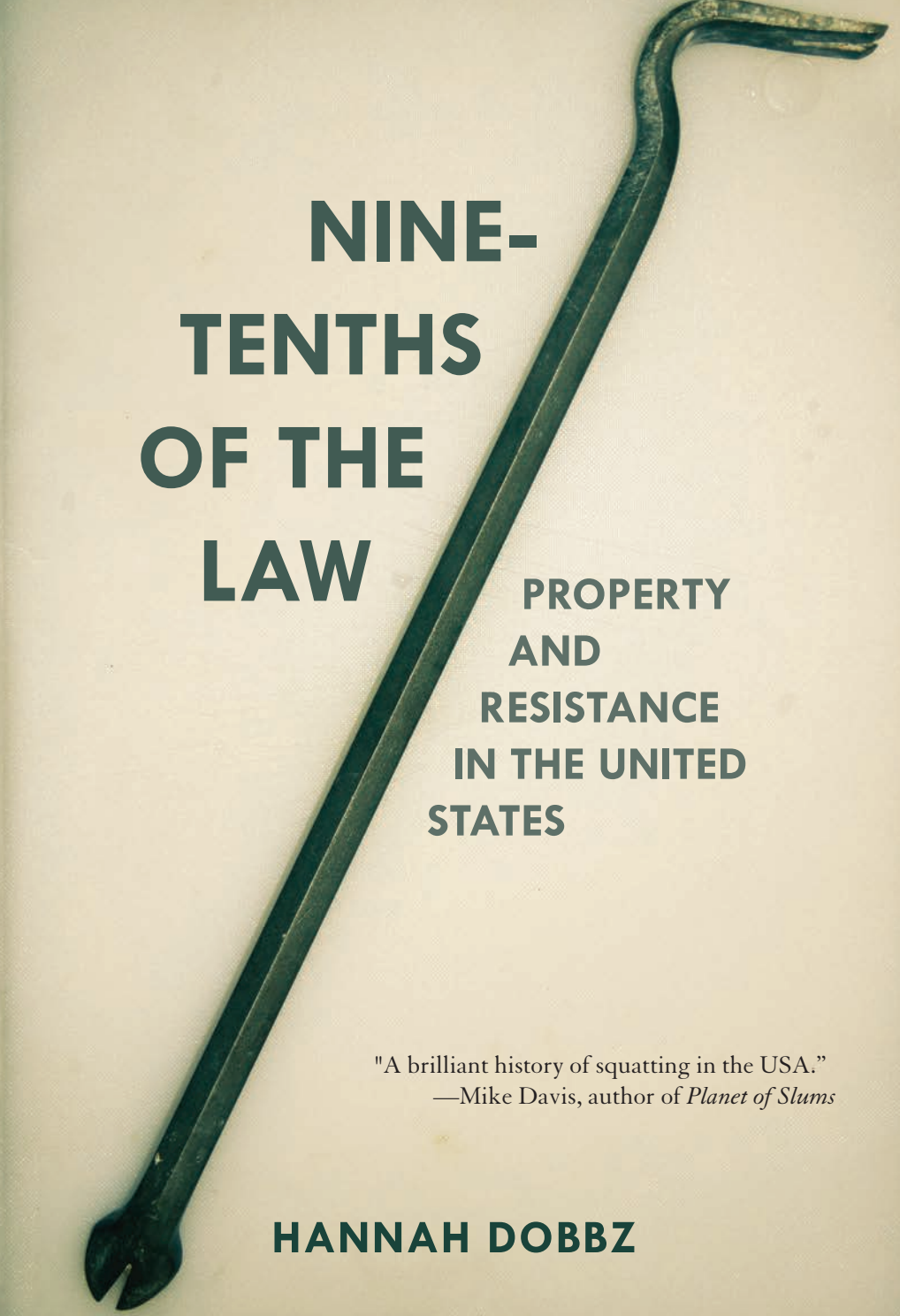

NINE-TENTHS OF THE LAW

PROPERTY AND RESISTANCE IN THE UNITED STATES

"A brilliant history of squatting in the USA."
—Mike Davis, author of *Planet of Slums*

HANNAH DOBBZ

AK PRESS
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Praise for *Nine-Tenths of the Law*:

"Considering how many people all over the world have been involved in squatting vacant properties, it is amazing to me that there are so few good books on the subject. Hannah Dobbz's book is a welcome addition. She deals with a wide range of approaches from the Native American Seizure of Alcatraz Island, to New York Squatters and Homesteaders of the 1980s, to the housing actions led by Occupy Wall Street today. She does not simply advocate but asks important philosophical questions about these tendencies. With America's foreclosure crisis generating a landscape full of empty houses, one can see the rise of an even bigger squatters movement on the horizon. To those engaged in such activity, and those considering it, this book will be a valuable resource."—**Seth Tobocman**, author of *Understanding the Crash* and *Disaster and Resistance*

"Millions of foreclosed homes and abandoned buildings on one hand; millions of Americans desperate for decent shelter on the other. Hannah Dobbz makes the necessary addition of resources and needs in a brilliant history of squatting in the USA."—**Mike Davis**, author of *Planet of Slums*

"This is the thinking person's guidebook to urban and suburban squatting. Hannah Dobbz's book is about property in America, this 'history created all the time.' This book lays it all out, from the days when George Washington was an illegal land speculator, property rights were entwined with genocide, and the Great Proprietors always won, to the resourceful new movements that have recently emerged to help people take empty houses during the 'foreclosure age.' Using her own life, recent news stories, and generations of scholarly work, Dobbz waltzes through the bizarreries of the U.S. property system, from the iron logic of property speculation to the madness of 'arson for profit.'

Her book tells the hidden histories we badly need to know, from lone wolf opportunists to political activists acting selflessly to house others. We read about the big city stories—from New York, Philadelphia, San Francisco—and navigate the entanglements of the foreclosure crisis, how 'people remain homeless as homes remain peopleless' in the doomed suburbs of America. Rent-free living is no bed of roses, as squatters become the new villains for U.S. media, even as they face landlords setting fires and thugs doing evictions for hire. Learn why most of them don't care to own.

Dobbz' book does more than just tell the story of squatting in the USA—although that alone makes it a vital read. For those who aren't quite ready for off-the-grid outlaw living, Dobbz explains land trusts and co-op ownership, along with the romance (and grime) of collective living. If you're thinking of squatting—or just want to know more about legal theory of property and home ownership—this book is for you."—**Alan W. Moore**, author of *Art Gangs: Protest and Counterculture in New York City*

Nine-Tenths of the Law

Property and Resistance in the United States

by Hannah Dobbz

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Timeline of Significant Property-Related Developments in the United States Since European Settlement (as discussed in this book):

1773: King George III prohibits settling further west than Appalachia.

1785: Congress passes the Land Ordinance of 1785, establishing a method by which to divide and distribute land west of the Appalachian Mountains.

1787: New York legislature passes the Act Concerning Tenures of 1787, determining that all land be held in allodial title, rather than in feudal arrangements.

March 26, 1804: Congress passes the Land Act of 1804, according to which squatters north of the Ohio River (which was Indian territory) or in Louisiana were subject to a $1,000 fine or a year in prison.

1815: Congress passes the Preemption Act of 1815, which awards land to illegal settlers on a case-by-case basis according to certain conditions, including, but not limited to, the magnitude of improvements made on the land by those settlers.

1819: Congress passes the Occupancy Law, which mandates that squatters either get paid for the improvements they make on a property or have an opportunity to buy it, minus the cost of the improvements.

March 31, 1830: Congress passes an act banning group intimidation tactics and threatening potential lawbreakers with a $1,000 fine and two years in prison.

1830: President Andrew Jackson signs the Indian Removal Act of 1830, authorizing the government to exchange lands west of the Mississippi River for eastern tribal lands.

1830: The Preemption Act of 1830 passes, entitling any non-Indian settler on unsurveyed public domain to claim up to 160 acres and buy it from the government for $1.25 per acre.

1841: Congress passes the Preemption Act of 1841 (the most well-known Preemption Statute), further loosening laws intended to punish squatters.

1862: Congress passes the federal Homestead Act of 1862, providing an avenue for settlers to acquire federal land by living on it for five years and meeting its improvement requirements.

1887: Congress passes the General Allotment Act (or Dawes Act), authorizing the parceling of reservation lands for individual sale.

August 1953: House Concurrent Resolution 108 passes, abolishing the federally recognized status of first nations, eliminating approximately 109 tribes, and affecting 1,262,155 acres of land.

1968: The anti-racist White Panther Party is founded as a white response to the Black Panther Party; the group opens neglected properties and secures them for the underhoused.

1974: HUD institutes an Urban Homesteading Program based on Section 810 of the Housing and Community Development Act of 1974.

1977: Milton Street opens the unsanctioned "Walk-In Urban Homesteading Program" in Philadelphia, a direct-action style of homesteading and friendly euphemism for squatting.

1982–83: Squatters Anonymous, mostly composed of middle-class youth, becomes known for its mass public squatting demonstrations in San Francisco.

1983: Congress passes the Housing and Urban-Rural Recovery Act of 1983 to address the complaints of ACORN regarding the fairness and accessibility of the Urban Homesteading Program.

1985: Between June and August of 1985, ACORN takes an impressive twenty-five buildings unlawfully.

1987: Charlie "Boo" Burrus is charged with misappropriating $128,000 in public funds from Philadelphia's homesteading agency, ICON, for personal expenses, despite actually using it to fund an unsanctioned food distribution program.

1987: Congress passes the McKinney-Vento Act, requiring the federal government to track its surplus property and convert it to shelter, services, or storage for the benefit of homeless persons.

1988: In Tompkins Square Park, 450 riot police on horseback battle homeless people, squatters, and punks over the newly enforced park closing time.

May 1, 1990: Homeless and homeless advocates across the country coordinate a national day of takeover, publicly claiming vacant properties from New York to Los Angeles.

1991: Urban homesteading is outlawed in United States per U.S. Code TITLE 12 > CHAPTER 13 > SUBCHAPTER I > § 1706e.

January 1992: Charlie "Boo" Burrus suffers a cerebral bleed (a condition similar to a stroke) while serving a one- to five-year sentence in prison.

1992: Homes Not Jails is founded in San Francisco.

May 1995: Squatters are evicted from 541 and 545 E. 13th Street in the Lower East Side of New York City.

1995: Homes Not Jails occupies a building at the possible site for a new ballpark, holding it hostage until Mayor-elect Willie Brown concedes to support the group's plans for a vacant, city-owned apartment building at 17th and Capp streets in the Mission District.

1999: Senator John McCain proposes reinstating the Urban Homesteading Program in S. 485 [106th]: Urban Homestead Act of 1999.

1999: Homes Not Jails pays $5,000 toward the back taxes of an abandoned Page Street property that homeless individuals (including Victor Willis, the "cop" in the Village People) had allegedly occupied for the previous five years since the owner died. Despite wanting to claim it in the name of homeless people, they can not substantiate claims.

1999: Albany police sweep through the Albany Bulb ("the Albany Landfill") park outside of Berkeley in a mass eviction attempt of campers and homeless people.

2000: The Washington, DC, chapter of Homes Not Jails makes its first public demonstration for fair housing by openly occupying a vacant Columbia Heights home in the middle of the day, claiming that they would "fix it up" for a needy family. This action is poorly received.

2002: The City of New York offers to sell twelve squatted buildings in the Lower East Side to the squatters for $1 each, using UHAB as a conduit.

2002: San Francisco City Council passes the Surplus City Property ordinance, developed by Homes Not Jails, which requires city agencies to compile and maintain a list of unused city properties and relinquish them to non-profit housing developers who, in turn, make them available for homeless facilities or low-income housing.

2003: Jamie Loughner and Thomas Gomez win a court battle over the DC activists' takeover of an abandoned school.

April 26, 2007: Umoja Village Shantytown—an autonomous homeless

encampment in Miami—burns down, leaving many with no place to go.

2007–2008: The U.S. "foreclosure crisis" begins.

2009: McKinney-Vento Act is amended to better fit the needs of newly homeless foreclosure victims.

2009: Democratic representative from Ohio Marcy Kaptur declares publicly that foreclosure victims should become "squatters in their own homes."

May 2009: Congress passes a temporary act to grant renters at least ninety days notice to move out of foreclosures, though few people are aware of the extended protection and continue to move from their homes when prompted.

2010: The New York State Senate passes the Smart Growth Public Infrastructure Policy Act, which implements a program to use existing infrastructure to reduce sprawl.

May 2010: The federal government sues Deutsche Bank for foreclosure fraud.

March 2011: So many Floridians begin attempting adverse possession claims that the state passes a bill adding roadblocks to the process.

May 2011: After the bank is branded the largest slumlord in Los Angeles, the city attorney's office files a lawsuit against Deutsche Bank, seeking hundreds of millions of dollars in fines and to force the rehabilitation of the foreclosed properties.

June 2011: A Detroit court rules that occupants of derelict buildings are not protected against warrantless police searches—even if the resident actually *owns* the condemned house.

December 6, 2011: Occupy Wall Street and Organizing for Occupation stage a demonstration in which they publicly and successfully claim a foreclosed house in East New York. Embarrassingly, the house later turns out to not be a foreclosure after all, and the remaining squatters are evicted in April 2012.

Introduction

"When starting a new culture, as when beginning any new group, it is wise to present a starting structure, as opposed to offering the opportunity to structure alone; grist for the mill."

—Anonymous entry in the 537 E. 13th Street homesteading journal, January 1985[1]

"I've lived on this street for nearly fifteen years,
Lived here with my hopes, lived here with my fears.
Paid my taxes, paid my bills,
Watched my money vanished in the council tills.
Along come these scruffs with their education,
Their grand ideas, talk of corruption.
My rent keeps rising, my job gets boring.
If things gets worse then I'm gonna have to join them."

—"Dirty Squatters" by Zounds

By making a whimsical decision in 2003 to buy a video camera (to tape my drunk friends at parties), I unwittingly determined my focus for the following decade: squatting.

In 2004, having long since quit school in San Francisco and moved to Oakland, I fell in with people like Steve DeCaprio who was living in an abandoned house on the border of Berkeley. Steve had been having some negative encounters with police, and since I was one of the few people he knew at the time with a video camera,[a] he asked if I would film his interactions with the police for use in court. I did, firstly as a favor and secondly as a way to annoy the cops. But later Steve planted an idea in my mind: "Why don't you use the footage to make a documentary?" Being entirely unreasonable in my youth (and aware that my film experience was limited to video yearbook club in high school), I accepted the challenge. I became

a. This is, of course, back when phones were phones and cameras were cameras, and ne'er the two did mix.

Steve's regular camera guy. At any moment when there could predictably be police on the scene, I was there, obnoxiously documenting everything.

This went on for months, until the following spring when I was inspired to break into an abandoned boat-motor and turbine warehouse in Emeryville (a small town bordering Oakland) called the Power Machine, where I had decided I would live. I shimmied up a drainpipe with a heavy power drill in my backpack, climbed onto the balcony, and, after teetering on the sill for a moment, entered through a broken window. I unsecured the plywood door on the first floor, through which friends and I then carried in blankets and pillows and bags of avocados and cookies to make ourselves comfortable. It was hereby irreversible: I had fallen in with the *squatters*!

Squatting has never had a particularly good reputation in the United States. This is nothing if not ironic, since, as indigenous advocates frequently point out, we are a nation *founded* by squatters. But the history of U.S. property is bursting with doublethink: Squatters are the greatest patriots but the sleaziest freeloaders; they are self-made men but unscrupulous carpetbaggers. Indeed, squatters are a group that has, throughout history, consistently been pulled in multiple directions at once. Who identifies with squatters? Is it the backcountry, right-wing militia types, who want the government off their backs? Is it the urban housing justice advocates, with their banners pronouncing housing as a human right? Is it the anarcho-punks, seeking an equitable lifestyle through do-it-yourself means? Is it homeless individuals and families with no other choice, having been preyed upon by predatory lenders and a rampaging capitalist system?

Incredibly, squatting embraces an eclectic mix of people, who embrace back for a wide range of reasons. But no matter what the reason, squatters hold the same reputation in the mainstream discourse—a reputation that is integrally tied to the general understanding of what property means in the United States, an understanding that reaches back to colonialism. Imposing new and bizarre ideas about property onto the indigenous people of North America, settlers set the stage for the next several hundred years of ownership mechanisms and expectations. Even when the government was *giving* away Western tracts of land in the nineteenth century, the general idea persisted that the parcels were to become *private* property, which in turn would come to represent a citizen's individual worth (despite having never paid for property, as was the frequent

case during Westward Expansion). The venerated notion of property carried forth, creating a myth that still impacts us today: Through hard work, American citizens are able to attain American ideals. We don't like to think that it might actually be through *sneakiness* or *opportunism* or, conversely, *mutual aid* that American citizens have been able to attain American ideals, since that sounds silly. Yet these are common methods of squatters, and the country was, after all, founded by squatters.

Today, in the United States, squatters can be found in derelict urban tenements, in hand-built shacks on rural grasslands, and in foreclosed suburban mini-mansions. They can be found in just about any abandoned structure, but today, regardless of *where* they squat or *why*, they are all confined to the rules and assumptions of the property system.

We are all accustomed to talking about the "housing market" as if it is actually a thing, and we are able to do this because we have universally accepted that property is a commodity that, as such, can be bought and sold on a market. It is this common agreement that gives the arrangement power. Liken this to money markets, in which the users of currency universally agree that it has value. Money is able to grow or shrink in a market based on the universal contract that money is real and that it is guaranteed. But when you take away that guarantee, people lose faith that money has value, and—as we saw, for example, in Russia in the 1990s, or in Argentina in 2002, or in many European countries more recently—the whole system collapses. "In this sense," as David Graeber articulates in *Debt: The First 5,000 Years*, "the value of a unit of currency is not the measure of the value of an object, but the measure of one's trust in other human beings."[2] The same can be said for the housing market, similarly invented as a factitious system of measurement: Property stands in for money in an elaborate game of appreciation and depreciation based on arbitrary criteria—that is, based on the level of faith that the general public has in a neighborhood or region, or in the market as a whole. When a house is assessed, rarely is its worth based on *use* value, but is instead based on the *expectation* that the market worth may grow. This is why the housing market, as any market, is unstable and perpetually poised to fail: Investments are gambles, and there is not always enough money to back artificial claims of value. In the foreclosure crisis, which began at the end of 2007, many homeowners saw the amount they owed on their

mortgages swell exponentially, while the appraised value of their homes (based on dwindling public faith in the market itself) plummeted.

Interestingly, however,

> it seemed that most Americans were open to radical solutions. Surveys showed that an overwhelming majority of Americans felt that the banks should not be rescued, *whatever the economic consequences*, but that ordinary citizens stuck with bad mortgages should be bailed out. In the United States this is quite extraordinary. Since colonial days, Americans have been the population least sympathetic to debtors. In a way this is odd, since America was settled largely by absconding debtors.[3]

The historically contradictory reaction of Americans to the foreclosure crisis is reassuring. With the general public questioning the social contract about what property is and how it should be treated, squatting begins to appear as a plausible alternative to a flawed system. By challenging the assumptions of the contract, Americans are blazing a new trail of property resistance. And with squatting once again in the mainstream discourse, the potential to overhaul the way we do housing and the way we view resources creeps closer to a new reality.

Many places in the world have property systems similar to the United States', but other, older countries have had more time to tug back and forth on the social contract and to settle on different conclusions.

My strongest understanding of squatting, in fact, came from the outrageously well-organized squatter diehards in Europe. On a poorly planned trip around the continent at age nineteen, I was invited to stay at a squat in London that doubled as a music venue and pool hall. I spent the next month at a squatted four-story Georgian townhouse in Dublin, which proved to be a beautiful display of what a dozen committed and creative people can do when they have a mind to. While there, I met other squatters from around Europe. They seemed otherworldly, as if they came from a different *planet* than mine, which I had only known to consist of dorm rooms, overpriced rentals, and my parents' house. But *these* people were from places like Can Masdeu, an abandoned leper hospital in the countryside of Barcelona, where thirty people live cooperatively and

where community functions accommodate hundreds. In 2002, these squatters fought eviction by sitting on chairs fastened several stories up on the outside of the building for three days. They balanced on "death planks"—one squatter sat on each end of the plank, which passed through two windows, and if an officer tried to climb out onto either end of the plank to remove the squatter, they would both surely fall to their deaths. Eventually a court ordered the police to call off the eviction.

To Europeans, this sort of dramatic, high-risk squat defense seemed a normal reaction, with much precedent dating back at least four decades. In Amsterdam in 1980, riot police evicted squatters from Vondelstraat. Agreeing that this was unacceptable, the squatters created a diversion at city hall and reclaimed the squat while police were distracted. When the police realized that they had been duped, they were angrier than before and returned to Vondelstraat to repeat the eviction. Archived footage shows hundreds of demonstrators and police engaged in a no-holds-barred riot.

"Riot police trucks drove across the junction," Pietje, one of the squatters, said of the experience, in the documentary *De Stad Was Van Ons*. "A guy was hit by a truck and the radio broadcast an emotional report. We saw him dragged along by the bus. I was stunned. We were standing there on the balcony with Theo. I said, 'I'm going out with some of the others.' Theo tried to stop me but I went anyway. I jumped off the balcony onto a lighting mast, then down onto the road. I grabbed a stick, fence posts, and in five minutes we chased the police away."[4]

Having developed an adversarial relationship with police on the one hand and a strongly supported front of squatters on the other, clashes only intensified as the decade went on. It became a form of guerilla warfare, with chaotic, violent tendencies on both sides. Police went from trampling squatters with horses to driving unstoppable tanks through large crowds. Fires ignited throughout the streets, and cinders burned high into the night sky.

Between 2006 and 2007, in response to the eviction of Ungdomshuset ("Youth House"), Copenhagen saw some of the most destructive and virulent squat-defense riots since the ones in Amsterdam. The historic building, constructed in 1897 by the Danish labor movement, was granted to the squatters by the city council in 1982, and had functioned as a social center since. In 2000, however, the city withdrew the grant and sold the

building to a right-wing Christian organization called Faderhuset ("Father's House"), which intended to tear it down. After years in court, and many offers to buy the building on behalf of the squatters, a judge finally declared Faderhuset the legal owner in August 2006, and squatters braced themselves for a tumultuous eviction.

Supporters barricaded and fortified the structure so heavily that musician David Rovics described it in December 2006 as looking like a medieval castle. "In past assaults," he wrote, "the police have gone onto the roof or, using cranes, through the second-floor windows, rather than attempting to ram through the formidable barricades on the ground floor. There are too many windows to turn the entire building into the kind of fortress the ground floor has become, but no effort is being spared to do just that. The upper-story windows from which you could once look out at the neighborhood are now completely barricaded, and the only light that shines within Ungdomshuset now is artificial."[5] This was quite a contrast to the former Ungdomshuset, which was known for its infoshop, cinema, bar, community kitchen, workshops, performance and rehearsal spaces, and famous annual K-Town Festival, which drew an international audience.

After a tense and emotional seven months of waiting for the final eviction, in the early morning hours of March 1, 2007, police invaded Ungdomshuset in an ostentatious and reckless display of authority, employing a military helicopter and two cranes. Roughly 3,000 people rioted over the next four days, 643 protesters were allegedly arrested (including 140 foreigners), and at least 25 were hospitalized. In solidarity, protests were held all over Europe, but on March 5, Ungdomshuset was demolished.[6]

Serendipitously, in June 2008, the city council gifted the squatters two buildings at Dortheavej 61 (together the same square footage as Ungdomshuset) for use as a new social center in place of the old one. This new Youth House boasts a venue and bar, a book café, a large kitchen, a film-screening room, a yoga and dance studio, a concert hall with balcony, a dozen creative workshops (such as screen-printing, sewing, and photography), offices, meeting facilities, and a studio for bands to practice and record music. All in all, it wasn't a terrible trade, though no one would discount the sacrifice made for it.[7]

"This whole notion of revolutionary romanticism," said Ungdomshuset activist Mads Lodahl prior to the riots, "it only serves as an outlet for

people's anger and frustration, and so they fight with the police. In reality, it's counter-revolutionary because you direct all your anger at the police but they're not the ones you're angry with.… [However,] my friends and I have realized that we can't talk our way out of this, because the other side doesn't want to talk to us. So like it or not, we are getting ready to fight."[8]

While I wasn't seeking the *violence* of squat defense per se, this kind of high-octane, über-romantic alternative to mainstream existence nonetheless enchanted me. Back at home, I wondered, *Could these sorts of places exist in the United States*? *Could we develop the sort of tight-knit communities that* could *stand together in a crisis, if we had to*? *And in the meantime, is it possible to live in a clean, organized, and equitable squat, steeped in adventure and passion*?

My life at the Power Machine replicated this European idea of squatting as liberated social center more than most other American squats I have visited—the worst of which resemble clandestine hovels or short-lived dumb luck based on someone else's real-estate folly. The Power Machine was an enormous space, and we did what we wanted with little interference. At one point, we had a dozen residents (with an endless stream of guests), each constantly contributing shared food to the cupboards and amenities to the household. We had many bikes, a collection of games, a growing library, accumulated art supplies, and continually more furniture (including the velvet chaise longue scored from the side of Ashby Avenue). We were so brazen about our use of the space that we would throw huge, very loud parties—and since we were located under a bridge and next to the railroad tracks, nobody ever seemed to hear us. At one point we even found a big-screen TV in the trash and set up a game of "Dance Dance Revolution" in the living room. Afterward, we would help ourselves to the outdoor hot tub at the hotel across the street (affectionately called the "Squat Tub"). The only thing missing from this extraordinary arrangement was the Euro-style police standoff—though in Emeryville we didn't need one. We were on good terms with the property owner, who viewed us as a positive element for "keeping the riff-raff out." And *he*, in turn, had some kind of special understanding with the police sergeant. Because of this, my only interaction with Emeryville PD in two years of living there went like this:

> Rookie Cop (*From across the train tracks to me in the second-story window*): Hey! Get down from there!

Hannah: Me?
Rookie Cop: Yeah, you're not supposed to be up there!
(*Hannah leaves the window, goes down the stairs, outside, and across the train tracks to where two cops are standing.*)
Hannah: Hi. I think there's some confusion. We work in this building. We have keys. (*Shows them the key.*)
Police Sergeant: Oh, yeah? Who are you working for? (*This is a test, since the police sergeant is an acquaintance of the owner.*)
Hannah: Kip.
Police Sergeant: (*Laughs, revealing that I answered correctly.*) Which room is yours? You know, Kip let me in there once, and I was surprised. I thought, "These people did a really nice job!" There weren't just blankets everywhere, like I thought there would be; you guys keep your rooms really clean! Anyway, let me tell you a little about the history of this building… (*He then goes on for quite a while about the history of the building and the history of Emeryville, and then jokes about the corrupt police force.*)
Police Sergeant: Anyway, if you ever need anything, just give us a call.

I never did call the Emeryville Police Department for "help" with anything, but it was reassuring to know that they weren't waiting to pounce. We technically (albeit unofficially) had Kip's permission to be there; the Power Machine was in legal limbo while Kip waited for a reasonable offer of compensation from the city, who planned to take ownership of the property by way of *eminent domain*. The trouble was that the land was worth $5 million, while the bioremediation needed (due to ground contaminants thanks to previous owner, Standard Oil) was estimated at $7 million. Because of this discrepancy, the Power Machine was tied up in the court system for years. In the meantime, Kip didn't mind having us there because he knew that he was going to give up the building eventually anyway, so it didn't matter what happened as long as we didn't cause problems. Later I even met the fire chief, who kindly donated a mattress to us. In these ways, and because our situation at the Power Machine was generally so surreal, our squat managed to embody much of the magic of European squats. But certain elements of my squatting situation—and of squatting in the United States, in general—simply cannot

compete with the European scene, and this is because of two primary differences: culture and the law.

European squats, also called social centers, often promise to accommodate more of the general community than just the people who live there—this is fundamentally different from most squatting efforts in the United States, which tend to focus on *individuals'* need for housing. The broader *culture* of squatting has been undernourished in the United States, while in Europe, over the course of decades, many countries have not only fostered such a culture of squatting but have also integrated it into mainstream society. Because of this, squatting has grown to be a widely understood (if not marginally accepted) action in some places. In the United States, squatting continues to be viewed as an individualistic ploy to get something for nothing. Further, most Americans view property in a way that renders squatting, if not disruptive then, at the very least, confusing. In the most disturbing cases, property owners in some states can invoke the "castle doctrine," which permits owners to "protect their homes against intruders," even if that means killing them.[9] In that kind of fearful social climate, cooperation and compassion are far-flung idealisms, the fanciful daydreams of soft Americans. This is just one cultural factor that prevents Americans from launching a squatting movement in the style of Amsterdam or Barcelona: There is simply not the popular understanding or support.

Second is the legal factor, since U.S. laws are naturally different from those of various European countries. Many such places are known for their "open squatting" legislation, which allows and sometimes *requires* squatters to announce their presence in order to preserve their right to stay. Laws vary country by country, but—at least since my first trip to Europe—there has been a general American perception that Europeans are simply *allowed* to squat and Americans are not. In the past ten years, however, many of the laws and attitudes around squatting have shifted in Europe. In October 2010, Amsterdam officially criminalized the act, outlawing numerous established squats, as well as the intricate social web that connected and supported them. Throughout 2011, media outlets in Great Britain incessantly reported on sinister squatters stealing houses while owners were on vacation, which prompted Parliament to move toward a criminalization decision as well, effective September 1, 2012 (a penalty of up to six months

in jail and maximum £5,000 fine). In addition, since the demolition of Ungdomshuset in 2007, more famous European squats continue to struggle against authorities and eviction, to much public outcry.

In cases such as that of the UK's criminalization strategy, shifting cultural expectations are able to shape legal conditions. In the United States it is arguable that it works the other way around and that legal conditions predominantly shape our cultural expectations—though realistically it is a little of both: Our cultural climate partially is as it is *because* of the law and partially *influences* and *reinforces* the law.

