentrification in the mid-20th century (Gale 1987).
79 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 105
80 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 59. She also that year opposed a moratorium on condominium conversions because condos could offer some of the city’s poorer black residents their first entrée to home ownership (The Washington Post 1975c).
the rats and roaches” all those years. Councilmember Douglas Moore was explicit: “I don’t intend to have old Black women put out in the street.” Gilda Warnick of the Anti-Speculation Task Force spoke directly about a number of families who had been displaced from their homes through flipping:

All of the people we have spoken of being hurt by speculation are black. All of the neighborhoods which are undergoing speculation are black… The racism inherent in speculation is but a part of the total picture of racially separate housing patterns throughout the City.

Another task force member read a list of individuals involved in speculation, all of whom she said were white. In letters to the media and in testimonies at City Council, city residents invoking ideas about racial justice pressed the Council—a group almost entirely composed of civil-rights activists—to pass the speculation tax to protect the interests of black homeowners and tenants (who might be future homeowners).

A young realtor name Donald Gray extolled the virtues of homeownership and voiced opposition to the tax on those same grounds. Gray began his testimony with a reminder that as a student at Howard University, he had participated in SNCC protests alongside Councilmember Barry before saying that the new speculation tax could knock out the newest entrants to the real-estate business, black realtors like himself. “While poor blacks and their white activist allies” came before the council “demanding action” against speculators, black entrepreneurs and middle-class residents like Gray demanded

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81 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 12 and 18
82 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 21
83 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 90
84 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 78
85 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38
“just as righteously” that the brand-new black elected council not take away the possibility of economic power that black residents had just “laboriously, and against great odds, won” (Richards and Rowe 1977:57). “Achieving economic power,” wrote two journalists, “was supposed to be the second phase of the civil rights movement” (Jaffee and Sherwood 1994:147-148). Beatrice Reed, the president of a black real-estate broker organization, explained at a local church event why black residents should oppose the speculation tax:

We blacks will never rule this city...until we own this city. That’s what power is all about—ownership. What I do is helping my brothers and sisters to own their homes. And until we all do that, the whites will control us. (quoted in Richards and Rowe 1977:58)

Black residents like Reed wanted to “no longer sit at lunch counters...[but] own lunch counters” (Jaffee and Sherwood 1994:150). Councilmember Barry reportedly said something similar several years earlier (which I cited earlier in discussion of the 1968 uprising): “When the city rebuilds the riot corridors...if you don’t let my black brothers control the process—and I mean all the way to owning the property—it might just get burned down again” (quoted in Jaffee and Sherwood 1994:86). In this view, any decision to regulate the residential real-estate market by the city’s first elected City Council could be seen as a decision to limit certain kinds of economic opportunities for the city’s remaining black residents.

At the hearing, the presence of “black profit seekers,” recounted Richards and Rowe (1977:60), made it difficult for members of the task force to express as much outrage as they might have had all of the perpetrators of the speculation wave been white. In fact, the WRDC—whose members were majority white—hired a black lobbyist for, it
seems, just this purpose. In recognition of these politics, some speculators claimed that their realty efforts were increasing home ownership for black residents and, therefore, laudable. Paul Duclos, a long-term realtor, said that 85 percent of his clients were black residents who otherwise would not have had the opportunity to own a house and that he was actively helping to redevelop vacant shells. A WRDC official likewise claimed that 90 percent of the coalition’s buyers in the past two years had been black residents and more than 70 percent of the properties sold had been vacant at the time of acquisition (Richards and Rowe 1977:58). The people who would be hurt by the speculation tax, these realtors alleged, would be the black residents of the city who wanted to become homeowners.

In these portrayals of the housing crisis and the city at large, homeownership took on the guise of the holy grail. The possibility that homeownership was not the best way to organize social relations was not considered—nor was the possibility that the property rights that undergirded homeownership for the incomers and speculators were not the same that secured tenure for the city’s low- and moderate-income homeowners. Homeownership remained a permanent fixture in the kind of city envisioned by supporters of the speculation tax. Not only was it justified as a vehicle for economic mobility, but also it was heralded as the only means to obtain a security of tenure.

In the speculation debates, there was not a clear narrative about how the private real-estate industry and homeownership should figure into any solutions to the housing crisis or who was responsible for the dire situation. One life-long Washington, D.C.

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86 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38
87 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38. Gerald Lustine of WRDC similarly estimated that “80 to 90% of privately redeveloped homes are purchased by blacks” (The Washington Post 1975c).
Figure 10: Ownership power (The Washington Post 1978a)
resident Mary Garner exemplified the ambiguous narrative about the housing crisis. When she was evicted from her rental apartment of 15 years at 443 15th Street Northeast, she told a reporter for *The Washington Post* (1976b) that she did not know whom to blame. “She does not blame her old landlord for selling to a developer,” the reporter wrote, “and she can understand why the developer bought in. She does not really resent the new owners who have appeared on the block; they buy what they can afford.” Had the Anti-Speculation Task Force succeeded with a message challenging ideas about property rights—not just legal ones—Garner might have known who or what was responsible for her predicament and been able to articulate a challenge to the hegemonic discourse about the capitalist property regime. Property rights might have been that which the Anti-Speculation Task Force sought to change, but it was also property rights in the form of homeownership that they sought to protect and expand for residents like Garner. Whereas black city residents had formerly not been able to move where they wanted or live in decent accommodations, they were now fighting to be able to stay where they wanted and become owners. The goal of homeownership for the city’s marginalized population may not have been antagonistic to the goal of curbing speculation, but this position necessitated a clear narrative about which property rights would trump other rights and why.

The first draft of the speculation tax bill was written to do two things. It sought to limit the capacity of property owners to flip their houses, and, second, it sought to expand the rights of tenants and low- and moderate-income homeowners to not be evicted or displaced. Property rights were both the things that supporters sought to dismantle as well as the things they sought to bolster. But changing property rights—which is what the
speculation tax sought to do—was a messy task that involved careful thinking about the relationship between housing and property. Supporters of the tax argued for the right to stay put, a kind of self-determination, while opponents argued for the right to flip, a different kind of self-determination. For the speculation tax supporters, property rights were invoked as something that poor people should have and something that wealthier people should have curtailed. But because homeownership and its associated property rights were mobilized as an economic vehicle by tax supporters, this contradiction was not confronted and no coherent story emerged on the part of tax supporters about which kind of property rights were just and which should organize residential spaces and resources in the city. Supporters did not propel a vision of exactly how the city would function if housing rights, like the right sell a property for as much as one wanted, were dismantled. When this happened, the possibility that Washington, D.C. would establish a right to a decent place to stay became a near impossibility.

Languishing for Three Years

In the three years after the June 1975 hearing, the speculation tax bill languished. Community support waned as dozens of other anti-displacement proposals came before the Council, many of which (ie, rent controls and an eviction moratorium) garnered more media attention than the speculation tax ever had (Richards and Rowe 1977). At the December 1975 hearing on the tax bill, the Task Force presented a map showing 500 speculative transactions and staged a mock eviction in front of the City Council building (The Washington Post 1975g). But within a year these mobilizations became rare.
For one thing, the Task Force was really “a committee of organization employees and leaders” (Richards and Rowe 1977:60). AMO was constituent-based, but the other neighborhood groups were largely United Fund-supported entities that had come out of the Model Cities era and never established broad community support or buy-in (Richards and Rowe 1977). And, several of the leaders of the task force in this black-majority city were white activists who were sometimes seen as contributing to the same processes of private urban renewal that they sought to prevent. The racial politics of the Task Force also raised questions about whether white radicals were really looking out for the black electorate when they sought to compromise the rise of a black real-estate industry (Richards and Rowe 1977).

Second, the Task Force adhered to a narrow strategy of legislative lobbying. Councilmember Clarke and tax reform researcher Rowe specifically expressed frustrations that popular pressure for the speculation tax had paled in comparison to the pressure applied by special interest groups who opposed it (DC Gazette 1978c). When the City Council failed to pass this tax in its first session, the Task Force’s efforts receded. While the Task Force’s technocratic approach made sense in the aftermath of the compromised rent control law and in the honeymoon years of the newly elected City Council of civil-rights activists, organizers of the Task Force never came up with a Plan B. When the City Council let the bill languish for three years, the energy of the Task Force seemed to fizzle (Reed 1981).

In 1976 and 1977, concerns surfaced that a speculation tax, which Clarke reintroduced, would not achieve its stated purposes. Despite its merits, the tax was a

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88 “Statement of Clarke regarding imminent increases in real-estate taxes,” by David Clarke, dated February 3, 1978, for City Council hearing (George Washington University, Gellman Library Special Collections, David Clark Personal Papers, Box 131)
defensive measure and not a housing policy (DC Gazette 1975d). It would not directly produce “one single housing unit,” a fact that opponents of the bill like the WRDC highlighted at hearings.\(^89\) The tax was proposed more as a regulatory measure than for its revenue-generating capacity though the hope, according to a lawyer who helped the City Council’s Committee on Revenue and Finance, was that the funds from the tax would be earmarked for home ownership assistance programs (The Washington Post 1976d).\(^90\) Dennis Gale, a professor of urban and regional planning at George Washington University who reviewed the proposed tax at the request of Rowe, was not optimistic that the tax could produce significant funds, let alone stop displacement.\(^91\) Gale was sympathetic to the aims of the tax—to slow speculation, minimize displacement, and maintain a supply of low and moderately priced homes and rental units—but he was not convinced that the tax could achieve such objectives: On one hand, the tax bill was trying to minimize dislocation; on the other, it was attempting to not discourage rehabilitation. The city, in Gale’s eyes, was walking a “shaky tightrope between several interest groups,” and the poorly designed speculation tax proposal was the casualty. There was little theoretical or empirical research on the subject of speculation taxes or its impact on the “rehab trend,” which did provide jobs and increase the tax base (Feagin 1986).\(^92\) It was hard to know what the effects of the proposed bill would be, but Gale predicted that

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\(^89\) Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 249

\(^90\) “Taxing the Real-estate Speculator in Washington, D.C.” by Carol Richards dated April 1976 (Dennis Gale Personal Letters, Gelman Library Special Collections, George Washington University, Series 2, Box 7; Folder 6). Analysis from Georgetown University Law Center’s Legislative Research Center estimated that $2 million could have been garnered in revenues had the speculation tax been applied to the flipping spree from 1972 to 1974.

\(^91\) “Observations on the Real Property Transaction Act of 1976” by Dennis Gale, dated 1976 November 30 (George Washington University, Gelman Library Special Collections, Dennis Gale, Series 2, Box 7, Folder 6)

\(^92\) “Public Interest Economics, January 1977: D.C. Proposed Land Speculation Tax, by Jonathan Rowe” (George Washington University, Gelman Library Special Collections, Dennis Gale, Series 2, Box 7, Folder 6)
the tax would slow speculation while increasing efforts to rapidly renovate houses. He guessed that renovations would increase if they were exempted from the tax, which is what he expected to happen. And it did. The WRDC made sure of it.

The actions of the WRDC, the new group of a hundred or so real-estate dealers, contributed in large part to the tax’s hibernation during the second half of 1975 and much of 1976 and 1977. At the June 1975 hearing on the tax, Gilda Warnick of the Anti-Speculation Task Force said:

Real-estate interests and speculators feel so threatened by this Bill that they have formed a coalition to fight it. Where are all of these people now? Why aren’t they on the witness list today? Few of them are on the list because they are afraid of looking like the money-grubbing manipulators that they are. They are so upset that they have offered to buy you [council members] off, if only this piece of legislation would be dropped…. We have it from reliable sources that this real-estate coalition has exerted tremendous pressure on other real-estate people who have not joined in. The coalition has even threatened to withdraw from doing business with those who fail to join. Imagine, all these shenanigans around a bill which we feel just barely addresses itself to unscrupulous real-estate practices! This real-estate coalition wrangled membership fees of up to $200.00 from each of its members to hire a high-powered, $75.00 per hour Black lobbyist for their cause. We cannot afford to hire a professional to represent our interests. So, instead, we would like to present to you this jar of pennies to put on your desk to remind you that we have been here today along with people from our City who are hurting.  