All of this works to explain why, despite my efforts to imitate a Euro-style squatting utopia at the Power Machine, I was still met with individuals who scoffed at the tidiness of the squat, declaring that "squats are *supposed* to be dirty." How tragic that the negative cultural expectations of American squatters have even colonized the minds of squatters themselves! European squatters, it would seem, at least have a somewhat common goal, while American squatters are all over the place: some want to be dirty and some want to be European, some want to live in their houses forever and some want to move on in a month, some want shelter and some want a home, some want to make a political statement, and some want an adventure. With such a spectrum of objectives, Americans have only managed to carve out small squatting communities here and there, while a sweeping movement remains elusive. With this in mind, I conceived the idea for this book. It seemed that there were no centralized resources for squatting in the U.S., and most squatting efforts I encountered were founded on hearsay about "squatter's rights"—whatever those are. Similarly, there were stories that circulated about monumental, historic squatting efforts, but few people who rehashed them seemed to know many details. I hoped that by researching squatters in U.S. history to establish a cultural precedent, and by pinpointing the legal conditions and issues surrounding squatting (and other forms of property resistance), I might help to reshape both the cultural and legal attitudes toward squatting in the United States. Such a paradigm shift is requisite to any attempt at a broader squatting movement, and it *almost* happened in 2011 with Occupy Wall Street.

In October 2011, shortly after that movement began, I took a trip to Buffalo, New York, where activists had followed suit by establishing an "Occupy" encampment of their own. A few dozen tents had sprung up

and dotted Niagara Square, the plaza across from the behemoth thirty-two-story City Hall that now towered over the mini-campsite. The plaza itself is so large that campers were more like a few ants crawling on the picnic blanket of the municipality, as compared with the "infestation" of Wall Street. For all intents and purposes, downtown Buffalo closes at 5 p.m., and so little traffic these days circles City Hall that the protesters' visibility was minimal. Without a financial district to picket, and in the midst of a struggling local economy, the occupiers' tactics struck me as painfully misguided. Since the city lost over half the population that its sprawling infrastructure was designed for, the slogan "Occupy Buffalo" seemed a little on the nose; the municipality has been trying to convince people to *occupy Buffalo* for the last fifty years!

As a Great Lakes chill whipped about the autumn air, it seemed a curious, cold, and feeble effort to camp at this downtown location. With so many empty houses genuinely abandoned in a city that is known for its brutal snow, ice, and wind, it boggled my mind that these people were trying to think up ways to safely sleep outside through the winter. Some were even talking about erecting permanent structures on the square, which I found even more baffling than Buffalonians sleeping in tents. Why, I thought, wouldn't the occupiers occupy *houses* instead?

It took a few months, but Occupy movements in other cities began to have similar realizations. After all, what could be a more fitting response to a housing crisis than the direct reclamation of housing? In this way it was important for each city to examine and analyze the regional conditions that created the inequities they were battling. While occupying Wall Street was (momentarily) an effective tactic in New York City, the same protest rang hollow upstate. This is similar to the way that a European-style social center is more appropriate and viable in Madrid than it is in Memphis: Squatting itself is a tactic, and as with any tactic, we must consciously choose it as a result of our cultural and legal environment. That said, squatting—despite the dedication of this entire book to the subject—is not always a solution.[b]

In these pages, I discuss many ways that squatting has been used as a tactic throughout the history of the United States. By framing it strictly as

b. Although a friend joked that I would do well to call the book *Squatting: Fuck Yeah This Punk Shit Is Awesome Do It*.

a *tactic*, I tend to steer away from instances of squatting as an *ends*, though they certainly do exist. While there could be as many types of squatting as there are squatters, I define it here as occupying an otherwise abandoned structure without exchanging money or engaging in a formal permissive agreement. I then focus on ways of seeking title to such squatted properties. Additionally, I cite numerous instances of property resistance that cannot categorically be described as *squatting*; squatting is only one *type* of property resistance within a broader pool of tactics in the global struggle for equity. This book is about how property outlaws have demonstrated and continue to demonstrate such resistance in the American context. I specify *American* for two reasons: (1) Squatting is a different animal in Europe, just as it's a different animal in India, just as it's a different animal in Brazil. Because squatting happens in other ways and for other reasons in such places, they are mostly incomparable to squatting in the United States without extensive research and severely elaborate analyses that are beyond the scope of this book. (2) Europe is already famous for squatting, while American efforts have been largely ignored.

But as I said, this work is not only about squatting. Because such actions do not exist in a vacuum, it is necessary to also explore complementary ideas *around* squatting, such as the social and economic conditions that lead to buildings being abandoned, the philosophies that justify property resistance, and the legal realm that dictates future possession.

Some chapters are more law heavy than others, which compels me to declare that, though I have spelunked for a few years in the clammy depths of U.S. legislation to research this book, I am *not* a legal professional. I have never attended law school nor been licensed to dispense legal advice; I pieced together my research with the help of trusted attorney friends and law students. Also, because the law is constantly changing, I encourage you to do your own research on local laws in your area before taking any actions described in this book.

CHAPTER ONE

And Then There Were None: Indigenous Land Struggles and the Problem of Ownership

"Territoriality is a way of organizing and talking about power. The problem is one of power, not space. There is plenty of the latter."
—Milner S. Ball[1]

"A judge articulates her understanding of a text, and as a result, somebody loses his freedom, his property, his children, even his life. Interpretations in law also constitute justifications for violence which has already occurred or which is about to occur."
—Robert M. Cover[2]

When I was a kid, I thought that history was something that had already happened and was over; all the continents had already been discovered, and all the wars had already been fought. It took me years to understand that history is created all the time and that through history we are able to better understand the movements of today.

A history created all the time is an apt way to talk about the American Indian experience, an essential topic to a thorough discourse about land struggles in the United States. Of course, we have all been made aware since childhood that Europeans stole this continent from the indigenous peoples who had lived on it for tens of thousands of years prior. But even when our textbooks were not revisionist or downright racist, Native Americans were still portrayed as a sort of dinosaur—one of history's great tragedies that anyone alive today could safely and passively lament because the colonizers and Indians of the past were long dead.

Patricia Nelson Limerick eloquently describes the situation in this way:

> Since there was no chance of reversing the conquest, it was safe to regret it. Discontent with modern industrial society led to an interchanging of the usual terms: white Americans were

> the barbarians, savage and unprincipled, possessed by primitive greed; Indians were the genuinely civil people, who lived with an ecological wisdom and saintliness that made white Americans look like childish brutes.[3]

An exploration of American Indian history that goes deeper than a superficial understanding of their abuse is rare. And the story of their past is further obscured to the mainstream when Indians themselves tend to be notably absent from current events. Most of the things we know about Native Americans we learned in elementary school, and those things tended to be reductive stereotypes that we perceived as glaringly obsolete. Images of feathers, headdresses, and loin cloths were and continue to be so painfully primitive to young people trapped in an age of rapidly advancing technology. And all talk of native peoples was relegated to the *history* books, effectively removing them from the present tense as a people who continue to live and breathe and struggle.

Bruce N. Duthu calls this phenomenon the "dying race" thesis.[4] Europeans employed this thesis as a reaction to the presence of natives that stymied their original plans for colonization in the New World. The "dying race" thesis presupposed the extinction of hundreds of tribes by virtue of performative speech; if the notion were absorbed into the hearts and minds of the public, then it would eventually become true. Many of the historical Indian plights that followed can be traced back to and justified by the dying race thesis.

The tactic was particularly useful in disputes over land, the linchpin of indigenous struggles. Because American Indians tended to view land as a life-giving and life-sustaining force, while Europeans tended to view it as a resource, a commodity, and a source of revenue, the two perspectives on the value of land were irreconcilable.[5] This, of course, was not the only difference between the two groups: In a catch-22 for natives, settlers declared that only Christians could invoke the Doctrine of Discovery, the credo that granted colonizers land simply because they were the first Christians to discover it.[6] The declarations that vested power in Christians were the first of many ways in which colonizers dehumanized natives and habitually branded them as inferior. This narrative has stretched through time to touch even the contemporary struggles of Native Americans.

The first and most pivotal case regarding indigenous peoples in U.S. law was the 1823 case of *Johnson v. McIntosh*, a case that not coincidentally involved no input from indigenous peoples. Johnson argued that, before European colonization, Indian tribes "held the country in absolute sovereignty, as independent nations, both as to the right of jurisdiction and sovereignty, and the right of soil," while McIntosh asserted that the tribes were in a "state of nature, and [had] never been admitted into the general society of nations."[7]

The court favored McIntosh, forcing Indian tribes to relinquish their sovereignty, and endowing natives with a paternally granted "right to occupancy." Ultimately, this ruling set a precedent, justifying all subsequent maneuvers to disenfranchise Native Americans and set them on an interminable course of federal abuse. According to Duthu, "The decision rationalized the dispossession of a continent from its original owners by creating a legal framework that, at its core, assumed the racial inferiority of Indian people."[8]

The decision not only shaped indigenous affairs in the United States for the foreseeable future, but it also influenced the legal structure of natives' place in commonwealth countries, including Canada, Australia, and New Zealand.[9] This racist ethos is explicitly carved into the language of the courts, illustrating that these attempts to bureaucratically extinguish whole tribes of people was not a subtle one and proved to be anything but unintentional.

In the 1913 case of *United States v. Sandoval*, a dispute over the selling of alcohol by non-Indians on Pueblo Indian land in New Mexico, the court condescended to call the Pueblos simple-minded and obtuse: "Always living in separate and isolated communities, adhering to primitive modes of life, largely influenced by superstition and [fetishism], and chiefly governed according to the crude customs inherited from their ancestors, [the Pueblos] are essentially a simple, uninformed and inferior people."[10] Similarly, and as late as 1980, Supreme Court Justice Rehnquist said Native Americans "lived only for the day, recognized no rights of property, robbed or killed anyone if they thought they could get away with it, inflicted cruelty without a qualm, and endured torture without flinching."[11]

The *Johnson* case, however, was just the first in a series that would incrementally decimate indigenous peoples' land base on the continent, often pushing them to other open lands, and eventually relocating them

to cities. Seven years after *Johnson*, in 1830, Andrew Jackson signed the Indian Removal Act, which would authorize the government to exchange lands west of the Mississippi River for eastern tribal lands. Some forty years after that, as the American conservation movement was taking its first steps, and National Parks were becoming fashionable displays of environmental integrity, the U.S. government lassoed larger tracts of land further west and again wrangled them away from natives. The Crow, the Blackfoot, the Nez Perce, the Shoshone, and the Bannock Indians' insistence on hunting within the bounds of Yellowstone National Park baffled park authorities, who saw the natives as interfering with pristine wilderness. One government liaison to the Shoshone wrote in 1865, "Wild Indians, like wild horses, must be corralled upon reservations. There they can be brought to work, and soon will become a self-supporting people, earning their own living by their industry, instead of trying to pick up a bare subsistence by the chase."[12]

The presence of these natives challenged the Western European assumption of dichotomous spheres of activity: During the week, white men worked and lived in the cities; on the weekends, they came to the wilderness to relax, commune with nature, and hunt for sport. The Indians of Yellowstone lived outside of those spheres, which is why they were eventually walled into various reservations in the area. That kept the West categorical, and it kept the National Parks comfortable only for weekend warriors.[13]

With the Indian Removal Act of 1830, as white settlers migrated further west, the beast of land consumption grew. The same year that the Indian Removal Act was signed into law, Congress also passed the first Preemption Act, which entitled any non-Indian settler on unsurveyed public domain to claim up to 160 acres and buy it from the government for $1.25 per acre. The act was originally intended to expire after two years, but was renewed in 1832, 1834, 1838, and 1840. In 1841, Congress extended the act indefinitely. It was finally repealed as late as 1891, during what became known as the Allotment Era for Native Americans, between the 1870s and 1930s.

The General Allotment Act (or Dawes Act) of 1887 authorized the parceling of reservation lands for individual sale. Individual Indians could claim parcels, but the surplus would be opened to homesteading

by non-Indians.[14] "Congress dreamed up the Dawes Act…to destroy the Indian nations, then take the rest of their land," writes Russell Means of the American Indian Movement (AIM) in his autobiography. "One must understand that to an Indian, ownership is a foreign concept. The earth is our Grandmother, who provides us with everything we need to survive. How can you *own* your grandmother? How can you *sell* her? How does a piece of paper that you probably can't read prove ownership of something that can't be owned?"[15]

The clash of traditional economies and the new American economy marks a definitive ideological shift in North American history. In the new American economy, all aspects of the environment were segmented and assigned various worths in terms of dollars, thus transmogrifying *land* into *property*, and laying the foundation for today's U.S. real-estate market system. As Means describes above, the indigenous were surprised by this notion of private property: The primary economic institutions of the Six Nations of the Iroquois, for example, were longhouses in which all the tribe's goods were stockpiled and doled out by women's councils.[16] Collective ownership models defeated the idea of *owning* altogether, as value was based on use, and use was based on need. Since these practices applied similarly to land use, the implementation of Anglo-European ideas about private property were disruptive and disorienting to tribes, making the Allotment Era one of the most destructive periods economically, as well as culturally, for Indians. By permitting natives to maintain their land only in the form of an individual parcel, the U.S. government isolated Indians from their extended families and communities, while simultaneously dismantling the tribes' custom of land sharing.

White custom, which had migrated to North America, now rapidly proliferated its individualist paradigms. By implementing arbitrary legal statutes, the U.S. government succeeded in compartmentalizing nearly every aspect of American life. By way of the Dawes Act, what was known as "Indian Country" was actually an acreage of land that, while often populated by some Indians, ironically also contained parcels owned in *fee simple* by non-Indians.[a] Some white men even extended their land

a. Fee simple: A permanent and absolute tenure of an estate in land, with freedom to dispose of it at will.

holdings by marrying impoverished and often illiterate Indian women, then forcing them to work their own land.[17]

The indigenous land base was further torn apart along lines perforated by surveyors when Indians were forced to *buy* the plots they already lived on. Any Indian who resisted this movement toward cultural isolation and Anglo-Americanization was branded as an "irreconcilable" and subject to arrest, incarceration, or forced appointment of land.[18] According to Duthu, "The allotment policy was the key plank in the government's assimilation efforts of the late nineteenth and early twentieth centuries designed to bring an end to the distinct cultural and political existence of Indian tribes."[19]

Divesting natives of their right to determine who lived on their land further deprived them of their agency to define the character of the place where they lived—which still further smothered their cultural birthright. When Congress ended the allotment system in 1934, Indian land had dwindled to about 48 million acres, down from 138 million acres in 1887. At the end of the Allotment Era, Native Americans had the right of occupation on less than .02 percent of the land in the United States.[20]

In 1955, the Supreme Court heard the case of *Tee-Hit-Ton Indians v. United States*, in which the Tee-Hit-Ton Indians sought compensation for lumber taken from their lands. The resolution of the *Johnson* case from 123 years earlier figured heavily into the deliberation in *Tee-Hit-Ton*. This case was significant because it was the first time that the court distinguished Indian title from "recognized" title and, in Duthu's words,

> concluded that since the former was not "property" under the Constitution, Congress could extinguish the Indian title without making just compensation to the tribes. This holding effectively created a different class of property rights for certain Indian land claims to avoid triggering the legal obligation imposed on government by the Constitution's Fifth Amendment, which states, in pertinent part: "Nor shall private property be taken for public use, without just compensation."[21]

Here, Duthu is referring to *eminent domain*—the government's prerogative to seize privately owned land in exchange for just compensation.

But because the Supreme Court in 1823 deemed Indian peoples non-nations and earmarked their lands as non-property, it was ambiguous whether Congress should act under its eminent domain powers or under its trustee powers. If eminent domain was not applicable due to the status of Indian land, then just compensation need not be made.[22]

The *Tee-Hit-Ton* decision came about during the so-called Termination Era of the 1950s and '60s. The Termination Era—just as it sounds—was a time during which the government committed to terminating Native Americans as a distinct people.[b] The cornerstone of this era was the highly destructive Urban Relocation Program. The program strategically moved indigenous individuals to selected urban centers around the country (including, but not limited to, Los Angeles, Dallas, Denver, Salt Lake City, Cleveland, Phoenix, and San Francisco), getting them off reservations and assimilating them into mainstream culture. As a result of this unanimous "House Concurrent Resolution 108" in August 1953, approximately 109 tribes were eliminated and 1,262,155 acres of land were affected.[23]

The stated goal of the Relocation Program was to provide an escape for Indians from the extreme poverty of life on the reservation,[c] but it was a gambit on the part of the government, who stood to gain additional federal land from natives, as well as the bonus of Indian assimilation.

Having been transplanted from the lives they knew to the hustle and bustle of the city, many indigenous people found the urban environment disorienting. For the first time in their lives, they had to budget money and practice fiscal responsibility—foreign concepts to members of tribes that shared nearly everything. And general planning for the future seemed wasteful to peoples accustomed to living in the present.[24] Their accommodations in the poorest parts of town and their jobs often unskilled labor (if they found work at all), these relocated natives entered into a poverty cycle that precluded them from ever moving ahead economically—despite the stated mission of the program.

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b. According to the official line, "termination" referred to extinguishing the formal relationship between the U.S. government and Native American tribes. The subtext here, however, is that they would arrive at a terminated relationship by first terminating the distinct people—a process known as assimilation.

c. A poverty inflicted by the introduction of capitalism to non-capitalist societies.

Socially, Indians were subjected to racist attacks from people in every sector of society, from police officers to school teachers. In schools, young Indians were barred from speaking their traditional languages, from wearing their traditional clothes or hairstyles, and from practicing their traditional religions. On the streets, police harassed, beat, and arrested natives systematically.[25] Many whites, having never seen indigenous people before, acted in xenophobic outbursts, exemplified in U.S. Army captain Richard H. Pratt's statement that "the only good Indian is a dead one…. All the Indian there is in the race should be dead. Kill the Indian in him and save the man."[26]

This degradation of community reinforced assimilation and the abandonment of natives' cultural identities. According to Troy R. Johnson, "Cultural destruction and alienation were inevitable. With their familiar culture lost to them, Indians thus found themselves caught between two conflicting impulses: the economic necessity that caused them to leave the reservation and the cultural and emotional ties that made them want to return to the reservation."[27]

The Urban Relocation Program persisted into the late '60s, but it should not be understood that indigenous peoples showed no resistance to their cultural genocide during that time. Perhaps the most famous, and certainly the most notable, instance of native resistance came in the form of the Alcatraz occupation. Fed up with the Bureau of Indian Affairs (BIA),[d] a group of San Francisco Indians unknowingly started a movement with their Alcatraz takeover, one that inspired a domino chain of demonstrations by indigenous people across the country.

Following the fire that destroyed the San Francisco American Indian Center on October 28, 1969, a group of fourteen Indian youths—mostly college students—decided to occupy the abandoned Alcatraz Island as a gesture of self-determination. The U.S. government had closed the island's prison facility in 1963, hoisting the responsibility of its maintenance onto the General Services Administration (GSA) at a

d. Johnson writes, "According to Native Americans, the failure of the BIA to recognize their independence tended to generate feelings of paternalism and dependency, which damaged Indian culture and its strengths. The BIA asserted, however, that the Indians wanted the support and aid offered by the BIA, but resented needing it" (p. 23).

cost of $100,000 annually. The island sat abandoned but guarded by lonely caretakers until this group of natives (who came to call themselves the Indians of All Tribes[e]) recalled an action that had happened five years earlier:

On March 19, 1964, a small group of Sioux men "invaded" and "claimed" the island in accordance with an 1868 Sioux treaty,[f] which entitled the tribe to any surplus government land. They declared:

> Under the U.S. Code we as Sioux Indians are settling on Federal land no longer appropriated. Because we are civilized human beings, and we realize that these acts give us land at no cost we are willing to pay the highest price for California land set by the Government—47 cents per acre. It is our intention to continue to allow the U.S. Government to operate the lighthouse, providing it does not interfere with our settlement.[28]

The 1964 group only stayed on the island for a matter of hours, dancing in the shadow of the lighthouse and running around "laying claim to various parts of the island, just as the many whites who had come to our land had claimed our rivers, forests, hills, and meadows. For a few exhilarating hours," wrote Russell Means, "I felt a freedom that I had never experienced, as though Alcatraz were mine."[29]

When U.S. marshals arrived, the occupiers went home to file paperwork with the Bureau of Land Claims in Sacramento. Indeed, this was meant less as a media ploy (albeit partially) and more as a serious attempt to bureaucratically acquire title. "This is no uprising or any such wild plot. We're entitled to the land free under the law," said Richard

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e. As tribal distinctions diminished during the Termination years, some Indians found it more useful to ally themselves with similarly oppressed people from other tribes and act ecumenically to fight poverty, racism, and cultural genocide.

f. The Sioux Treaty of 1868 was the end product of the Red Cloud War—a war caused by the United States's illegal use of Indian reservations for military forts and their granting rights of way to railroads through Sioux-held land. On March 27, 1964, McKenzie and the four others (Garfield Spotted Elk, Walter Means, Mark Martinez, and Allen Cottier) filed a claim for Alcatraz with the interior secretary, citing U.S. Code 474, 334, and the Fort Laramie Treaty, specifically Article VI, Paragraph 6.

McKenzie, one of the occupiers. "We feel the rights given to the American Indian should and can be exercised."[30]

U.S. Attorney Cecil Poole stated that no charges would be brought upon the group, as they hadn't done any damage to the property during the "invasion." He then jokingly said that if the government wanted to punish the five men, it "might actually make them stay" on the island, which was isolated, windswept, and chilly.[31]

In 1965, when the U.S. government began holding public hearings on how Alcatraz should be developed, McKenzie filed an injunction against the sale of Alcatraz. He argued that he should receive title to the property as well as a judgment of $2,500,000 or the assessed value of the island. An answer was filed in February 1966, and the injunction proved unsuccessful. On May 15, 1968, Attorney General Ramsey Clark informed Senator Edward V. Long that the Department of Justice had "concluded that there is not any legal basis for the claims of the American Indian Foundation or similar groups to Alcatraz."[32] Three weeks later, the U.S. District Court for the Northern District of California threw out McKenzie's case for "lack of prosecution." The federal government asserted that the occupation had been nothing more than a sophomoric publicity stunt and therefore carried no legal weight.[33]

Inspired by the stunt, in 1969, as indigenous rage over the dispossession of land and heritage was reaching a boiling point, a militant Mohawk named Richard Oakes burst onto the American Indian activist scene. In the following years he would participate in dozens of occupations, and he became a household name during the two-year-long Alcatraz takeover.

Only three months after the Summer of Love, on November 9, 1969, Oakes and forty other Bay Area Indians took the island in the name of the Indians of All Tribes and claimed it under the Doctrine of Discovery. And this time, they promised, they wouldn't leave so easily. Richard Oakes and Adam Nordwall were frequently pegged as the "leaders" of the occupation because they were often the most visible to the media, but both maintain that the movement had no official leader.[34] Collectively, the Indians of All Tribes released this derisive tongue-in-cheek statement, chiding white colonizers for their treatment of natives both past and present:

> To the Great White Father and All His People:
>
> We, the native Americans, re-claim the land known as Alcatraz Island in the name of all American Indians *by right of discovery*. We wish to be fair and honorable in our dealings with the Caucasian inhabitants of this land, and hereby offer the following treaty: We will purchase said Alcatraz Island for 24 dollars ($24) in glass beads and red cloth, a precedent set by the white mans' purchase of a similar island about 300 years ago. We know that $24 in trade goods for these sixteen acres is more than was paid when Manhattan Island was sold, but we offer that land values have risen over the years. Our offer of $1.24 per acre is greater than the 47 cents per acre the white men are now paying the California Indians for their land. We will give to the inhabitants of this land a portion of that land for their own, to be held in trust by the American Indian Government—for as long as the sun shall rise and the rivers go down to the sea—to be administered by the Bureau of Caucasian Affairs (BCA). We will further guide the inhabitants in the proper way of living. We will offer them our religion, our education, our life-ways, in order to help them achieve our level of civilization and thus raise them and all their white brothers up from their savage and unhappy state. We offer this treaty in good faith and wish to be fair and honorable in our dealings with the white men.[35]

The group was removed from the island twice, and on November 20 they went back a third time, this time with a group of eighty-nine Indians. Most were college students, but the cluster also included half a dozen children between the ages of two and six, and a few married couples. The Coast Guard was alerted to this invasion attempt and prevented the boat from docking—but Oakes and some others jumped overboard and swam to shore. Upon arriving, they informed Glenn Dodson, the spooked and frenzied caretaker, that if he cooperated, the Indians would create a Bureau of Caucasian Affairs and appoint him the head of it. Dodson agreed, noting that he was one-eighth Indian himself.[36]

When the island's chief security officer, John Hart, who had been away on vacation, returned to Alcatraz, he appeared amicable to the

Indians' presence as well. "As long as you're here, you might as well be comfortable," he said, and directed the Indians to the buildings with working plumbing, alerting them to some of the hazards of the deteriorating landscape. With that, the Indians made themselves at home on the island, preparing for what would be a two-year stay, though they didn't know it at the time. They painted giant "no trespassing" signs, including one that read "You Are Now on Indian Land" and another that read "Warning Keep Off Indian Property" (an alteration from the original sign, which had read "Warning Keep Off U.S. Property").[37]

The Indians of All Tribes' reasoning for the long-term takeover seemed sound: "How are we to be charged with trespassing on the white man's land when the white man has taken all of this land from us?" they asked.[38] "If a one-day occupation by white men on Indian land years ago established squatter's right, then the one-day occupation of Alcatraz should establish Indian rights to the island."[39]

The U.S. government's response to the occupation was cautious. Though the event had quickly exploded into a national domestic crisis, officials wanted to be sure that they handled the situation prudently. In light of some recent public-relations disasters, such as the My Lai and Kent State Massacres, the government did not want to react violently to the occupation and risk further blood on their hands. Instead, they employed a Coast Guard blockade. If occupiers were unable to receive shipments of food and supplies, then eventually the government would have starved them out. But officials underestimated the tenacity, the militancy, and the overall cunning of the occupying force.

Supporters would trick the Coast Guard by sailing alongside other boats in the bay and then surreptitiously toss provisions onto the Alcatraz barge, which was docked on the island. When this happened, the Coast Guard would blare its sirens and chase the boat away. While they were pursuing the first boat, a second boat would slide up to the barge and unload supplies. Occupiers also dealt with the blockade by creating diversions such as starting fires or throwing firebombs along one shore of the island while a canoer slipped up onto the other side to unload food donations from people on the mainland.[40]

Eventually realizing that the blockade was ineffective—and potentially counter-productive, as it appeared to call more attention and

favorable publicity to the occupation—the government lifted the blockade on November 24. The government's new plan was to wait until it could negotiate a compromise with the Indians of All Tribes or until the Indians left on their own. They hoped for the latter.

Five months into the occupation, the government was engaged in constant, sweaty-browed negotiations with the occupiers, who were enjoying an increasingly favorable public opinion. And there was no shortage of publicity. News of the Alcatraz occupation stretched across the country and around the world. The Indians had supporters as far away as Canada, the Netherlands, Finland, Switzerland, and Japan. They received hundreds of letters of support and inquiries about how to help.

A telegram from Japan read, "Stay with it getting world wide recognition."[41] In broken English, Monique Schoop of Zurich, Switzerland, wrote an impassioned letter that, though muddled, did not lack conviction: "At the moment, we have a lot of difficulties with the justice because of the former demonstrations, etc., but I think that nevertheless we finally shall win. We have to fight with their own [arms? ILLEGIBLE]—with the law, not against it, against the citizen and the government! Hang them with their own laws!!"[42]

The occupiers even received a letter from a sixteen-year-old girl in Indiana offering to do whatever she could to help, claiming that there is "clearly no such thing as justice." Most notable though is a letter from an eleven-year-old Finnish boy named Petri Rajama who tells the Indians that his mother is helping him write the letter in English. It read, in part, "I would be very happy if I would get a letter from an Indian boy telling me about life on the island.... It would be nice to know are you living in a wigwam?" The letter was accompanied by an eerie black-and-white photograph of a stern-looking pale blond boy slumped in a chair, wearing a jean jacket and an Indian headband with a single feather poking out the top. His look is severe, as if, despite his age, he maintains a comprehensive understanding of all the world's oppressive circumstances. His eyes gaze intensely at the camera as if to tell the Indians, "I understand your plight, and I am in solidarity with you."[g]

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g. Upon discovering this photograph in the San Francisco Public Library archives, I was awestruck. I wanted to copy it and take it home, but the library

Remarkably, all of these correspondences arrived in the hands of the Indians despite such lazy and incomplete mailing addresses such as "To the Indians of the Island Alcatraz, Western U.S.A." and "The Indians, Alcatraz, SF, CA." The occupation had gained such notoriety that even the postal service knew how to readdress and deliver their mail. In this light, the Alcatraz occupation could be considered one of the most famous, massive, and overall effective squatting efforts of modern times. Not only did the Indians capture the attention of the Nixon Administration, but they also had leverage in their negotiations—one factor that allowed the group to maintain their space on the island for nearly two years.

After five months on Alcatraz, the government offered to turn the island into a federal park with an emphasis on Indian culture, if the Indians would end the occupation. There was no deadline for a response to the offer, and the squatters would not be removed if they said no. So the Indians refused the offer, stating, "We will no longer be museum pieces, tourist attractions, and politicians' playthings…[and we do] not need statues to our dead because our dead never die."[43]

The government was getting frustrated. The Indians of All Tribes were receiving so much publicity and so much public support that a removal or intervention of any kind would bring to bear a domestic crisis. Even the Hell's Angels offered their "assistance" in the event of a government raid on the island. Further, according to island caretaker Don W. Carroll, there were now thirty-five pistols, rifles, and shotguns in a makeshift arsenal on the island. Shortly after receiving this report, the GSA removed Carroll and the two other caretakers from Alcatraz because of

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wouldn't allow me. The photo carried with it such an intense meaning, and one that is rarely shipped by way of the postal service today: I cannot imagine any eleven year old—particularly one across the world—being so motivated as to hand-write a letter to a group of strangers, professing his support for their radical movement. I can scarcely imagine an adult doing this when most activist campaigns are now spotlighted on and swell in support using the Internet. Further, the Web is so saturated with campaigns that it is difficult to single out any one movement to feel passionate about or act passionately for. When my eyes scanned one handwritten letter of support that read, "I really do care," I seized up, struck by the sincerity in the writer's voice. Then I took a moment to lament that I will likely never see such a genuine letter again. October 23, 1970. San Francisco History Center, Alcatraz Collection. SFH 11. Box 1, Folder 10.

safety concerns. The GSA claimed that it would make no attempt to evict the Indians because "their demonstration has been peaceful and has not disrupted normal government operations."[44]

But the government was quietly concerned about the Indians' use of narcotics and the numerous firearms on the island. Having removed the caretakers, government agents realized another strategy to expedite the Indians leaving on their own: They cut the island's supply of water, as well as its phone and electricity, leaving the group as castaways on a rock without standard means of survival. It was the authorities' hope that Alcatraz would, in this instance, again become the prison that it once had been.

In response, hundreds more Indians made their way to the Rock for a powwow and to set fire to many of Alcatraz's historic buildings "in defiance of a country that had turned its back on their proposal."[45] They also burned the dock to prevent the Coast Guard from landing and silencing their protest. The *San Francisco Examiner* wrote of the incident, that it "might be called the battle of the redskins versus the red faces; the pale faces are becoming red with embarrassment."[46]

After this stunt, the government chose to simply leave the Indians alone, hoping that the difficulty of life on the island without amenities would force them to surrender. But the Indians had quite a bit of support in their occupation—financial as well as moral. According to Johnson, it is impossible to know exactly how much money was donated to the cause because of poor record keeping, but estimates range from $20–25 million. Donors included musicians with names as big as Malvina Reynolds, Creedance Clearwater Revival, and the Grateful Dead.

Needless to say, the Indians were fiscally free to do as they pleased on the island, as all of their basic needs were taken care of by donations. One component of life on Alcatraz included establishing schools and health clinics for the island's residents, but the other component included a spectacular and involved show of force in island security and defense—the "Bureau of Caucasian Affairs."

The Indians engaged in small-scale warfare by tossing Molotov cocktails at the Coast Guard boats and shooting arrows and stones at passing ferries in response to passengers' obscene gestures and remarks. The ferries often then neglected the 200-yard perimeter request and slammed

the Indians' boat against the pilings. The Indians also dotted the former prison's recreation yard with over thirty garbage cans stuffed with gasoline-soaked rags to be lit in the event of a helicopter invasion.

Such an invasion did arrive on June 13, 1971—nineteen months after the occupation began. Public opinion of the occupation had waned as a result of the Indians' flagrant disregard for government authority, as well as the unrelated collision of two Chevron oil tankers in the bay, which dramatized the need for serious government stewardship of nearby waters. Further, internal dynamics on Alcatraz had soured, and the infighting was a disappointment to supporters, who then abandoned the cause. Without public protection, the fifteen remaining Alcatraz residents no longer enjoyed a public-relations shield around their island. And with elections coming in November, no politician wanted the pesky "symbol" of the Alcatraz occupation muddying up power campaigns—and so the government used this window of time to finally stage the eviction.

While the government appeared patient to wait nearly two years to move on Alcatraz, they were all the while bitterly stewing and growing increasingly agitated by the Indians' antics. Robert Robertson, one of the government negotiators, claimed (reminiscent of statements historically made about Indians) that "reason is a commodity [the occupiers] want nothing to do with—they are emotionally charged, naïve and not used to responsibility. All they want is the island and an unending flow of money to do what they want, whether what they want has any chance of success or not. Their attorneys are good only for throwing fuel on the fire of unreasonableness."[47]

The GSA was of the mind that if the Indians wanted to stake a claim on the island, they might do so only through the standard channels of legislation. Within that system, any Indian claim would be mired in legislative bureaucracy and eventually fizzle. The Alcatraz occupation was a physical manifestation of indigenous power and played outside of the established rules for challenging title in the United States; this legitimately frightened authorities. In July 1970, President Nixon actually made a speech repudiating the government's past treatment of Indians and pushing for "self-determination over termination."[48] As a gesture of good faith toward Native peoples, he returned the Taos Blue Lake, in New Mexico,

to the Taos Indians who had been fighting for the lake's return since the U.S. government seized it in 1906.[h]

The Indians' visceral threat to government agencies and to the U.S. understanding of property was met by Janus-faced authorities: One response was to act sympathetic, as Nixon did in 1970, and to ride the coattails of pro-indigenous movements in order to maintain popularity in the polls; the second response was to aggressively and semi-surreptitiously attack the threat using force, as agents did in 1971, sending a message of intolerance toward ideas of proprietary dissent.

Three hours after the White House gave the green light, three Coast Guard vessels, one helicopter, and twenty to thirty armed U.S. marshals cleared the island of people in less than thirty minutes. They took six men, four women, and five children into custody. The media were not notified nor allowed on site.

Vicki Lee, a thirty-year-old Shoshone Indian from San Diego, said to the *San Francisco Examiner* and *Chronicle*, "My little girl said they held a gun to her chest and she asked, 'Are they going to kill me?' and my son hid under the bed but came out when they put a gun to his head. I don't think my husband should carry arms for the U.S. [in Vietnam] when his children are at gunpoint at home." She finished by declaring, "We will return to Alcatraz. If not Alcatraz, someplace else. We are prepared to die."[49]

Although the Indians of All Tribes were eventually strong-armed by the U.S. government, Vicki Lee was right: The movement's fuse had been lit, and demonstrations and occupations were exploding all over the country in what became known as the Self-Determination Era. In 1970 alone, inspired by the actions on Alcatraz Island, Indian groups staged invasions, occupations, or general protests at Fort Lawton, Washington; Fort Lewis, Washington; the BIA office in Denver; Ellis Island; the BIA office in Alameda; Pyramid Lake, Nevada; Rattlesnake Island, California;

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h. The return of Blue Lake to the Taos Indians was not simply an act of authoritative benevolence by the Nixon Administration; the Taos had been engrossed in a legal battle over the site for sixty-four years that was nearing an end. Further, to punctuate the lawsuit, in October 1970, two Forest Service signs in Carson National Forest were blown up by plastic explosives, and a second bombing occurred two days later in protest of a proposed "ranger bill" for Taos Blue Lake. The bill was defeated, and the Taos gained control of the lake once more.

Middletown, California; Stanly Island, New York; Belmont Harbor, Illinois; Lassen National Forest, California; Hiawatha National Forest, Michigan; Tacoma, Washington; Mount Rushmore; Burney, California; Badlands National Monument, South Dakota; Davis, California; Santa Rosa, California; Healdsburg, California; Wohler Bridge, California; Plymouth, Massachusetts; and the Southwest Museum in Los Angeles.

Some actions were as creative as Richard Oakes's unsanctioned toll collection on through-roads of a Pomo Indian reservation in California. Rifle in hand, he stopped motorists and charged them a dollar for passing through Indian land. Oakes was arrested and initially charged with armed robbery but eventually let go on the promise that he would cease his toll collections.[50]

In the years following the Alcatraz occupation, dozens of similar demonstrations persisted. The trend of militant indigenous actions in the 1960s and '70s was not the product of innately savage minds, as many government figures from colonial to recent times have asserted. It was the result of centuries of trauma induced by an abusive paternal government who gave Native peoples few options but resistance. Walter Prescott Webb wrote in *The Great Plains* that "when men suffer, they become politically radical; when they cease to suffer, they favor the existing order." This truth extends not only to the sordid history of Native Americans, but also to white settlers who were later subject to similarly discriminatory understandings of property.

The Indians of All Tribes claimed their land by right of discovery—by virtue of having been there first—but the U.S. government claimed their portion of North America by "title by genocide."[51] Property law was a nasty game, and until Indians could play dirty on the level with colonizers they would never retrieve the land they had lost during the primary years of imperialism.

That said, in 1983, the Connecticut Pequot tribe legally and bureaucratically re-annexed an acreage of their original land base in accordance with the 1790 Trade and Intercourse Act. Local whites were furious. Then-Connecticut Attorney General Joe Lieberman called the move "welfare for the rich," as three years later the Pequots would go on to own the lucrative Foxwoods Casino in southeast Connecticut. Steve Kemper complained in *Yankee Magazine*, "Tribes like the Pequots have

reached the point where land annexation is not about preserving a culture or achieving self-sufficiency. It is about expansion of an already successful business in a way that harms their neighbors."[52]

Whether or not this is an accurate assessment, white policy makers in the third richest state in the country still found reason to feel victimized by the Pequot tribe. After all, if Indians weren't a people of the past to pity for their poverty, then they were legitimate competition for capital. As Robert F. Berkhofer, Jr. wrote in *The White Man's Indian*,

> Since Whites primarily understood the Indian as an antithesis to themselves, then civilization and Indianness as they defined them would forever be opposites. Only civilization had history and dynamics in this view, so therefore Indianness must be conceived of as ahistorical and static. If the Indian changed through the adoption of civilization as defined by Whites, then he was no longer truly Indian according to the image, because the Indian was judged by what Whites were not. Change toward what Whites were made him ipso facto less Indian.[53]

By this definition of "Indian," the affluent Pequots of Connecticut were nothing of the sort. Suddenly everyone else in the state was the loser, impoverished at the hands of a gang of merciless Indian socialites. Duthu describes this event as challenging "one of America's most enduring mythologies—the myth of the 'vanishing Indian.'"[54] And what might challenge that mythology more: the idea that the Indians were not completely exterminated when that sort of thing was more globally acceptable, or the idea that they had learned property law? According to Duthu, the land claim lawsuit of the Pequots exemplifies a surge of similar claims that have re-established and sometimes enhanced the dimensions of ancestral homelands. Utilizing federal laws from the 1930s Indian Reorganization Era, tribes continue to win back the land that was stolen from them centuries ago.

In *United States v. Sioux Nation of Indians* in 1980, the tribe won a money judgment that has accrued over $500 million, but that remains untouched in the U.S. Treasury because the Sioux maintain that the lawsuit was never about money—they wanted their ancestral lands back.[55]

The U.S. government was not prepared for the indigenous resurgence demonstrated in the latter half of the twentieth century. The Supreme Court admitted in a court opinion of *South Dakota v. Yankton Sioux Tribe* in 1998 that

> within a generation or two, it was thought, the tribes would dissolve, their reservations would disappear, and individual Indians would be absorbed into the larger community of white settlers. With respect to the Yankton Reservation in particular, some Members of Congress speculated that "close contact with the frugal, moral, and industrious people who will settle [on the reservation would] stimulate individual effort and make [the tribe's] progress much more rapid than heretofore."[56]

In the late-nineteenth century, when, in spite of the law, the indigenous peoples of Yellowstone continued to hunt for food within the park's bounds, they were vilified as an "unmitigated evil." But later, as white poachers moved into the park and began illicit hunting practices, suddenly the clean, bold line between whites and Indians was blurred. If the Indians were the ones with no respect for the law, then what was a white man of similar lawlessness? Thus, locals created two categories of Indian: red Indians and white Indians. This usage suggests that "the privilege of whiteness could depend on one's environmental practices."

Similarly, today, if a proficient level of legal manipulation makes a white man a white man, then what do you call an Indian property lawyer? As Duthu writes, "Only the restorative legal magic of one legal fiction—the federal 'lands into trust' process—can counter the destructive magic of another legal fiction, the loss of tribal lands through 'discovery.'"[57]

Captain Richard H. Pratt wanted to kill the Indian to save the man. What he didn't anticipate was that the man who would emerge might understand the legal fiction of American property laws better than the Indian who came before him.

CHAPTER TWO

"Scattering the Seeds of Discord, Misery, and Insurrection with Both Hands": Land Distribution and Resistance in the Eighteenth and Nineteenth Centuries

"[The term squatter] has been applied indiscriminately to all who questioned dubious titles and tried to test them by settling land."

—Paul W. Gates[1]

"Squatting is the oldest mode of tenure in the world, and we are all descended from squatters."

—Colin Ward[2]

"In conclusion, your committee are compelled to say, that if possession under color of title for 207 years, and actual title under the legitimate government of the land, for 140 years…is not a perfect title, it would be extremely difficult to find one; there can certainly be none in this state."

—New York Assemblyman William F. Allen in response to the conundrum of Rensselaerwyck

To begin this chapter about the history of land struggles in the United States, it would be fair to again note that the following proprietary injustices were only made possible through the similarly unjust usurpation of the continent by white settlers. By the second generation after colonization, however, little blame could realistically be placed on American residents whose luck had them born onto a stolen continent. Poverty-stricken pioneers moved westward in search of affordable habitation (and occasionally in search of profit) and they were subject to the whims of a fickle federal government that struggled to balance legislation as both lucrative and fair to republican ideals.

Since the arrival of Europeans in North America, *land* and *power* have been conflated concepts—the goal of capitalist settlers being to

procure as much land as possible. In the New World's colonial days, the Crown insisted on relatively formal methods of land acquisition, preferring internationally recognized treaties with Natives to bloody conquest. The British did not rule out violence as an option, but according to their Doctrine of Discovery, it was to be used as a last resort should Indians respond poorly to the offer of a treaty agreement. This is not to suggest that the hands of the British colonizers were clean; indeed, their ideas about how a "New World" should be utilized are markedly objectionable by today's human rights standards.

Ward Churchill writes in his essay "Perversion of Justice" that "a person or a people [was] ultimately entitled to only that quantity of real estate which s/he/they convert from 'wilderness' to a 'domesticated' state. By this criterion, English settlers were seen as possessing an inherent right to dispossess native people of all land other than that which the latter might be 'reasonably expected' to put to such 'proper' usage as cultivation."[3] This practice would nearly always eliminate Native Americans' claim to land. In 1763, however, King George III broke the conflation of land and power in his proclamation that no land further west than Appalachia was to be settled by colonizers for fear of disrupting the fur trade and risking further Indian warfare.[4]

Possibly anticipating the Revolution of 1776, in 1773 George Washington, among others, defied the king's proclamation in order to pursue land speculation further west. At this point, the motives of the burgeoning new nation became possibly more dubious than those of Great Britain. The new Americans did not respect treaties to the extent that many international players appeared to; they frequently assumed land title without consulting Natives at all, and even when they did sign treaties, the settlers regularly neglected the terms and later breached the contracts (with few repercussions).[5]

This bulldozer approach of the new Americans proved lucrative after the revolution when the former colonies offered to admit the Western states into the now-independent United States, in exchange for the use of Western lands. Fearing that taxes would drive Eastern residents west and cause the federal government to lose money, Eastern bureaucrats plotted to absorb and develop everything west of the Mississippi and then collect revenue by selling off large parcels of public land to speculators.

In turn, the speculators would divide that land into smaller parcels and flip them to settlers at an inflated price.[6] The Land Ordinance of 1785 dictated how these lands would be divided. Counterintuitively, auctions for land in the West were only held in Eastern cities, and bidders could only buy 640 acres or more at $1 an acre or more. Because of this distribution framework, the settlers themselves could not buy land outright; only speculators, or "land-jobbers," had that privilege.[7] But, as Mike Davis would write of such unfathomable capitalist monstrosities as Dubai two centuries later, "What is too often flipped, some economists predict, may someday flop."[8] And the same was true in eighteenth-century America.

Squatting on the frontier was a problem for institutions from the onset. With little enforcement structure in place to prevent illegal occupation, settlers grabbed land where they saw it not in use—which compelled the Jefferson administration Congress to craft strict laws against illegal settlements. With the act of March 26, 1804, squatters north of the Ohio River (which was Indian territory) or in Louisiana were subject to a $1,000 fine or a year in prison. The act also authorized the army to use its force toward ejectments. With the act of March 3, 1807, came more penalties for squatters. But it also made for one of the first legal leniencies in regard to land: If settlers were already living on a plot, they were permitted to retain up to 320 acres of it as long as they registered at the land office and signed a statement claiming no right to the property and pledging to leave when it was sold. Squatters who refused this deal would be fined $100 and risked a prison sentence of six months.[9]

Squatting wasn't exclusively a Western phenomenon, however: In 1726, there were upwards of 100,000 squatters in Pennsylvania alone. In 1784, Pennsylvania as well as Massachusetts began a series of preemptive measures to transfer title to squatters in those states. Massachusetts (still in possession of Maine at the time) recognized occupancy rights of squatters who had improved the land, particularly in the Maine territory, which Massachusetts had hoped to settle.[a] Not having title to land was common, at one time, particularly in the original colonies and before the revolution. In 1776, Virginia handed out 400 acres free of charge to each settler, and the next year North Carolina gave away 640 acres of unclaimed land

a. The state eventually favored speculators, who bought Maine land in large blocks to divide up and parcel out.

to any settler who wanted it. The faster land was transferred to private ownership, the faster the government could accrue revenue from it.[10]

The United States continued to voraciously consume land. In 1819, the federal government acquired Florida from Spain. In 1845, it acquired Texas from the Republic of Texas. In 1846, it acquired Oregon territory from Great Britain by treaty. In 1848, the Mexican Cession granted the United States California, Nevada, New Mexico, most of Arizona, and parts of Colorado and Utah. The 1853 Gadsden Purchase transferred the rest of Arizona, and in 1867 the U.S. acquired Alaska from Russia. Over the course of fifty years, the country padded itself by 300 percent. It was described at the time as being the "best system in the world."[11]

There was something fishy about the pattern of land distribution, however. With the government continuously selling the public domain in order to fund its ever-expanding presence, matters of equitable distribution were overlooked. By 1792, for example, only six people owned half of the current state of New York.[12] According to historian Paul W. Gates, "In New York, revenue and even promotion of settlements were of minor importance. Instead, the emphasis was on large grants of members of the governor's council and other favorite individuals and families, with all settlement or improvement requirements quite generally disregarded."[13]

Gates explains further that independence from Britain scarcely impacted the course of land management in the state. At the time of the first national census in 1790, New York was significantly stunted in terms of population and economic growth when compared with Pennsylvania, Massachusetts, Virginia, and North Carolina, despite its longer history. This was because a small number of land barons owned a very large acreage of land.[14]

One of the most incredible stories to come from New York's bizarre history of land tenure—and resistance to its injustices—is that of Rensselaerwyck and the Anti-Rent War, which began on July 4, 1839, and marked the beginning of a new era in land law in the Hudson River Valley. The twenty-four square miles of Rensselaerwyck (which is now Albany and Rensselaer Counties) was owned by Stephen Van Rensselaer III, and had been in the family for 207 years since New York was New Netherland. The Van Rensselaers ran their manor as a *patroonship*—an archaic form of feudalism rooted in Dutch property law. Under the patroonship,

each of the 3,063 families on the manor signed leases that lasted "forever" and amounted to, in their own words, "voluntary slavery." The Van Rensselaers had successfully peopled their land by offering prospective settlers the first seven years rent free. Many of the contracts had also been signed by very poor or illiterate settlers who did not understand the outrageous terms of the lease.[15]

When Stephen III, whom many had regarded as the "richest man in America," died in 1839, his tenants were relieved to think that their unpaid rents might be forgiven. They were infuriated to learn that his son, Stephen IV, intended to collect the back-rents, or rents in arrears, and apply them toward his own personal debt. The tenants refused to pay. When the under-sheriff arrived to collect the rents, anti-renter Isaac Hungerford stopped him and, while brandishing a large jackknife, said, "You had better go home and be in some other business. We have pledged ourselves that no officer shall travel through here to serve process for the patroon. We have made up our minds to die, and we are ready to die in the cause of resisting any officer that should come there on the patroon's business."

The next time a Van Rensselaer hireling came to serve the tenants writs, they set a tar barrel on fire and told the collector that they would spare his life if he burned all the writs. When he did this, they made him buy a round of drinks for everyone present—after which they took him to burn all the writs that he had already served, and then had him buy two more rounds for everyone at the tavern. After each round, the tenants lit another barrel on fire and debated whether or not to tar and feather the man. When police came to the manor to restore order, they were turned away by 300 anti-renters, wielding clubs and shouting, "Down with rent!" The next time, police were met by 1,500–1,800 protesters, who blocked the road completely.

Finally, just before the government brought in 2,000 military troops from New York City, Governor William H. Seward gave the anti-renters one last warning. He said, "Organized resistance to legal process is insurrection, and if death ensue the penalties of treason and murder are incurred. The only lawful means to obtain relief from any injuries or redress of any grievances of which they complain are by application to the courts of justice and to the legislature."

To avoid a stalemate, both sides heeded Seward's suggestion and attempted to employ the law to remedy their dilemma. But in order to legally deconstruct the disaster of Rensselaerwyck, anti-renters and the State of New York alike would have to determine how Rensselaerwyck was legally constructed in the first place. Every person involved was equally baffled about how the estate could have ever legally come to be.

While most property law in the United States is based on English Common Law, the brand of feudalism practiced at Rensselaerwyck had been outlawed by Parliament and King Edward I with the statute *Quia Emptores* almost 600 years earlier. This is explained by New York having been under Dutch control before the British acquired it. No American lawyer by the time of the revolution remembered the Quia Emptores statute; thus, it was never migrated into American property law.

Quia Emptores outlawed the form of fee-farm rent known as rent service. The closest statute that America had to the British Quia Emptores was the Act Concerning Tenures of 1787, which banned feudal properties and established all real estate as *allodial*—that is, owned absolutely and independently of a lord. If nothing else, the Act Concerning Tenures should have at least converted all rent-service leases into rent-*charge* leases, but this statute appeared to have been largely ignored in Upstate New York until 1839 when tenants began examining the legal dilemma.

If anything was more difficult to explain than where this patroonship came from, it was how to get rid of it. Any suggested method of taking away a person's "vested property rights" was immediately dismissed as unconstitutional. The only legal way to divest the Van Rensselaers of their land was through the use of *eminent domain*. A process still used today, eminent domain allows the state to appropriate private property for the "public good," as long as the owner receives "just compensation" from the state.[16] This might have worked had the whole country not been battling an economic depression in 1841: The State of New York was so under-financed that it had to abandon its work on the Erie Canal. So the idea was put on the backburner and Congress continued debating. Meanwhile, anti-renters were recruiting residents of other nearby counties to join the rent strike. And because Congress was still discussing a legal resolution to the feudal tenures problem, writ-bearing deputies were kept off the manor as the rent strike continued.

In March 1841, attempts to collect rent resumed. As residents refused, deputies took up "distress sales"—that is, the auctioning off of residents' material goods as pre-modern repo men. But stalwart anti-renters then adopted other tactics. At auctions, crowds of people would begin bidding and continue bidding from morning until night, exhausting the auctioneer and trying the patience of the patroon. Anti-renters also began the practice of disguising themselves as Indians (a motif reminiscent of the Boston Tea Party)[b] and forming a silent ring around potential buyers at distress sales. This usually intimidated people away from bidding on items. In one case in which a man bid on a horse, the incognito anti-renters rolled him down a hillside.

The "Indians" continued their intimidation tactics until September when the military sent four companies to the manor to squelch the movement. They threw rocks at the soldiers but retreated after two anti-renters were cut by the soldiers' bayonets. In response, a week and a half later, the "Indians" kidnapped Deputy Sheriff Bill Snyder and held and tormented him for two days. Bill Snyder's ambush marked the last attempt to collect rent on the manor for nearly three years. All the while, Congress continued to unsuccessfully work toward land reform.

Matters became more complicated when evidence surfaced to confirm old suspicions that Stephen Van Rensselaer IV may never have been the rightful heir to the manor at all. The trouble dated back to 1685 when, under a Dutch patent, the manorial title was conveyed by King James II to Kiliaen Van Rensselaer (son of Johannes) and Kiliaen Van Rensselaer (son of Jeremias) from their common grandfather, the first patroon. But Kiliaen (son of Johannes) and Kiliaen (son of Jeremias) had a third cousin, also named Kiliaen—this one the son of Jan Baptist. The lineage of this third Kiliaen (son of Jan Baptist), who was the oldest son of original patroon (confusingly also named Kiliaen), was now pointed to as the rightful heir of the manor, according to the common law rule of primogeniture. The other two Kiliaens were suspected of covering up the existence of the third Kiliaen, who had never emigrated from Holland.

b. History is filled with such instances of (usually white) men disguising themselves, often as Indians and sometimes even as women, to avoid incrimination during mob actions. So despite the novel sound of it, this tactic was not unique to anti-renters.

By the end of 1843, few residents at Rensselaerwyck believed that Stephen IV had the right of title. When one anti-renter was caught stealing timber from the manor, the government found it impossible to fill a jury with unbiased peers, as nearly every resident was suspected by the district attorney of belonging to the Anti-Rent Association.

The "Indians" meanwhile organized a march around the whole Hudson Valley region, along the way instructing people on how to run a rent strike, how to resist sheriffs, and how to sing the movement's own anthem, "The Ballad of Bill Snyder."[17] Authorities responded by having a band of thirty-five men issue a new batch of distress warrants. A hundred of these "Indians," armed with pistols and tomahawks, surrounded them, released their horses, and forced them to march a mile and a half, at which point they searched the deputies for distress warrants. The man in possession of the warrants was tarred and feathered. At midnight, the disguised anti-renters went to the deputy's house, snatched all the warrants he had, and burned them at a "powwow in the center of the village." When the deputy bragged that he would get even, the "Indians" struck first by kidnapping him from his bed that night to cover him too "with a thick coat of tar and feathers."

After this incident, the sheriff organized a formal meeting between the authorities and the anti-rent representatives, at which he offered to mediate between their association and the patroon. There was one more attempt to serve distress warrants on the manor, which ended in another tarring and feathering, after which the anti-renters were left in peace for several months. Meanwhile, the Indian costume came to be more than just a disguise—it was an identity that the anti-renters now wore with pride.

But everyone involved found that their war had reached an impasse; Congress could not sponsor land reform so long as the "Indian" resistance continued, and similarly, anti-renters could not renounce resistance without seeing the sort of change they demanded. Tipping the scales, citizen action soon turned to bloody insurrection when a stray bullet at a demonstration hit and killed a teenage spectator.[c] After that, the anti-rent movement was tainted by bloodshed, and government officials appeared less

c. Though their reputation had been marred by the stray bullet incident, anti-renters asked themselves, "Has landlordism never caused death?"

willing to work with the group, preferring instead to put down the revolt by capturing and jailing every one of the "Indians." Authorities became fixated on this issue over land reform. By August 1845, "Indian" activity had resulted in the deaths of several authorities, including a deputy sheriff. After this, the "Indians" who weren't yet in jail burned their disguises and went into hiding, collapsing the militant movement. A few of those who were unlucky enough to be caught were sentenced to death, while most received either prison time or fines. Other anti-renters continued the resistance by blaring a horn whenever a law enforcement official was in the vicinity so as to make his presence known. They also occasionally arranged for the disappearance of livestock and other chattels advertised for distress sale.

All the while, anti-renters were holding out for the "title-test" scheme, by which they hoped to disprove the patroon's legitimacy of title and instantaneously be granted their land in accordance with the *adverse possession* law—which required that a person "openly and notoriously" occupy a property for (at that time) twenty years in New York state.[d] The patroon himself could not argue adverse possession, as he had not personally occupied the entire manor for twenty years. Only the residents could make the claim.

In many other counties, landlords had already agreed to sell their interests to the rent-striking tenants, thus mollifying much of the broader regional movement. When manor lords wouldn't sell, residents sometimes burned down their own houses and threw down their own fences rather than allow the landlords to benefit from their generations worth of property improvements. By 1850, only the Van Rensselaers still refused to sell, and the Rensselaerwyck residents found themselves alone in the struggle.

In the title-test suit, the court surprisingly found that the plaintiff was not technically a landlord at all and that the defendant was not technically a tenant. Instead of a "lease in fee," the parties had engaged in a "grant in fee" because none of the living residents had signed the original contracts. Instead, they had inherited the perpetual debt from their

d. The duration of occupation necessary to claim adverse possession in New York state has since been reduced to ten years. For a table of adverse possession limitations by state see Appendix E.

ancestors. It was the classic terms of an indenture—the sort that hadn't existed in England since the year 1290 but somehow thrived in Upstate New York in the mid-nineteenth century. This shift in definitions altered the terms of the entire case. The suit was thrown out, and the only escape from manorial tenure now would be for the patroon to sell out, which he still refused.

In 1853, after fourteen years without income from rent, Stephen Van Rensselaer IV finally sold the manor to a speculator named Walter Church for a lower price than he had ever offered manor families. He was so bitter over the rent strike that he purposefully sold the farms to Church rather than to the residents themselves. Once Church had the land, he offered to sell families their individual farms at an inflated rate, and about half the families took this option. The other choice he gave them was to pay their back-rents and continue their leases in perpetuity. Anyone who refused both options would forfeit their farm. Following this, Church issued 2,000 writs of ejectment. By 1859, only 580 of the 3,063 original leases still existed.

In 1860, one Peter Ball was evicted from his farm for withholding back-rent. If Ball paid his rents in arrears he would be allowed to keep the farm—and though he indeed had the money, on principle, he refused to pay. The sheriff even offered him $50 out of his own pocket to avoid the unpleasantness of eviction. But Ball had been an anti-rent militant for twenty years, and he would not turn. Almost every inhabitant of the town was present as authorities emptied the house and placed all of Ball's possessions on the snowy side of the road. No one objected to the eviction, but after all the authorities had returned to Albany, a resurgence of "Indians" moved Ball back in and occupied the property with him for several years afterward.

During this same time, soldiers around the country were fighting the Civil War, and those who were not fighting were suppressing anti-draft riots in Manhattan. Short on military assistance, Church was poised to do little in the way of aggressive evictions—so he did not confront Peter Ball again until May 1865, after the Civil War ended, and with the help of the state militia.

A mere month before, the New York legislature had ratified a thirteenth amendment to the Constitution, abolishing slavery and involuntary servitude. Yet the eviction of Peter Ball went ahead unhindered, and the same soldiers who had fought against slavery the year before, now

ironically reinforced the feudal servitude at Rensselaerwyck. To prevent the anti-renters from reclaiming Ball's farm the way they had in 1860, soldiers packed a thousand rounds of ammunition and several barrels of provisions, and they camped that night on Ball's land. The next day, the troops marched up every road in the county's western townships and began their forced ejections of all remaining tenants. Most had already left to avoid the indignity of eviction.