The WRDC did a number of things behind closed doors rather than on the record at City Council hearings. The WRDC met with council members outside hearings, circulated letters to homeowners in gentrifying areas urging them to testify against the legislation, secretly met with business leaders, won the sympathies of the local media, sought out a lawyer who had formerly worked for the city’s urban renewal-driven Redevelopment

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93 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, pages 91-92
Figure 11: Speculation tax makes headlines (The Washington Post 1976d)
Land Agency, and hired the Homer Hoyt Institute—a real-estate research center based at American University—to discredit a city-sponsored study that documented vast speculation in the city (Zeitz 1979). In its evaluation, which called the city’s study “erroneous and fallacious,” the Hoyt Institute argued that speculation was the result of high prices and high demand, not the cause. A professor of economics at the University of Hawaii who had been contracted by the city’s tax revision commission similarly came out against the speculation study. The study, “Facts about Real-estate Speculation,” was conducted by the City Council’s Committee on Finance and Revenue and published in fall 1975 as a follow-up to the first speculation tax hearing. Analysis found that between October 1972 and September 1974, speculation was happening in at least 16 out of 56 neighborhoods in the city; the majority of the recorded sales of row houses and semi-detached homes (69 percent) were clustered in just five neighborhoods (which were really tax assessment areas); and one-fifth of the recorded sales involved two or more exchanges of the same property. What was more telling was that 43 percent of all transactions involved gains of 80 percent or more (DC Gazette 1976a). During the study

94 Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38
95 “An evaluation of the study called ‘facts about real-estate speculation’” by Homer Hoyt Institute, dated December 15, 1975 (Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, Attachment B-3, incomplete copy)
96 “Housing Speculation and the ‘Transaction Excise,’” prepared for The D.C. Tax Revision Commission by Dr. Louis A. Rose, Department of Economics, University of Hawaii, 1977 (George Washington University, Gelman Library Special Collections, Dennis Gale, Series 2, Box 7, Folder 6)
97 “Facts about Real-estate Speculation,” Fall 1975, A report by the Committee on Finance and Revenue (City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, incomplete copy)
98 The boundaries of the five so-called neighborhoods used tax assessment areas set by the Department of Finance and Revenue and so did not easily align to traditional neighborhood lines. The first included parts of Duddington and eastern Capitol Hill. The second drew together parts of Dupont Circle, Logan Circle, Shaw, Adams Morgan, and Ledroit Park. The third bundled portions of northern Capitol Hill, Orleans Park, Arthur Capper, and Buzard’s Point. The fourth outlined upper 16th Street. The fifth was centered on Petworth. See “Facts about Real-estate Speculation,” Fall 1975, A report by the Committee on Finance and Revenue (City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, incomplete copy)
period the average price of a home in the city jumped 72 percent from roughly $28,000 to $48,000 while the median family income held steady.\footnote{“Facts about Real-estate Speculation,” Fall 1975, A report by the Committee on Finance and Revenue (City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, incomplete copy)}

In their efforts to kill the speculation bill, WRDC members tried to shift attention away from these figures about speculation. One tactic was to shine light on the flip-side problem of too little housing for poor residents (Zeitz 1979). Realtors like James Banks of the Washington Board of Realtors argued for hearings on “positive” programs that would build housing rather than “negative” or anti-development policies like the speculation tax.\footnote{Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 185} Though the WRDC eventually lost the battle of whether there would be a speculation tax in the city, they won the war of what that speculation tax would do.

The lasting legacy of WRDC’s efforts came in the shape of a specific amendment to the speculation tax bill. The original bill in 1975 did not include an exemption for someone who had fixed up her home and sold it for a profit. Neither did subsequent versions that were introduced in 1976 or 1977. But, the final iteration in 1978 did. The bill, whose tax rates ranged from 3 to 97 percent depending on the length of holding and the amount of profit, included a series of exemptions: The first 15 percent of profits from any sale was exempted. Any building that had four or more units was exempted. Any seller who sold less than three homes each year was exempted. And, crucially, the final speculation tax bill exempted renovated properties if the seller granted the buyer a one-year warranty on infrastructure like heating, plumbing, and electrical systems. A council member called this warranty loophole “one of the biggest sellouts” he had ever seen (Zeitz 1979:83). To Councilmember Moore this watered-down version of the bill ensured
Figure 12: Anti-speculation mobilization (The Washington Post 1978b)

that “homesellers and speculators who have done nothing more than put up a new coat of
paint will ‘warranty’ that all parts of the house are in good condition” when in fact they
are not (Moore 1978:182). The short-term warranty provision did not require that houses
be up to code or be inspected for structural problems. Speculators, thanks to this
loophole, could gamble that their houses would not need a repair during the warranty
period and proceed with their plans as if nothing in the law had changed (The Washington
Post 1979).

The sponsor for this new realtor-friendly amendment was Councilmember Barry,
whose talk about the need to limit profits in 1975 had transformed into, first, concerns
about “whether the city government should get into the business of regulating profits”
(The Washington Post 1976a) and, then, confidence that “the market will take care of
inflated prices” in housing (Moore 1978:161). Rowe explained what had been happening:
“Faced with the opposition of both the real-estate industry and the District’s Mayor, as
well as the hesitancy of fellow council members, Barry gradually modified the bill” to
eliminate the tax for instances of renovation. At the final committee meeting on the proposed amendment in January 1978, only Councilmembers Moore and Clarke voted against the inclusion of the warranty provision. Some, including Councilmember Moore (1978), attributed Barry’s change over the years to financial campaign contributions from realtors who had persuaded him “to soften the bill and allow them to keep reaping huge profits” (Jaffee and Sherwood 1994:106). Councilmember Moore (1978:163) specifically claimed that the real-estate industry funneled $5,750 and $8,250 to Barry in March 1977 and January 1978, respectively, to ensure the inclusion of the so-called “rehab loophole.”

In his book, *The Buying and Selling of the D.C. Council*, about city politics, Councilmember Moore (1978:177) described the scene at City Council when the warranty exemption was temporarily written out of the draft bill in February 1978: There was “great agitation of the rich contributing speculators who were sitting in the back of the Council Chambers. I could see them from the dais and they had a fit! They passed notes up to ‘their’ representatives to do something to get the ‘loophole’ back in,” which worked. The speculation tax—with the warranty exemption—was adopted by the City Council in February 1978, signed by the Mayor in April 1978, submitted to Congress for two months of review in May (as all city laws must be), and, finally, turned into law in July of 1978.

Washington, D.C.’s speculation tax did next to nothing. It was a total flop in two key regards. It was poorly written with, first, the warranty exemption, which meant that a seller could avoid paying the tax by doing small renovations to a house and putting a

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101 Public Interest Economics, January 1977: D.C. Proposed Land Speculation Tax, by Jonathan Rowe” (George Washington University, Gelman Library Special Collections, Dennis Gale, Series 2, Box 7, Folder 6). Some attributed Barry’s decision to finally bring the bill to a vote in his committee to his political ambitions. After years of inaction, his committee voted just days before he announced his run for mayor (*DC Gazette* 1978b).
warranty on them, and, second, a clause that allowed speculators to avoid the tax by setting up a private corporation to handle the sale of individual properties (The Washington Post 1981a). Only seven people paid it, and, of that group, one was refunded. An analyst who handled the tax for the city tax assessor’s office was dramatic: “The whole thing is just a big joke…Nobody pays the tax because by law they don’t have to” (The Washington Post 1981a).

The law, however weak, was also never adequately enforced. A governmental Inter-Agency Task Force to investigate the tax’s failed implementation found in 1979 that

the people whom this Law affects by and large have either no knowledge of its existence or are totally misinformed as to its effect… The task force urges the Executive to institute as soon as practical a public awareness campaign to inform the public of the Law, its scope and its effects.103

An interview with a D.C. Councilmember at the time confirmed this resistance:

See, I don’t think the speculation tax itself was ever enforced… Yeah, I don’t think they ever did. I don’t think they ever did collect money… Yeah, I know we never tried to enforce the tax … I spent my time organizing people to buy these properties.104

The original supporters of the tax, such as the Anti-Speculation Task Force, had “considered it the responsibility of the city government to publicize and monitor the effectiveness of each program”—not their responsibility (Paige and Reuss 1983:62). In late 1979, Mayor Marion Barry in a half-hearted attempt assigned one employee to

102 Many buyers of properties that had been exempted from the tax through the warranty loophole were forced to go to court against their sellers when the sellers failed to honor their warranties of habitability, as they often did (Paige and Reuss 1983).
103 “Inter-Agency Task Force to Implement the Residential Real Property Transfer Excise Tax” by the District of Columbia Government for Mayor Marion Barry, dated March 5, 1979 (George Washington University, Gellman Library Special Collections, David Clark, Box 131)
104 Interview with author, Washington, D.C., November 21, 2011
oversee collection of the tax, which in its first years garnered somewhere between $2,000 and $10,146 in revenues though the cost of administering the tax stretched to $66,000 (The Washington Post 1981b).

The law, according to the general counsel to the city’s office of consumer production, was “a total sham” (The Washington Post 1981b). Less than two years after the tax went into effect, The Washington Post ran an editorial that condemned it (The Washington Post 1979). In November 1981, after several intense days of lobbying by real-estate executives and housing developers, the City Council voted to end the city’s short-lived affair with a speculation tax (The Washington Post 1981d). Even Councilmember Winter, who had first introduced the bill, voted against its extension. (Such drastic switches provoked Councilmember Wilson to publicly accuse his colleagues of selling their votes to real-estate brokers.) According to an editorial in The Washington Post (1981e), the speculation tax killed by the City Council “deserved to die.” The speculation tax, which began as a radical solution to the city’s housing crisis, was an empty promise by the time it finally arrived. The city’s and the City Council’s progressive views on civil rights were not met with progressive views on property ownership, the real-estate industry, urban development, or, as a result, housing rights. The speculation tax, designed to counteract the pressures of the private property market, became a signal of its hegemony.

Conclusions
This chapter makes two contributions to scholarship on housing rights. By exploring some of the political discourses through which hegemonic property rights were made to
endure in Washington, D.C. in the late 1970s, this chapter shows how property rights can function as barriers to housing rights in unexpected ways. Many residents of Washington, D.C. mobilized to confront and stop speculation in the late 1970s. But few residents sought to do the same thing with the larger set of property relations and rights that undergirded speculative activity in the residential property market because property rights offered things that no other social relations did. At the same time that property rights facilitated speculation, they gave way to housing development, tenure security, economic wealth, and racial justice. This diversity of form seemed to strengthen the hegemony of the existing property rights rather than undermine it. The legitimacy of the property regime—and the impossibility of housing justice—seem to have been safeguarded through the property rights that offered small advances in the name of progress. As scholars have argued, such wins within the system—the extension of homeownership loans to black residents or the creation of a black real-estate industry—may be futile for the project of housing justice. This chapter goes a step further to suggest that such re-appropriations of property rights and multiple functions of property—rather than creating possibilities for housing rights—may act as serious barriers to them. This conclusion suggests housing rights scholarship would benefit from a research agenda that considers the antagonisms of property rights and housing rights alongside property pluralities. This case study also raises questions about whether property rights are really as unstable and changeable as some scholars suggest. In this case, property rights seemed to be extensively and securely spliced into dominant, as well as counter-hegemonic goals, ideas, and discourses.
This chapter contributes to understandings of contemporary governance by demonstrating the utility of policyfailing as a conceptual tool. By examining the everyday discourses in the speculation debates, I show how the failing of the speculation tax was the ongoing failing of discursive formations. The speculation tax was not a failure because of internal contradictions or the actions of one policymaker. The tax was made to fail through debates in which supporters of the tax struggled to move outside of the hegemonic property discourse. The ideologies about homeownership, profits, and urban investments proved to be stumbling blocks. Critical policy studies offer a foundation for studies of policyfailing, but the field would benefit from a refining of the idea to include the drawn-out processes and discourses through which policies come to fail.
Chapter 5: The People’s Right to Shelter

There was a lot of compassion with people. People really cared about people not dying on the streets.

—A CCNV member describing the Right to Shelter campaign

My office tried many times to put that [homeless shelter] into a development mode to use the value of that site... Sell that site to a developer to build. Take the funds from that to build a shelter [somewhere else].... To me that is a prime property that has a major value to it, and therefore could very well be used as a way of building a state of the art homeless, you know, shelter. Look, the city and other jurisdictions build prisons where they want to, and what I’m trying to say is you take that value, find a tract of land, and you build vertical. You know, you go up, and/or by going all the way out, you can accommodate recreation in vertical structures. And that was an idea we had. Sell that land.

—A former city official responsible for planning

In this chapter I argue that contests over a right to shelter were conflicts about the management, treatment, and distribution of property. I show how the first popularly legislated right to shelter in the U.S., which lasted six years, posed a direct challenge to the Washington, D.C. city government’s urban development agenda and its property practices. I first review U.S. histories of homelessness and homelessness legislation and litigation. Then I present the context in which the right to shelter became a popular initiative and the group that spearheaded the initiative’s campaign, the Community for Creative Non-Violence (CCNV). The bulk of this chapter follows how the city government undertook a vigorous campaign to make the right to shelter fail. I demonstrate how the right to shelter called into question the newfound ability of the city

105 Interview with author, Washington, D.C., March 26, 2011
106 Interview with author, Washington, D.C., November 22, 2011
government to direct and invest in downtown development and, to a lesser extent, to support the creation of a black real-estate industry. To conclude, I argue that an understanding of the city government’s multiple property practices is necessary to understand how the right to shelter was made to fail and why the right to shelter’s failing reinforced in Washington, D.C. in the 1980s the market value rather than the human use value of property.

**Introduction**

In Spring 1984 about 200 or so local residents began collecting signatures for a petition to put a question about whether the Washington, D.C. city government must provide public shelters onto the November 1984 ballot (Rader 1986). “We look to the people,” explained CCNV, “not to the government, for just and moral leadership. In reality, it is the people who must declare shelter a right, politically, philosophically, programmatically, and legally.” The proposed initiative would grant each individual the right to shelter for 12 hours for every night of the year. Shelter was a human need, supporters declared: “Something is terribly wrong when it is against the law to leave pets outdoors in sub-freezing temperatures (as it is in Baltimore), but human beings are not afforded the same level of protection.” A right to shelter, a member of CCNV wrote in *The Washington Post*, was the “just and necessary thing to do” (Bogard 2003:133).

More than 32,000 people seemed to agree and signed the petition for the right to shelter initiative (called Initiative 17) (*The Washington Post* 1986). It was almost a third

107 CCNV Flyer: “Vote Yes Initiative 17: Shelter the Homeless” (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13)
108 CCNV Flyer: “Vote Yes Initiative 17: Shelter the Homeless” (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13)
more than was needed and the largest number of signatures for any voter initiative in the city’s history (*The GW Advocate* 1985). Even the city’s mayor, Marion Barry, signed the petition, showing his initial support (*The Washington Times* 1984). When five voter application cards from homeless residents were rejected during the petition drive, CCNV’s allies sued, won, and made Washington, D.C. the first jurisdiction in the country to guarantee homeless residents the right to vote (*The New York Times* 1984b). By any measure, the petition drive for Initiative 17 was an overwhelming success.


For almost a decade before the right to shelter campaign, CCNV had been raising awareness about the plight of the country’s hungry and homeless residents. Ed Guinan, a clergyman at George Washington University who had been influenced by the radical

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109 George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 4, Folder 10 and Box 3, Folder 2
Figure 13: CCNV protest 1980 (Washingtoniana Special Collection, MLK Public Library, Washington, D.C.)
Catholic leaders Phil and Dan Berrigan, started CCNV in Washington, D.C. in the late 1960s. As an intentional community of people committed to nonviolence, political protest, service, and a life of simplicity without wealth, CCNV members originally focused on the global injustices of the Vietnam War and nuclear proliferation (Rader 1986; Elwell 2008). In the mid-1970s they turned to local issues and started a soup kitchen, a free health clinic, and pre-trial services program for marginalized city residents (Rader 1986). To get their message heard and goals met, this group of Catholic anarchists, which was led by Guinan, Mary Ellen Hombs, Carol Fennelly, Mitch Snyder, and Harold Moss, employed civil disobedience, embraced confrontational tactics, and engaged creative strategies like publicly thanking church leaders for agreeing to do something that the church leaders clearly had not agreed to do—a strategy that made it difficult for the church leaders to back down.

In the early 1980s CCNV’s energies shifted from low-income, long-term housing and communal property rights to basic emergency shelter and individual shelter rights. In the late 1970s CCNV had demanded that the city’s 5,000 or so abandoned houses be put to use as long-term housing for the roughly 77,000 city residents without a decent place to stay (The Washington Post 1976f; Mother Earth News 1978). CCNV had insisted that vacant apartment buildings in Washington, D.C. be opened for the swelling bloc of evicted tenants, which numbered 10,000 in 1975 alone (The Washington Post 1976f): “Does it bother you that many people in this city are homeless or in substandard

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110 George Washington University, Gelman Library Special Collections, Mitch Snyder Personal Papers, Box 6, Folder 6
housing, while these buildings stand idle and empty?” A poster for CCNV’s Columbia Heights Community Ownership Project, explained this project:

Those who do not control the land they live on will always be slaves to profit-making speculation and development. When the occupants of land and shelter cooperatively control its destiny, this common stewardship through a neighborhood land trust means a home and a neighborhood that cannot be taken away. The land is not a commodity to be bought and sold, or profited by, but a community to which all people belong. It is to be respected and used as needed, with wisdom and concern for those with whom we share it now and in the future.

CCNV managed to create the country’s first urban land trust through this project, but it met “stiff opposition” and, in response, narrowed its goals from creating a new arrangement of housing to responding to the immediate needs of the city’s growing homeless population (Bogard 2003:17). This narrower focus was a spatial shift from abandoned houses and apartment buildings to large vacant city owned and federally held properties. Snyder explained this turning point to CCNV ethnographer Victoria Rader:

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111 “CCNV Pamphlet” (George Washington University, Gelman Library Special Collections, Mitch Snyder Personal Papers, Box 6, Folder 6)
112 “Columbia Heights Community Ownership Project Poster” (International Institute of Social History online archives)
113 In 1976 CCNV staged a sit-in at a rat-infested, run-down, apartment building in the Columbia Heights neighborhood to convince the city government to grant their land trust the rights to the property (The Washington Post 1976f). CCNV members wanted to use the building, which had been vacant for nine years, to offer overnight accommodations and eventually long-term affordable housing. They submitted a thousand-person petition and pledged to renovate the building with their own labor and thousands of dollars of their own money, as they had done with other houses in the neighborhood (The Washington Post 1976f). City officials resisted for several months and said they could not release the property under conditions that would bring in “less than the fair re-use appraisal value” (The Washington Post 1976f). Eventually, the officials relented and granted the activists the rights to occupancy. But less than two years later, after CCNV members poured thousands of hours of labor and money into renovations, the city government reversed course. Officials evicted the organizers and demolished the building, citing unsafe conditions.
I was outside freezing and getting covered with snow. I walked past a building downtown that was lighted and heated. Right in front of my eyes was this lobby large enough for a thousand people, and one guard was sitting there in the middle of it who would tell me to get out and arrest me if I tried to come in. That’s when the contradiction comes slamming down on your head—it’s really a crushing realization because it’s absolutely irrational (quoted in Rader 1986:201).

The city government had a responsibility, CCNV reasoned, to use its public properties to shelter the homeless population (Bogard 2003). To press local officials to open public shelters in vacant school buildings, CCNV began to use street vigils, political theater, and acts of “disruptive mischief” (Hopper 2003:178). (Suburbanization and mass outmigration had downsized the school-age population and emptied many of the public school buildings). They had some luck with pressing the city government to open the city’s first public shelters. But when the city government began to close the over-filled shelters and CCNV members failed to stop it, CCNV tried something new. CCNV went to the voters with an initiative to create a legal right to shelter.

On Tuesday, November 6, 1984, as voters across the country went to the polls to re-elect President Reagan, voters in Washington, D.C. approved CCNV’s right to shelter initiative with a strong show of support: 72 percent. Initiative 17 made Washington, D.C. one of the first jurisdictions in the country to legislate a right to shelter and so far the only one to do so by popular initiative (Greenberger et al 1993; Roisman 1991). In March 1985, when the D.C. Right to Overnight Shelter Act (D.C. Law 5-146) went into effect, a decent place to sleep was supposed to be available to anyone in the city who needed it (Williams et al 1993).

But that did not happen. Shelters were routinely overfilled and routinely turned away residents. When shelter spaces were available, residents were often subject to
beatings, rats, lice, scabies, and other diseases from blankets caked in blood, pus, and vomit (Williams et al 1993). Many homeless residents felt safer and cleaner on the streets than in these “virtual hell-holes” (Williams et al 1993:57). The public shelters, which had sought to ease the experience of homelessness, created problems “at least as bad as those they were meant to resolve” (Williams et al 1993:57). The voter-created law “seemed to make little difference to homeless people” who were caught between the booming private property market and the inadequate public shelter system (Greenberger et al 1993:47). In 1990 the D.C. City Council repealed the right to shelter, and a citywide voter referendum failed to reinstate it. The effects of the right to shelter, which was supposed to be a compassionate response to the housing crisis, “were barely detectable” (The Washington City Paper 1989).

CCNV succeeded in making a new legal right in Washington, D.C. in the 1980s. What it could not do was convince the city government to recognize and respect the new right. The campaign for a right to shelter posed a direct challenge to the city government’s property practices of downtown development, selling property assets to balance its budget, and, to a lesser extent, supporting up-and-coming black developers in the real-estate industry. The obligations and entitlements that the right to shelter necessitated clashed with the city government’s existing property practices, patterns, decisions, and relations. Though the right to shelter was limited to 12 hours per night and not set to a specific piece of landed property, it was a guarantee of access to space—though not a specific space—from which one could exclude others. Homeless residents could make claims for space under a right to shelter, and the city government had the
obligation to recognize them. But, in this case, the city government refused. Over a six-year period, the Washington, D.C. city government made the right to shelter fail.

**Defining Homelessness**

Homelessness, long a subject of geographic research, is traditionally defined as an individual condition of not having regular access to shelter or housing and portrayed as an individual experience of extreme poverty (Amster 2004; Cloke et al. 2010; Cresswell 2001; DeVerteuil 2003; Erickson and Wilhelm 1986; Hopper 2003; Klodawksy and Blomley 2009, 2010; Mair 1986; May 2000; Takahashi 1996; Wolch and Dear 1993; Wolch 1991; Wolch and Dear 1994). This notion of homelessness as an individual experience became popularized through the 1960s’ culture of poverty thesis and the public policy argument that poverty and homelessness were issues of “correctible misconduct on some bad person’s part” (Michelman 1970:215). Homelessness, in this light, was as “an unfortunate by-product of an allegedly well functioning social system” (Hopper and Cox 1986:313). Anthropologist Kim Hopper (2003:46, quoted in Mitchell 2011) explained:

> So long as the appearance of unusual numbers of homeless men (in addition to the accepted residuum of ‘unemployables’) can be framed as a temporary aberration, the fiction can be maintained that homelessness signifies nothing other than deranged mentalities, bad habits, or faulty coping skills of those whom it affects.

This approach located the problem of homelessness within the individuals who experience it—rather than the larger social structures and conditions that produce it.

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114 Here, I let the city government stand as an abstract whole. Generally, the decision-makers in the city government over the six-year period worked to make the right to shelter fail.
Although critical researchers have sought to counter the culture of poverty’s exclusive focus on agency and experience, much of the research on homelessness since the 1980s has overlooked the social conditions and larger political-economic structures that shape the distribution and production of homelessness (but see Blomley 2009; Mitchell 2003; Murphy 2009; Smith 1992).

When homelessness is understood as an individual condition, it cannot be examined, as it should be, as a dynamic set of social and spatial relations that shape the lives of those who are housed as much as it shapes and is shaped by the lives of those who are un-housed. This is not to say that studies of individual and varied experiences of being without a home are not important or necessary. It is just that these studies are not by themselves sufficient for understanding the relationship between homelessness and the urban landscape (but see DeVerteuil et al 2009 for a problematic argument about why homelessness should only be studied as an individual condition). Questions about “who the homeless are” (Mitchell 2011:934) are not adequate replacements for questions about how the contemporary cities of homelessness are made and re-made, be it through practices, materialities, or ideologies. Research into some of the historic contexts, structural conditions, and broad implications of homelessness is no substitute for research into how homeless people live—but it is at the same time in no way expendable. There are “collective consequences” for a socioeconomic order that maintains a population of people who lack a safe place to sleep (Blomley 2009:583). For this study, I rely on descriptions of homelessness as a condition of a society in which a large number of people have no decent place to sleep or live. This broader definition of homelessness as a
societal condition, which a number of other scholars have used (e.g., Hopper 2003; Marcuse 1988; Mitchell 2011; Smith 1992), tries to get at these collective dynamics.

Just as privilege and poverty are co-produced (see Lawson et al. 2008), so are homelessness and physical houses and apartments, social relations around housing, and housing ideologies. Homelessness is not a static condition of material deprivation but like poverty is a “dynamic historically and geographically contingent process” in which space, materials, and power are unevenly distributed (Maskovsky 2002:16). Homelessness is not caused by scarcity. In a world of plenty, resources like housing materials or space are not scarce but poorly distributed (see Blau 1992 for a history of different periods). Homelessness, like poverty, is something that affects us all (see O’Connor 2001). And it may, according to Peter Marcuse (1988), not just affect us all but be a necessary condition for a capitalist society. The dynamics that shape how people fail to secure regular access to housing are wrapped up in the dynamics that shape how other people maintain regular access to housing. Housing, political, and economic systems may depend on the existence of homelessness. The social conditions that create homelessness may help to create a population whose labor is vulnerable to the exploitation of capitalism.

Questions about how exactly the distribution of housing, space, and power has remained so uneven at different historical periods has led researchers to study the intersections between homelessness and property rights (see Baron 2004a, 2004b; Blomley 2009; Mitchell 2003; Staeheli and Mitchell 2008; Thompson 1975; Waldron 1993). One of the benefits of the broader definition of homelessness—which encompasses the sets of discourses, practices, and historic contexts that give form to and
are shaped by the individual experiences of homelessness—is that it helps us think about how homelessness is in part produced, regulated, and legitimized through property rights and the routine workings of the property regime. Property rights do not always cause homelessness, Blomley (2009) had argued, but property rights may be a critical component of a socioeconomic order that produces, manages, and maintains homelessness, an issue I consider in this chapter.

**Homelessness in the U.S.**

Homelessness was nothing new in the U.S. when it surged in the 1980s (see Kusmer 2003). Its face, however, was changing (see Blau 1992; Hopper 2003; Mitchell 2011 for contemporary histories). The patterns of homelessness in the preindustrial, early industrial, initial colonization, and heyday of industrialization periods were notably different from that of the deindustrializing late 20th century (Blau 1992). In this “fifth period” there was no correlation between decreases in mass unemployment and decreases in homelessness (Blau 1992). Homeless populations in the preceding period were largely made up of socially isolated, white, elderly men who were often alcoholic, minimally employed, or unemployable altogether (Mitchell 2011). It was the period of skid row, single resident occupancies, missions, and lodging houses. In the 1980s, however, the homeless population included more women, children, younger men, people of color, mentally ill persons, and rural residents (Blau 1992). A shrinking housing supply, escalating interest rates, downward trends in real wages, labor market restructuring, social welfare cutbacks, deinstitutionalization, decline in social networks, demographic shifts like an increase in the number of households countrywide, and urban development
projects that destroyed affordable housing in the private market diversified the population of people who struggled to find a decent place to stay and increased their numbers dramatically (Rosenthal and Foscarinis 1986; Foscarinis 1991). More people in the U.S. were homeless in the 1980s than at any other time since the Great Depression (Foscarinis 1991). For roughly 3 million people, housing was no longer “a procurable good” (Hopper and Hamberg 1986:14).