That August, in one last attempt at justice, thirty "Indians" sneaked onto Ball's former farm at first light to harvest his crop. But the militia had arrived before them and turned them away. The next day, Church hirelings harvested Ball's crop and shipped it to market; a profit from nothing for Church.

After twenty-six years of litigation and uprisings, the Anti-Rent movement was finally over. Its conclusion was as embarrassing as it was disappointing. The Anti-Rent incident dispelled the American notion of democracy for many nineteenth-century contemporaries who questioned how, in a country of "free" people, the violence of the state could be utilized as an arm of private tycoons to silence the majority. Even when every lawmaker in Congress agreed that feudal tenures were outmoded in modern society, they still shrugged their shoulders at the legal roadblocks and avoided alternatives suggested by logic and practicality.[e] As late as 1884, 300 leases in perpetuity were still active in the Hudson River Valley. Even today, traces of this failure of democracy are evident when astonished homebuyers in Albany County are compelled to pay a nominal rent charge every year to some remote assignee of Stephen Van Rensselaer III.[18]

The story of Rensselaerwyck is indeed an unusual property tale for the United States. But that the story grew from Dutch property law does not make it impertinent to American law. If nothing else, it reflects an important trend of what could be called trickle-down land distribution and the refusal to allow settlements to occur organically. Instead, land is used as a buy-and-sell commodity that one is paternally *granted* the right to use. Patricia Nelson Limerick describes the phenomenon this way:

e. We find similar phenomena in legislative bodies today when responding to homelessness and the "housing crisis," as discussed in Chapter 4. It would seem that the tendency of written law to cripple the lawmakers themselves is a pathology that transcends time and precipitates injustice onto every generation.

"Conquest basically involved the drawing of lines on a map, the definition and allocation of ownership (personal, tribal, corporate, state, federal, and international), and the evolution of land from matter to property."[19]

This transition from matter to property, as Limerick describes, was the cornerstone of the development of the United States as a country. After the revolution, property began to be discussed in terms of *fee simple*—a concept antithetical to feudal ownership systems that tethered individuals to pieces of land. The United States prided itself on its freedom to accumulate and dispose of land at will, and property owners' freedom from meddling feudal or royalty lords. James Howard Kunstler points out the advantages and disadvantages of such a system in *The Geography of Nowhere*: "America's were the most liberal property laws on earth when they were established.... Our laws gave the individual clear title to make his own decisions, but they also deprived him of the support of community and custom and of the presence of sacred places."[20]

Kunstler points to a developmental oversight that is endemic throughout U.S. history. The haphazard methodology of land distribution was a federal scheme; only the government and speculators were able to profit from the mammoth raw resource that was North America. Nearly anyone else who gambled at real estate entered into a perpetual state of debt. In fact, while pioneering the West remains romanticized to this day, settlers were sometimes more realistically trapped by the credit-debt system than they were forging a lawless frontier.[21]

Settlers of the West were often poor, and those who couldn't afford to enter into a credit-debt arrangement resorted to squatting the public land rather than buying it. With great hordes of these squatters occupying farms in the West, their communities became difficult for authorities to disperse. The squatters formed what they called "settlers' associations," which not only lobbied state and federal governments under the banner of squatters' interests, but also used direct action—and often violence—to protect their land. At auctions, if a speculator attempted to purchase the squatted land, he would be "knocked down and dragged out" of the room. As a last resort, squatters threatened to "burn powder in their faces." If squatters went to jail for these types of actions, everyone in the association would chip in to pay the bail. If squatters went to court, a jury of their peers would consistently acquit.[22]

Settlers' associations—also known as "squatters' associations" or "claimants' clubs"—became so popular beginning in 1824, that on March 31, 1830, Congress banned group intimidation tactics, threatening potential lawbreakers with $1,000 fine and two years in prison. One attendee of an Alabama auction at which claimants' club members were present wrote, "The general opinion is…that these men will murder any man, or set of men, who bid for this land against their body." Because of this mean reputation, many settlers' associations earned the respect of land officers, moneylenders, speculators, and potential claim-jumpers, and eventually formed a larger Squatters' Union in 1936.[23]

Settling on federally owned land had been criminalized by the Jefferson administration in 1804, and squatters were threatened with fines and imprisonment. Yet, "there is little evidence that Western people were intimated by the laws."[24] Easterners tended to view squatters as "lawless land-grabbers," a result of the growing absentee landlordism that was problematic both to squatters and legal settlers of the West alike. Absentee landlords consistently failed to improve their land, preferring to wait until tenants or squatters did it for them. Furthermore, owner-occupied lands tended to yield more affluent communities because residents felt a sense of direct investment in their surroundings, while absentee-owner properties made way for poorer communities, even decades later.[25]

In response to the problem of absentee landlords, local governments began to write their own property law as a method of undermining federal policy. Examples of this included raising taxes on unoccupied land and requiring the taxes to be paid in coins only, which was near impossible for absentee owners. Lawmakers also sometimes compelled landowners to reimburse evicted squatters for any improvements that they made to the land during their occupancy under *color of title*.[26]

Eduardo Moisés Peñalver and Sonia K. Katyal posit in their book *Property Outlaws* that disgruntled settlers were actually able to alter the written law by pushing the envelope in a tenuous social climate. Without squatters intentionally breaking the law, legislation like adverse possession would have never been accepted into the legal compendium. Further, all of the legislative alterations that comprised a series of preemption acts from 1815 until the most famous in 1841 were brought about through petitions and general public unrest.

The preemption statutes incrementally awarded illegal settlers land on a case-by-case basis according to certain conditions, including but not limited to the magnitude of improvements made on the land by those settlers. Between 1820 and 1829, the federal government awarded 179,717 acres to settlers without title in Mississippi, Louisiana, Arkansas, Florida, and Alabama (data on other states is not available before 1830). Between 1830 and 1836, the government awarded *over two and a half million* acres in Alabama, Missouri, Louisiana, Michigan, Arkansas, Florida, Ohio, Indiana, Illinois, and Mississippi—the highest number in any individual state in one year being Alabama in 1824 with 338,985 acres awarded.[27]

The argument against preemption was that such allotments "would forgive and reward men who had violated anti-intrusion laws." The Premption Act of 1830, however, addressed this concern by requiring that settlers pay $1.25 an acre for land that was not already reserved by another buyer—though these preemptive measures only lasted for one year. What settlers really wanted was land for free and to be able to compensate the government later after they had drawn income using the land's resources. Conditions such as this one prompted settlers to appeal to the government with petitions and stories of poverty. In many cases, a profusion of objections to land legislation actually effected change: In 1815, for example, James Madison attempted to eject all illegal settlements in Indiana, but overwhelming public outcry compelled him to legalize every settlement in the territory. In Thomas Jefferson's proclamation in December of the same year, he decried occupiers of the public domain as "uninformed and evil-disposed persons," threatening them with military force. Few squatters were intimidated by such proclamations, and a delegate from the Indiana Territory, Jonathan Jennings, argued to Congress that squatting resulted from the government's own failing to put the land on the market.[28] So in 1819, Congress passed the Occupancy Law, which mandated that squatters either get paid for the improvements they made on a property or have an opportunity to buy it minus the cost of the improvements.[29]

Application of the adverse possession statute, too, was popular during this time—and not only in the West, but also in Maine, which was sparsely populated and in many ways also considered wilderness. In the nineteenth century, Maine, along with the states of the West, used local courts to piecemeal rewrite American property law to favor occupants

over owners. The majority of land in Maine was owned by a handful of wealthy land speculators known as the Great Proprietors, the corollary of which were the Liberty Men—the gang-like organization that led the resistance effort in the region. Similar gangs developed in other localities—such as the Wild Yankees in northeastern Pennsylvania, the Whiskey Rebels in Western Pennsylvania, the Green Mountain Boys in Vermont, the Liberty Boys in New Jersey, and the Berkshire Constitutionalists in Massachusetts—resulting in uprisings such as Ely's Rebellion, Fries' Rebellion, and Shays' Rebellion (also known as the New England Regulation). Between the 1740s and the 1830s, settlers also revolted against landlords and speculators with riots and gang warfare in South Carolina, Ohio, and New York. These settlers "believed in a different American Revolution, one meant to protect small producers from the moneyed men who did not live by their own labor, but, instead, preyed on the many who did," writes Alan Taylor in *Liberty Men and the Great Proprietors*. "Agrarians dreaded prolonged economic dependence as tenants or wageworkers as the path to 'slavery.'"[f]

In Maine, land was constantly disputed on account of conflicting patents. The three major patents were drawn up by British lawyers who had

f. Interestingly, Taylor notes that he "avoided the labels 'radical' and 'conservative' in favor of the more appropriately ambiguous 'agrarian.' On the one hand, the land rioters do not seem 'radical,' in the twentieth-century sense of the word, because they counted on a defensive localism to protect their interests, instead of pressing a systematic program for restructuring social institutions. On the other hand, the label 'conservative' does not fit comfortably atop settlers who nurtured a labor theory of value and who perceived a chronic class struggle between laboring producers and parasitical gentlemen. The agrarians behaved and thought neither as radicalized proletarians nor simply as backward-looking traditionalists. They hoped that their relatively diffuse and restrained tactics (dictated by their limited means and rural dispersion) would be enough to secure important social consequences: the preservation of America as a land of small producers able to support their families free from domination by an employer or landlord" (p. 6–7). Taylor, Alan. *Liberty Men and the Great Proprietor*s. Chapel Hill: University of North Carolina Press, 1990: p. 4–6.

Taylor then poses the question, "Were they promoting, or resisting, America's development as a capitalist society?" He eventually answers himself by explaining that "agrarians hoped to sustain American capitalism at a simple stage of development where households bought and sold the fruits of their labor without having to sell their labor itself" (p. 8).

never even seen the territory, so they were often imprecise and overlapping. These three major patents were claimed by the Great Proprietors, but they were further in conflict with ten other, smaller land patents. To make things more confusing, tracts of land were frequently sold and resold by local Indians to white settlers who didn't understand that several other people were also under the impression of ownership. Consequently, property titles were unclear in most of the region—though the Great Proprietors could more easily back their unfounded claims with wealth and sued settlers who purchased land from the competition.[30]

Despite being the original developers of schools, meetinghouses, gristmills, sawmills, and roads in their towns, the settlers were compelled to pay the Great Proprietors for their use of the land. "Because wilderness land was virtually worthless without men to improve it, the settlers created the value that the proprietors demanded from them." This should not suggest that settlers were opposed to private property; instead, the "cultural expectations of rural equality taught that a man should hold only what his family could improve," which was usually about 50–150 acres per working male.[31]

The Great Proprietors, on the other hand, maintained the illusion that they were intellectually superior and that it was their moral obligation to guide the backcountry pioneers into a mode of civilization and sophistication. With disdain, they viewed the frontier as "an escape hatch that allowed men and women to evade discipline, morality, and law. So long as that outlet existed, the poor would remain saucy and uncooperative, and the frontier would sustain a squatter anarchy where quasi-Indian whites squandered nature's bounty to live in idle dissipation." The proprietors' measure against this threat of sustained backcountry ignorance and degeneracy was to impose an "entry fee" to the frontier, limiting settlers to only those upright citizens who could afford pioneering, and molding the enlightened Maine that they envisioned. After all, if they failed, squatters might "preempt the vast American frontier for an asylum of the turbulent poor lost forever to commercial civilization, a threat rather than an asset to the older centers of trade, culture, and governance."[32]

Henry Knox was one of the most notorious and reviled proprietors, known for taking out advertisements such as this one (with its original capitalization and application of italics, in the style of the day):

> The Subscriber has agreed, with all the *settlers*, seated on his back LANDS, and sold LANDS the fame quarter to numerous and respectable *Emigrants* from the *States Westward*, on principles promising them great prosperity and the establishment of harmony and *good order* throughout that fertile region. He conceives therefore, that this is the proper moment to announce in the most public and solemn manner that in future, *No usurpation of his lands will be tolerated.* As the land is, and will be surveyed into lots, no hope of impunity will arise from any [ILLEGIBLE] in the offense. Every regular *settler* has bound himself to discountenance and discover lawless persons—It would be deemed madness among *Farmers* to suffer a WOLF to enter at among their sheep, much more so would it be for regular settlers after having *legally* engaged valuable consideration for their Lands to suffer an audacious usurper to enter and remain there, SCATTERING THE SEEDS OF DISCORD, MISERY, AND INSURRECTION WITH BOTH HANDS. Any person therefore, who shall in defiance of this notice, and in defiance of the law, usurp the lands of the Subscriber will be prosecuted for the damages that many ensue; suffer the utter loss of his labor and fixtures, and be refused Land at any price whatever.[33]

Knox, as many of the Great Proprietors, was under the impression that his relationship to settlers was a protective and paternalistic one. He described himself as a "father and guardian" to them, as well as a "close friend." These notions are contrary to his many land monopoly plots and credit schemes at the expense of settlers. In 1792, for example, he teamed up with William Duer of New York, and the two purchased almost three and a half million acres at twenty cents per acre by paying the General Court a relatively small down payment and persuading the court to grant them the full acreage on credit. They planned to sell the parcels at inflated rates to settlers, and in this way, "the settlers would finance the land monopoly held over them by Duer and Knox." Knox consistently used settlers as a revenue source, profiting from them twice over: first by their improvements on the land and second by their purchase of it. In fact, part of the grander conspiracy of the Great Proprietors was to transform

these ignorant yeomen into economically savvy commercial farmers, developing the wilderness and maximizing the financial exploitation of the frontier—perpetuating the free market ideas of Adam Smith.[34]

In response to the reckless authoritarianism of the Great Proprietors, squatters and other settlers launched a series of assaults on the proprietors and their property. This frequently involved sabotage or destruction of their boats, garrison houses, or sawmills. Between 1790 and 1799 there were thirty-three such instances recorded, and another hundred between 1800 and 1809. Resisters regularly used the popular Indian-disguise tactic, and—incognito—they would harass the proprietors outside their homes (sometimes by firing shots), steal logging tools and horses, break windows, destroy survey plans and compasses, surround the jail and liberate the prisoners, throw down fences and gates, publicly humiliate proprietor supporters, ambush law enforcement, strip naked the constable and beat him with sticks, and light just about anything on fire.[35]

Knox and the like-minded speculators simply *could not understand* why this was happening. They blamed the rebels' actions on the "darkness of ignorance," and sought to break down the isolation that supported the resistance, while integrating the remote settlers into mainstream American civilization. These squatters became so problematic, however, that the Great Proprietors strategically recruited *new* settlers, in the hopes of replacing the older, more troublesome ones. "Not used to trust in one another to act against gentlemen of wealth and standing, the recruits dared not directly occupy the homesteads they needed. They had never known the cultural distance from authority that allowed the backcountry's settlers to develop their own notions about property and power."[36]

According to the agrarians, not all land was property; unimproved wilderness could only be *transformed into property* through labor, since labor created all value—and where there is no *value*, *property* cannot exist. That said, the Great Proprietors were theoretically unable to sell the title to wilderness lands. Yet, some settlers—especially the new ones—had already been duped into believing the doctrine of private property. Agrarian William Scales asked of the proprietors in 1789, "O why do you not sell the rain, dew, frost and Sunbeams also[?]"[37]

Efforts such as those in Maine, as well as those of other resisters throughout the country, culminated in the federal act of September 4,

1841 (the Preemption Statute), which loosened laws intended to punish squatters. Finally, in 1862, the federal Homestead Act provided an avenue for settlers to acquire federal land after living on it for five years and meeting its improvement requirements.[38]

Americans had become accustomed to free land grants, and they did not adjust well to government's intention of using public land for revenue. Thus, the Homestead Act quelled many concerned voices in regard to the privatization of federal land. It allowed for heads of family or citizens (or soon-to-be citizens) twenty-one years or older to file a claim on no more than 160 acres of surveyed land, which was not already claimed or under Indian title. Despite the rule against settling on unsurveyed land, many found a loophole in settling the plot first and then filing a homestead application after the land was surveyed later. Surprisingly, it was because of the surveying stipulation that the Homestead Act was actually considered to be more conservative than many of the preemption laws, although an amendment finally allowed for the settling of unsurveyed plots in 1880.[39]

Homesteading was theoretically free of charge, except for the land office fees, which totaled $16 (or about $336 in 2010). To fulfill a claim, homesteaders were required to occupy a property for five years, though a claim couldn't be canceled until after seven years. Beginning in 1872, Civil War veterans were permitted to count their service time toward a homestead claim, which usually left them with only one year of occupancy required until title was granted. Each settler was only allowed one Homestead application, but another loophole allowed for a settler to receive one piece of land via Homesteading and another via the Preemption Act, as long as it didn't interfere with occupation requirements.[40]

Because of the simplicity of obtaining free land, "very many [homesteaders or preemptors] did not go west with the purpose of farming, but merely wished to get title to a piece of land."[41] Indeed, one of the problems of the land-giveaway program was that some used it to make a profit through privatization. Meanwhile, changing factors made land more difficult to attain for those who intended it for personal occupation and use: The railroads were granted twenty million acres a year, and, by their swallowing up land, the Homestead limit for individual families had to be reduced to 80 acres from 160. Furthermore, 127 million acres within 50 miles of the railroad was off-limits to claimants, as were 140 million acres

of state land and 175 million acres of Indian land. With limited homesteading options, some considered purchasing outright from speculators, but by 1870, buying had become unaffordable, as average prices tripled between 1862 and the end of that decade.[42]

Still, in the 1860s, almost 100,000 Homestead applications were processed from Illinois, Missouri, Iowa, Michigan, Wisconsin, Indiana, Minnesota, Kansas, and Nebraska. While only 8,000 were submitted in 1863, the program grew in popularity over the years, and by its last year, 1890, 40,000 applications were received. Homesteading hit its height in 1886 with 61,600 applicants.

According to Gates, "the Homestead Act breathed the spirit of the West, with its optimism, its courage, its generosity, and its willingness to do hard work."[43] But not everyone was so impressed by the Homestead Act. Joshua K. Ingalls of Massachusetts saw the act as a token concession to land reformers rather than true progress. In fact, "he considered it 'so emasculated by political trickery' that it did little to alleviate the conditions of the increasing numbers of the landless, while enough land had been voted to railroads by the politicians to have furnished a farm of twenty-five acres to every family in the country."[44]

Ingalls became interested in the theory behind land reform in 1841, the year that the Preemption Statute passed, and he got involved with groups such as the National Land Reform Association, and the Land and Labor League of New England. Ingalls and his contemporaries wanted to restrict the legal size of land holdings and do away with land monopolies, and they saw the movement to abolish land monopolies as linked to the movement to abolish slavery: If a man were prohibited from owning more land than he alone could work, then slavery and slave plantations would become an impossibility. In this way, the two campaigns were paralleled in as much as land monopolies and slavery both reflected "one man profiting from the hands of many men."[45]

Ingalls was published prolifically in anarchist newsletters and magazines of the time. He called the U.S. land-law system "half-feudal and half-civil," comparing industrial tycoons of the day to land-wealthy nobility in other countries.[46] He tended to charge the government with the crimes of land usurpation (by reducing land to the status of a commodity) and land hoarding, calling it the "great land monopolist."[47] In his book

Social Wealth, Ingalls chastised economists for sidestepping the subject of land title origins because they "could give no justification to the system, for to trace any title back will yield us nothing…but forceful and fraudulent taking, even were land a proper subject for taking at all." He went on to write, "Possession remains *possession*, and can never become *property*, in the sense of absolute dominion, except by positive statute. Labor can only claim occupancy, and can lay no claim to more than the usufruct."[48]

Ingalls was not interested in simply eliminating private landlordism, because that shift would inevitably make way for public landlordism—in other words, the state as landlord—which he saw as equally disturbing. He was certain that a state-owned property system would again tax the lowest class the most, compromising its prospects for autonomous living. He wrote, "Any system securing a premium to capital, however small, must result in the worst degradation and servitude of one class, and in bestowing unearned wealth and power upon another…. The product of human labor can only be exchanged for the product of human labor."[49]

Ingalls's position on property was averse to institutions, not individuals. He theorized that increases in population yielded a reduction in landholders and an increase in tenancy—thus, he held, the demons of the rent system were in interest and profits, not in the rent itself. Still, he viewed rent as a political affair instead of an economic one. And similarly, he saw the compulsory taxation of land by the state as indisputably a political system of "despotism."[50] Anders Corr, a hundred years later, in his essay "Anarchist Squatting and Land Use in the West," agrees with Ingalls in that "the only landowner who does not dominate others, and is thus not a thief, is the one who uses no more than their fair share of land, and who receives no payment for other people's use of land. Indominative landowners, or those who do not dominate, by the very fact that they had to pay for the land they use [are] oppressed like others who pay for land in the form of rent."[51]

Eventually, Ingalls grew disillusioned with land-reform groups that wanted to introduce more laws to control the unfair distribution of land. He wanted to remedy the situation by repealing old laws that protected monopolists rather than by drafting new ones to punish them. He disagreed with reform as well as violent revolution; he was interested in property justice through education over legislation. He hoped to do away

with land monopolies, gradually, and over time gear property practice more toward occupation and use.[52]

In 1849, Ingalls abandoned the land reform fight and sought to establish an intentional community (which he called a "colony") in West Virginia. His goal, as he wrote years later, was "to build up a community where rent and interest and even speculative profit are virtually unknown." Ingalls received a cascade of responses, from Maine to Ohio, of people interested in his cooperative land experiment. Disenchanted with activism to reform the U.S. legal system, he focused on designing an egalitarian microcosm using the capitalist mechanism of allodial title.[53] Corr dismisses this tactic as escapist and privileged. "Only people with economic resources are able to buy land and become self-sufficient," he charges. "Utopianism satisfies the 'back to the lander' because they have land to construct their isolated utopia, and it satisfies the landlord because they are receiving money, but those who do not have money for country land are left in the same position as before, paying rent or fighting eviction."[54]

In the 1870s, Ingalls became politically active again outside the personal sphere and started campaigns to repeal laws that protected land titles not based on personal occupancy. According to James J. Martin, "He identified capital as merely past labor and land frozen into a particular form and undeserving of increase in itself. To him the granting of a share of production to capital was placing a premium on past labor at the expense of present labor."[55]

Many of Ingalls's ideas were echoed in land struggles well into the next century. Ingallsian notions took a unique twist in the late 1800s with the rise of the conservation movement in the United States. This movement carried with it convictions that we, today, would consider contradictory. In fact, in our current age of increased environmental awareness, conservation seems like an innocuous—even essential—move toward preserving the natural world. Many wealthy, white Americans of the late-nineteenth and early-twentieth centuries believed the same thing. But the conservation movement, and its subsequent National Parks development, had catastrophic effects on indigenous peoples as well as poor whites across the country.

The conservation movement was born of a Vermonter named George Perkins Marsh, who, in 1864, published his seminal work *Man*

and Nature, in which he discusses the importance of preserving the natural landscape and its pristine grandeur. He considered himself a forerunner of a burgeoning environmental ideology, and in many ways, he was. Marsh and his contemporaries, however, did not wish to live in *constant* commune with nature; rather, they were more interested in preserving it for weekend jaunts and occasional getaways from the stress and the brick of cities. Here, Marsh's ideas begin to slip away from today's understanding of integrated environmental consciousness. As Karl Jacoby observes in *Crimes Against Nature*, "The conservation movement existed partially to preserve social habits that dictated the contemporary model of masculinity: hunting and camping as alternatives to the 'debasing pleasures of the cities.'" In this way, the wilderness was very much a man's entertainment—particularly a wealthy white man.[56]

Though it would seem that the archetypal male might transcend socially understood differences such as class—and that romping in the forest and hunting wildlife might be equally enjoyed by rich and poor men alike—conservationists of the time actually "viewed members of the lower classes as lacking the foresight and expertise necessary to be wise stewards of the natural world." Jacoby explains this contradiction in terms of the wilderness's countervailing tropes of the time: the first being the "pastoral" trope, stressing "the simplicity and abundance of rural life"; and the second being the "primitive" trope, "focused on the backwardness and privations of rural life."[57]

This dichotomy is illustrated in the story of property in the Adirondack region of New York. It began when, in 1883, New York State discontinued the sale of three million acres of its Upstate land. Two years later the region became the Adirondack Forest Preserve, and park rangers swore to defend and preserve the wilderness within. It was problematic then that it wasn't realistically an empty backcountry: Locals had been living in the forests for generations. They chopped timber for fuel, and hunted, fished, and foraged for food—the Adirondack soil was too thin to support agriculture. Locals relied on the forest for all their resources, and as such they considered it to be part of the commons. Unaccustomed to cartographic boundaries, Adirondackers were disturbed to learn that the new park laws made every facet of their way of life a crime.[58] "Sports," or recreational hunters from the city vacationing in the park, had more

hunting options available to them because they were tourists. With an understanding of the dueling spheres of "the city life" and "the getaway," park officials were more amiable to tourists appreciating nature (and re-creating "the imagined world of the American frontier") than they were to the locals who unabashedly broke park rules. This preferential dynamic was repeated so frequently through the end of the nineteenth century that it created a massive wealth gap in the region. Jacoby describes it as having become a "place of abandoned farms and of grand new estates"—the latter owned by names as big as Rockefeller, Vanderbilt, and Morgan.[59]

Strangely, conservationists were under the impression that locals would welcome the changes because of the region's history of poverty. They were surprised when residents demonstrated their disinterest in cooperating by lying to park rangers and by intentionally and sometimes maliciously breaking the law. When surveyors sought to mark property lines, residents would often act confused or purposefully mislead the surveyors. Other times, residents would destroy the boundary markers by burning or cutting down trees, or by otherwise removing the landmark that the surveyor had left behind.[60]

The Forest Commission's second task—beyond protecting the forest—was demarcating forest boundaries and the private properties inside them. Discerning property lines and land titles, however, proved equally difficult. In addition to the non-cooperating locals, there was further title confusion as a result of logging companies in the area: Timber corporations would buy a piece of land, cut down all the trees, and then abandon it, leaving the property to be reclaimed by the state for non-payment of taxes.[61] To complicate matters further, planners had drawn the park perimeters around both legal and illegal dwellings. Many locals had, years earlier, found an unused piece of land and settled on it, neglecting to ever formally seek title—often because of the costs involved. This homestead ethic was based on the ideals of the commons and of an Ingallsian understanding that property was to be occupied and utilized; if a piece of land was unoccupied, then it was generally understood in Adirondack culture that the land was open to settlement. But, with the state's sudden interest in the area in 1885, many of these homesteaders were overnight reclassified as squatters. There is no definitive data on the number of illegal residences at the time, but estimates range from 98

to 900—evidence of the state's poor record-keeping. Surprisingly, squatted dwellings were not strictly a phenomenon among the lower classes; occasionally wealthy tourists would build summer homes on plots purchased illegally from locals who similarly had no right of title. Not surprisingly, however, the shanty-dwellers were the first to be evicted by the Forest Commission, while authorities tended to turn a blind eye to the politically well-connected vacationer squatters.[62]

After much resistance from squatters, the Forest Commission eventually put a hold on evictions for fear that angry locals would burn down the forest in retaliation. Instead, authorities focused on limiting new settlements and tried to ignore the old ones. According to Jacoby, because some squatters never left, certain plots in the region remain contested to this day.[63]

Unfortunately for authorities, hiring locals as park rangers was unavoidable as they knew the terrain the best, and with the new park rangers came their local allegiances. Foresters with such loyalties would often overlook criminal activity. Overzealous foresters were threatened with ostracism by their communities, and particularly problematic foresters might get mistaken for a deer and be shot "by accident." Jacoby writes that "foresters played a dual role in the region: not only were they the means by which state power was projected into the countryside, but they were also the means by which local influence penetrated into the state. As a result, foresters had to navigate between several competing allegiances."[64]

Inhabitants harbored similar hostilities toward private estate owners in the area. In 1903, Orrando Dexter—who was notorious for filing lawsuits against trespassers—was shot and killed as he drove his carriage down the once-public road now part of his estate. In response to this incident, security was heightened all over the park but particularly at private residences. Undeterred, locals tore down "no trespassing" signs, cut fences to release privately owned game, burned private parklands, and shot at guards. This brand of malicious reprisal led to lawsuits like *Rockefeller v. Lamora*, which eventually led to the park's gradual absorption of private parklands into the grander state-owned preserve. While many residents preferred state ownership to private ownership, neither were ideal. Ingalls would have rejected either option, and indeed, inhabitants of the Adirondacks ceaselessly and remorselessly disregarded park laws in protest.[65]

Conservationists were convinced that if Adirondackers were left to do as they would, they would render the forest desolate and barren, for they lacked a sense of natural preservation. Inhabitants claimed that thery were simply exercising their "right to subsistence" by cutting wood for building and for burning, and by poaching animals for eating. Both sides of this argument teetered on the cusp of a new era in humankind's relationship to nature: Conservationists saw humans as destroying select parts of the world (cities) with the burgeoning industrialism, and pinpointed the need for other select portions of the world (forests) to be preserved not unlike an artifact in a museum. Adirondackers, isolated from cities and from the Industrial Revolution, had a history of living off the land without pillaging it, so to them preservation tactics seemed unnecessary and bizarre.

But, as Jacoby points out, this was a transitional period for everyone in America, and even Adirondackers were not purely the subsistence livers they had once been:

> If the persistence of this subsistence, nonmarket ideology illustrates the reluctance of many rural folk to embrace a completely capitalist orientation, it also reveals the uncertain ethical terrain Adirondackers had come to inhabit by the close of the nineteenth century. Residents might, in keeping with enduring agrarian notions of simplicity and self-sufficiency, give moral primacy to subsistence practices. But by the 1880s, none lived a completely subsistence lifestyle. Thus, as much as holding up subsistence as a moral ideal may have appealed to Adirondackers' image of themselves as independent pioneers, it curtailed their ability to address the true dilemmas that they faced—issues such as how to interact with the market yet still preserve some element of personal independence or responsibility to the larger community.[66]

By preventing locals from utilizing forest resources, park authorities ushered Adirondackers into the wage-labor era: No longer able to rely on their surroundings for wood and for food, they were forced to work for wages with which to buy what used to be free of charge. If nothing else,

the story of the Adirondacks was a tale of class war, to which environmental concerns were a pretext. This is a tricky plot for people today to make sense of because we are unsure which side we want to root for. We tend to align ourselves with the underdog squatters and timber poachers because we can empathize with them, but when we learn that angry locals senselessly killed moose and elk, and burned a million acres of park lands—"a symbol of their displacement and disempowerment"—to protest conservationists and perhaps rid themselves of their oppressors, suddenly we are conflicted about the role of the hero in this story.[67]

Despite the successes and failures of the nineteenth-century land reformers, and despite Ingalls's noble idealism in regard to land occupancy, there was still a problematic element to homesteading that was unavoidable: The frontier (be it Upstate New York, Maine, or the West) was *not* empty wilderness as many Anglo-Americans of the time presupposed. When the goals of developers were not to conserve wilderness, they were to rapidly convert that wilderness into civilization. Either mode unavoidably adopts the old British argument that he who can use the land the most productively should have title to it, and anyone else is out of luck.[68]

That said, the lawlessness of the West appears to have been as mythical to settlers then as it is to Americans now. While pioneers were indeed entering somewhat uncharted territory and carving worlds for themselves from raw materials, John Phillip Reid argues that they still operated under the *memory* of law. They were "products of a legal culture" and continued to have the same expectations of each other and the same assumptions of property as if they were governed by the laws from their places of origin. These memories affected average behavior in the way that cultural customs and traditions dictate interactions with peers. One example Reid uses is the tendency for goods to be divided among groups according to the law of ownership rather than according to need, particularly on the Overland Trail. This is a replica of normal interactions under the conscious reign of formal law. When pioneers traveled beyond the reaches of such institutions, the memory of them persisted; "the remembrance was not only of things experienced, but of institutions that had only been observed, or perhaps only described."[69]

Because Westerners had the potential to shape the law according to their (sometimes faulty) memory of it and according to the immediate

needs of settlers (including squatters), American law had the potential to morph as it traveled across the continent. Indeed, adverse possession laws vary state to state and there is a visible trend of laxer requirements from east to west. For example, New Jersey requires sixty years of occupation to claim ownership, while Arizona requires only two. But Reid argues that the law did not change as much as it could have, despite the West's alleged wildness. He describes the legal culture as one of "law by legislative command rather than custom, of rights secured by judicial direction rather than jury consensus, and of legal rules upheld by police enforcement rather than by community self-help." In this climate of legal expectations, the courts would seem unlikely to support a squatter movement. As Reid describes, "the Anglo-American expatriates equated law with enforcement. For them, a 'law of contract' had no substance if the stipulated obligation could not be enforced. Fair dealing, reasonable price, adjustment, compromise, and accommodation were not enough."[70]

This explains why the West was easily perceived as being "lawless" despite imported legal expectations. Westerners simultaneously believed in the sanctity of law and displayed "no real respect" for the government's title to natural resources because that title was *unenforceable*, as were many of the supposed laws of the West. So what Westerners, like most Americans, actually believed in was *enforcement*. And because the West was new and lacking infrastructure, and the memory of a legal institution did not have the means to prevent settlers from breaking its remembered laws, Westerners harbored little respect for the system. This one-dimensional respect for enforcement perpetuates behavior that considers only artificial consequences. Questions of ethics weigh in decision-making less frequently than do questions of the risk of getting caught, even today.

While Peñalver and Katyal charge that breaking laws is a crucial step toward changing them, they also recognize that deterrent law enforcement—the system that pioneers recalled and re-created, and the system that we today continue to revere—can be harmful and self-defeating. "Deterrent models of punishment," they write, "are likely to call for levels of punishment that overdeter or preclude certain forms of productive transgression." Indeed, the events of the homesteading era suggest that direct action is a viable and perhaps even exclusive method of informing property law. "In cases of persistent, widespread disobedience,

citizen behavior communicates vital information to property owners and to the state, indicating that some element of a property law or of the owner's use of the property may be out of date, unjust, or illegitimate in some respect."[71]

With this notion in mind, we move into the modern era of housing justice struggles.

CHAPTER THREE

Junkspace and Its Discontents: A Modern History of Urban Housing

"The suburb is a space of forgetting, where domesticity flourishes precisely because it succumbs to its own infantile logic: expensive comfort from which all signs of exploitation have been removed."
—**Mark Kingwell,** *Concrete Reveries: Consciousness and the City*

"To approach a city, or even a city neighborhood, as if it were a larger architectural problem, capable of being given order by converting it into a disciplined work of art, is to make the mistake of attempting to substitute art for life. The results of such profound confusion between art and life are neither life nor art. They are taxidermy."
—**Jane Jacobs,** *The Death and Life of Great American Cities*

The rough-and-tumble methodology of eighteenth- and nineteenth-century rural homesteading and land-grabbing may have shaped land distribution across the continent, but it does not explain the circumstances of inner-city housing. Though many westward-moving rural pioneers were poor, a bulk of the nation's poverty-stricken also subsisted in squalid urban conditions. Faced with a choice between slummy tenements or ramshackle squats, many poor nineteenth-century city-dwellers made their homes in decaying, neglected properties—their choice facilitated by highly unregulated city infrastructure. In 1880, there were an estimated 20,000 squatters in Manhattan alone, a figure comparable to estimates of squatters in some Third World nations today. The lion's share of these squatted dwellings were actually more comfortable than even the most pleasant tenements, and as a result of personal investment in space, squatted blocks maintained more sanitary conditions than did slum neighborhoods. New York City, in particular, is a historical benchmark for U.S. squatting movements, with a deep history in housing struggles that begins in the nineteenth century—likely because of its position as an immigration hub—and continues today.[1]

The discourse of modern squatting tends to focus on individual circumstances, its foundation assuming a reductive "housing is a human right" slogan, without an analysis of the incubatory conditions that breed resistance. The events within housing movements cannot be isolated from the organism that is the city. Because the urban environment is subject to its *design*, neighborhoods within the organism are perpetually in a state of flux, with their intentions shifting through the decades. This mention of *design* and *intentionality* is more commonly heard in modern social-justice vernacular as *gentrification* or *revitalization*: the widespread circumstance of developers colluding with city planners to alter the representation of impoverished neighborhoods to suit middle-class tastes. Where the Western frontier was open to spatial interpretation and outward growth, the city is restricted to the space within its perimeters, forcing it to either grow upward or grow on top of existing neighborhoods, causing displacement.

One of the most famous examples of this trend over a period of time is the Lower East Side of New York City. In *Selling the Lower East Side*, Christopher Mele details the history of the Manhattan neighborhood, from the working-class and ethnic ghetto of the late-nineteenth century to the countercultural and bohemian escape of the 1970s and '80s, and finally the gentrified "East Village" of the '90s. Throughout the course of a hundred years, New York saw a development pattern based on representation play out time and time again. As Mele writes, "An intrinsic component of the political economy of neighborhood change is the definition and presentation of the neighborhood's existing status as *problematic* and urban restructuring as *ideal or necessary*." Through the wily intentions of developers enamored by the middle class, a neighborhood formerly understood as representing drug-addled degenerates and debaucherous lowlifes can gradually come to represent the creative class and eventually the professional class. *Representation* determines the allure of a neighborhood and as such the demographic of a neighborhood—and, through media and images, representation can be manipulated.[2]

To provide background on the modern history of urban composition, we must first recall the mad creation of modern suburbs, which James Howard Kunstler scorns as a "noplace." Combining the "worst

social elements of the city and country and none of the best elements," the suburbs developed after World War II by people like William Levitt (proud mastermind of such monstrosities as Levittown, New York) allied with car culture to formulate a sort of dreamworld for sunny nightmares. Levitt bragged that he could slap together 150 identical houses in a day, and the outcome was an eerily childlike and oddly cultureless hanging garden of Americanism. It was in this place that citizens could feign independence by maintaining a house and family of their own, while still relying fully on every artificial aspect of the town.[3]

What's more is that the only way to arrive at this insipid noplace was by automobile. Though automobiles were widely used (and commercially encouraged) by the 1950s, still not everyone was capable of driving or owning one. This minor fact was responsible for a major fissure between suburban life and city life, and subsequently, between middle class and working- or lower class. Being working- or lower class, of course, creates a barrier to many things in society, often overlapping with barriers rooted in race. The covert racism of redlining (the systematic exclusion of certain groups of people from financial opportunities because of where they live) and the overt racism of sundown towns (towns that are purposefully all white) only reinforced the barricade between suburbia and the rest of society. In this sense, members of the middle class had succeeded in extracting themselves from the urban environment and leaving the troubles of the city behind them. The phenomenon was called White Flight—a description of the color of people who abandoned the cities in high volume.[a]

This raises the issue of representation. In the urban/suburban dichotomy, the urban trope adopts connotations of danger and destitution (or ethnicity and poverty), while the suburban trope engenders notions of security and sanitation (or whiteness and sterility). Developers of the suburban pseudo-utopia constructed a flawless image to represent

a. Baltimore, for example, in 1960, was 35 percent black; in 1970, it was 47 percent black, and in 1980 it had swelled to 56 percent black, as the white population continued to flee. Detroit jumped from 29.2 percent black in 1960 to 65 percent in 1980. (See Olion, Mittie Renae Davis. "Implementation of Section 810 Urban Homesteading: Local Discretion in a Federal Categorical Program." Ph.D. dissertation. Detroit: Wayne State University, 1985: 134.)

their product, beckoning the middle class to flock en masse to their prefabricated playtowns.[b]

In the following decades, the white middle class continued its diaspora away from cities, and suburban sprawl stretched outward, consuming the landscape in as many directions as developers could build roads to lead them there. During the second half of the twentieth century, the raw lands of the United States mutated into tract housing, office parks, and shopping malls, and by 2004, "suburban places exceed[ed] urban ones in numbers of residents and voters, as well as new jobs." Dolores Hayden writes in *A Field Guide to Sprawl*,

> a society based on mass consumption of automobiles, houses, and manufactured goods [is] designed for rapid obsolescence. Visible waste is a part of sprawl, seen in poorly used land, automobile junkyards, overflowing landfills, and exported garbage. Visible environmental deterioration is also an essential part of sprawl, seen in the form of decaying older neighborhoods, abandoned buildings, and derelict or declining transit systems. Although sprawl may be most obvious to the eye at the periphery of a metropolitan region where speculative new construction is common, older downtowns also reveal sprawl because in an economy organized around new construction and rapid obsolescence, existing places are often left to fall apart.[4]

This is a pivotal point. Sprawl, as defined by Hayden, transcends the rigid definition of *suburbs* and extends to the general idea that Dutch architect Rem Koolhaas termed *junkspace*[c]: "the non-spaces of malls and

b. The most egregious instance of synthetic municipalities must be that of Celebration, Florida—a real-life Main Street, U.S.A., created by Disney in 1994. Unable to tightly control the town's sugary image forever, in 2010, the pristine, Stepford-Wives-esque representation was marred by two murders.

c. "Junkspace is overripe and undernourishing at the same time, a colossal security blanket that covers the earth in a stranglehold of seduction… Junkspace is like being condemned to a perpetual Jacuzzi with millions of your best friends… Emissaries of Junkspace pursue you in the formerly impervious privacy of the

car parks, distribution centers and out-of-town sheds that are the detritus of modern urban civilization."[5] In this sense, sprawl is not just a suburban problem; even urban-dwellers are burdened with stylized obsolescence—which is primarily a problem because, as Hayden points out, it necessitates the disposal of existing places.

The dilemma of what to do with existing places was one that many urbanites were compelled to face in the 1970s during the height of White Flight, when disinvestment in properties was running riot. Philadelphia and Detroit each had 25,000 abandoned properties in 1974, and nationwide estimates of (single-family unit) abandonment hovered at 300,000.[6]

Urban decline, defined in terms of a locality's market potential, is a fear-induced and self-feeding phenomenon. Investment in real estate, as with investment in anything, is determined by the *expectation of profitability*. When that expectation shifts to a fear of decline and subsequently a fear of loss, that uncertainty will manifest in forms of reduced maintenance, reduced rental-housing quality, and eventually increased abandonment and disinvestment. Disinvestment leads to further disinvestment ("broken windows theory"), which can eventually lead to the decline of entire neighborhoods based on the lack of the *expectation* of profitability.[7]

The problem with this speculative logic is that it is rarely rooted in reality and almost always fulfills what it surmises. Operating within this framework, rich neighborhoods will almost always get richer (with more funding and more services) and poor neighborhoods will almost always deteriorate beyond a shred of desirability—further diminishing the likelihood of future investment.

In the early part of the 1970s, abandonment and disinvestment became so prevalent in urban America that desperate property owners would frequently engage in "arson-for-profit," burning down their own buildings and reaping revenue from insurance settlements. Meanwhile, renters suffered as the quality of life in declining neighborhoods was similarly on a downward slope, and owner-occupiers dreaded the value-drop of their own properties.[8]

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bedroom: the minibar, private fax machines, pay-TV offering compromised pornography, fresh plastic veils wrapping toilet seats, courtesy condoms: miniature profit centers coexist beside your bedside bible…" For a vivid seventeen-page description of junkspace including the above accounts, see Koolhaas, Rem. "Junkspace." *October*, Vol. 100, Obsolescence, Spring 2002: p. 175–190.

Trapped in an era of housing panic but with little money on hand to help individual cities, the federal government was a lame duck to cities like Washington, DC, which eventually developed its own solutions to the crisis. With its long waiting lists for public housing, Washington, DC was in a particular bind with no federal money budgeted to build such units and the land itself ironically being worth too much to contain "affordable" structures anyway. So city officials recalled the original government giveaway program of over a century earlier, and tailored an *Urban* Homesteading program specifically for the District.[9]

Under such a program, a special commission would buy select city-owned properties and dole them out to qualified low-income applicants who promised to bring the properties up to code and to live in them for at least three years.[d] That was in 1972. In the following years, other cities, including Baltimore; New York City; and Wilmington, Delaware, crafted similar programs in response to popular local movements for housing justice. The emptiness of cities and the government's ineptitude in addressing the crisis created the conditions for squatting and homesteading, and eventually cities were compelled to institutionalize such movements. While a handful of municipalities developed local programs, in 1974, the federal government published guidelines for its own program, Section 810 of the Housing and Community Development Act of 1974.[10]

Taking effect in May 1975, the Urban Homesteading program was a boon for some and a bust for others. On one hand, the program sought to renovate existing dwellings and simultaneously provide affordable housing to lower-income families and individuals. On the other, the primary purpose of the program was to attract public and private investors and to gentrify declining neighborhoods, polishing their representations to secure their marketability. Interestingly, the wording of this in the Housing and Urban Development (HUD) handbook mentions gentrification as first priority, and affordable housing, second.[11] The details of the entire program read in this sort of way, toggling between urban homesteading

d. By the end of 1977, HUD had paid $7.6 million to the Federal Housing Administration (FHA) for 1,503 foreclosed houses. They were then sold to the twenty-three test cities for a dollar each. Washington, DC, did not enter the federal Urban Homesteading program. Ross, Nancy L. "HUD Instituting Housing Program Nationally." *The Washington Post*. Dec. 3, 1977.

as humanitarian-style justice and urban homesteading as capitalist housing venture. Again, while many aspects of urban homesteading appear to be efficacious toward a housing-justice end, there were also numerous problems with the program's design, specifically its orientation toward gentrification and its inaccessibility to the poorest demographics.

Sixty-one cities applied to participate in the program; HUD selected twenty-three of those cities to take part in the original Urban Homesteading demonstration, including locales as diverse as Atlanta; Baltimore; Boston; Chicago; Cincinnati; Columbus, Ohio; Dallas; Decatur, Illinois; Freeport, New York; Gary, Indiana; Indianapolis; Islip, New York; Jersey City; Kansas City; Milwaukee; Minneapolis; New York City; Oakland; Philadelphia; Rockford, Illinois; South Bend, Indiana; Tacoma; and Wilmington, Delaware. Two years later, HUD added sixteen more cities to the demonstration. The test period concluded in 1977, and by 1983, 110 cities and 12 counties nationwide came to participate in the program.[12]

As of September 30, 1984, the following cities had participated in the federal Urban Homesteading program. Some cities not listed (such as Pittsburgh and Washington, DC) operated strictly under their own local homesteading programs. The number in parentheses is how many homesteads in that city were fully rehabilitated.

Akron, OH (20)
Anderson, SC (10)
Athens, OH (7)
Atlanta, GA (146)
Babylon, NY (11)
Baltimore, MD (59)
Bayamon, PR (2)
Benton Harbor, MI (14)
Berkeley, MO (0)
Birmingham, AL (0)
Boston, MA (49)
Bradford, PA (3)
Bridgeton, NJ (0)
Brookhaven, NY (70)
Broward County, FL (21)
Buffalo, NY (31)

Camden, NJ (17)
Canton, OH (0)
Chicago, IL (218)
Cincinnati, OH (143)
Columbia, SC (0)
Cleveland, OH (44)
Columbus, OH (302)
Compton, CA (39)
Dade County, FL (80)
Danville, VA (0)
Dallas, TX (371)
Davenport, IA (3)
Dayton, OH (114)
Decatur, GA (113)
Decatur, IL (0)
DeKalb County, GA (33)
Des Moines, IA (3)
Detroit, MI (77)
Duluth, MN (0)
East Liverpool, OH (15)
East St. Louis, IL (100)
Ferguson, MO (0)
Flint, MI (53)
Freeport, NY (103)
Gary, IN (151)
Genesee County, MI (0)
Grand Rapids, MI (0)
Hartford, CT (16)
Haverhill, MA (3)
Hazel Park, MI (0)
Hempstead Village, NY (53)
Highland Park, MI (19)
Indianapolis, IN (218)
Islip, NY (356)
Jackson, MI (8)
Jacksonville, FL (0)

James City County, VA (7)
Jefferson County, KY (45)
Jennings, MO (8)
Jersey City, NY (14)
Joliet, IL (46)
Kansas City, MO (144)
Kenosha, WI (0)
Lansing, MI (1)
Lawrence, MA (5)
Lebanon, PA (9)
Los Angeles City, CA (22)
Los Angeles County, CA (0)
Louisville, KY (33)
Luzerne County, PA (1)
Madison Heights, MI (2)
Milwaukee, WI (312)
Minneapolis, MN (188)
Montgomery County, OH (37)
Moorhead, MN (0)
Mt. Holly, NJ (4)
Nanticoke, PA (1)
Nassau County, NY (132)
New Haven, CT (20)
Newark, NJ (2)
Newport News, VA (16)
New York City, NY (29)[e]
Oakland, CA (118)
Omaha, NE (32)
Palm Beach, FL (57)

e. New York also had its own local programs, which rehabilitated far more housing units than did the federal program. Local organizations that performed similar functions to the federal program (buying properties to rehabilitate and distribute to low-income people, sometimes as co-ops) included Lower East Side Catholic Area Conference (LESAC), Nazareth Home, the Housing Development Institute (HDI), Rehabilitation in Action to Improve Neighborhoods (RAIN), Housing Preservation and Development (HPD), and Urban Homesteading Assistance Board (UHAB).

Paterson, NJ (3)
Philadelphia, PA (361)
Phoenix, AZ (116)
Pine Lawn, MO (25)
Pinellas County, FL (10)
Piqua, OH (2)
Plainfield, NJ (10)
Port Huron, MI (4)
Portland, OR (12)
Pottsville, PA (2)
Racine, WI (0)
Richmond, VA (4)
Roanoke, VA (3)
Rochester, NY (142)
Rockford, IL (165)
Saginaw, MI (42)
St. Louis, MO (34)
St. Paul, MN (180)
St. Petersburg, FL (90)
Shamokin, PA (8)
Sioux City, IA (10)
South Bend, IN (94)
Springfield, MA (80)
Springfield, OH (8)
Syracuse, NY (0)
Tacoma, WA (58)
Tampa, FL (22)
Toledo, OH (89)
Trenton, NJ (0)
Warner Robbins, GA (9)
Warren, OH (9)
Wilmington, DE (112)
Xenia, OH (5)
Yonkers, NY (0)
York, PA (32)
Youngstown, OH (27)

Each city was allowed to customize its program locally as long as its design fit within the federal framework. The program worked like this: Low-income families or individuals were selected by application (and occasionally by lottery) to rehabilitate and occupy city-owned (foreclosed or tax-delinquent) properties for three (and then later five) years.[f] The stipulation that the home be occupied for a number of years was a stopgap measure to prevent the property-flipping scam that some of the original homesteaders had profited from. After homesteaders rehabilitated the property within the allotted amount of time,[g] and to the satisfaction of HUD inspectors, they would receive clear title to the property. And after the three (or five) years, homesteaders would be free to sell their properties at market value.[13]

HUD was very specific about the implementation of the Urban Homesteading program. Cities, as well as the target neighborhoods within them, had to be selectively approved before HUD would empower a third-party organization (either a city agency or private non-profit) to oversee the program locally. HUD's criterion for target neighborhoods was that the area be showing early signs of decline. That is to say that the neighborhood could not be in the later stages of decline, as the goal was to maintain a relatively middle-class status within the neighborhood by eventually raising property values. To attempt such a shift in a neighborhood that was in the advanced stages of abandonment would be too great a challenge—and potentially defeating of the first stated goal of the program.[14]

To ensure that this objective was achieved, HUD only invited "low-income" residents with enough money to afford the full rehabilitation of a house to participate. Low-interest (Section 312) loans were also available, but a default on a loan would mean an eviction by the Local Urban Homesteading Agency and a forfeiture of the title.[h] The income of applicants

f. The original text read that only three years of occupancy were required to establish title. In the Urban-Rural Recovery Act of 1983, the minimum duration of occupancy was raised to five years.

g. Usually six months to two years. The Urban-Rural Recovery Act extended this period of time to three years.

h. Typically, the interest rate was about 3.75 percent, compared with most rehabilitation loans, which ran at 11 or 12 percent. "To enable the bank to offer the loans at such a low interest rate, the city is depositing in Bank of America

could not exceed 80 percent of the median income for the area to qualify as "low-income," but was generally not less than $12,000 per year (approximately $43,000 in 2010). Successful applicants' annual income ranged from $9,000 in Tacoma to $20,000 in New York City ($32,400 and $72,000 in 2010, respectively).[15]

Evidently, Urban Homesteading was not designed as a solution to homelessness, as even the poor had to touch the upper tier of poverty to afford inclusion. Most cities permitted homesteaders to gain "sweat equity" by rehabilitating the homes themselves rather than contracting the work out (with the exception of the Los Angeles and Phoenix programs, which explicitly forbade it). Sweat equity was a way for homesteaders to shave a substantial percentage off their total bill for the house; per property, homesteaders on average saved $1,500 by doing the work themselves. Considering that early estimates of rehabilitation costs averaged $7,345, the do-it-yourself ethic tended to save a good measure of money.[16] (Some estimates did reach as high as $17,000 in 1977,[17] and between 1978 and 1979, the average cost of rehabilitation leaped to $45,000.[18])[i]

The trouble with the do-it-yourself approach, however, is that sweat equity necessitates a significant time commitment. Considering that 87 percent of homesteaders were employed (in order to meet the income criteria), it seems unlikely that many of them would have had the time to perform all or most renovations on their own. In addition to commitment conflicts with employment, participants also had to make "time for additional activities as they cope with obtaining adequate shelter, food, clothing, and medical care, ensuring their physical security, and seeking education and employment."[19] Considering this time crunch, and for other practical reasons, much of the skilled labor tended to be contracted out. Homesteaders spent most of their self-help hours on unskilled labor such as demolition, or on cosmetic labor such as finishes. (Contractors tended to perform tasks involving concrete, masonry, electrical, and plumbing.) While the caliber of homesteaders' own labor was initially mostly rated at standard or above-standard workmanship (83.3 percent),

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the amount of that loan in a non-interest account." Gorman, Tom. "An Homesteading Program to Start: Compton Residents Will Get Chance at '$1 Houses.'" *The Los Angeles Times*. Nov. 6, 1977.

i. To figure the equivalent value in 2010, multiply the 1977 dollar amount by 3.6.

the requirement of a balance between self-help labor and paid labor necessarily limited the pool of potential homesteaders. The applicants had to be poor, but not too poor, and they had to have time, but weren't likely to have too much time.[20]

Homesteaders also tended to be younger (average age of 35), have more years of education (average 12.7 years), and be more predominantly male (75 percent) than all other neighborhood residents.[j] They were also less likely to receive welfare benefits. Further, and somewhat paradoxically, homesteaders had an average income 45 percent greater than that of renters in the same neighborhoods, yet they *saved* 25 percent more on bills by homesteading. All this said, successful applicants were overall better off already than were their unsuccessful counterparts. Evidently, the qualified homesteader was a rare specimen—an anomaly, serendipitously floating into just the right crack between middle-class and poverty. When viewed through this lens, the urban homesteading program did little to address severe poverty, real homelessness, or the debt cycle that feeds poverty (applicants had to pass a credit check to participate in the program).[21]

The program did, however, assist more people of color in becoming homeowners, inadvertently changing the representation of homesteading neighborhoods. With 57 percent of homesteaders recorded as "black," a noticeable shift in neighborhoods' racial compositions occurred between 1970 and 1977. Most neighborhoods during this time became either more racially integrated or predominantly black. In the case of the Chicago neighborhood of Austin, the demographic remarkably moved from 2 percent black in 1970 to 90 percent black in 1977. In Philadelphia and Baltimore, *all* homesteaders were black.[22] On average, demonstration neighborhoods became 20 percent more black. (Outliers included a handful of Midwestern test areas, which remained predominantly white.[23])

The Urban Homesteading program was perhaps most successful in its ability to deter future disinvestment by increasing the rate of owner-occupancy. Between 1970 and 1977, homeownership in homesteading

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j. These statistics differed in the Lower East Side of New York City, where women tended to play a more prominent role, challenging assumptive gender norms about rugged activities such as construction and carpentry. Von Hassell, Malve. *Homesteading in New York City, 1978–1993: The Divided Heart of Loisaida*. Westport, Conn.: Bergin & Garvey, 1996: p. 5.

neighborhoods jumped from 54 percent to 65 percent. With a sense of ownership over their homes and communities, residents were less likely to contribute toward the pattern of decline, which starts with properties' conversion to rental units that decreasingly receive maintenance, and ends with complete abandonment.[24] It was generally understood at the time that if owner-occupancy were granted to residents then they would "take their responsibilities seriously and the new control [would] translate into a pride in their homes, an improvement in resident life, and eventually an improvement in the surrounding community."[25]

The flip side of the homesteading phenomenon is that localities that increase in desirability also increase in price. For homeowners, this is just an added perk of having invested in an up-and-coming neighborhood, but for renters, this could lead to an eventual eviction notice. While the neighborhood may have become "more desirable" for a number of arguable reasons, renters could find that it had actually become *less* desirable in terms of affordability. Only two years into the program, some properties that had been homesteaded for $1 (particularly those in the New York's New Brighton neighborhood) accumulated value to the tune of $34,000.[k]

What is curious about the Urban Homesteading program is that the stated goal of this government program was to transform city-owned (and, for all intents and purposes, public) housing into private property. It was a re-creation of the original intentions of Westward Expansion: just as publicly owned land did not generate revenue, neither did publicly owned housing. The sooner that federal and state governments could shunt property into the realm of private ownership, the sooner that they could generate money from taxes (and the sooner that such properties might boost the housing market with their increased worth). For this reason, the program was surprisingly popular among conservatives of the day, interested in ideals of self-reliance and privatization.[26] In fact, funding for the Urban Homesteading program actually rose during the Reagan and early Bush Sr. years, even when funding for other housing

k. On the lower end of this, however, was the Indianapolis neighborhood of Brookside, whose average property in 1977 was still only worth $11,000. (See Olion, Mittie Renae Davis. "Implementation of Section 810 Urban Homesteading: Local Discretion in a Federal Categorical Program." Ph.D. dissertation. Detroit: Wayne State University, 1985: 74.)

programs were being cut.[27] One good explanation for this might be that such "self-help" measures could ultimately cost the government less than if it were continually paying into more traditional social service programs.

This points to a dilemma: If the buildings stayed under the jurisdiction of the city then they were likely to house no one, but if the buildings entered private allodial title, then they would eventually reenter the capitalist housing market. This baffling disjunction was compounded by the concept's presentation as a contribution toward community. In these ways, the Urban Homesteading program was a double-edged sword for housing justice advocates, prompting them to ask if the program's true intention was to perform a social function or an economic one. So, in defiance of this and other bureaucratic housing programs, squatters throughout the '70s and '80s took buildings without doing the paperwork.[28]

One of squatters' (who tended to be more radical than homesteaders) criticisms of the program was that only buildings within the mapped target areas were eligible for homesteading. Because other abandoned buildings scattered throughout the city were destined to remain vacant and progressively decay, such activists suggested that the program's priority was indeed something other than housing. Through this lens, HUD was strategically containing the project in specific and intentional neighborhoods.

This is why critical voices like that of economist William J. Stull are so confusing. In a 1977 article Stull maligns the program, arguing for a "containment policy," both racist and classist in nature. He begins by correctly claiming that widespread abandonment is a problem because it wastes scarce urban land and it blights neighborhoods. The common remedy to abandonment, he then says, is demolition, which does nothing to solve the first problem and only partially addresses the second. Instead, he argues (almost echoing the ultimate intentions of HUD), a policy of containment would force all the abandonment to occur in one locality, preserving middle-class neighborhoods and disallowing a domino effect of dilapidated structures. He cites a "filtering model" to assist in this process:

> In this model, rising incomes and the availability of newly constructed units induce high-income families to seek better

> housing. Their current residences are then made available to householders further down the income distribution, whose homes are then occupied by those with still lower incomes, and so on. When the lowest income group moves up, some landlords—often, but not invariably—those who own the worst buildings—are left with no tenants at all. It is the least tenacious of these owners who eventually abandon their buildings.[29]

Stull's theory is impressively shortsighted as it disregards the position of those on the lower end of the economic spectrum. He admits unabashedly that hardship is in the nature of the real estate beast: "It is not completely clear that the objections of these people [residents of the contained neighborhoods] would be legitimate, since the losses imposed by the abandonment process must fall on someone."[30]

A second problem with Stull's thesis is that it asserts the correctness of persistent development. A city would not have to cast aside its worst stock in accordance with the filtering model if developers were not continually supplying new stock—which itself will someday expire. This connects back to Hayden's point concerning a culture of obsolescence.