The representation of homelessness as an individual condition helped to shape how U.S. policymakers responded to a new surge of unsheltered residents in the early 1980s. Instead of failures in the welfare system (ie, failures to shelter all individuals) being seen as failures of the larger economy, the problems of the economy were seen as problems of the welfare system (Kodras 1997:73). When President Reagan began the War on the War on Poverty, his administration slashed in half funds for cities and social services (Katz 1995). Although less than 4 percent of the federal budget at the time helped the poor, 60 percent of the 1981 budget cuts were made against programs that helped the poor (Kodras 1997). Waitlists for federal housing assistance averaged two years, and more than two-thirds of U.S. cities closed the waitlists altogether (Foscarinis 1991). By the end of the decade some federal housing programs had budget cuts of more than 75 percent (Foscarinis 1991). What remained was a series of small, individual-level aids that were somehow intended to revive depressed communities and to survive the large-scale public policies that disinvested in poor places (O’Connor 2008).

In the 1980s shelter bed capacity tripled nationwide, but shelter services were still only available for half of the people who needed them (Burt and Cohen 1989). Part of the problem was that there were few publicly funded or coordinated shelters, which meant
Figure 14: CCNV protest circa 1984 (StreetSense 2013)
that shelter services were left largely to charities (Langdon and Kass 1985). (In the early 1980s, in fact, 94 percent of shelters were privately run.) Five of the country’s ten largest cities—Baltimore, Phoenix, Houston, Dallas, and San Diego—for instance, had no public shelters at all (Langdon and Kass 1985). In cities largely served by private shelters, the provision of services could be highly uneven at different times of the year and in different areas of the city.

As a defense of this inaction, the executive branch, legislative branch, and federal agencies generally denied that homelessness existed or said that when it did exist, it was by choice and did not merit government assistance (Rosenthal and Foscarinis 1986). A director at the U.S. Department of Housing and Urban Development said in a public speech “no one is living on the streets” (Hopper and Cox 1986:315). A Reagan administration official said that people who could otherwise afford meals went to soup kitchens to take advantage of the free lunches (Foscarinis 1991:1234). And the director of the federal Office of Budget and Management said, “I don’t think people are entitled to services. I don’t believe that there is an entitlement, any basic right to legal services or any other kind of services…I don’t accept that equality is a moral principle.”

The rationale for policies that decreased support for unsheltered and poor populations came out of the Reagan administration’s individualism and so-called market fundamentalism in which the social contracts of the New Deal and Great Society were replaced by a Do It Yourself dogma (Bratt et al 2006).

When the federal government finally acknowledged homelessness, it was treated as a temporary aberration—not a predictable result of the country’s economic and social

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115 CCNV pamphlet (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 4, Folder 10)
policies. The first funds allocated to create homeless shelters in 1983, for instance, were appropriated for emergency relief through the Federal Emergency Management Agency (Langdon and Kass 1985). The funds were not scheduled for renewal or connected programmatically to housing policies, labor policies, or decisions about property relations. A program in 1983 that allowed unused federal building to be used as emergency shelters—a program that CCNV helped to create and later benefited from—was employed by only a handful of cities (Rader 1986). This antipathy on the part of legislators and policymakers helped to explain why the courts in the 1980s were seen as the more progressive space to address the needs of the country’s growing homeless population.

**Right to Shelter Litigation in the U.S.**

Through the threat of litigation New York City became the first jurisdiction in the country to recognize state responsibility for shelter (Williams et al 1993; Hartman 2006). A class action lawsuit, *Callahan v. Carey*, in October 1979 that relied on a clause in the state’s 1938 constitution forced the city’s mayor and New York’s governor to provide shelter for the 10,000 or so homeless men in the city. Before the lawsuit there were 1,750 shelter beds in the city (Langdon and Kass 1985). In 1985, though the number of homeless residents in the city was estimated at 36,000, the number of shelter spaces had grown to only 7,000 (Langdon and Kass 1985). The lawyers who brought this case, the most prominent of which went on to found the National Coalition for the Homeless, went back to court more than 30 times on problems of compliance, like the availability of working showers and toilets in public shelters, before the decade was out (Langdon and
City officials slowly opened abandoned public schools and other derelict buildings to meet the requirements of the court-ordered right to shelter. They treated the shelter mandate as a temporary law, delaying anything beyond the most minimal investments in shelter facilities (Hopper and Cox 1986; Langdon and Kass 1985). The right to shelter lawsuit demanded that human beings must be guaranteed a safe place to sleep, but it also laid groundwork for orderly and repeated confrontations with city officials when they failed to respond to shelter mandates. In 1996, for instance, the New York City government was fined $1 million after a court found 254 people in public shelters sleeping on chairs (Hartman 2006). Legislation, like New York City’s, created a “property interest” or entitlement that could not be taken away without due process (Langdon and Kass 1985).

In the early 1980s several jurisdictions followed New York City’s footsteps and affirmed a right to shelter. A state court in West Virginia recognized a right to shelter based on the idea that homeless people qualify as “incapacitated” adults who required state assistance (Langdon and Kass 1985). Los Angeles County in California, the counties of Orange, Westchester, and Dutchess in New York, and Atlantic City, New Jersey also affirmed through litigation a right to shelter (Langdon and Kass 1985). The city of Philadelphia and the state of Massachusetts had added a right to shelter in the early 1980s, too, but they did so through the rarer route of legislation (see Roisman 1991).  

“Without question, litigation” in the 1980s “proved to be an effective means of securing emergency relief” (Hopper and Cox 1986:313). But it was still a patchwork remedy. Existing constitutional theories and statues had not offered a strong basis for

116 The right to shelter legislation in Philadelphia was repealed within a decade (Roisman 1991).
asserting that there is a right to shelter (see Harris 2004; Hartman 1984; Michelman 1970). A 1972 decision by the U.S. Supreme Court was explicit: “We are unable to perceive in that document any constitutional guarantee of access to dwellings of a particular quality” (Lindsey v. Normet 405 U.S. 56, quoted in Langdon and Kass 1985:324).

**Selling Shelters in Washington, D.C.**

At the end of April in 1980, Mayor Marion Barry announced that three of the handful of public homeless shelters in Washington, D.C. would close in the next four days (Martinez 1992; Rader 1986). Even though the shelters were regularly filled, budget shortfalls were forcing him, he said, to cut the services and sell the buildings to private developers (*The Washington Post* 1980b). Almost immediately, CCNV filed suit and demanded that the city government prioritize the basic needs of its unsheltered residents and cut support for other projects, like downtown redevelopment (Williams et al 1993). CCNV’s lawyers argued in court that the city government could not legally close and sell its shelters without making replacement spaces available elsewhere. Shelter benefits, they claimed, constituted a kind of property right that could not be taken away without due process and some kind of compensation (Williams et al 1993). And, they argued, the city government was obligated to not sell its public property when residents needed basic human resources like shelter.

The court disagreed with the bulk of these arguments. The court said that the city government’s property practices—the decision to liquidate property assets—was not a subject for judicial review:
Considering the purely political nature of the shelter closing decision, and that the fact that there are no requirements, statutory or otherwise, which the District’s ultimate decision can be measured against, this court agrees with the defendants that the only review that can be possibly conducted is a review to ensure that the District followed the proper procedures. (quoted in Langdon and Kass 1985:324)

The city government could legally do what it wanted with its land and buildings, even if that meant closing and selling in-use public shelters. The court also said that there were no legal grounds for the Washington, D.C. government to guarantee overnight shelter. One federal trial judge said: “the government assumes no obligation to house and feed indigent people” (quoted in The Washington Post 1980b). Another federal judge on the D.C. Circuit Court of Appeals agreed: “[n]o one has plausibly maintained that there is a constitutional or other legal right to city-provided shelter” (quoted in Langdon and Kass 1985:324). The courts said that the city government had indeed created an entitlement to shelter for residents already staying in public shelters but that this entitlement was not a permanent one (Williams et al 1993). Providing shelter to some people some of the time does not require the city government to always provide shelter to everyone. There was a legal basis not to lose one’s existing overnight shelter without reasonable notice or due process, which the city government in this case had violated; it had not given residents the opportunity to review and comment on proposed benefit changes (Langdon and Kass 1985; Martinez 1992; Sherburne 1989; Williams et al 1993). There was not, however, a legal basis for city residents to always be offered overnight shelter.

It was this legal defeat that marked the beginning of CCNV’s campaign for a right to shelter. The courts had not said that the guarantee of overnight shelter would be
Right to Shelter Timeline

January 1978  First public shelters open in Washington, D.C.

April 1980  **Mayor Barry announces that 3 shelters will close within 4 days; CCNV files suit arguing that there is a right to shelter; court disagrees**

Fall 1983  D.C. Board of Elections and Ethics approves circulation of CCNV’s petition to get the question of shelter rights on the November 1984 ballot (called Initiative 17)

Summer 1984  Mayor Barry and 32,000 people sign the petition for Initiative 17

October 1984  D.C. government files suit to block Initiative 17 from the ballot; they lose and lose an appeal

November 6, 1984  **Initiative 17 passes by a 3-to-1 margin**

January 1985  D.C. government files another suit to invalidate the right to shelter

March 1985  A right to shelter becomes law

July 1985  A court, agreeing with D.C. government’s claim, invalidates the right to shelter

May 1986  CCNV wins an appeal of the court’s decision and the right to shelter is reinstated

Fall 1988  CCNV unsuccessfully sues to stop D.C. government from selling public, but successfully sues to force D.C. government into compliance over the quantity and quality of shelters

January 1989  A court orders sweeping improvements in public shelters

December 1989  Court fines D.C. government up to $30,000 per day for non-compliance with right to shelter

June 1990  **D.C. City Council approves an amendment to gut the right to shelter**

August 1990  CCNV collects 43,000 signatures to put a referendum on the November ballot that would overturn the City Council’s amendment

November 6, 1990  **Referendum 005, which would reinstate a right to shelter, fails by 2 percentage points**

March 1991  The new amendment goes into effect, ending the city’s right to shelter
unteleable. They had simply said that such legal entitlements did not currently exist. So, CCNV went to the people to create such an entitlement.

**Government Resistance**

Six weeks before the November 1984 election, Mayor Barry sued the D.C. Board of Elections and Ethics to prevent the CCNV’s right to shelter initiative from appearing on the ballot (Bogard 2003; The Washington Post 1984a). Even though a few months earlier, he had signed a petition in support of Initiative 17, his administration now vigorously argued that a mandate for overnight shelter was an improper subject for a voter initiative. They said that the city’s charter did not allow voters to pass laws with funding implications and the right to shelter must have funding implications. When the local court disagreed, the Barry administration and its allies—local newspapers, the Mayor’s Commission on Homelessness, and oddly the local Coalition for the Homeless—publicly warned residents that a right to shelter would be disastrous for the city a whole. “After claiming for years that there were no more than a couple of hundred homeless in town,” remembered Rader (1986:223), “city officials began warning citizens that there were so many street people in the nation’s capital” that the initiative would bankrupt the city. The Washington Afro-American (1984b) predicted that the city would become “a haven for the homeless of the world.” The Washington Post (1984b) described the initiative as “an invitation to people of any means to demand…shelter for what could be the rest of their lives.” Wealthy people would want the free overnight accommodations in the shelters, city officials warned, and flood the city.

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117 Though the vast majority of homeless people in the city were black, a member of the Mayor’s Commission on Homelessness reportedly encouraged black residents to reject the right to shelter on racial
The Barry administration also claimed that homelessness was really a federal responsibility. City officials said that city-run shelters would relieve the federal government of its responsibilities for homeless services, unfairly burdening the local coffers (see *The Washington Afro-American* 1984a). The majority of the Coalition for the Homeless, a local advocacy group of homeless service providers and churches with close ties to Barry, agreed: “Why should we support the federal government in its un-Christian and unethical move to relinquish its responsibility to the homeless?”118 “The D.C. taxpayers, alone,” the Coalition wrote, “cannot meet the needs of the homeless.”119 The new achievement of self-governance had meant that the locally elected officials could finally take on city-level decision-making about projects like urban planning, but it also meant that they could be tasked with new responsibilities and practices, like sheltering homeless residents.

During the 1984 campaign, the Barry administration illegally spent $7,000 worth of public funds to print 50,000 pamphlets, mailed anti-initiative flyers to all city employees, and assigned on-duty city workers to poll stations so that they could urge voters to vote “no” on Initiative 17 (Williams et al 1993; *Newsweek* 1985).120 These efforts came up short. Great weather brought big numbers of voters to the polls, and even though the measure was printed on the back of the ballots, it passed by a 3-1 margin (*Newsweek* 1985). Voters in all eight wards approved the initiative, which said (Martinez 1992:9): grounds since the initiative was put forward by “white liberals” (Elwell 2008). But in the archives and memories about the shelter campaign that I could access, I found little evidence that the racial dynamics of the homeless population or the CCNV leaders played an important role in the law’s failing.

118 “Meeting minutes of the Coalition for the Homeless on September 19, 1984” (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13).
119 “Statement of the Coalition for The Homeless On Initiative 17” (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13)
120 CCNV in conjunction with Common Cause successfully sued the city for these actions.
The District of Columbia, in recognition that:

1) All persons have a right at all times to overnight shelter adequate to maintain, support and protect human health; 2) The costs of providing adequate and accessible shelter to all in need are outweighed by the costs of increased police protection, medical care, and suffering attending the failure to provide adequate shelter; and 3) It is in the best interest of the District to provide overnight shelter for the homeless;

Hereby establishes in law the right to adequate overnight shelter, and provides for identification of those in need of shelter and provision of such shelter.

The first vote of any kind in the U.S. on the issue of homelessness was a success—or so it seemed.