According to Stull, the central problem with the Homesteading program was that it targeted houses that had no market value and were likely to remain money pits rather than gain value as real estate assets. He contends that a homesteader might spend $10,000 on a house that is only worth $4,000, netting a $6,000 loss. This, he argues, is the reason why the original owners disposed of their properties in the first place—they were unable to rehabilitate them profitably. And according to his filtering model, such lots can and should be dispensed with to allow for the constant socioeconomic evolution of properties and those who live on them.[31]

Here, Stull's argument is downright inaccurate. In Los Angeles, for example, homesteaders had taken out an average of $15,000–18,000 in loans, and by 1980 none of their homes were worth less than $30,000. One house, in fact, came to be worth an astounding $80,000 after a $25,000 loan was spent on renovations.[32] By 1985, many formerly dilapidated Baltimore units grew to be worth as much as $100,000.[33] But to make the investment worthwhile, Stull ultimately wanted to see more funding allocated to the program in the form of subsidies rather than loans. In 1978, HUD

spent $19.8 million buying foreclosed houses from the Federal Housing Administration (FHA), and $22.9 million in Section 312 homesteading loans.[34] While these numbers may appear significant, they are actually something of a blip in the grander ledger of federal housing expenditures. In this sense, Stull might actually have a case for more federal funding in order to see greater tangible results, but there were fundamentally contradictory factors that lay in the notion of public subsidies to rehabilitate houses for private sales down the road. The first was in the conservative American ideology that assets such as real estate must be *earned*, not *granted*, and the second was in the more liberal ideology that inalienable *rights* such as housing cannot later be flipped for a profit. (The other roadblock, of course, was that such subsidies would require more federal funding.) The paradoxical nature of the entire Urban Homesteading program thus limited its range of movement and suppressed its overall impact.

Mittie Olion explains that "for a brief period, the media embraced the romanticized notion of urban pioneers salvaging communities," but that "public attention waned as the reality of operating the program tempered the enthusiasm of the implementing agencies and prospective beneficiaries."[35] The three major criticisms of the program were that it did not appeal to those most in need of housing, that it only considered properties in target neighborhoods, and that it limited qualified properties to those that were federally owned. Despite HUD's holding of 78,000 vacant properties in 1974, and a whopping 127,304 vacant properties by 1989, many of these houses were not available for homesteading per the terms of the program, which redlined neighborhoods with the most empty buildings. Further, even when HUD was being branded the country's largest slumlord, it still only held a fraction of all the vacant properties, which, in 1987, totaled almost 2 million.[36]

Prompted by this inequity, activist group ACORN (Association of Community Organizations for Reform Now) launched a squatting campaign to protest the mismanagement of the Urban Homesteading program and the fact that the bulk of vacant city-owned housing was not available to the people who needed it the most. The group's squatting effort housed over 200 squatters in 13 cities between 1979 and 1982. In June 1982, ACORN constructed a tent city in Washington, DC, and organized a congressional meeting to call attention to their plight. The following

year, as a result of the demonstration, many of the squatters' suggestions were incorporated into the Housing and Urban-Rural Recovery Act of 1983. The only demand that went unmet in this act was permission to homestead properties *not* in HUD-designated target areas. By ignoring this request, abandoned properties scattered throughout cities legally had to remain vacant.[37]

The Urban-Rural Recovery Act changed the shape of urban homesteading and yielded a new demonstration period of *Local* Urban Homesteading, for which tax delinquent properties at the city level could now qualify. Eleven cities participated in the demonstration in 1985, but the new criteria soon determined that this program would be less successful than the federal one. Purchasing local properties in the process of tax foreclosure proved difficult for multiple reasons. To begin, there was a smaller than anticipated pool of eligible properties. To address this, four of the cities minimized the length of time that a property could be tax delinquent before it was seized (limits ranged from one year to one day), thus increasing their potential pool. But some property owners who were eager to ditch their unprofitable lots became purposefully tax delinquent so that their liability would simply be absolved. Further, some seizures that were recorded as vacant were, upon visiting the properties, actually still occupied. Still further limiting the pool of available houses, the new program put a cap of $15,000 of federal money on a city's purchase of a vacant property. Any extra cost associated with the purchase was then the city's own fiscal responsibility. Therefore, cities had a disincentive to include decent structures in their homesteading plans. The houses that were selected, then, were more likely to be in poor condition and to require more costly renovations. Renovations of houses in the Local Urban Homesteading program, then, tended to require $8,000 more in rehabilitation than did houses in the federal program. Getting owners to agree to a reasonable selling price was also difficult, especially if they learned of the city's intention to revitalize the area. And beyond this, it was challenging to find properties with clear titles and no liens. For these reasons, all of the test cities dropped the test program when the federal funding was exhausted.[1]

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l. Further incentive to cancel the program was that local administration costs doubled between the first year of the demonstration to the third year, swelling

Where the Local Urban Homesteading program failed in so many other ways, it at least succeeded in addressing ACORN's original demand of appealing to at-risk populations, such as female heads-of-household and single-parent households. Later studies, however, concluded that the program had "no significant effects on confidence in the future of the neighborhood, moving plans, or on housing repair decisions."[38]

The same conclusions were drawn of the federal Urban Homesteading program. For the small fraction of homesteaded houses across the country, the program as a whole was arguably ineffective in its goal of reshaping the representation of declining neighborhoods, mostly due to its scale. While homesteading did appear to have a positive effect on participating neighborhoods, "there is no conclusive proof that improvements in the neighborhoods were the direct result of urban homesteading activities, particularly since homesteading properties accounted for less than 2 percent of the dwelling units in the neighborhood."[39]

Homesteading in New York City, however, differed from the programs in other cities. To begin, many of the New York programs were administered by faith-based housing-justice organizations dating back to the '60s—others were overseen by UHAB, the Urban Homesteading Assistance Board, a sub-organization of the city's Department of Housing Preservation and Development (HPD)—and almost all of them were designed as housing cooperatives. This was practically a necessity as New York's abandonment epidemic primarily dealt in large multi-family apartment buildings, as opposed to other parts of the country where homesteaders individually worked toward titles of single-family homes. Oftentimes the buildings were gutted or in such poor shape that rehabilitation efforts seemed like a preposterous misplacement of energy; yet, dozens of homesteaders would collectively renovate apartments that they would then eventually come to own. Many of these homesteaders struggled with ideas of homeownership. Frequently, a few leaders in co-ops tended to control the project while the rest tended to view it as another form of rental (instead

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from a median of $55,000 to $103,000. Rohe, William M. "Expanding Urban Homesteading." *Journal of the American Planning Association*. Vol. 57, No. 4, Autumn 1991: p. 5–9. (Also see Olion, Mittie Renae Davis. "Implementation of Section 810 Urban Homesteading: Local Discretion in a Federal Categorical Program." Ph.D. dissertation. Detroit: Wayne State University, 1985: p. 68.)

of proper rent, tenants paid maintenance fees and construction fees); some felt comfortable recreating a familiar rental dynamic with the added bonus of housing security.[40]

During the '80s, homesteading both in New York and across the country declined as the housing market flourished and home sales now exceeded FHA acquisitions, a phenomenon that led to the program's eventual washout.[41] In 1984, HUD removed Baltimore's homesteading agency from the program because the "cost to implement the necessary administrative organization would not be cost-effective or feasible given the overall status of the project and the lack of suitable properties for homesteading."[42] Other cities simply dropped out. In 1991, the Section 810 legislation was fully repealed, outlawing the practice of urban homesteading.[43] In 1999, a bill proposing urban homesteading was again introduced—perplexingly by Republican John McCain—but never passed.[44]

Public opinion in the late '80s and early '90s seemed to generally reflect the sentiment in this editorial from a small-town newspaper in Texas:

> Congress must let low-income Americans take control of their living conditions and their lives. Jack Kemp [then-Secretary of HUD] understands that; George Bush seems ready to wage the necessary political battles to move the nation in that direction; some influential members of Congress appear ready to sign on in that fight, regardless of party. Now it's up to the people to see that they prevail.[45]

This was around the same time that Resident Management Initiatives—low-income residents self-managing their apartment buildings—were popular. It was generally perceived by Jack Kemp and others at HUD that "if housing developments are turned over to the tenants, the residents will take their responsibilities seriously and the new control will translate into a pride in their homes, and improvement in resident life, and eventually an improvement in the surrounding community."[46]

As odd as it is to see the name George Bush (Sr. or Jr.) in a sentence about assistance for low-income residents, it is even more peculiar that the Urban Homesteading idea generally tended to straddle political ideologies, serving ideals of conservative privatization as well as those of liberal

human rights. And for a program that was so popular among Republicans of the day, it required a good deal of federal subsidies (usually through the Community Development Block Grant)[m] to acquire buildings for those who could not afford to buy them at market price. For example, between 1984 and 1992 the New York Department for Housing Preservation and Development (HPD) completely rehabilitated 4,500 units of vacant city-owned buildings, at an average per unit cost of $65,000. But because the federal government refused to finance projects that cost more than $57,856, the city had to pay out of pocket—a further disincentive to keep the program alive.[47]

Beyond the economic irritations, the Urban Homesteading program was unattractive in that all it really offered homesteaders was a dilapidated structure on an extraordinarily small piece of inner city land. Compared to the 160 acres of rural homesteading, "urban homesteading offer[ed] a shell of a dwelling with no real economic value."[48]

These days, the notion of homesteading is frequently conflated with the notion of squatting. In the 1980s, too, many squatters identified as homesteaders, though the illicit practice of squatting and the sanctioned practice of homesteading walked on somewhat different philosophical terrain. Similarly living in otherwise-abandoned buildings, squatters hoped to achieve the same ends as homesteaders but through unsanctioned means. Homesteaders—particularly those in New York City, where both squatting and homesteading were prevalent—sometimes viewed squatters as a threat and resented them for circumventing the rules. These homesteaders felt that *they* were doing it the right way and that squatters, by avoiding the official programs and taking buildings without permission, were disrespecting the process and hard work of the authorized homesteaders. "So we are different," one New York homesteader said of the squatters. "They are so radical, they are out of it, they are not realistic. I thought at one point they were HPD plants to destroy the homesteading movement on the Lower East Side." Ultimately, squatters tended to

m. Other federal housing programs competing for funding from this source included Rent Supplements, Section 235 Homeownership, Section 236 Rental Housing, Section 8 New Construction, Housing Development Action Grants, and Urban Development Action Grants. All of these programs authorized by the Housing Acts of 1965, 1968, 1974, and 1983, however, have been terminated.

be more opposed to government involvement and adhered to a strongly do-it-yourself ethic; homesteaders usually just wanted government to do its job, but were content to pick up the reigns in the event that authorities could not follow through.[49]

Starting from similar places, homesteaders and squatters diverged soon after homesteads were made official. Suddenly the homesteaders were then home*owners*, placing them on categorically more legitimate footing. Not only were they no longer in conflict with the state, but they had even entered into a different class of citizen: property owners. This graduation made it easier to demonize squatters, considering the growing number of differences between the two groups. In this sense, the government-sponsored Urban Homesteading program, which many had originally seen as a boon, now served as a social wedge among supporters of the housing justice movement. The more moderate homesteaders had been willing to accept government sponsorship to ameliorate their housing struggles, while the more radical squatters remained in contention with the state over such issues. "I don't even think people understand the difference between homesteading and squatting," said Bay Area squatter Peter Plate in 1993. "I don't think people know that one is in defiance, complete, total, philosophical defiance of the law and will never bow down to the law, and the other *yearns* to become legal, to become part of the system."[50]

While these homesteaders rarely transformed into hard-nosed private-property advocates, the idea of their categorization as homeowners was philosophically divisive. Despite gaining legal recognition by formalizing title to their properties, homesteaders were faced with an existential problem of having allied with authorities and renounced their place in the struggle. "Having become 'real' in the sense of finally having been incorporated, [homesteading] lost the element that earlier had made it real in people's imagination and hopes."[51]

This "realness" was brought to bear through the labor of renovations and the tenuousness of living in unfinished spaces. There was also a realness in the struggle itself. The further that new homeowners drifted from their original conflict with the state and the system over lack of affordable housing, the less effective they felt and the less effective the movement became without them. Housing justice advocates were

torn over this middle-of-the-road option that seemed to create as many problems as it solved.

Denney, Hall, and James in their article on Resident Management Initiatives note the need for " a 'creative tension' between residents and the housing authority" in order to reach any kind of desirable solution. "When the housing authority organizes, gives technical support, and funds resident management initiatives, that needed tension disappears…. Resident management, which should be a grassroots, bottom-up effort, has become instead a top-down, codified set of formulae for residents and housing authorities to follow." Squatters, then, were the perfect wholesalers for this creative tension.[52]

The term *squatter* can generally denote either of two types of dweller: one who renovates a building with the intention of turning it into a long-term home and one who does not work toward improving the space.[n] The 1989 melodramatic TV documentary *Underground in Alphabet City*, narrated by Ed Asner, delineates two types of squatters—teenage runaways and homesteaders—though the narrator admits that there are too many types of squatters to accurately generalize.[o] Some squatters in the United States have used the term *homesteading* to describe their living situation, but for the purposes of this text, *homesteaders* will refer only to participants in the government-sanctioned program. *Squatters* here will refer to those who live in abandoned buildings with the intention of improving them.

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n. Squatters in Germany and the Netherlands have developed unique terms for identifying squatters who renovate: *Krakęr* in Dutch. *Instandbesetzen* (a conflation of *instandsetzen*, or "renovating," and *besetzen*, or "occupying") in German.

o. In this hilariously histrionic account of squat life in the Lower East Side, narrator Ed Asner strolls in and out of camera frames while having a serious, sit-down type talk with the viewers about life in "these crumbling buildings." After interviewing a handful of teenage runaways, Asner poetically proclaims, "A lot of kids making the scene in Alphabet City are runaways. They leave home looking for adventure, but soon the rules change and the stakes of the game are much higher. Before they know it, the street takes over and the runaways [pause] are running for their lives." He then goes on to interview a preadolescent Rosario Dawson (who played Mimi in the cinematic version of *Rent* after growing up in squats on the Lower East Side) about how her squatted home is cooler than the houses of the other kids at school.

While squatting and homesteading have at points overlapped (some homesteads were originally squats and some squats at one time participated in homesteading programs), for the most part the two movements appear to have, ironically, been at odds. Homesteading was "far more palatable, politically speaking, than the vision of energetic and noisy squatters demonstrating in front of boarded-up buildings or, even more embarrassing to the authorities, simply walking in and taking over." Yet, without the radical act of squatting, the more moderate act of homesteading might simply be a legislative daydream.[53]

In Hans Prujit's comparison of New York squatting to Amsterdam squatting, he pinpoints two government response tactics to the movement: integration and repression. According to his analysis, integration can potentially be more destructive to movements than repression, as it mollifies movement builders and siphons movement energy with its attractive compromises. Integration eliminates a movement's identity, and concessions may ultimately contribute more toward a movement's decline than repression. In Prujit's words, "Legalization may be a matter of authorities rationally calculating that pure repression is too expensive." But he also acknowledges a spectrum of integration, including what he calls *terminal institutionalization*—in which "convention displaces disruption"—and *flexible institutionalization*—in which "conventional tactics complement disruptive ones."[54]

In the case of New York City, homesteading appeared to be a brand of terminal institutionalization, leading participants to a place of private ownership and eventual disdain for (or at least irritation with) those still engaged in the housing struggle. Later, some squatters in New York and elsewhere would win their buildings and then occupy the same existential space as the former homesteaders. Peñalver and Katyal describe this paradox of property outlaws teetering on a fence of moral convenience:

> The simultaneous radicalism and conservatism of squatters explains why they have so frequently been attacked by commentators on both the left and the right: they are suspect to the right because their squatting begins in an act of defiance of the established legal order; and they are suspect to the left because when they succeed, they reinforce the very systems of private ownership they initially transgressed.[55]

By the same token, logically, squatting should conversely *appeal* to both the right and the left as it is a hard tug on Americans' proverbial bootstraps, as well as an equitable exercise in social responsibility.

With a growing interest in the Lower East Side in the early '80s, investors surreptitiously netted many properties in tax default by offering to pay the owners the back taxes plus some in exchange for title to the property. As a result, the number of city-owned properties (and potential homesteads or low-income projects) decreased, and because of the furtive nature of these sales, it was also difficult to foresee the impending spatial reorganization or social changes of the neighborhood. While this was happening, rents for substandard housing rose 20 percent. After all, "speculative investment was fueled not by *known* need or demand for affordable, low-income housing units but by *anticipated* consumption of apartments and condominiums by 'upscale urbanites.'"[56]

In this act, squatters took center stage in the battle for housing. Their tactics were two-pronged: First, squatters would take empty structures without permission, ensuring immediate shelter for the homeless or under-housed without waiting for the state's assistance to filter through its boggy bureaucracy. Second, they would attract media attention, garnering public support for the cause and compelling authorities to take notice of housing issues. Michael Shenker, one of the Lower East Side's most politically active and tenacious squatters during the '70s and '80s, once promised to haunt the mayor "like the Furies from Greek mythology."[57]

At the time, the City of New York owned over 6,000 vacant structures and found it impossible to monitor all of them. The city's law required that after ten days of occupation, officials could no longer call the police and instead had to take the case to civil court, which tended to be long and expensive. Also, because it was easier to be evicted by a private owner, squatters tended to limit themselves to city-owned buildings. For both of these reasons, squatters were often able to maintain their spaces for months or even years. And during the '80s, New York squatters rarely had to act alone, as a profusion of squatter organizations emerged to amplify their voices. Various community groups occupied buildings in Harlem, Chelsea, the Upper West Side, the South Bronx, and—between 1984 and 1985—over three dozen buildings on the Lower East Side. Between June and August of 1985, ACORN took an impressive twenty-five

buildings—an average of one every few days. The city argued that squatters were taking buildings away from nascent low-income housing projects, further delaying move-in dates for the 175,000 people on the low-income-housing waiting list. But squatters maintained that the city was too slow to provide affordable housing anyway, and complained that the Urban Homesteading program was sluggish and only renovated an infinitesimal percentage of the city-owned buildings in the area. The very fact that the waiting list was so long spoke volumes about the city's actual commitment to helping the under-housed.[58]

After ACORN brazenly commandeered those twenty-five properties (an action during which eleven people were arrested), the City of New York responded with an integration proposal: ACORN squatters would become members of the Mutual Housing Association of New York and participants in another sort of government-sanctioned homesteading program. This integration granted the former squatters fifty-eight city-owned buildings, money for technical and architectural aid, and $2.7 million dollars in rehabilitation loans.[59] While this cooptation could have been a harbinger of a terminal institutionalization of squatting efforts, many of those involved refused to look a gift house in the mouth. Jacinto Camacho, a sixty-nine-year-old retired electrician, admitted, "What I did was illegal. But if you don't try, you don't get anything." Another squatter-turned-homesteader, Francisco Jusino, agreed, "I was very nervous. Little by little, I've put a lot of money into this house, and I didn't want to lose it."[60]

But HPD was equally pleased about the compromise. The organization that had started in the late '70s to simply "stop the bleeding" of the housing crisis, and that began as an understaffed and clueless nascent housing authority, later evolved into the "institutional strong arm for private revitalization" in the city. As HPD gained knowledge and experience, it became a more professional but also more bureaucratic agency. Its original staff included some members of housing justice groups of the '60s, but by the late '80s, it was demolishing squatted city-owned properties to make the lots more attractive to developers and capitalizing on the countercultural aesthetic of the Lower East Side by aggrandizing local artists. To refer back to Mele's discussion of representation, HPD learned to grasp at low-resolution re-creations of the area's bohemian appeal in

order to manufacture a false sense of creativity and originality among its target demographic: the middle class. In order to achieve its grander vision of lucrative development, HPD pinpointed art and artists as the shining gems in a gritty lifestyle. But the radical subcultures of the Lower East Side "derived [their] creative energy from an environment of despair." HPD and other developers attempted to reproduce such an environment *without* genuine despair—in effect fabricating a hollow mannequin of what was once real subversion.[61]

Because of this dynamic, squatters have sometimes been termed the first agents of gentrification, as the "otherness" of squatters, artists, and other radicals has long been an allure for members of the middle class. In the words of Mele, "While the images and symbols of urban decay remained the same, their representations and attached meanings shifted from fear and repulsion to curiosity and desire." Squatters, then, made troubled neighborhoods appeal to punks and creative types for the subcultural richness, which in turn appealed to wealthier artists, which in turn made the neighborhood appear safer for the white middle class. For the past four decades, this progression has led to ethical debates among squatters about their role in gentrification. In some ways, the snag was inherent in the squatters themselves, as the development tycoons were selling an image; the product was the lifestyle.

Beyond this, the city designed incentives and subsidies for owners to renovate their apartments in accordance with the "revitalization" plan. The costs of the renovations were invariably passed on to the tenants in the form of increased rents. Even after the renovations were paid off, the rent hikes would remain and the property owners would keep the profits. Tax reduction and exemption programs such as J-51 Tax Abatement further incentivized the changes. In the end, what had been veritable tenements ironically were converted into high-end luxury apartments. By the mid-'80s, neighborhood associations began to look more like developers, and speculation in the Lower East Side rolled over into comprehensive redevelopment. Yet, change in the neighborhood "was neither thorough nor pervasive; revitalization was instead remarkably lopsided, uneven, and irregular." This is partially due to developers' inability to legally evict great swaths of residents and partially due to the neighborhood's overwhelming penchant for resistance.[62]

Another hitch to the revitalization plan was the large homeless population that tended to gather in Tompkins Square Park. The park had become a regular hangout for the homeless, drug dealers, spiky punks, leather-clad skinheads, and incarnations of the "other" that were less desirable to the target demographic of Lower East Side development. The mounting tension between new gentrifiers and seasoned housing activists exploded in the famous Tompkins Square riots of 1988. On a sticky August night, 450 riot police on horseback battled protesters armed with rocks, bottles, and fireworks. Thirty-eight people—including journalists and police officers—were injured, and nine people were arrested, mostly on charges of rioting and assault. The incident was sparked when police attempted to enforce an early park closure in an effort to reduce late-night noise. Protesters charged the police with provoking the riot, and police maintained that, though they weren't sure exactly how it started, it was not a result of police aggression.[63]

The level of violence, however, was brutal and should not be minimized. One officer commanded protester Jeff Dean Kuipers, "Move along, you black nigger bitch." Kuipers replied, "What do you mean, 'black nigger bitch'?" Five officers then knocked him to the ground and beat him with nightsticks. "They hit me several times in the nose," Kuipers said. "I'm bruised all over my upper body." When asked about allegations of police brutality, Police Captain McNamara simply replied, "It was a hot night…. Obviously tempers flared."[64]

Less than a year later, conflict returned to Tompkins Square Park when hundreds of people congregated to protest the demolition of a city-owned squat—home to twenty-five people—at 319 East 8th Street between Avenues B and C. The city claimed that the structure was in danger of collapse, but the protesters argued that it should be rehabilitated for housing. A melee similar to the previous summer's riots ensued, and sixteen people were arrested on charges of disorderly conduct and criminal mischief. As a testament to the brutality of the police officers involved, 121 complaints of police misconduct were formally filed. To the disappointment of many, the building was successfully demolished later that afternoon.[65]

After the Tompkins Square riots, the Lower East Side became known, nationally and internationally, as synonymous with squatting and

resistance. After all, "like most urban riots, the events of August 1988 in Tompkins Square were a watershed that reflected the frustrations of past and present social conditions and unleashed new social forces to atone or address community grievances."[66] Indeed, squatters remained active throughout the end of the decade and into the '90s. In fact, only six months after the second Tompkins Square Park incident, twenty squatters were evicted from a former school nearby that had been converted into a homeless resource house, called ABC Community Center. According to their informational handout, the center provided services such as emergency and permanent housing, tenants' rights assistance, a free medical clinic, job training and placement, meeting halls for neighborhood organizations, drug and alcohol rehabilitation, and high school equivalency classes, as well as dances, concerts, art shows, and poetry readings.

Before the eviction, the squatters had communicated with the police through their lawyer, Stanley Cohen. The old schoolhouse was particularly controversial because the city intended to use it as a residence for elderly homeless people who were then living in shelters. The squatters, preferring their brand of self-help housing to the city-sponsored non-profit approach, resisted HPD's attempt to reclaim the building. This was a dynamic that persisted throughout the '90s: Squatters would argue for housing rights and the city would counter with offers to convert abandoned buildings into homeless facilities or low-income projects. Squatters would become indignant, claiming that the autonomy of squatting is worth more than the charity of non-profit organizations. HPD or other city officials would then sputter that the squatters were selfishly blocking the advancement of the homeless and other poor by hoarding buildings. But then again, the City of New York was infamous for being the area's largest slumlord, amassing thousands of empty structures. So, in a forthright display of defense on eviction day, the squatters employed an arsenal of tactics to prevent authorities from entering the building: They dropped bags of cement around police from above, they tossed bottles and fireworks toward officers, and supporters even started fires in nearby intersections. About 100 riot police forced the 150 protesters from the area twelve hours later. The squatters ultimately lost control of the building.[67]

The heated deadlock between squatters and HPD resumed in 1994 when the city made plans to convert five Lower East Side squats into

low-income housing. Some of the squatters had been there for as many as ten years and had added equity to the buildings by installing new windows, floors, doors, and plumbing. But the city wanted to evict the approximately 100 squatters, despite their tenure, because the buildings were "in danger of collapse."[68]

After a year of bickering between the squatters and the city, things seemed to be quieting down, until one day, in May 1995, when some of the squatters at the 13th Street house discovered a small article by Evelyn Nieves buried in the back pages of the newspaper: "City to Evict Squatters."[p] The squatters realized then that Nieves was trying to send them a message and warn them about the impending eviction, so they immediately got the case into court, and a Judge Wilk put a hold on the eviction until the case was heard. The squatters argued in court for adverse possession, as they had sent HPD a letter of intent in 1986 and were close to the legal ten-year mark. In court, the city claimed that the eviction effort was based on its concern for the squatters' safety, and to maintain that argument, prosecutors would continually refer to the building as "vacant," even though everyone in the courtroom was well aware that it had been occupied for close to a decade. The squatters let the city into their building to do an inspection and evaluation, and then sneaked their own architects and licensed contractors into the building at night to produce second-opinion reports, revealing that the structure was salvageable.[69] "The fact is you can't occupy city buildings and not pay rent, have them in the conditions that these buildings were in, which were dangerous," Mayor Rudolph Giuliani said. "God forbid that something happens to these buildings, the first thing would have been the city would have been blamed for not doing something about it."[70]

Despite the city's insistence that the buildings were unsafe, the group miraculously won the adverse possession claim—which was and still is an unheard of feat. "We were winning," said sixty-two-year-old Frank Morales, a Lower East Side squatter since 1985, who helped with the case. "Judge Wilk even threatened to jail any official who still went forward with the eviction."

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p. So claims Frank Morales, Lower East Side squatter since 1985, in a personal interview on June 1, 2011. In my research I could find no evidence of this article, but it is possible that it was so small a blurb that it was not archived.

On May 27, however, the Appellate Court, admitting that it found no fault with the lower court's ruling, inexplicably lifted the injunction, allowing Giuliani to order the eviction. Having tried the legal route to continued possession of the building, and even having arrived at an unprecedented win, the squatters soon realized that this was not a *legal* issue but an *enforcement* issue—and Giuliani and the police had the means to *enforce* an eviction despite Wilk's ruling.[q]

After exhausting all other means, the squatters welded themselves inside the building and waited for the 250 riot police to arrive in their armored vehicles, helicopters circling overhead. Overturned trash cans and garbage barricades protected the metal-lid drum corps from police as weaselly Police Chief John Timoney grimaced, looking upon the raucous scene of shouting protesters, pro-squatter graffiti, and banners reading "Shut down Lower Manhattan when the squats are attacked." To enter the building, police had to rip down barricades, break through a human chain of demonstrators, and grind the hinges off the welded door. They dragged squatters out of the building by their arms, as a good-humored squatter posing as a Nazi mocked them from the roof.[71]

Over time, and with changes to New York's housing climate, the underlying mission of squatters in the Lower East Side morphed. In the 1970s, squatting was a successful method of utilizing a surfeit of abandoned structures in the all-but-forgotten inner city. By the 1990s, squatting had subtly shifted into an embattled tactic for the poor in an untamed housing market.