For the next five years, the Barry administrations alternated between vehemently challenging the initiative in the courts and blatantly ignoring Initiative 17 (Reid 1986). A month before the right to shelter went into effect, city officials closed its only shelter in the wealthy Georgetown neighborhood. A month after the law went into effect, another 400-bed shelter facility was boarded up. By the end of 1985, there were only 100 more beds in the city than there had been before the passage of the Right to Overnight Shelter Act (The Washington City Paper 1989). City officials refused to open enough shelters to meet demand, ignored qualitative standards, disregarded requirements to publicize shelter locations, failed to provide security for shelter residents, misused federal grants, and created multi-million dollar scandals with contract cronyism (Williams et al 1993).

This ongoing resistance to the right to shelter was not because the city government’s central policymakers were against homeless people or even homeless shelters. When Mayor Barry took office in 1979, he wrote in a policy statement “the housing problem in the District of Columbia has reached crisis proportions… [and that
policymakers face a] basic conflict of values or purposes” (Richter 1983:165). In testimony before the U.S. Congress in 1980, he argued for protections against displacement of the poor, even if it meant smaller tax revenues:

When market forces create a conflict between goals that would offer increased tax revenue, but yet would cause substantial displacement of the poor, elderly and the handicapped, then this government will act on behalf of those needing maximum protection. To do less would sacrifice the poor, the elderly and the handicapped on the altars of increased tax revenue. I do not believe that we are at a point where consideration of revenue over people’s lives is up for discussion. (quoted in Huron 2012:65)

That year, he also said that “shelter is a basic human right” and “anyone who requests or is in apparent need of shelter is entitled to it” (Williams et al 1993:49).

After Initiative 17 passed in November 1984, Mayor Barry admitted that the plight of homeless residents stirs “human emotions even the best politician can’t find against” (quoted in The Washington Post 1984c). He declared February 1985 to be “Friends of the Homeless Month” and announced a fund drive to raise $150,000 for emergency homelessness assistance. He said: “Now is our chance to vote with our wallets” (quoted in The Washington Post 1985). In 1987 Mayor Barry stood with CCNV to ask the federal government to fund renovations to a CCNV shelter located in a formerly vacant federal building (Bogard 2003). In 1989 Barry held fundraisers for the national Housing Now! march, which brought together CCNV supporters and 250,000 other homeless advocates. One of the march organizers remembered Barry specifically soliciting funds from developers:
I remember being in a meeting, I’m remembering all this now for the first time…a lunch fundraiser for Housing Now. [Marion Barry] brought in his developer friends, his lawyer friends, and they all pledged something like $2,000 to $5,000, which was huge money at that time. Marion becomes one of our major fundraisers and he’s the mayor of this city. And we’re protesting against city policies but Marion is right there with us and he was smart enough to know to work with the protesters to protect yourself… We weren’t attacking the city... We were attacking the federal government for not guaranteeing a right to shelter.121

This interview excerpt is important for two reasons. It suggests that the jurisdictional tension between the city government and federal government shaped how the city government responded to the right to shelter. In addition, this memory highlights how the obligations inherit in the right to shelter were not ones that developers, realtors, or individual property owners had to recognize. The success of the right to shelter did not impinge on a developer’s ability to invest in realty or profit from property sales (though the right to shelter could have meant fewer below-market public property deals for developers). This fact might be why some of the city’s largest developers contributed so openly to homelessness causes in the 1980s. At one point developer Oliver Carr housed 500 homeless people for three weeks in one of his hotels that was about to be demolished (Rader 1986). Later, he chaired the D.C. Homeless Coordinating Council and organized a conference to develop solutions to homelessness.122 At another point, developer Charles E. Smith provided funding for a movie premier of Promises to Keep, a PBS documentary about CCNV.123 The right to shelter posed a challenge not to the private sector but to the city government’s capacity to sell its buildings or use its buildings as it wanted.

121 Interview with author, Washington, D.C., March 18, 2011
122 George Washington University, Gelman Library Special Collections, Howard Gillette Personal Papers, Box 12, Folder 1
123 George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 23, Folder 13
The Problem of Downtown Development

In the early 1980s downtown real-estate in Washington, D.C. turned to gold (Jaffee and Sherwood 1994). Dozens of new millionaires sprang up, the city became the hottest real-estate market in the world (Jaffe and Sherwood 1994), and an entire magazine, Regardies, emerged to follow these new happenings in local real-estate. “The redevelopment of Pennsylvania Avenue took off, the Georgetown waterfront was reclaimed, and the first free-standing downtown department store in any U.S. city in four decades was being built by the Hecht Co” (The Washington Post 1995). The makeover of the city’s property market was sudden and dramatic (Jaffee and Sherwood 1994). In an interview, a city official responsible for zoning remembered what this boom felt like:

You saw a lot of cranes…. I was living in ward 5. I’ve always lived in ward 5. When my parents got sick, I moved down the street, well, a couple blocks away so I could care for them…. I’ve seen a renaissance of development. I’ve seen things. In the ‘80s, everything was booming. I mean, you know, you had these cranes coming up…. The seniors who live in those stable neighborhoods like north of Michigan Park, they own their homes in those areas… When I was growing up, I used to leave my house, ride through Brookland, and go to work, because I worked for Amtrak in the ‘80s…but the problem is, I rode by all those houses, still living at home, and looked at all those houses for sale for nothing, and just kept riding by. I wasn’t focused on that, and I look back at it now, and tell people I should have at least bought two houses over there, two or three houses, even though my sister and I together have three houses in North of Michigan Park Area, but we don’t have… well, I should have done it in Brookland because… those houses were going for was cheap in Brookland, and that would have been a good investment, but I wasn’t focused on that… But the time to buy was then. And I look at a house that my father and his partner sold…way up on 13th and Euclid. That house now went for over a million a couple years ago [Laughs]. That stuff is not

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124 Brett Williams (1988) has argued that the stalled property market in the 1980s allowed for mixing among various classes of homeowners in Mt. Pleasant. My argument here about property booms elsewhere in the city does not disallow this possibility. The uneven-ness of property development likely allowed sales to stall in Mt. Pleasant but skyrocket in other parts of the city like downtown and Capitol Hill.
available no more. You know, that kind of stuff and those longevity saving plans, they not up there anymore.\textsuperscript{125}

The post-riot landscape quickly filled with foreign investors as the pro-business shift from Carter to Reagan changed the national climate (Gale 1987). New office space, which averaged 2 million square feet per year in the late 1970s, jumped to 11 million (Jaffe and Sherwood 1994). By 1982 13 new downtown hotels were under construction or proposed—a rate matched only by Los Angeles and New York City (Gale 1987; Jaffe and Sherwood 1994). As a result, historian Steven McGovern (1998:207) said:

many lower-income residents were driven from their neighborhoods because their homes were demolished to make room for new office buildings, or because the building boom sparked real-estate speculation and gentrification, or because landlords failed to maintain their properties while waiting to cash in on spreading downtown development.

A longtime community organizer described in an interview how she was displaced from her apartment:

I lived at 919 L Street Northwest, which is downtown D.C., just one block north of Mass Ave. And, so, this was the mid ‘80s, when I moved into this apartment building… There was talk about redevelopment of downtown, and the convention center, and what all that would mean. But, it wasn’t talked about out loud… The landlord, the owner of the property where I lived…was farsighted. That person could see that, oh, they’re getting ready to redevelop downtown. If they create this convention center, set up a hotel, just think of all the money that I could make. And we have to get these tenants out of this building. And we need to do it soon.\textsuperscript{126}

Even though the creation of the Metro subway system had a lot to do with the property boom and increased development interest, Barry took credit for it (Schrag 2006).

\textsuperscript{125} Interview with author, Washington, D.C. August 8, 2011
\textsuperscript{126} Interview with author, Washington, D.C., April 7, 2011
The Barry administration “seemed eager” to do everything it could to promote investments in the private property market (McGovern 1998:209). Government officials put few restrictions on developers and actively courted their support. A zoning code, for instance, was changed to allow more commercial buildings in residential areas, and another code was proposed to limit opportunities for public participation at zoning hearings (McGovern 1998). In 1983 CCNV was evicted from formerly abandoned row houses that the city government or its allies wanted for downtown development.127

Part of the Barry administration’s unabashedly pro-development agenda likely stemmed from the city government’s recent achievement of home rule. Finally, the city government could plan urban development projects as it saw fit. In the early 1980s downtown development became its anthem (McGovern 1998). According to Barry’s first planning director, the government let developers do what they wanted so that they could raise revenues for other projects, like social services (Jaffee and Sherwood 1994). Regardless of the motive, by 1982 every major real-estate player had contributed to Barry’s mayoral re-election campaign (Jaffee and Sherwood 1994). Nate Gross, a city planner, explained this cozy relationship:

See, one thing about the political dynamics in Washington is that real-estate money is the big political money. We don’t have home-grown corporations and…so downtown real-estate is where the council and the mayoral candidates have always gotten their big campaign contributions…Here, the developers are in the driver’s spot. (quoted in McGovern 1998:210)

A 1981 poll of city residents “found that almost 54 percent of blacks and 46 percent of whites thought that the business community,” dominated by the development industry,

127 Interview of longtime legal homeless advocate with author, Washington, D.C., March 24, 2011
“had more power than the elected mayor and city council members” (Gale 1987:162). A Washington Post study of business-government relations supported these suspicious and those of neighborhood activists who believed that “developers enjoyed an advantageous position in local politics” (McGovern 1998:210). The 1984 study showed that the real-estate industry was happier with city politicians than it had been in years. Land use politics, activists said, were “fundamentally skewed in favor of real-estate interests” (McGovern 1998:210).

At the end of August 1981, the Washington, D.C. government held its largest sale of public property in history (The Washington Post 1981c). In an effort to balance the budget, the city government over the next year sold $4.7 million worth of property (The Washington Post 1982). In the previous decade, attempts to sell closed schools and empty firehouses had fizzled. But now, “the nobility of balancing the budget,” according to the city’s chief property manager, was winning “over the nobility of community service or nonprofit use of the buildings” (quoted in The Washington Post 1981c). Many of the auctions offered up “city-owned downtown property at prices far below market value” (McGovern 1998:209). One sale in December 1980 “sold a prime parcel of downtown land for $130 per square foot, or about one-fourth of the market rate” (McGovern 1998:209). The U.S. General Accounting Office criticized the city government for these “unduly generous” bargains in the name of redevelopment (McGovern 1998:209), and the U.S. Housing and Urban Development agency singled out the city for giving away its assets (Jaffe and Sherwood 1994). Each year between 1980 and 1984, in the name of downtown development, the city government tried to sell what it considered surplus
property. And each year, in-use public shelters were included on the lists of properties to be sold.  

In addition to the challenge it posed to the city government’s downtown development agenda, the right to shelter posed a smaller threat to Mayor Barry’s desire to promote economic justice for the city’s African-American population. A key concern for his mayoral administrations was how “the new black political structure” that he helped to set up “could ensure that the city’s African-American community shared in the economic boom” of the 1980s (Jaffe and Sherwood 1994:147-148). A former community organizer and confidante of Marion Barry shared his memory of this strategy:

Many of the people [Marion Barry] actually cultivated as developers were, in fact, young progressive African Americans who had been cut out in the past. So the good ol’ white boys in Maryland and Virginia were now being replaced in the late 1970s and early 1980s by Marion Barry’s young African American developers. They consequently benefited from the new change of the guard in the city and they consequently got the contracts.... Marion helped them get started. They got bids. They got buildings. They did development. They became millionaires. And one of the theories, which is really a W.E.B. DuBois theory, [is that] the talented tenth would become economically viable to really give money away to everyone else. Exactly what Marion did. Marion’s purpose was to make millionaires and those millionaires would then spread that money.  

To help African Americans get into the development industry, Barry’s administrations established strict guidelines on city contracts to require minority partners (Fauntroy 2003). During Barry’s first years in office, minority contracting doubled, “breaking up the old, mostly white network of city contractors” and contributing to the rise of a class of African-American entrepreneurs (The Washington Post 1995). It was really difficult to

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128 George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 4, Folder 9
129 Interview with author, Washington, D.C., March 18, 2011
break into the industry. The barriers were high. But, “no matter how many millions in city contracts flowed to Barry’s friends, it was chump change compared to the hundreds of millions of dollars that enriched the white community during real-estate boom” (Jaffe and Sherwood 1994:155). Despite the efficacy of Barry’s attempts, the question of upward mobility and increased options for black developers and realtors—as it had for the speculation tax—likely affected how the city government responded to the right to shelter.

**More Lawsuits and $4 Million Fines**

In 1988 the city government’s refusal to recognize its obligations for the right to shelter became the subject of two lawsuits that CCNV helped to bring. The first lawsuit was an attempt to stop the city government from auctioning off the Lennox and Morgan schools, which had been boarded up and vacant for several years (The Washington Post 1988). This lawsuit was not unlike the original one that CCNV filed in 1980 to challenge the city government’s ability to close and sell its shelters. With the right to shelter in place, CCNV’s allies attempted again to stop the city government’s sale of public property by arguing that the city government now “had a legal commitment” to use surplus space for housing unsheltered individuals (The Washington City Paper 1989). City officials defended their attempts to sell Lennox and Morgan schools, pointing to the exorbitant costs of turning “classrooms into apartments” and reasoning that “the $2.1 million proceeds from the building sales were needed to help balance the budget” (The Washington City Paper 1989). In 1989 the court repeated its decision of the 1980 lawsuit and sided with the city government: the issue of school sales, it said, was a political rather
than a legal action. The Lennox and Morgan schools were sold to private developers and converted to luxury condominiums.