Mele points out that these squatter battles were rarely clear-cut narratives with one hero and one antagonist. For as many low-income residents that were in favor of "quality-of-life" measures (and subsequently branded as "pro-redevelopment"), there were just as many Wall Street businessmen at protests screaming "Kill the pigs!" The movement included demographics as diverse as "white, young, well-dressed adults,

q. The court documents for this case, along with other relics from the Lower East Side's strong history of squatting are preserved in the recently curated squatting archive within the Tamiment Library at New York University. Currently no pieces of the archive are scanned or listed online, and the entire compendium exists only inside a few weathered cardboard boxes on a non-descript shelf in the back corner of the labyrinthine special collections area.

aging bearded ex-hippies, and Puerto Rican and black men and teenagers." Yet, it was impossible for one group of residents—including one with as heterogeneous a makeup as squatters or their advocates—to solely represent the Lower East Side in a way that empowered them to make demands regarding what was best for the whole neighborhood. After all, some "quality-of-life" measures included mitigating drug culture and limiting late-night noise, which many low-income residents found agreeable, just as did their wealthier counterparts. The ironic reality of such measures, however, is that they would ultimately raise property values and reduce affordability for those with less income. Regardless, by 1990, according to a *Crain's New York Business* report, the notorious volatility of the neighborhood had stymied property sales in the Lower East Side, making the protests of the 1980s an effective tactic for thwarting the real estate market. The area's reputation for resistance did not, however, have an effect on the rental market at the time.[72]

By 2002, only fifteen of the original network of twenty-five autonomous squatted buildings in the neighborhood remained, the others having been lost to fire, police evictions, or their own self-destruction. And in 2002, the city offered the squatters a very curious deal. For $1 each, the city would sell twelve of the squatted buildings to the Urban Homesteading Assistance Board (UHAB), who in turn would grant title to the residents of those buildings as low-income co-ops, in exchange for bringing the buildings up to code. Though the city had gradually ceded titles to squatters in the past, it had always been through bureaucratic homesteading programs, which usually involved supervision by non-profits and some level of compulsory loan for rehabilitation. What was so unusual about this move was that the properties were virtually given, with almost no strings attached, to people who had actively been in conflict with the city for decades. Many squatters charge Giuliani with having the ulterior motive of liquidating the city's housing stock and eliminating the need for HPD, in order to minimize city government and expenditures. Yet most squatters did not have a problem with taking the deal; UHAB would create a buffer between the cops and the squatters, ensuring their long-term residency whether they followed through with UHAB's requirements or not. Some squatters, including Frank Morales, disagreed with making concessions to the city, and one of the twelve squats rejected the proposal

entirely.[r] Because UHAB encouraged the squats to take out rehabilitation loans, Morales called the deal a "World Bank model," likening it to the capitalist scheme that tricks the poor into accepting more and more debt.

Most of the buildings that did accept the deal have yet to complete the process, and, ten years later, only two of the eleven have fully weaned themselves off of UHAB and been awarded titles to their buildings. The rest appear to be loafing in a convenient limbo between legal and extralegal—but Morales contends that he and his fellow squatters at 377 E. 10th Street sent a letter to UHAB in the beginning asserting that they never intended to take out loans, take on debt, or ever leave their building. The 10th Street house has been out of communication with UHAB for a long time and is at the bottom of the list for gaining title, but residents continue to each pay $150 toward maintenance as they have since 1987, rather than UHAB's projected $1,200 per month.

In Morales's one-room apartment, contractor bags still stretch across the ceiling in lieu of drywall, and a few area rugs obscure the plywood floors. Though he hasn't invested money in fully remodeling, over the years he has made it cozy with bookshelves from ceiling to floor, religious figurines placed about the room, and a few mirrors for a *feng shui* motif. "Squatting is about manipulating your environment," Morales said. "It's a creative exercise. Your squat is your canvas."[73]

In a way, many of those in the co-ops still see themselves as squatters. Morales doesn't care if his building ever gets title as long as he can continue living there. "Eviction could come at any time," he said, though he doubts that it ever will. "UHAB is tied up trying to secure loans for the other co-ops," he said, so they're not paying much attention. The only time that he felt threatened with eviction since the deal with the city was made was two months after UHAB took possession of the property. An

r. The twelfth squat was 272 E. 7th Street, and they sought adverse possession instead. Much tumult also appears to have surrounded the idea of the UHAB deal at the 544 13th Street, which eventually dropped out of the program. Interestingly, this was the home of Isabel Celeste—the mother of actor Rosario Dawson. According to some squatters of the day, Celeste wanted to buy the building, while the other residents wanted to take the UHAB offer. As far as I can tell, the building still sits in legal limbo. See also Anderson, Lincoln. "Former Squats Are Worth Lots, but Residents Can't Cash In." *The Villager*. Vol. 78, No. 31, Dec. 31, 2008–Jan. 6, 2009.

arson attack in one of the rear apartments prompted residents to evacuate the building, which Morales claimed was a frequent and strategic occurrence. He said that squats would frequently fall victim to fires, during which authorities would evacuate the building, sending firefighters in with a SWAT team directly behind them. The police would then lock the building and sometimes demolish it. In one instance of this in the South Bronx, the squatters had to get a lawyer to negotiate getting their personal belongings out before the building was razed. With this in mind, when Morales heard the explosion, he knew that the fire could potentially be an excuse for eviction. He refused to leave his apartment, the building was not seized, and there have been no further eviction attempts.

For the eleven buildings that went forward with the plan, UHAB served only as a conduit for the sale, though the squatters were compelled to sign "regulatory agreements," claiming UHAB as their "representative." Many of the former squats adopted operational frameworks similar to those of other homesteaded properties that are managed by non-profits: The squats would be converted into cooperatives with a relatively low monthly maintenance fee of an estimated $500 per unit (though some fees were later much higher), and the apartments could never be sold at a profit.[74]

There were debates within the co-ops about what level of resale cap was appropriate or desirable. On the one hand, limited equity was good for removing housing from the market and flying in the face of capitalist economics. But some squatters, including Michael Shenker, viewed equity as a valuable means for lifting people out of poverty. These squatters, who had spent their lives working on buildings, were getting older and were interested in financial security as a return on their years of hard work. Others saw the potential to resell the properties at market rate as unraveling the years they had worked against an exploitative economic system.[75]

Even today there are disputes about the affordability of life in the former squats. One co-op member I talked to—John, who lives in one of the two independently owned co-ops—said that he pays $1,200 a month for a double—which is still a deal for New York, but he wonders if it was worth it. He called dealing with UHAB a "nightmare." In John's building, residents had to move out during renovations and later move back

in. After the renovations, he said, "The bathroom was nice to come home to," but "I wish I could go back. I want to open another one [squat]." He was frustrated that UHAB wanted them to get outside help for the project. "We know how to take out trash bags, we know how to shit in buckets," he said. Fellow ex-squatter Matt Metzgar agreed: "We had a contractor coming in and taking over; getting a salary but not doing much. We were used to doing things ourselves, and now we had some guy getting paid for it."

Over all, the realness of the squats faded when they began working toward legitimization. "When we did not have water and we did not have plumbing, we were much stronger I felt as a community because we worked together, we did things together, we looked out for one another," said Marta, who has been at the Umbrella House co-op since 1989. "I didn't have a door or a lock on my door until maybe five years ago because I wasn't concerned that someone would come in and steal my things."[76]

Prujit classifies these eleven sales as an unambiguous case of terminal institutionalization. Because there were no longer any squattable buildings on the Lower East Side in 2002, flexible institutionalization with a continued squatting effort was not possible.[77] But this legalization is only a defeat if one believes that constant conflict with the state is a desired end-goal, as well as a necessary means. According to squatter Michael Shenker, the goal was actually to create permanent, affordable low-income housing, which was indeed the end result. "We have weathered and survived the onslaught of gentrification and the enormous increases in the price of housing on the Lower East Side," he said, "and due to our tenacity and adaptability we're still here."[78] Morales similarly disagrees with the notion that the UHAB sales marked the end of squatting: "It's terminal institutionalization if you presume that it's a contradiction to the ideology of squatting to deal with UHAB and the state," he said. "But you can't presume what people's ideologies are."

Besides, while the Lower East Side squats were in the process of decriminalization, Matthew Lee—of People on the Move and the publisher of *Inner City Press*—was still opening buildings in the Bronx with the Catholic Church. Further, larger squats and community spaces like Casa del Sol in the Bronx persisted; Casa del Sol only saw its demise in 2004 when ACORN (a group that had historically supported and even

initiated squatting movements) bought the building with plans to convert it into low-income housing units—necessitating the eviction of long-time resident Rafael Bueno along with a dozen and a half others. Ironically, ACORN shifted into the role of private property owner and asserted that the architecture was structurally unsound and therefore not safe for the squatters. It was a particularly notable eviction because the squat had served as an autonomous space for protesters to stay when the Republican National Convention was hosted in New York that year, and this boosted support for the project among radicals. Shortly after the eviction, in a city with a history of arson-for-profit, Casa del Sol was partially consumed in a four-alarm fire, allegedly caused by contractors working in the building—though squatters suspected foul play.[79]

During the 2000s, squatting receded from the public eye, but in 2008, just two years before Michael Shenker passed away, Frank Morales ran into his old friend and cohort on the street. Shenker, a squatting "elder" who had been a shining star of the squatting effort throughout the '80s and '90s, whispered to Morales, "It's coming back around. It's in the zeitgeist." Indeed, with the foreclosure crisis mounting, the squatting movement returned to New York City, though Shenker would not stay to see it through.

New York City was notoriously one of the most active U.S. cities in the squatting sphere, but it was by no means the only active city: Philadelphia also became known nationally for its legacy of brazen occupations. This city, economically weaker than New York, had even more abandoned homes to choose from (22,000 in the early '80s), making squatting appear as a more natural progression. In 1981, ACORN moved several hundred squatters into such abandoned structures and was just one of many organizations working through similarly unsanctioned means.[80]

In 1977, activist, former hot-dog vendor, and eventually, politician, Milton Street (whom the *Philadelphia Inquirer* later described as "the court jester of Philadelphia politics for thirty years") started what he called the Walk-In Urban Homesteading Program in Philadelphia—a direct-action style of homesteading and friendly euphemism for *squatting*. The "program" managed to house 200 squatters in HUD-owned single-family houses more quickly, effectively, and impressively than the city government had housed the official homesteaders. Street's shenanigans

frightened city politicians, but the public and the media were generally supportive, which compelled the city to be flexible on the matter. The city eventually granted title at a nominal cost to about half of the squatted homes, and the other half were purchased with mortgages or remained under a rental agreement with HUD. The City Council president had warned that such a thing could be the "beginning of anarchy," and while it may not have been the beginning of *anarchy*, per se, it was indeed the beginning of a major, illicit housing movement.[81]

The same year that Milton Street began cavalierly un-boarding abandoned houses, ACORN opened a Philadelphia office. ACORN had gained experience and developed sophistication through years of organizing neighborhoods around the country, so they brought to the squatting effort a degree of legitimacy that firebrand squatters could not. This social hybrid of ecumenical housing activists later proved effective in altering Philadelphia housing policy. ACORN wanted to catalyze a social movement rather than a series of individualistic property claims, so they geared their tactics to this goal. All potential squatters had to sign "squatter contracts," pledging their participation in meetings, rallies, and other activities that would support homesteaders and other squatters. Squatters were also required to get 75 percent of residents in the neighborhood where they planned to squat to sign a petition of support. In a further effort to ensure community support for squatters, ACORN had religious ministers remove the first boards on the houses to be squatted.[82]

This organized effort was surprisingly effective in manipulating city government to bend to housing demands. According to Seth Borgos, "In response to each wave of squatting, the city offered some programmatic reforms, a commitment to transfer some deeds, and de facto legal amnesty for all existing squatters, in exchange for an agreement from ACORN and KJAC [Kensington Joint Action Committee] that no new squatting actions would be organized…. For a short while, peace reigned, but the city inevitably failed to fulfill all its commitments, and the squatting cycle began anew."[83]

It was this fitful period of housing activism in the city that spawned what became known as the "Philadelphia Model" of urban homesteading; that is, a housing program first and a property rehabilitation program second—a model contrary to the federal urban homesteading

model that had arrived in 1974 with the Housing and Community Development Act. To protest the inequity of the original program, in 1982 ACORN placed over 200 squatters in 13 cities, including Detroit, Pittsburgh, and St. Louis. These cities responded to the outbreak of squatting and housing protests by adopting local homesteading programs, which were based on the Philadelphia Model. The ACORN protests also led to the overhaul of the federal Urban Homesteading program with the Urban-Rural Recovery Act of 1983 after squatters established a tent city behind the White House.[84]

This was happening at a time when Americans were increasingly hostile to anything that could be perceived as a handout or "giveaway" program, but "the squatters proclaimed that they were not looking for a handout but an opportunity. They cast their demands in terms of individual initiative, mutual assistance, and the superiority of homeownership, all culturally sanctioned values in the United States."[85] Borgos applauds ACORN's ability to link squatters with their neighbors, and credits this and a "grassroots constituency to generate, monitor, and defend programs" as the formula for success. During ACORN's time as an active squatting advocate in Philadelphia, it had a significant impact on federal property policies, tax foreclosure process, housing speculation, redevelopment plans, and code enforcement.[86]

Meanwhile, other squatting advocacy programs also flourished in the city. In 1979, Charlie "Boo" Burrus—a Democratic committeeman, Vietnam vet, and former teenage gang-leader—joined the squatting movement Inner City Organizing Network (ICON), which was spearheaded by Henry De Bernardo in North Philadelphia. Together, Burrus and De Bernardo opened another chapter in West Philadelphia and regularly led marches to city hall and organized sit-ins at the mayor's office. ICON was so successful in getting the city's attention about housing issues that HUD officials and Mayor Wilson Goode (then-city managing director) offered to develop a publicly funded squatters program, called the 1202a Nuisance Abatement Program, in which squatters could receive a $300 grant toward home renovations. De Bernardo was skeptical of this municipal assistance and stepped back from ICON, citing that activists can no longer be effective when they are co-opted by the system.[87] After all, such programs only went forward with the approval of Mayor

Goode—the same mayor who would approve the bombing of the MOVE house in 1985, an attack that killed 11 people and left 240 homeless.[88]

With Burrus as the new president of ICON, the group succeeded in moving several hundred families into abandoned houses, between 1979 and 1983. Many of the homes were owned by the federal government, and through the city's reluctant intervention, some of the ICON squatters got the titles to their properties. But De Bernardo was right in that working with the city slowed down the process. As well, Burrus and city government maintained a contentious relationship: Burrus did not trust Goode because, he claimed, Goode only took care of the "house folk" and ignored the needs of the "field folk." Burrus said of the mayor, "For low-income black folk, he's not been a friend. He did not take care of his folk. When you get to the bottom of the barrel, he didn't care."[89] Meanwhile, Goode had been scrabbling for reasons to end the ICON program or dispose of Burrus, who was a constant irritation. De Bernardo later quoted Goode as having threatened, "If I ever get a chance, I'm going to put you guys away!"[90]

Eventually, the city found that chance. In 1987, Burrus was charged with misappropriating $128,000 in public funds and using ICON money for personal expenses, including child support. Burrus admitted to using the money, but explained that it was for other projects, including a food distribution program. According to character testimonies, Burrus was not interested in lining his pockets. Anyone who knew him confirmed that he barely owned anything and, at age forty, still lived with his mother. "Have you seen the way Charlie Boo dresses?" one woman testified. Many of his financial mistakes were simply the result of poor money-managing skills and desperately needing an accountant. Still, of the $500,000 that HUD allocated to Philadelphia, 95 percent of that money regularly went to pay other city officials' and non-profits' administrative fees rather than directly helping the houseless—a fact that could explain Burrus' decision to appropriate the funds.[91]

Despite being convicted of stealing $53,000 (he was acquitted of racketeering, among other charges), Burrus was not easily dissuaded from persistent activism and was hard-pressed to admit wrongdoing. "Was I guilty for keeping people employed for three months?" he asked a television reporter after the verdict was announced. "Is it immoral to

keep people in houses? Is it immoral to keep people employed?"[92] After the conviction, Burrus pledged to continue ICON's operations without government money and with or without government approval. "Cinder block breaks under a sledgehammer," he said, referring to the bricks and mortar that city workers use to seal houses. "Squatting is the only workable program to help homeless people, until the system changes."[93]

While awaiting sentencing, through an organization called Prevent Homeless Coalition, Burrus continued to place people in abandoned homes, drawing up fake leases and claiming that the operation was legal. He told the squatters that if anyone asked questions to tell them "Chuckie's back." When asked about the legitimacy of the leases that Burrus had created, HUD denied that the group was part of any government-sponsored housing program. Yet, no one would evict the squatters, as HUD argued that it was the city's responsibility, and the city maintained that HUD should have federal marshals do the job. Meanwhile, knowing that his sentence was pending, Burrus ensured that other organizers would carry on the squatting efforts in his absence. "I'm going to jail, but I'm going to show them [the city] so much havoc," he said. "We'll keep up this fight. We're not a bunch of naive people. For the cost of two days of war in the Persian Gulf we could have solved the homeless problem in America."[94]

In January 1992, Burrus suffered a cerebral bleed (a condition similar to a stroke) while serving a one- to five-year sentence in prison. He died soon after, when his heart and lungs collapsed.[95] At the funeral, he was referred to as a modern-day Robin Hood, taking from the rich and never keeping anything for himself. "He was symbolic of the kind of reckless abandon we need to have if we're going to make any progress," City Council President (and later mayor) John F. Street (Milton Street's brother) said in his eulogy, "Somehow the system has a tendency to destroy these people. And we don't always support them."[96]

In 1994, a college scholarship was named after Burrus,[97] and in 2001, a computer lab was dedicated to him at House of Umoja, an organization in West Philadelphia that provides skills training and counseling to teenage boys who are having social or legal problems.[98]

As squatting momentum ebbed in New York City and Philadelphia in the early 1990s, the effort in the San Francisco Bay Area was swelling. In

1992, Ted Gullickson and a group of friends determined that there were 22,887 vacant housing units in the city and that 6,500 of them were in a state of limbo—not for sale or for rent. They compared that number to the 7,000–8,000 homeless in the city, and to San Francisco's shelter capacity of 4,000. Staring down a glaring incongruousness of numbers, Gullickson and his cohorts formed an organization that would move homeless people into people-less homes, and called it Homes Not Jails. Members of the group would scout abandoned buildings that were viable for squatting, break in, connect water and electricity service if possible, and change the locks. In theory, if a squatter had a key to the door, police could not charge that person with breaking and entering; only the original squat "cracker" would assume that risk. Then the group would move homeless individuals into the houses.[99]

Homes Not Jails drew from the practices of its regional predecessors: the White Panthers of the '70s and Squatters Anonymous of the '80s. The White Panthers sprang from the working class in the Haight/Ashbury. They took over buildings, kicked out junkies, and then barricaded the entrances and armed themselves. Much like the Black Panthers, they started food-distribution programs and created a base of support for their longer-term occupations. Squatters Anonymous, mostly composed of middle-class youth, was known instead for its mass public squatting demonstrations in 1982 and 1983, where they garnered the attention of hundreds of spectators, reporters, and police.[100]

Long-time Bay Area squatter Peter Plate describes the squatting movement in the early '80s as being of "an anti-authoritarian punk/anarchist persuasion," with squats springing up in the Mission District, the Haight/Ashbury, and the South of Market Area. He describes this young group as a "second generation" of squatters, which

> tended to lend itself in constituency towards a more obvious affluent class nature. You could see that there were a lot of middle-class drop-out kids coming to have an adventure in poverty in San Francisco: The *mediafication* of the second generation of squatting, which was very interesting because most of these people as anarchists or of an anti-authoritarian persuasion, they were definitely children of the television

> generation. And they couldn't separate political activity from the imagification of that political activity. It was hard to discern what was more important to this generation—the experience or the image of their very own activity. It was hard to discern what they got more pleasure out of—doing the act or seeing their acts recorded and becoming an image on television…. What became more important: yourself as a political component acting in an extralegal fashion against the entire system of capital, or seeing yourself on television being described as such? This created the collapse of many squats.[101]

Homes Not Jails was built on the historical precedent of these two earlier organizations, but the strategies of Homes Not Jails were not clear in the beginning: Would the organization be a channel for fulfilling temporary shelter or long-term self-help housing, like the White Panthers? Or would the group occupy squats as a way of spotlighting housing inequities to the media, like Squatters Anonymous? The answer would depend on the city's, the property owners', and the media's reactions to the squatters. The hope was that owners would leave squatters alone for at least thirty days—after which they would no longer be able to file a trespassing charge against them and would instead need to take the case to civil court. The best-case scenario would involve an absentee owner that did not meddle in the property for five years, which would allow squatters to then file an adverse possession claim for title to the house.

Homes Not Jails' first squatted property, at 90 Golden Gate, lasted two months—longer than anyone had expected. For those two months, the house was home to seventeen adults and two children, who were evicted when the property owner discovered them and called the police.[102]

Between November 1992 and April 1993, Homes Not Jails commandeered twenty properties and successfully sheltered between forty and fifty people, and few squatters felt regret about their illicit activity. For a chronically homeless squatter like Spencer Goodloe, the documentation of his new address was the only legitimate status he had with the government. "I respect property rights," Goodloe said, "but somebody's got to do something. This place was a crack house, it was a public nuisance, dig? Now it's not. We're doing something. Somebody's gotta take

a stand." *The Houston Chronicle* described people like Goodloe and others involved with Homes Not Jails as "the new homeless"—those who are not dependent on social services but rather pursue avenues of bettering their lots without government aid.[103]

The movement was so prolific that a year after forming, Homes Not Jails was making weighted demands of the San Francisco Board of Supervisors. In November 1993, the group insisted that the city seize the title of 250 Taylor Street from its slumlord and transfer it to a non-profit developer.[104] By 1995, Homes Not Jails was occupying a building at the possible site for a new ballpark, holding it hostage until Mayor-elect Willie Brown conceded to support the group's plans for a vacant, city-owned apartment building at 17th and Capp streets in the Mission District.[105] Homes Not Jails even drafted an anti-abandonment ordinance with twenty-four sections and submitted it to the Board of Supervisors for consideration.[106]

This feisty organization continued its public as well as its clandestine actions throughout the rest of the decade, and most squats lasted between a day and a year. Occasionally a handful of squatters or their supporters would be arrested at an action, but offenders were almost always cited and released. Such spectacles as banner-drops and public occupations fanned media hype about the homelessness crisis in the city, which in turn pressured city hall to find housing solutions.[107] Between 1992 and 1999, San Francisco Homes Not Jails opened between 700 and 800 houses.[108]

By the end of the decade, the idea had spread to Santa Cruz and Boston—cities with unaffordable housing markets similar to San Francisco's. In 2000, a Washington, DC, chapter made its first public demonstration for fair housing by openly occupying a vacant Columbia Heights home in the middle of the day, claiming that they would "fix it up" for a needy family. The action was poorly received by neighbors in this primarily black, working-class neighborhood that viewed the young, white squatters as interlopers. "They literally tried to just take over our neighborhood, like we don't care about it ourselves," said sixty-year-old Theresa James Taylor, whose family had lived on the street for two generations. "I'm not heartless; I know everybody needs a home. But this can't be the right way to go about it. If they're so concerned with the homeless, why don't they find them a home in their neighborhood or their parents' neighborhood? Why us?"[109]

Police, on the other hand, were mostly bewildered by the action and unsure if they should treat the white activists as criminals. "I'm kind of inclined to make this a civil, not a criminal, issue," the responding officer said. "They're making improvements, trying to help the homeless, clearing out trash, and there's no complainant. They're also living in a house that's not theirs. They've got three pluses and one minus against them."[110]

Meanwhile, neighbors protested that if a group of black men had done the same action, the legal repercussions and police response would have been drastically more severe. The race issue was one that the squatters had overlooked in choosing their first house. Some of the neighbors even thought that Homes Not Jails was a front group for white people from Virginia and Maryland trying to move back to the city and take control of neighborhoods of color. The neighbors also, however, admitted that the activists made a good point about the disused housing in the city, though they would have preferred if Homes Not Jails had communicated their intentions before ostentatiously "claiming" a vacant townhouse. The group learned from its embarrassing mistake and in subsequent actions took care to inform neighbors and preemptively garner support for its takeovers.[111]

In July of the following year, DC Homes Not Jails went to court for its role in an occupation the February before. Three members faced six months in jail for unlawful entry into the building, but the jury found that the defendants had been acting under a "good faith" belief that they were legally allowed to enter the property as they had been calling HUD to ask for the building and were trying to "do the right thing." The jury declared the group not guilty, and the case set a joyful precedent for Homes Not Jails.[112] Similarly, in 2003, Jamie Loughner and Thomas Gomez won a court battle related to the DC activists' takeover of an abandoned school. The trial ended in a hung jury, whose members later claimed that "the work the two activists have been doing on this issue had a direct impact on their inability to convict them on the charges of unlawful entry."[113]

Meanwhile, other chapters of Homes Not Jails and similar groups were popping up around the country. Operation Homestead in Seattle, for example, though predating Homes Not Jails by four years, also staged occupations of vacant buildings to call attention to housing justice issues, and that group remained active throughout the decade.[114]

Back in San Francisco, Homes Not Jails experimented by claiming a property under the California adverse possession legislation. The group paid $5,000 toward the back taxes of an abandoned Page Street property that homeless individuals (including Victor Willis, the "cop" in the 1970s disco group the Village People) had allegedly occupied for the previous five years since the owner died. They wanted to claim it in the name of homeless people, but could not substantiate the claim.[115]

Homes Not Jails came to be a support network for two brands of tactical squatting: Occupations that served as public demonstrations for political leverage and occupations that facilitated temporary shelter for the homeless (the two brands were mostly mutually exclusive). Gullickson viewed squats as places where people could get their bearings before being released back into the rental market, but the unstable and predatory housing market contributed to the homelessness of many of the squatters in the first place. Indeed, squatters could use the temporary residence as a fleeting base from which to apply for jobs and stabilize their lives, but in the end, what would have changed? The former squatters would then return to the precarious cycle of rent payment and wage labor. Further, some homeless were not interested in Homes Not Jails' risky, short-term solutions and opted out of the direct-action process altogether.

In *No Trespassing*, Anders Corr argues that the city of San Francisco should have smiled upon the efforts of Homes Not Jails, as such squatters were doing the city a favor by "improving its housing stock" through sweat equity. Realistically, Homes Not Jails—despite successfully and impressively sheltering hundreds of homeless over the years—could not possibly have made a noticeable dent in the city's housing stock, much in the same way that urban homesteaders were unlikely to single-handedly prevent whole neighborhoods from slipping into decline, as the sample size was too small. The same can be said for squatters' contributions to the property through sweat equity: Low-quality workmanship is always a possibility when using a do-it-yourself model, and there is, furthermore, little incentive to do a job well when eviction could arrive tomorrow. The biggest favor that Homes Not Jails could have offered the city was tax revenue in exchange for titles of derelict properties. But with the arrival of the dot-com boom, the city was not hard-pressed to find buyers

of city-owned lots, or parties interested in tax-delinquent properties, and vacant housing became even rarer.[116]

With the dot-com boom of the late '90s, the economic and cultural climates of the Bay Area transformed, and as such, activities like squatting became less and less feasible. The *San Francisco Chronicle* described such squatters and other bohemians as having

> lived in a pure zone between poverty and affluence, on the edges of the city's economy…. [They] also benefited from the city's slogging economy of the late 1980s and early '90s that kept rents in certain neighborhoods at a relative stand still. Now that the economy has been thrown into overdrive, many of these artists complain that the old San Francisco loved them better, but the fact is that in those days the arts were not competing for real estate with for-profit companies. They were living in the margins, and the margins were generous. But now being a poor, financially untethered renter looks a little like a luxury. And one that not even artists can afford.[117]

In light of this perilous economic shift, Homes Not Jails was compelled to underscore its public demo side and step away from its direct-action tactic of long-term squatting. Homes Not Jails' public relations arm focused on altering housing policy in favor of equitable, fair, and just housing as well as a permanent solution to the city's growing homelessness problem. This strategy included collaborating with Supervisor Chris Daly, who had attended Homes Not Jails rallies and supported the group's work.

In 2001, the group timed the occupation of a former school to coincide with a piece of legislation that Supervisor Daly was to introduce at that day's Board of Supervisors meeting. The legislation was called the Surplus City Property ordinance and would require city agencies to compile and maintain a list of unused city properties and relinquish them to non-profit housing developers who would, in turn, make them available for homeless facilities or low-income housing.[118] (Interestingly, these were the forces that squatters in New York City had fought against, under suspicion that they were working in the interests of redevelopment and not

in the interests of the underserved.) The bill passed in 2002, although, to date, few properties have been converted for such uses.[119]

The legislation is similar in character to the McKinney-Vento Act, which requires the federal government to track its surplus property and convert it to shelter, services, or storage for the benefit of homeless persons. The law was originally passed in 1987 but was amended in 1990 and again in 2009 by Senator Jack Reed (D-RI) to better fit the needs of newly homeless foreclosure victims.[120]

San Francisco, with its large homeless population (due partly to the Bay Area's accommodating weather and to the region's liberal sensibilities and abundant homeless services), has historically shown affection for homelessness advocacy over low-income property struggles. In this way, the city is different than many other U.S. cities with similar interests in squatting. Because gaining title to property (while being a dazzling pipedream that intrigued some) was an unrealistic goal, Homes Not Jails was obliged to focus its energies on homelessness awareness and the improvement of city services.

As a result of the shortage of available housing in the area, the homeless were sometimes compelled to find creative alternatives to living indoors. One popular solution was to camp at the Albany Bulb (also known as the Albany Landfill), a large city-owned park in the East Bay where crafty down-and-outers camped or constructed dream-like mini-castles using debris and large pieces of cement. In 1999, Albany police swept through the park in a mass eviction attempt. While the Bulb is no longer a bustling, ad hoc village because of this sweep, some campers are still able to make and hide their modest homes in the tall brush of the expansive peninsula.[121]

Again, Homes Not Jails and squatting movements of the San Francisco Bay Area were markedly different from their East Coast counterparts, in that Homes Not Jails selected its homeless beneficiaries first and matched them with vacant houses later. In New York squatters chose the neighborhood or oftentimes the block or building first, and then moved to fill the empty units and prevent evictions. In this way, and because the New York squatters focused on target areas, they were able to build a larger constituency and inevitably crescendo as a movement. San Francisco squatters, faced with the city's low incidence of blight or vacancy,

were situated differently and achieved another sort of impact than the sort that Mele describes when discussing New York's Lower East Side. Because San Francisco Homes Not Jails did not incite full-scale neighborhood campaigns and did not create a squatter community in any *one* part of the city, Bay Area squatters did not see the same *localized* gentrification progression as did New York squatters.