The second lawsuit, *Atchison v. Barry*, resulted in months of interviews and investigations by a ten-member crew at the city’s decrepit shelters (Williams et al 1993). CCNV member Brian Anders remembered in an interview what happened:

*Brian:* So once we got the right to shelter law passed, then we were able to go to court. We had a really sympathetic judge, Judge Harriet Green… She died maybe six, seven years ago… Aw, she was wonderful for us… Once the law passed, the city is forced to go into these buildings, like the Trust Clinic, which used to be at 14th and Q.

*Katie:* The red brick condos, what, on the Southwest corner?

*Brian:* Yeah, it housed 150 men…no toilets… So once we had the right to shelter law, we petitioned the city to allow us to be observers. We also got some priests at Georgetown, some law students, lawyers that worked with us. So we petitioned the city to allow us to walk through and inspect the shelters to make sure the city was in compliance.  

The court ordered the city government to make immediate improvements to its shelters, not to close any of its facilities without court permission, and to add 50 shelter beds every time an existing shelter had a 95 percent occupancy rate for six days in a row (Williams et al 1993). City officials set up cots in St. Elizabeth’s psychiatric hospital, school gyms, “a rooming house with no heat, broken windows, and thriving drug trade,” the pro-football stadium, and even, eventually, the D.C. City Council building. A longtime city official that was working in the City Council building at the time remembers what it felt like:

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130 Interview with author, Washington, D.C., March 26, 2011
I remember that this building [the D.C. City Council building] was used as a shelter… I remember we would leave the building at 6 o’clock. They were setting up cots on the ground floor. And then Mitch Snyder—he had a ready source of demonstrators—and the homeless folks would all come down here, and they took over the building a couple of times. And there was quite a bit of drama around all of that… There would be enough homeless people down here that they would line the walls on the ground floor… They worked out an arrangement with the security officers so that you could get through the doors, in and out of the buildings, single file. And you could go through certain passages, single file. And there were just people everywhere. And they just sat, and sat, and sat.131

Scrambling to meet court orders for shelter bed quantities, the city government also put up cots in trailers on government-owned parking lots in the Northeast’s Trinidad and Ivy City neighborhoods (The Washington City Paper 1989). Katherine Boo, a journalist for The Washington City Paper (1989) explained:

With 18 beds each, the trailers are small, relatively cheap, and easier than a gymnasium to keep quiet and clean….When necessary, city officials can simply roll in another 18 beds…Shelters like these are the wave of the future in the District. From 7 p.m. to 7 a.m., on beds in trailers behind chain-link fences, men and women will exercise their ‘right to shelter,’ thanks to the lawsuits.

By the end of 1989, there were more than 36 locations across the city—including the trailer parking lots—where individuals could access shelter beds (The Washington City Paper 1989). The number of residents served by the homeless shelter system had grown from 2,000 in 1982 to more than 18,000 in 1989 (Henig 1994). But, the city government continued to defy court orders to improve the conditions of these spaces and services, and when this happened, the court issued daily fines of up to $30,000.

By mid 1990 the sum for violations reached $4.4 million (Williams et al 1993).

Rather than spend a fraction of the fees to bring the shelter system into compliance and

131 Interview with author, Washington, D.C., October 20, 2011
amend its practices of public property sales, the city government chose to pay the penalties. These fines, which were supposed to encourage compliance with the right to shelter, were mobilized as a rationale for eliminating the right to shelter. Barry explained to the press in 1989: “The social service system is, in effect, held hostage by homelessness” (The Washington City Paper 1989). These critiques of the homeless services budget and its wild mismanagement distracted from questions about how public property and public resources should be used in the city.

The right to shelter challenged how city officials could use their land holdings and which model of urban development they could pursue. The story of the right to shelter was a story of property conflict. The rejection of the right to shelter by the city government—the executive branch, the agencies, and eventually the legislative branch—was the deliberate choice of one set of property relations over another. The city government pursued a vision of the city in which its right to privatize property was prioritized over the rights of individual to access a safe place to sleep each night.

A Repeal, a Referendum, and an End to The Right to Shelter

In January 1989 an advisory neighborhood commission in an area of Washington, D.C. where many of the temporary shelter trailers had been placed drafted a referendum to repeal the right to shelter (The Washington Times 1989). Later that year, Councilmember Nadine Winter took up the issue and introduced an amendment to limit shelter use to ten days per six-month period and require proof of residency (The Washington Post 1989). She explained: “We have done what we can to make them human beings.” Winter was

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132 George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 16
pushing for the end to a right to shelter. Though she had been a co-sponsor of the original speculation tax, she voted to repeal it in 1981 and veered away from other legislation in subsequent years that could inhibit the opportunities for black homeownership. She opposed, for instance, a moratorium on condominium conversations because, she told a reporter, it was one of the first ways for poor people to own something. Policies should not be, she said, “all about older, white people” (*The Washington Post* 1975d).^{133}

Councilmember Harry Thomas, Sr. agreed with Winter that the Right to Overnight Shelter Act should be curtailed: “I don’t believe everybody has a right to shelter.” The city should not, Councilmember H.R. Crawford said, “permit the homeless to continue to work the system without giving anything back.”^{134} Crawford was one of the city’s budding black developers and had few sympathies for homeless residents. The Chairman of the Council, David Clarke, who was the other co-sponsor of the speculation tax, disagreed and urged the Mayor to comply with the existing law, as he had been doing for several years (*The Washington Post* 1986, 1990b).^{135} But Clarke was alone in this position. In June 1990, even though there were 60 families on the U.S. Marshall’s eviction list every day (*The Washington Post* 1990g), the City Council after a three-hour heated debate approved an amendment that essentially eviscerated the right to shelter. The Emergency Overnight Shelter Amendment Act limited the amount of funds that could be spent on shelters, cut the number of nights for eligible individuals, reduced

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^{133} Winter strongly opposed CCNV’s political strategies. She fought to have the city government stop paying the utility bill for the CCNV shelter because CCNV refused to incorporate as a non-profit for ideological reasons, which meant the city government could not submit the expense to the federal government for reimbursement (*The Washington Post* 1990a). Whether her opposition to a right to shelter was for personal dislike of CCNV’s tactics or the result of a political shift in her beliefs is unclear from the records.

^{134} George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 16

^{135} Personal Letter by David Clarke, 1985 (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 11)
shelter availability to hypothermia season, granted shelter only to residents without a credit card, denied shelter for failure to pay income taxes, made individuals who were capable of working pay for shelter or do community service, required suspected substance abusers to participate in treatment programs, and eliminated the requirement for dignity in the shelters (Williams et al 1993).

A month later, CCNV began collecting signatures for a referendum on the 1990 November ballot that would overturn the City Council’s new amendment and reinstate the right to shelter. Again, CCNV collected a record number of signatures—43,000—signaling broad support and suggesting that the measure (called Referendum 005) would pass (The Washington Post 1990d). In a study a few months before the vote, 71 percent of participants said they would support Initiative 17 if it were on the ballot again. This finding echoed a national poll in which 65 percent of respondents said they supported increased funding for homeless services (Takahashi 1996). The suicide of Snyder a month after the City Council amended the right to shelter law also led many to believe the referendum would pass with sympathy votes. CCNV supporters raised $44,000 for the referendum and counted 500 campaign volunteers (Williams et al 1993). Citizens for Helping the Homeless by Rejecting 005, a group opposing the referendum, had trouble raising $2,000 (The Washington Post 1990e, 1990h). Its largest donation came from the Washington, D.C. Association of Realtors, which had described Initiative 17 as a requirement for the city government “to provide housing for anyone who wanted it” (The Washington Post 1990f).

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136 “CCNV Press Release” dated 1990 August 10 (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 24, Folder 10)

137 George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 18

138 Interview of longtime legal homeless advocate, Washington, D.C., March 24, 2011
As had been the case in 1984, the largest force mobilizing against the referendum was the city government. Both candidates for the November 1990 mayoral election came out against it—Mayor Barry and the challenger, Sharon Dixon (who won after Barry was arrested for drug use and dropped out of the race). The Barry administration, again, illegally used public funds to print and distribute anti-referendum materials (Williams et al. 1993). One flyer said that homeless people must “accept help for the problems that caused their homelessness.”

The city government’s arguments focused on how homelessness was a problem of individuals and how the right to shelter clashed with other rights, rather than how homelessness constituted a problem for the federal government to address. This time, the city government primarily framed homelessness as a problem of undeserving individuals and a right to shelter for 12 hours a night as a problematic and overly generous entitlement. “When the city government is forced, by a law, to provide shelter for every homeless person,” The Washington Post (1990c) editorial board wrote, “there is less money for every one of those other terribly needy populations in the city.” Councilmember H.R. Crawford made a similar point in The Washington Post’s (1990f) editorial section:

Why should one person’s right to shelter come at the expense of our other residents? What about programs for the mentally retarded, adequate books and laboratory equipment for our schools, increased pay for our teachers, an adequate level of homemaker and chore services for senior citizens and others to prevent institutionalization, proper staffing and equipment for our public health clinic and adequate funding for D.C. General? All these services have all been reduced and will continue to be short-changed unless Referendum 005 is defeated.

139 “Helping Homeless People Through Difficult Times” two-page flyer from the Government of the District of Columbia from 1990, Jointly prepared by the City Administrator, Deputy Mayor for Economic Development, the Departments of Human Services, Public Housing, Housing and Community Development, and the office of Communications (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13)
“There are no other programs that require our government, by law, to allocate unlimited resources,” claimed the D.C. Federation of Civic Associations. “Why should shelter programs,” it asked, “be more important?”

On Tuesday, November 6, 1990, voters in Washington, D.C. rejected Referendum 005 by 2 percentage points, or 3,179 votes of the more than 125,000 votes cast on the issue (Williams et al 1993). Across the city there was strong support for the right to shelter in precincts that had voted for the democratic presidential candidate in 1988 (which suggested that liberal residents voted in favor of the measure) and even stronger support in precincts with more black and poorer residents (Henig 1994). This support alone, though, did not extend the short life of the city’s right to shelter. The referendum lost in three of the city’s eight wards. In wards 2 and 6, which covered the gentrifying neighborhoods of Capitol Hill, Dupont Circle, and Georgetown, the measure failed by less than 1,000 votes (The Washington Post 1990). The deciding blow came from ward 3, which was home to the city’s largest concentrations of “better educated, home-owning, and politically conservative residents,” the vast majority of whom were white (Henig 1994:749). There voters struck down the referendum 15,727 to 8,694 (The Washington Post 1990i). The next year, in 1991, the city government reduced shelter capacity by 800 beds and sold three public shelters (see Greenberger et al 1993).

Some homeless advocates explained the disappointing results in the referendum by pointing to its confusing phrasing. The ballot read (Williams et al 1993:71):

140 “D.C. Federation of Civic Associations’ Special Notice on Initiative 17: Support our government—don’t sign the petition” Summer 1990, (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 13)
Referendum #005 rejects the 1990 Act that changes the current Right to Overnight Shelter Law (“Initiative 17”). The 1990 Act changes the current law (“Initiative 17”) by: 1) Removing the entitlement “right” of homeless persons to overnight shelter; 2) Establishing a program (but no entitlement) for shelter and support services for the homeless; 3) Defining eligibility for receiving shelter, grounds for denying shelter, limits on the length of stay, participation in costs by shelter occupants, and other requirements.

Vote “FOR” Referendum #005 to reject the 1990 Act and retain the current law.

Vote “AGAINST” Referendum #005 to permit the 1990 Act to become law.

To oppose the City Council’s new amendment, voters had to vote for the referendum, which is counter-intuitive. Some people who supported shelter rights were thought to have accidentally voted the wrong way.¹⁴¹ A month after the election, a study supported this notion when it found that the three-fourths of 400 voters believed the city government was not doing enough to help the homeless population and that “homeless people should be guaranteed a safe place to sleep” (Williams et al 1993:73). More than half of the study’s respondents also said that they had voted for the referendum.¹⁴²

Conclusions

Regardless of whether the referendum should have won and whether the city government would have fulfilled its obligations to provide shelter in subsequent years, this story about the failing of the right to shelter from 1984 to 1990 would still need to be told. For six years the Washington, D.C. city government made the right to shelter fail and, in the

¹⁴¹ Interview of longtime legal homeless advocate with author, Washington, D.C., March 24, 2011
¹⁴² Belden and Russonello Study commissioned by The Washington Legal Clinic for the Homeless (George Washington University, Gelman Library Special Collections, Carol Fennelly Personal Papers, Box 28, Folder 15)
process, reinforced its urban development agenda, property relations, ideologies, and landscapes. The right to shelter did not just fail by a vote at City Council in summer 1990 or at the ballot in November 1990. The failing of the right to shelter was an ongoing process that required daily decisions, practices, and actions on the part of the city government’s leading decision-makers about the governance of public property. Even though many city officials likely supported the idea of homeless shelters for all, the city government’s efforts to develop its downtown contributed to a set of property practices that ultimately undermined the right to shelter. The property practices that helped fulfill the city government’s long-sought goals for one kind of urban justice undermined the attempts for another.

This case demonstrates how the diversity of property practices within a single regime, rather than open up space for property justice, may jeopardize efforts for housing rights. In the case of the right to shelter, the city government protected its newfound ability to sell public property and determine urban development at the expense of responding to the needs of unsheltered residents. Here, housing rights like a right to shelter were not compatible with the city government’s property practices. This antagonism may not be—or may not only be—because of some limited, inherent quality of property. Instead, this case suggests that the antagonism may in part be an outcome of the varied forms that property practices take.
Chapter 6: Conclusion: Propertied Justice

The concept of changing neighborhoods and changing incomes isn’t something that’s made up because of urban stuff over the last forty years. It’s happened since the dawn of time. Right?
—A Washington, D.C. real-estate developer

The question is not whether cities should be revitalized or redesigned… The question is who controls the strategy, process, and model for such a transformation. —Mandi Jackson (2008:223)

Introduction

Today, Washington, D.C. has the third-highest rate of income inequality of all U.S. cities. The top five percent of households’ averaged incomes of $473,000 in 2011 while the bottom fifth sat at $9,100 (The Washington Post 2012). The city’s notably low unemployment rate, which was 5.7 percent in 2012, can hide these dynamics. In 2011 the U.S. Census Bureau found that Ward 8, a cluster of neighborhoods in the city’s mostly poor and black Southeast quadrant, had the highest jobless rate in the country (The New York Times 2011). Between 2000 and 2010, the number of black residents in the city has dropped by almost 40,000 and now makes up just less than 50 percent of the city’s 600,000 residents (The Washington Post 2011). This decrease, which has helped to create a city in which people are increasingly either white and wealthy or poor and of color, is significant. This is a place that in the 1950s became the country’s first black-majority city and in the late 1970s and early 1980s, with its newfound self-governance and black majority government, passed some of the country’s strongest anti-displacement legislation. In the 1970s and 1980s the possibility of an urban future not plagued by inequality was real in Washington, D.C.

143 Interview with author, Washington, D.C., August 22, 2011
The current demographic extremes in Washington, D.C. have been discussed at length and with frequency in national media and local press outlets (eg, *The New York Times* 2011, 2012, 2013; *The Atlantic Monthly* 2011, 2012, 2013; *Salon* 2011; *Slate* 2013; *Al Jazeera* 2010, 2013; *Forbes* 2012). But this coverage, which sometimes appears as an obsessive fascination, focuses on the characteristics of urban change—the new contrasting landscapes, the flaring racial tensions, and the preferences and lifestyle choices of young professionals with disposable incomes. What is rarely discussed is that these social, economic, and physical changes did not just happen to Washington, D.C. Here, as elsewhere, there has been a concerted effort by policymakers, business leaders, and residents over decades and centuries to build a certain kind of place. The kinds of changes that have helped to make landscapes of luxury condominiums, wine bars, yoga studios, pie shops, and Asian-fusion tapas restaurants on 14th Street Northwest were not inevitable but the effects of concerted and contested place-making efforts. Between 2008 and 2013, for instance, city officials sold $200 million worth of public property to private developers at deeply discounted rates (WAMU 2013). Such decisions to pursue these sales support a particular vision of the city in which the development industry is important, its growth desirable, and its profit-making projects laudable. Place-making changes may be, as the Washington, D.C. developer quoted above says, something that’s “happened since the dawn of time.” But how change is pursued and negotiated is a question about the power relations that mediate the dialectic of material conditions, social practices, and discursive frameworks. Reverend Saunders of Washington, D.C. told a reporter for *The New York Times* (2011): The issue with the gentrification of H Street

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144 Interview with author, Washington, D.C., August 22, 2011
Figure 15: Gentrification graffiti on Georgia Avenue Northwest (c) 2010 author

Figure 16: Gentrification graffiti on 14th Street Northwest (c) 2010 author
Figure 17: Gentrification graffiti on H Street Northeast (c) 2010 author

Figure 18: Keep yuppies out (c) 2005 fhubig under a creative commons license
Figure 19: Central Union Mission for sale at 14th and R Streets Northwest (c) 2012 Trevor Knoblich

Figure 20: 14th Street Northwest construction (c) 2012 Trevor Knoblich
Northeast is not the fact that there is change. Rather, “it’s a question of who has the power to determine what this community is going to look like.”

As the laundromats, pawn shops, homeless shelters, and auto-body shops on streets like 14th Northwest are torn down and their tenants displaced, the loss of these physical markers can lead to what historian Mandi Jackson (2008:222) called

the dangerous assumption that the form and content of these urban transformations are inevitable—that the biggest speed bump along the way is the work of the wrecking ball, and that the most important changes taking place are physical.

There is nothing inevitable about urban change that converts a homeless shelter on 14th and R Street Northwest into upscale condominiums. It is, instead, “the deliberate choice of one model” of urban development over another (Jackson 2008:223). Vacant structures, empty lots, and incomplete projects are some of the few physical markers that landscapes bare of the contested practices and discourses that condition their making. Over time, these contestations over the direction of urban development, Jackson warns, can become harder and harder to see and the way things are may seem like the way things had to be.

Failed laws are similar to torn-down buildings. Failed laws like the speculation tax of the 1970s and the right to shelter in the 1980s made few obvious impacts on the physical fabric of the city and are hard to discern in the contemporary landscape. The institutional memories that circulate amongst policymakers, developers, and urban planners seem to have forgotten the speculation tax, too. Amongst affordable housing and homelessness leaders knowledge about the triumphs and pitfalls of the right to shelter is more known but still limited. Almost half of the 59 people I interviewed for this research project, who were chosen based on their work with real-estate, urban planning,
policymaking, or homelessness, did not know of either law. Of those who were familiar with one or both laws, their memories were general impressions. When I pressed for details, they came up empty.

Still, I argue that these laws and their failures helped to shape the trajectory of urban development in the early 21st century and its mainstay of inequality. The failure of these laws helped to reinforce the prioritization of private property rights, ensure the dominance of a pro-development planning agenda, and safeguard the seeds of gentrification that entangle much of the city’s housing within lucrative investment markets. The presence of the speculation tax and right to shelter today is most visible in absences—absences of affordable housing and of adequate shelters. Both the speculation tax and the right to shelter had the potential to fundamentally change some of the key conditions and experiences of the city’s housing crisis in the 1970s and 1980s. But these pieces of legislation, this dissertation shows, were made to fail and were actively torn down one brick at a time. This dissertation creates a challenge to the idea that the failings of the speculation tax and right to shelter—as well as the endurance of the city’s hegemonic property regime—were inevitable.

Like the loss of physical markers, the loss of stories about how these laws came to fail can lead to “the dangerous assumption” that the way the urban landscape is today is how things had to be. These laws are records of place-making struggles toward a different set of housing relations and alternative urban futures. This project gives these forgotten laws a physical space, albeit it a very small one on a bookshelf of a library, from which they cannot be removed.
To this end, this chapter synthesizes the stories of the speculation tax, the right to shelter, and the historical conditions that gave rise to housing politics in Washington, D.C. I consider how the analyses conducted in Chapters 3, 4, and 5 contribute to knowledge about struggles over housing rights, the processes of policyfailing, and the hegemony of the private property regime—the three subjects I examine in Chapter 2. I argue that critical insights exist within the historical failings of housing rights for how contemporary cities can be made more just and what obstacles stand in the way.

**Racial Equality and Ownership Power**

Though intended to counteract the pressures of the private property market, the speculation tax and the right to shelter ended up as signals of the ownership model’s hegemony in Washington, D.C. But the question this research seeks to answer is how and to what effect, not whether, private property rights were prioritized over other rights that sought to create a more just arrangement of housing. By focusing on the materiality of property regimes in Chapter 3, the discourse of property rights in Chapter 4, and the practices of property relations in Chapter 5, this dissertation offers insight on the failing of housing rights. Much of the small debate about housing rights’ relationship to property focuses on either the inherent antagonism between property rights and housing justice or the hopeful array of property forms that can be found. What is not considered is how a plurality of property forms may be a driving force for the antagonism between property rights and housing rights. Property conditions, practices, and discourses must be explored, as Blomley (2004) has demonstrated, for what they allow—not just what they disallow. This dissertation pushes the debate about housing rights one step further:
Property plurality also must be explored with attention to the certain kinds of justice that property facilitates and how these successes may inadvertently or perversely come at the expense of other, larger forms of housing justice.

This dissertation shows how in struggles around the speculation tax and the right to shelter, property rights, relations, and materialities were mobilized for racial equality. After centuries of political, economic, and social oppression, property rights afforded some black residents new opportunities for housing security and economic power. In the speculation tax debates, home ownership was heralded as the solution to black residents’ displacement by speculating realtors and evicting landlords. Property ownership would help to let “the people who stuck it out” stay in the city.\textsuperscript{145} It would also create an opportunity for black residents who had previously been shut out of the profits from the housing market to enter. Though they disagreed about who should be owners of the city’s housing stock, tax supporters and opponents both stressed the social and economic value of residential property rights. The speculation tax showed how struggles for various kinds of justice—rights to housing and civil rights, in this case—became pitted against each other. A nonprofit affordable housing lender explained in an interview how property rights simultaneously allow residents to capitalize on their houses while jeopardizing the larger project of securing housing tenure for low-income residents:

\textsuperscript{145} Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Roll 37 and 38, page 12 and 18
I know there’s an age-old tension in this business that we’re in. Are we in the business of creating equity and wealth for families or are we in the business of creating opportunities for future low-income families? And people have knock-down drag-out fights over, about that, which is our ultimate purpose? You know, are the poor of today responsible for the poor of tomorrow? And, should you sacrifice some of your equity to ensure that a family ten years from now will be able to afford housing in this city? I don’t know. I’m not Solomon. That’s a hard one. Very hard one.

This ability of black residents to cash in on property ownership posed a challenge to efforts aimed at creating housing security alongside racial equality. Several people I interviewed mentioned the desire of black residents to sell their properties, and how this complicates the historical narrative of speculation, displacement, and gentrification. A longtime city reporter in an interview said:

Let me say this about gentrification, which nobody really talks about. Gentrification and speculation can’t occur unless somebody sells... Most often it was just, you know, people were happy to have their little houses that they were renting, and renting for thirty years. And when the speculation shifted to actually people coming in and buying houses, then gentrification became the issue. But under all of that there were these old African Americans—and you’ll see it in the census data—who actually began to decide that they needed to leave. They wanted to go home. They wanted to go down south. It was too expensive living in the city. And it was too dangerous living in the city. And so they started leaving their homes to their kids and/or selling their homes. I have friends who lived in ward 4, African Americans, and lived in Ward 3. They sold their homes for a bunch of money…. Took that money, went down to Florida, bought a house with a swimming pool and all of that stuff. Okay, and who knows who moved into their houses. And so it was that kind of dynamic that also played a part in the gentrification. And other instances it’s the people dying and the family deciding, ‘let’s sell this sucker and get the money.’ And I have an aunt down in New Orleans fighting her son because my cousin died and left the house to my aunt. And the son wants to sell the property. My aunt doesn’t want to sell the property. She probably could get a bunch of money for it right now. But she won’t sell the property. She’s 89 years old. When she dies he’s going sell it unless she bequeaths it to me. Then it won’t get sold. But he’s going sell it, okay. And it’ll

146 Interview with author, Washington, D.C., August 4, 2011
probably going to get sold to the highest bidder, which means white. And if somebody’s going to accuse the white people of gentrification, well, really it’s the black person who started it.\textsuperscript{147}

Here, the speaker blames the out-migration of black residents on their desires to sell and capitalize on their properties, but she does so in a way that makes their decision to cash-out seem reasonable. Why not use the money from a property to get a better place elsewhere? On the other hand, she seems to resent her cousin who wants to sell his mother’s property and declares that she would not take the same path. The effect of this portrait of neighborhood change is a paradoxical view of property rights as both the vehicle for economic mobility for black residents and the culprit of unwanted gentrification.

Some black churches in Washington, D.C. have also treated property as a productive means to build wealth. A longtime community organizer described in an interview one of these cases:

\begin{quote}
We had a situation where we were organizing against black churches because they said that they were trying to make money, you know, rather than keep people in the neighborhood… One wanted to move to the suburb to build this big mega church, you know. So what they did is that they sold all their property…and they tried to sell it for a high price and they didn’t do any of them for affordable housing… They’re all trying to cash in.... They’re just acting like old property developers.\textsuperscript{148}
\end{quote}

This common discourse and practice of property ownership as a means to housing tenure and financial security for black residents and groups was not confronted in the debates around the speculation tax. Tax supporters did not put forward a narrative about what

\textsuperscript{147} Interview with author, Washington, D.C., July 12, 2011

\textsuperscript{148} Interview with author, Washington, D.C., July 14, 2011 (Note: I live in a property that used to be owned by the black church mentioned here that relocated to the suburbs.)
other relations, processes, entities, or laws could replace this function and effect of property ownership.

In the case of the speculation tax and, to a small extent, in the case of the right to shelter, property rights were mobilized as means for black speculators, realtors, and other members of the development industry to access the profits of the property market. In the speculation tax debates, black realtors testified at City Council that it was finally their turn to turn a profit. In the right to shelter case, the Barry administration sought to use its below-market sales of public property, contracting requirements, and downtown development projects to build a new class of black developers and millionaires. Property rights served a critical role in promoting racial justice. And it was, as I show in Chapter 4 (and somewhat in Chapter 5), also this function of property that helped to undermine the campaigns for housing rights. The property rights that created opportunities for black residents’ upward mobility through property sales clashed with the property rights that housing rights advocates sought to change. Neither the supporters for the speculation tax or the supporters for the right to shelter confronted these multiple forms and functions of property rights.

When rights clash, theories of justice are necessary. In the housing rights struggles profiled here, the theory did not materialize to explain how the things that property rights provided could be gotten by some other means or why perhaps those things would not be needed at all in a place with housing rights. Civil rights clashed with other housing rights, but the common power relations, ideas, and conditions that gave way to these different forms of inequality and the need for their rectifying went unchallenged and unchanged.
“The story of American history is in private property,” declared a character in the play Clybourne Park (2011). This dissertation shows how property rights, relations, and regimes have indeed played a critical role in mediating struggles over housing crises in Washington, D.C. But this dissertation also shows how the Washington, D.C. history of private property has been entangled in the fight for racial equality. The history of contestations over the speculation tax and right to shelter demonstrates how property rights take on multiple functions related to racial equality. Property rights function as a vehicle for racial justice at the same time that they act as a vehicle for racial oppression. I argue that this diversity of form, which other property scholars have identified, both strengthens the hegemony of the property regime and undermines the success of housing rights and its visions of housing justice. To better understand whether property rights are inherently antagonistic to housing rights, we must turn our attention to the role of race in housing struggles. In Washington, D.C. in the 1970s and 1980s race played a critical role in the repeated failing of attempts to create housing rights and, as a result, helped to reinforce the dominance of the capitalist property regime.

**Self-Governance and Urban Planning**

This dissertation demonstrates how the Washington, D.C. government’s achievement of self-governance and control over urban planning was a key condition for struggles around the speculation tax and right to shelter debates. After a century of democratic repression, home rule in 1975 afforded the city government new opportunities for directing urban development, investing in the city’s infrastructure, and righting the wrongs of Congressional neglect. This was a moment in which the city government had new control
over the possibilities of repairing its residential structures and creating a viable commercial business district downtown. And it was “so desperate for development.”

Nate Gross, a long-term official in the city’s Office of Planning, described in 1991 in an interview both how fearful the city government had been of quashing the private sector interest in downtown and how the city government had been that developers held such sway over them:

I think that everybody was afraid that to take away this great economic engine downtown with all these office buildings going up and so you know… I think it’s just a reflection of the success of the lobbying and the lobbying groups such as the Apartment and Building Owners Association and the Board of Trade… The riots of ’68 left a major, psychological impression on downtown… From ’68 to probably ’74, all the news was negative downtown… Developers and zoning lawyers would often come in for rezoning and say, “Hey, you don’t want this? They love us out in Montgomery County. We’ll just take our kit bag and go out there and you’ll be sorry. You want somebody to build down there…” Anyway…it was really gloom and doom [for downtown] until I guess about mid 70s and things started picking up and they just accelerated ever since. But in that real dark period, the Board of Trade and the zoning lawyers were really in the driver’s seat.

This pressure for downtown development, as well as that for residential renovations, shaped debates about the speculation tax and right to shelter. The claims that the right to shelter entailed were set against the practices of the city government to sell its property and spur downtown investment or balance its budget. The speculation tax, by contrast, had set the rights of renovators, developers, and gentrifiers to rehabilitate homes and sell them for a profit against the rights of low- and moderate-income residents to not be displaced from neighborhoods. In each of these cases, the radical housing laws threatened

149 Interview of longtime city journalist with author, Washington, D.C., July 12, 2011
150 Interview with Washington, D.C. ethnographer Steve McGovern, December 15, 1991 (Transcript received through personal communication with McGovern)
how entities—be it public or private—engaged in urban development. For the speculation tax, the question was how to repair the housing stock. For the right to shelter, the question was how to create a profitable downtown business area. Had the city not been deprived of self-governance for a hundred years, the city government of the late 1970s and early 1980s may not have passed so many of the country’s strongest anti-displacement laws. But, had the city not been deprived of investments in its infrastructure and operating with limited fiscal means, it also might not have repealed laws that challenged the property rights of residential developers and the city government itself.

In the speculation tax debates, supporters and opponents of the tax acknowledged the desperate need for renovations to the city’s deteriorating housing stock. Too many absentee landlords and flippers had left the city’s residents with few decent places to live, and too many of the city’s residents had few resources with which to renovate or purchase these properties. Careful not to deter renovations, the City Council eventually included a provision that exempted property owners who renovated. Though there was heated debate about whether the exemption would doom the tax, the underlying issue of what role the private development industry and commodified housing should play in urban development remained stumbling blocks. Tax supporters did not convey a coherent argument about how the city’s foreclosed, abandoned, and run-down homes could be repaired without the help of the private sector or motivation of profits. The law challenged the city government’s newfound controls over its property holdings and its future vision of downtown development.

Right to shelter opponents and supporters both acknowledged that homeless residents needed help. What they could not agree on was the priority of this goal above
other goals and whose resources and what amounts would be used. The city government as a whole disagreed with Initiative 17 supporters who wanted public property, especially vacant public property, to be put to use for the city’s unsheltered population. The city government intended to prioritize the development of a profitable property market.

In Washington, D.C., even though policymakers espoused and likely believed in goals for housing justice and racial equality, the goals of downtown development and residential renovations subverted efforts to create a place where residents could find, as Lavinia Harvey said, “a decent, clean place to live.”\textsuperscript{151} A longtime journalist of the city, quoted above, offered in an interview an explanation for what was happening to policymakers and why they passed some laws, like the speculation tax, or initially offered support for others like the right to shelter, before dismantling them:

\begin{quote}
You have in Washington a very liberal society. The politics is hugely liberal. They don’t want to hurt poor people, but they don’t want poor people to stop them either… So you don’t want poor people preventing growth, and advancement, but at the same time you don’t want to squash them to do your growth and advance. So this is a kind of accommodation, and negotiation and compromise, whatever term you want to use, that has occurred in this city. Which is why you still have 50-50 [percent of poor and wealthy residents] almost. Because if there wasn’t this liberal overlay, if we were a bunch of republicans or we had that kind of capitalist, pure capitalist mentality then it would be far fewer poor people in the city.\textsuperscript{152}
\end{quote}

The speaker suggested that the presence of inequality is evidence of the contentious struggles over urban planning in the city in the past 38 years. Had there not been such struggles, she seemed to imply, the city by now would be made up of only wealthy residents. The presence of this 50-50 composition, then, is a hint of how the goals of

\textsuperscript{151} Transcript, D.C. City Council Hearing on June 17, 1975, Legislative Services Archives, D.C. City Council, B1-57, Microfilm Roll 37 and 38, pages 167-169
\textsuperscript{152} Interview with author, Washington, D.C., July 12, 2011
urban development have intersected with goals for racial, political, and economic justice. But this dissertation raises questions about the extent to which meaningful compromises can be made in a city dominated by capitalist property rights and relations. The right to shelter and speculation tax could not make inroads because the underlying practices, discourses, and spaces of the city’s property regime were not so much valued above all else. The capitalist property regime was expertly protected and legitimized through the small compromises it offered in the name of justice.

**Housing Rights as Policyfailings**

Nick Blomley (2003, 2004) has suggested that property regimes are unstable, capable of significant change, and flexible enough to limit the very injustices that dominant property regimes often kindle. This dissertation poses a challenge to this understanding of property regimes by showing, first, how two efforts to create housing rights in a progressive city failed in large part due to the flexibility, durability, and long reach of property rights and, second, how these policyfailings reinforced rather than weakened the existing property regime. The doom of housing rights in Washington, D.C. in the late 1970s and 1980s was the very circumscribed way in which capitalist tenets of ownership and housing commodification were spliced into the materiality, discourses, and practices of property in the city. If the hegemonic splicings of law and space, which Blomley has hoped are contestable, are to be contested, the various functions that property rights serve must be confronted. Had supporters of the speculation tax better confronted the clash between racial struggles for ownership power and economic struggles for housing security, a more coherent narrative might have helped to build stronger support for the tax. Similarly, had
supporters of the right to shelter been able to limit the city government’s sales of public property, the right to shelter might have been enacted more fully and been made to endure.

This dissertation contributes to critical policy studies literature by developing the concept of policyfailing and demonstrating some of the actual contexts and micro-practices involved in two cases of policyfailing. The case studies of the speculation tax and right to shelter showcase the utility of thinking of policyfailing as an ongoing and unstable process rather than focusing on policy failure as an unequivocal achievement. If I were to evaluate either law in terms of whether the policy had failed, I might come to the conclusion that the right to shelter, for instance, had not. The right to shelter did provide space for some people to sleep some of the time. And the speculation tax might have been effective had it been better written or implemented. However, such analyses about efficacy would miss the important mobilizations that took place in the late 1970s and 1980s. The processes by which the two laws were debated, passed, and repealed are instances of policyfailings. These interruptions, or policyfailing moments, provide insight into how policyfailing may not actually disrupt existing governance structures but in fact fortify them.

This dissertation demonstrates how policyfailing is, as Peck (2010, 2011) and Brenner et al (2010) suggest, embedded within governance efforts rather than an antithesis to them. This dissertation supports Peck’s (2010, 2011) observation that some instances of policyfailing bolster rather than dismantle existing governance structures. Policyfailing around housing rights seemed to strengthen other policymaking efforts around housing, property, and urban development by prioritizing particular discourses,
practices, and materialities, and identifying areas in the regulatory structures and enactments that may not be in line with these priorities. Like a child who learns to walk by falling down, Washington, D.C.’s pro-development agenda of the 1990s and 2000s might have triumphed through these early “forward failures” of housing rights, to borrow the words of Peck (2010:23). The changes that the speculation tax and right to shelter might have ignited may be best understood not as significant mutations, as the critical policy studies literature characterizes transformations (eg, McCann and Ward 2011), but rather as simple and useful modifications to property discourses, practices, and, relationally, their materialities.

According to homeless and housing advocates, since the failing of the right to shelter, there have also been no other proposals that sought to address as broadly or aggressively the experiences of the city’s unsheltered population. There also have been no other initiatives approved for a ballot to let voters decide to extend the city’s safety net services or entitlements. In the years after the failing of the speculation tax, the city government’s relationship with the development community seems to have strengthened, according to community activists and city planners. By the 1980s, for instance, the development industry and real-estate industry had a strong, comfortable relationship with the city government. Since then, this relationship seems to have grown and, almost none of the people I interviewed said they could imagine a speculation tax being seriously debated let alone passed by City Council legislators today. A Councilmember hinted at the current government’s attitude toward the development and real-estate industries in an interview:
I think the home rule government meaning the government in the ‘70s, a lot of enthusiasm, a lot of energy around finally being able to take control and be in charge of reform, and when I say reform I would include in that dealing with poverty, dealing with crime, dealing with the, you know, trying to improve social conditions. And the government was very liberal, not to say that we’re not today, but in a way, I think it was, and I don’t really mean this as a criticism, a little bit more simplistic and a little bit more, I don’t know what I want to say… What we did as a government, and I say we without me actually being involved, was kind of simplistic, was sort of broad brush and it was, um, very liberal, like rent control [hand slaps table], like prohibiting the possession of hand guns [hand slaps table], like establishing a right to shelter, like the speculation tax, these were kind of simplistic ways of approaching a problem, very liberal, you know. We don’t like developers. We’re just going to tax transactions if there’s a quick turnover in the property. We don’t think we like landlords and they gauge tenants. So we just did these very broad brush things, and, I’m hesitating here because I’m not sure why. I’m not sure they were all very successful…and I think it put the business community on the defensive. You know, we established an advisory neighborhood council, elected councils. Nobody else has them except I think Minneapolis. And, we had a constitutional convention in the early ‘80s to, for statehood, to adopt a constitution that, I think, was going to have a legislature of 130 people or something. You know, really just, broad, expansive measures… And it’s not, it’s not moderate, that’s for sure. It’s not moderate in its thinking or moderate in its approach or moderate in its politics… I think the city has matured. I mean, the right to shelter was of the same vein, very broad brush, liberal. ‘We’ve got home rule now we can act like San Francisco or we can act like Takoma Park, you know, which has its anti nuclear, is a nuclear free zone.’ …there was this feeling and that energy and that enthusiasm that was liberal, and broad, and we’re going to strike these blows for a better society. And I don’t want to knock that concept, but… they were a little bit too simplistic.153

The radical responses to the city’s housing crisis in the 1970s and 1980s have come to stand as important lessons from the home rule government about being too liberal or veering too far from the center—which really means, as the speaker above suggested—veering too far from the tenets of capitalism.

If policyfailing can act to reinforce existing governance regimes and its protection of capitalist property rights, then what can dismantle existing power structures? Critical

153 Interview with author, Washington, D.C., October 20, 2011
policy scholars have identified the unevenness in policymaking and begun to consider whether these moments of unevenness redouble neoliberalizing efforts. But the subject of policymaking must be filled out with study of what role policyfailing plays in particular contexts, whether policyfailing is intrinsic or necessary to all regulatory schemes, and what challenge—if any—policyfailing poses to existing power structures. If the concept of policymaking as full of mutations and mobilities is to be taken seriously, it will require attention to instances of policyfailings. To better understand the durability of housing crises—like those that persist in Washington, D.C.—geographers must investigate the perpetual fallibility of housing rights and its relationship to the perpetual dominance of property rights. This dissertation does not suggest that all arrangements of property relations, rights, and regimes will create homelessness or failed struggles for housing rights. Rather, it suggests that the laws, cultures, and spaces that property helps to create are evolving and situated mosaics shape the possibilities of more just urban futures.

If residents of Washington, D.C. are to meaningfully address its current housing crisis of rapid gentrification and increasing inequality, which we ought to, we would be wise to unpack the stories and lessons of the struggles over housing in the 1970s and 1980s. In those stories, this dissertation shows, are insights about how a city can be made more just and what obstacles stand in the way. The relationship between property and justice, a subject that undergirds this research, merits scrutiny and the dialectic of property’s materiality, discourse, and practices must be confronted if housing rights are to be made and made to endure.
## Appendix: Interview Participant List

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* Participants were given the choice before each interview to keep the record of the interview anonymous. I gave no preference for which option they chose.
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