Mele reminds us that squatters with strong ties to subcultures can fluidly and unintentionally slip into the role of gentrifier—but in San Francisco, other gentrifying forces, far more powerful than squatters, were at work. Homes Not Jails as an organization was often buttressed by subcultural elements such as punks and anarchists, but it relied on them little. Mele describes subcultural squatters as mildly effective but occasionally frustrating to a movement. "Politically defrocked," Mele writes, "the representation of squatting emerged as a romanticized and nonthreatening bohemian lifestyle."[122]

The Lower East Side squatters, enmeshed in their neighborhood's representational shift, would have to keep ahead of the tactical curve in order to remain a threat. According to Mele,

> The challenge to local resistance is to remain at least a step ahead of the symbolic economy or content industry by manipulating the realm of ordinary activity and coding it with political meaning. Of course, these constantly shifting spaces of subversion exist in relation to the efforts of niche marketers, who are highly motivated to quickly co-opt images before they become cliché.[123]

The reason that San Francisco was immune to this phenomenon was that it had already happened; the rebellious iconography of the Bay Area—particularly representations of protest culture from the '60s—had already been adapted by the mainstream as a desirable notion of quaint eccentricity.

But keeping ahead of popular representations of subversion became an increasing dilemma during the Information Boom for both cities. In New York, "idiosyncrasies of the East Village identity were clearly no longer hindrances but assets to private middle-class redevelopment."[124] In San Francisco, liberal yuppies and children of the dot-com bubble

increasingly populated the high-priced housing market, mostly charmed by the area's unique history of waywardness and generally inattentive to the actual politics of housing justice. In this way, "contemporary consumption of cultural forms, such as high or low cultures, can no longer be roughly equated with particular class statuses but is instead tied to a widening range of lifestyle options."[125]

This melting pot of classes and subcultures in modern-day cities dispels any earlier notion of economic segregation between city and suburb. In recent decades, in fact, Americans have begun a curious but practical trend of returning to cities—a reverse White Flight. Where "inner-city" or "urban" formerly implied people of color or poor people, these terms are essentially meaningless to today's demography, which encompasses the wealthy as well as the poverty-stricken, whites as well as people of color, and a whole slew of subcultures that run the gamut from pleasantly gritty to eerily polished. The phenomenon of no longer being able to discern who is poor and who is not, is often euphemistically discussed in terms of *urban renewal* or *revitalization*, the newest vehicles for escorting the middle class to the cutting edge of development, style, and culture.

The ebb and flow of decline and gentrification may just be the city breathing in and out, but such deep breaths are rarely conducive to long-term community building. As early as 1979, world-famous architect I. M. Pei could detect a design misstep in American cities: "That's why we failed so badly in the '50s when we undertook wholesale demolition," he said. "We tore the social fabric apart and we eliminated 'slums,' but look what we put back. There was sanitary housing, but there was no social fabric in it anymore."[126] It is important to underscore Pei's mention of a social fabric here.

In the following chapter we will examine the housing bubble burst of 2007 and the calamitous repercussions of a housing system subject to the whims of economic forces and poised to tear apart such an invaluable material.

CHAPTER FOUR

The Rendering Scarce: Squatters in the Foreclosure Age

"If you're politically motivated, you're most likely to be on the Left. If you're simply seeking refuge, you could be anyone. I've met ex-MI5 people, doctors, teachers, fascists, social democrats... Every kind of conviction, every kind of mental illness. Most people aren't making some point. Mostly it boils down to two things: need and opportunism."

—Dan Simon, founder of the Oubliette Art Collective[1]

"So I say to the American people, you be squatters in your own homes. Don't you leave."

—Congresswoman Marcy Kaptur (D-Ohio)

The problem with housing as a *market* is that markets are rooted in risk, which makes them perpetually unstable. When the *necessity* of housing transforms into the *commodity* of housing, it puts everything else about housing at risk as well: shelter, comfort, home. Housing can exist as a market, however, because of the capital that has gone into the houses themselves. This includes materials like concrete, wire, plumbing, and ducts, but also the "dead labor" of the construction workers who put those raw materials to use, increasing the value of the structure as a whole. This, plus the interest on whatever loans developers had to take out to complete the project, logically determines the value of the structure. But in addition to the real capital that has gone into such building projects, their *market values* are influenced by *imaginary* capital tied to speculation. With the introduction of imaginary capital, housing enters the realm of commodity, and "the prices of commodities being speculated on seem to lose any connection to how much work time it takes to make them. Money multiplies and profits seem to come out of thin air."[2]

What's worse is that because of the high market value of houses, they often stand in for capital in other markets. Mortgages can act like a note

or a piece of currency and can therefore be traded and shuffled around in attempts to make profit. Tied to the note is a promise to pay the declared value of the commodity plus interest. This is incentive for the note holders to take bigger and bigger risks with their notes, for bigger and bigger payoff. In *All the Devils Are Here*, Bethany McLean and Joe Nocera admit that "risk was the bank's obsession."[3]

But there is a flipside to market booms: their corollary busts. Because it's impossible for commodities to continually grow in one direction, markets necessarily operate in cycles. And when, in 2007, the housing bubble burst, splattering a foreclosure crisis across the nation, economists and investors were quite concerned about the state of the *commodity* of housing—which continued to be viewed through this artificial lens of imaginary capital and markets. But *behind* that lens, real people were feeling the real effects of the imaginary market. There was a disturbing shift in perspective for some banks in the business of repossessing homes, when their visits to foreclosed properties were met by squatters—evidence that something very real, beyond the numbers, had happened in that market bust.

It was a frightening reality for authorities who couldn't possibly monitor the hundreds of thousands of vacant properties around the country. Most of these authorities—bankers, developers, real estate agents, police officers—were unfamiliar with squatters, and their sensational media portrayal boosted fears of illegal occupation. Reporters wondered aloud, *Who are these people so brazenly living in houses they don't own?* For months, the media seemed to increasingly uncover indications that such faceless squatters had been inside so many vacant buildings. Oftentimes spooked by a bedroll or blankets, reporters would urge homeowners to carefully secure their properties and to consider a police escort when entering the property in order to prevent squatter attacks. Such tips were justified by testimonies like that of broker Patrick Hale: "I was checking one of my vacant properties, and I was on the phone with police because there were signs of someone living there. A guy jumped out and told me to get off the phone, and before he even tried to grab the phone, he punched me."[4]

Throughout the crisis, horror stories such as this one cascaded into the news. Each story presented the property owners (sometimes auction winners, sometimes big banks) as virtuous victims in unpredictable

times—always blaming the squatters and never blaming the fits and tantrums of the market. In one tale, Tyler Combs of Portland, Oregon, discovered someone living in the foreclosed house that he had bought with plans to renovate. He was surprised to find new blinds over all the windows and a large freezer chest in the dining room, which he was "scared to open."[5]

The media portrayal of squatters in the years following the crash dictated public opinion about who squatters are, what they are after, and why they must be stopped—consistently glossing over the reckless investment practices that pressure them to squat in the first place. In this chapter we will review the nuanced motives for squatting in the foreclosure age, the diverse demographics that the practice attracts, and the media's unsympathetic response them.

In 2010, artist and former New York squatter Seth Tobocman (famous for this graphic novel *War in the Neighborhood*, about squatters in New York City) co-authored a graphic narrative of the foreclosure crisis called *Understanding the Crash*. According to Tobocman, there has actually been a housing crisis for at least thirty years: "Housing is the expression of class in industrialized society," he said at a book talk in 2010. "In the '80s it only affected poor and working class people, but now it affects the middle and wealthy class."[6] In Tobocman's class pyramid, homeowners are at the top, experiencing minimal oppression based on their living situations. But, in this model, can anyone with a mortgage truly be called a home*owner*? Indeed, with so many "homeowners" subject to the whims of lending institutions, these people, who had formerly seen themselves as unaffected by issues of housing injustice, were now compelled to question the notion of property: What is property? Is its value contingent on personal use or on market fluctuations? More importantly, is it ethical to use property when it is not *legal* to use that property?

According to legal scholar and former Yale law professor Charles Reich, property rights are merely legal constructs, imaginary entitlements sanctioned by the state. "The institution called property guards the troubled boundary between individual man and the state," he wrote in 1964. In his time, Reich was able to identify the profound growth of government holdings, which he calls *government largess* (Joshua Ingalls called

it the *great land monopoly*). "Government largess," he writes, "is plainly 'wealth,' but it is not necessarily 'property.'" Property, rather, is an arbitrary social contract imposed from above, and because the government holds and distributes so much of what is needed to conduct daily life, it becomes nearly impossible to live without accessing some portion of government largess. In exchange, he offers, those who cannot afford property financially, pay for it with their constitutional rights (for example, dependence on the welfare system). He argues that because of this skewed dynamic, the United States housing market essentially operates as a *feudal* system, neglecting to return such holdings to individuals in the form of rights and instead granting conditional usage based on compliance.[a] This is justified by delineating the difference between a *right* and a *privilege*: "The early law is marked by courts' attempts to distinguish which forms of largess were 'rights' and which were 'privileges.' Legal protection of the former was by far greater. If the holder of a license had a 'right,' he might be entitled to a hearing before the license could be revoked; a 'mere privilege' might be revoked without notice or hearing."[7]

That brings us to where we are today. The surge of foreclosures resulted in the rapid evictions of families and individuals across the country, suggesting that property—and in this case, housing—is a privilege and not a right. But the difference between the world in Reich's time (or even the world during the FHA foreclosures of the 1970s) and the world today is that the real estate largess does not belong to the government's; the largess is primarily owned by private third parties—often multinational banks or other lending institutions.

For example, Deutsche Bank, which is based in Germany and is the world's fourth largest financial institution, foreclosed on more than 2,000 properties in Los Angeles in a four-year period, branding it as one of the city's largest slumlords. The bank left these properties to degrade, despite there being roughly 146,000 homeless individuals in California during the same period, and despite the 42 percent increase in shelter beds paid for by Los Angeles County during that period.[8] In May 2011, the city attorney's office filed a lawsuit against Deutsche, seeking to fine the bank hundreds of millions of dollars and to force the rehabilitation

a. Ingalls made a similar argument more than a hundred years earlier.

of the foreclosed properties. According to the suit, Deutsche "illegally evicted tenants, shut off their water and power and then let hundreds of properties turn into graffiti-scarred dens for squatters, gang members and other criminals, destroying quality of life and driving up crime in the process." Beyond Los Angeles, Deutsche Bank also helped create a notable bulk of derelict properties in Milwaukee, as well as Cleveland—the city of Cleveland attempted to sue the bank in 2008 (but the case was dismissed).[b] In May 2010, even the federal government filed a suit against Deutsche for fraud.[9]

Oftentimes, such lending institutions defer responsibility to some other party. For example, when California-based Wells Fargo foreclosed on homes in Queens, New York—which had one of the highest foreclosure rates in New York state—and then let them fall into disrepair, the bank claimed that a company called Carrington Mortgage had taken over as "servicer of the property" and was therefore responsible for the houses' upkeep—not Wells Fargo. As a result of perpetual shunting of responsibility, such properties regularly become overgrown and derelict.[10]

The egregious negligence of repossessing houses only to enforce their continued vacancy carries with it a biting illogic. Almost cruelly poetic, people remain homeless as homes remain peopleless. Since the crash, the national vacancy rate has hovered around 14 percent, a statistic exponentially larger than that of the homeless population.[11] Only .02 percent of the population was found literally homeless (either sheltered or unsheltered) on a single-night count in January 2009. To maximize the count, HUD estimated that 1.56 million people (or 5.05 percent of the population) spent at least one night in an emergency shelter or transitional housing program between October 1, 2008 and September 30, 2009.[12] Even if we consider the larger estimate of 5.05 percent of people in the United States to be chronically homeless, the number still only meets a fraction of the vacancies in the country. So, if every one of these individuals *had their*

b. The city did, however, manage to successfully fine Washington Mutual $100,000 and sue twenty-one other lenders for creating a public nuisance, before the Eighth District Court of Appeals in Ohio ruled that trials in absentia were not permitted in misdemeanor cases. As a result of this ruling, more financial institutions, such as JPMorgan Chase, got off the hook for their abandoned buildings by claiming that it simply wasn't their responsibility.

own house, the country would still be left with roughly two-thirds of the vacant housing units that it has now.

Some of these vacancies, of course, were not caused by the foreclosure crisis. Some cities, such as those in the Rustbelt (which includes swaths of the Northeast and Midwest), emptied when their respective load-bearing industries outsourced work and shut down, decades before the 2007 crash. Buffalo, New York, as mentioned earlier, had been losing its population for fifty years. As a result, about 18,000 houses, or 1 in every 5 in the city, are abandoned. The city itself is the largest landholder, owning about 8,000 of those properties. Further, Buffalo's housing vacancy rate is one of the highest in the state, as well as nationwide, trailing only Detroit and New Orleans in rankings of large cities.[13] Though post-Katrina New Orleans is fairly incomparable with other cities due to the magnitude of the hurricane's destruction, UNITY, a homeless advocacy organization in New Orleans, has conservatively estimated that, in 2011, there were at least 6,000 squatters and about 11,000 homeless individuals in the city.[14] Still, New Orleans has approximately 43,000 abandoned structures, which, despite the effect of the natural disaster, is somehow still not as bad as Detroit.[15]

Once the fourth largest city in the country, Detroit is now a startling hodgepodge of urban-scapes, post-industrial ruins, and lush prairie lands. Designed for a population of 2 million, Detroit is now home to just over 700,000. But, eerily, its infrastructure persists. On a five-lane one-way street, a single bicyclist might find her way through a colossal web of roads seemingly built for giants. Along the way, houses are missing—gaping holes in the toothwork of residential Detroit. Where homes were once firmly planted, the earth appears to have swallowed them up—sometimes so cleanly that not even the foundation remains.

"Just about a third of Detroit, some forty square miles, has evolved past decrepitude into vacancy and prairie—an urban void nearly the size of San Francisco," writes Rebecca Solnit in *Harper's Magazine*. "Local wisdom has it that whenever a new building goes up, an older one will simply be abandoned, and the same rule applies to the blocks of new condos that have been dropped here and there among the ruins: why they were built in the first place in a city full of handsome old houses going to ruin has everything to do with the momentary whims of the real estate trade and nothing to do with the long-term survival of cities."[16]

While it is perplexing that new developments would still be patched into the aged, struggling city, it is equally bewildering that house flippers, like those at BenjiGates Estates in Detroit, still make a living buying houses for $500 and selling them for upward of $3,000. Most of these houses have no furnace, no water heater, and no electrical wiring. Some are gutted, naked skeletons, and each buyer undoubtedly spends at least another $10,000 on renovations. But, remarkably, there are people to do it. Whether those buyers will eventually lose the house inside its own cavernous money pit is of no concern to BenjiGates—two brothers also trying to make it in the new nether-Detroit, where the rules are slightly different and the possibilities are grand but always slightly fractured.[17]

With more than 100,000 vacant properties, and 339 foreclosures in July 2011 alone, Detroit city ombudsman Durene Brown now receives 300 complaints a year about squatters—3 times the number she received in previous years. Forty-nine-year-old Lance Clowney is one of these squatters. He said he was sick of seeing a certain abandoned two-family house in his neighborhood so he decided to take it over, maintaining the grass and using it for storage. "I see it as a good service to the community. I'm not using it for nothing," Clowney said. "If someone had a deed or whatever, I would move out of the way. It's my responsibility to take care of the house. I don't see nothing wrong with [squatting] as long as they are taking care of it. That seems like something good."[18]

Similarly, Quincy Jones, head of the Osborn Neighborhood Alliance, said he would like to see city officials embrace squatting since it is a better solution to the city's housing ills than other alternatives—such as giving away free houses to police officers, which Mayor Dave Bing announced he would do in August 2011. The measure was intended to increase public safety by inducing police to move back to the city, while simultaneously repopulating and revitalizing all-but-forgotten neighborhoods. The program was ironically paid for by a grant from JPMorgan Chase Foundation.[19]

Some already economically struggling cities, such as Cleveland, were simply made worse by the foreclosure crisis. In the two years following the crash, Cleveland endured 10,000 foreclosures, but even before the crisis hit, it had one of the highest rates of foreclosure in the country. Having lost half its population since the disappearance of manufacturing

jobs long ago, the city also has one of the highest rates of poverty and unemployment. While other Rustbelt cities avoided crashing hard because real estate prices were never very high to begin with, the moderately rising property values of Cleveland in the late '90s and early 2000s created the conditions for subprime lenders to exploit strapped homeowners.[20]

During the month of May 2011—almost four years after the start of the crisis—still 1 in every 605 houses in the United States received a foreclosure filing, with Georgia, California, Michigan, Arizona, and Nevada topping the list. In Nevada, 1 in every 103 houses was foreclosed on in that month alone, including Nicholas Cage's Las Vegas mini-mansion and an eleven-acre Las Vegas estate built for the brother of the Sultan of Brunei.[21] *The New York Times* reported that "five years after the housing market started teetering, economists now worry that the rise in lender-owned homes could create another vicious circle, in which the growing inventory of distressed property further depresses home values and leads to even more distressed sales."[22]

In terms of squatting, the foreclosure crisis had several repercussions. First, foreclosures prompted homeowners to consider housing justice issues in ways that they never had to before. Many of the foreclosed became "squatters in their own homes," and local organizations sometimes helped by forming eviction blockades. But many also deserted their homes after receiving notices to leave. This triggered the second foreclosure phenomenon: a wave of emptying houses across the country, which supplied exponentially more buildings for the un-housed and underhoused to consider for squatting. These properties were in notably better condition than most other abandoned houses, allowing squatters to settle in safer conditions. Third, the crisis also affected renters who had signed leases with the now-foreclosed owners and found themselves in a state of limbo, the laws about which were particularly unclear.

As homeownership continued to decline and vacancies continued to skyrocket, squatting took on new constituents and garnered advocates in unexpected places. Professional voices like that of Cornell University's property law professor Eduardo Peñalver, in numerous online articles, as well as in his book *Property Outlaws*, spoke out against the lunacy of evicting families from their homes and then requiring those homes to remain vacant.[23] In 2009, unlikely Congressional supporter Representative

Marcy Kaptur (D-Ohio) briefly stepped into the national spotlight after broadcasting her iconoclastic response to the deluge of foreclosures. She urged foreclosure victims to simply stay in their homes despite the eviction notices:

> Possession is nine-tenths of the law. Therefore, stay in your property. Get proper legal representation…. [If] Wall Street cannot produce the deed nor the mortgage audit trail…you should stay in your home. It is your castle. It's more than a piece of property…. Most people don't even think about getting representation, because they get a piece of paper from the bank, and they go, "Oh, it's the bank," and they become fearful, rather than saying: "This is contract law. The mortgage is a contract. I am one party. There is another party. What are my legal rights under the law as a property owner?" If you look at the bad paper, if you look at where there's trouble, 95 to 98 percent of the paper really has moved to five institutions: JPMorgan Chase, Bank of America, Wachovia, Citigroup and HSBC. They have this country held by the neck.[24]

While many foreclosure victims were and continue to be intimidated by eviction notices, some took Kaptur's advice and chose to "squat their own homes." Catherine Lennon, of Rochester, New York, for example, moved back into her Bank-of-America-foreclosed home days after being evicted. When her husband, who bought the house for $28,000, died a few years earlier, Lennon found it impossible to continue her mortgage payments. The bank would not renegotiate with her and instead offered to resell her the house at $50,000. When she refused the deal, Lennon's house went into foreclosure. With the help of Take Back the Land Rochester—a housing reclamation group—however, Lennon was able to make a public statement out of her occupation. "Right now I have a job to do for my higher power," she said. "This is my purpose in life. Nobody forced me into doing this. I am going to fight."[25]

With the help of a similar group, the Alliance of Californians for Community Empowerment, sixty-three-year-old Tanya Dennis moved back into her foreclosed Berkeley home of twenty-seven years—even

after a real estate agent tore up her carpets and sold all her furniture. By creating a media hype and by generally thorning the side of her lender Wells Fargo (including disrupting a shareholders meeting), Dennis was eventually able to renegotiate her mortgage. "They had to deal with me to pacify me and get me out of their hair," Dennis said. Wells Fargo claims that it has nothing to do with Dennis's persistence, but rather "because we want to keep homeowners in their homes."[26]

Banks can't possibly monitor all their foreclosed homes, and it eventually drains city funds to have police perpetually evicting residents. Groups like City Life/Vida Urbana in Boston know this and, through direct action, work to prevent evictions from ever happening. Human rights groups, such as the Human Rights Coalition and the Poor People's Economic Human Rights Campaign, often endorse such housing justice actions.

But more commonly—in the mainstream media, at least—pundits question the validity of these movements. Beyond sentiments like "Why should someone get to keep something that doesn't belong to them?" clever economists have come up with a concept they call *squatters rent*. Squatters rent is "kind of a double-think term for the money that people would be spending to meet their mortgage payment if they hadn't given up on keeping up with terms of their loan; by not paying the home loan (yet continuing to 'squat' in the house) they presumably have the would-be loan payment available for spending on other things."[27] This idea suggests that foreclosure victims are somehow scamming the economy and accumulating currency that rightfully belongs to the real estate market. While "squatters in their own homes" are of course saving money by not making mortgage payments, few people are getting rich from it. Realistically, the circumstances allow squatters to have more cash on hand for other living expenses, such as food and medical costs. Rather than a fast track to fortunes and loafing, "squatters rent" usually acts simply as a grace period for the down and out to stabilize their finances in order to reenter the housing market on better footing and with a fixed-rate loan. In fact, nearly 50 percent of Americans said that they would consider intentionally defaulting on their mortgage if their bank was accused of predatory lending—even if they are otherwise morally opposed to not paying what they owe.[28]

In the United States since the crash, squatting has been primarily depicted as a get-rich-quick scam, second to squatting as a desperate last

resort for the luckless. Coverage of foreclosure-based squatting swindles has proliferated the mainstream media, working homeowners, renters, and authorities alike into a frenzy. Schemes appear to range from small-time Craigslist scams to nationwide anti-government conspiracies. In perhaps the most extreme case, members of a national group called Sovereign Citizen have been charged with terrorizing small towns by forging liens amounting to $135 billion. Accused of being an anti-government "nut job," one self-identified Sovereign Citizen, James Timothy Turner, clarified that the group is indeed patriotic: "We are terrorists because we believe in this country, not the corporation," he said.[29]

For the most part, such scammers do not appear to be part of a cohesive movement and are instead ragtag criminals; white-collar versions of copper strippers. This is not to say that their schemes are not sometimes impressively elaborate: Beginning in 2003, for example, crooked real estate investors Richard L. Nugent and Craig A. Davidson began collecting houses in the Houston area by changing the locks at empty properties and then selling fake titles. By 2005, when they were convicted for the scam, they had thieved and cashed in on twenty-four properties. They were sentenced to ten years probation, fined $248,521 in restitution, and barred from participating in real estate deals—sanctions that, in the following years, they simply ignored. In addition to Nugent and Davidson—who got caught—over a hundred other properties *in Harris County alone* have been stolen and illicitly resold by unidentified parties. Despite not fully paying his restitution and despite boldly continuing to practice real estate, in 2009, Nugent's sentencing judge formally allowed him to return to the business. Much like the wider (and legal) scam of flipping houses, these high-return crimes appear to yield low-risk judicial consequences.[30]

A less involved scam is the popular fake rental agreement, which can work in one of two ways: Either the scammer presents potential tenants with a fake lease, takes the deposit, and disappears; or the tenants themselves are the scammers, producing a forged lease when questioned about living in the house.[31] Authorities often have little recourse as long as the occupiers are able to produce a lease. More confusion than action ensues, and police frequently disregard the situation as a civil matter.[32] "What happens is they'll produce a lease so when you knock on the door and say this is my property you need to leave they'll say, 'Well I

have a lease,'" said Florida attorney Carmen Dellutri with Dellutri Law Group. "And they'll say who with—Jim. How do you pay Jim? How do you pay? Cash."[33]

Sometimes the occupiers/tenants wait until they are offered a "cash for key" deal. In other words, payment from the bank of $1,000 to $1,500 in exchange for leaving the property, which tends to be cheaper for banks than going through an expensive court-sanctioned eviction process. After all, once in court, if the person claims to be a tenant, it is awfully difficult to prove otherwise.[34]

On the whole, there are likely to be fewer scammers than there are squatters who quietly reside in vacant houses throughout the country. More often than not, these squatters seek out an unused space as a home base (or at least temporary shelter)—not to make money. The squatters' side of the story is rarely told, since exposing themselves to the media threatens their housing security. Instead, these stories are usually told from the visible side, through articles like "Homeowner: Squatters Won't Leave My House," in which a home-owning woman complains for 200 words that people are living illegally on her property. In local news video segments, reporters stand outside the locked doors of houses and yell in at the squatters, chastising them for breaking the law and condescending to ask why. No one ever replies.[35]

In a 2009 *San Francisco Chronicle* special, a curious reporter follows two squatters around the city, talking about the novelty of squatting but never learning the whereabouts or specifics of their squat. Because the drive of the narrative is missing without the squatters' willingness to disclose details, the writer simply resorts instead to retelling the story of a friend who went on rent strike at her Brooklyn brownstone.[36]

Occasionally, squatters are discussed in the media as gritty lifestylists, the writers quizzically contemplating the fascinating and unusual behavior of those living off the grid. In a *The New York Times Magazine* article about the "Bird House" in Buffalo, New York, the author calls the former squat a "rollicking frat house," noting that "mornings could be dead quiet when the freegans were sleeping off their hangovers." Ogling the bizarre, and at times embarrassing, choices of squatters, such exposés include passages like the following:

> One morning, after I had been hanging out at the mansion for a few days, we were about to have breakfast when someone noticed that all the forks and spoons were missing.
>
> "What happened to all the silverware?" someone asked.
>
> "They got turned into a wind chime," someone replied nonchalantly. Sure enough, moments later, we could all hear the sound of forks clanging in the breeze.[37]

Arguably, the article is at least representational: It captures the admirable gumption and perseverance of the squatters, while also detailing their—sometimes eccentric—shortcomings.

Sometimes squatters' stories are told through the humanistic lens of homeless advocacy groups, as in a *The New York Times* story called "With Advocates' Help, Squatters Call Foreclosures Home." Often, such stories are only broadcast after the fact—after the squatters no longer risk losing housing by publicly exposing their arrangement. Without advocacy groups to provide support, squatters may feel that they are alone, drawing the blinds and barricading the doors, and telling no one of their experiences.

According to Michael Stoops, executive director of the National Coalition for the Homeless in Washington, DC, there are twelve (and counting) organized squatting operations around the country, though there are countless non-organized squatting efforts nationwide. Groups like Picture the Homeless (New York City), Homes Not Jails (Bay Area),[c] MORE: Missourians Organizing for Reform and Empowerment (St. Louis), Right 2 Survive (Portland, Oregon),[d] Organizing for Occupation (New York City), PUSH: People United for Sustainable Housing (Buffalo, New York), One DC (Washington, DC), LIFFT: Low Income Families Fighting Together (Miami), and Take Back the Land (Miami; Rochester, New

c. San Francisco Homes Not Jails was resuscitated in the late 2000s after suffering an approximately seven-year lull. The group now regularly organizes squatting demonstrations that seek to create awareness about housing injustices as well as California's Ellis Act, which permits property owners to unjustly evict tenants when the owners have plans to move into the house themselves; Temple, James. "Housing Protest Leads to Takeover of Duplex." *The San Francisco Chronicle*. April 5, 2010.

d. The group is writing a musical about squatting.

York; and nationwide) are working above ground to reduce housing inequities across the country—some participating in squatting actions and others simply endorsing them. Efforts are as unique and creative as professor Christopher Robbins's free class, offered in April 2011, called "Squat the Condos," in which he instructed a packed room on how to live inside New York's unfinished condo developments rent-free.[38] Some housing justice activists have even created fake real estate listings—including Rueben Kincaid Real Estate[39] and Reclaim! Portland Real Estate Listings[40]—which advertise unused properties for a going price of zero dollars. This Craigslist.org post illustrates what could be the next stage of house-hunting when the Foreclosure Age and Internet Age collide:

> **Homesteaders needed to join new occupation**
> Date: 2011-10-19, 11:46PM
>
> Are you tired of wasting all of your valuable time working in a pointless, dead-end job so that you can afford to pay exorbitant rents to absentee landlords in return for a tiny space that is inadequate for your needs?
>
> If you have been following the news, you're aware that there is a large "shadow inventory" of vacant residential real estate in the United States, including here in Brooklyn, that was created when financial institutions and other investors bought the properties during the peak of the housing bubble of 2005, and then, when the artificially high price levels collapsed, instead of selling the property to potential future homeowners and landlords, the investor/owners decided it would bring a better profit margin if they were to just ignore and neglect these perfectly inhabitable potential homes, and half-heartedly hoping that one day the housing market would somehow return to the artificially high prices of 2004/2005. As a result the inventory of housing actually available to rent or buy isn't enough to go around, and more and more working class people, students, and artists are forced to either share tiny spaces with strangers, or are just simply homeless.

> These properties are there for us to make into homes, but if we wish to live free of rent, it is better to stick together and cooperate. Taking possession of a house that has been abandoned for five or more years will require a little bit of hard work, depending on the shape of the property. We'll have to speak with the utilities companies to get the water and lights turned back on, and we'll have to keep the building up to code, so that if the police get involved, we can show the courts that we are residents occupying our home, and members of the community, not criminals.
>
> • cats are OK - purrr
> • dogs are OK - wooof
> • Location: Northeast Brooklyn
> • it's NOT ok to contact this poster with services or other commercial interests[41]

Perhaps the most well-known squatting advocacy organization is Take Back the Land, which began in Miami after the Umoja Village Shantytown—an autonomous homeless encampment—burned down on April 26, 2007. Police promptly bulldozed the tent city and cordoned off the land with barbed wire, prohibiting the residents' return. Observing this, and also with the knowledge that 41,000 Miami families were languishing on the public-housing waiting list, advocate Max Rameau asked himself, "Is the system which prioritizes profits over people (capitalism), devalues black lives (white supremacy) and discounts the economic and social value of women's work particularly as the raisers of tomorrow's society (patriarchy), even capable of providing decent and affordable housing for all people?"[42]

Concluding that the answer was *no*, Rameau began a bold movement to match homeless people with peopleless houses—the old fashioned way. He called it the Black Response to the Housing Crisis, though it later became known as Take Back the Land. "The guiding assumption," Rameau writes in his Take Back the Land memoir by the same name, "was that there is little point in seeking help from the government, as the government is largely responsible for this mess in the first place."[43]

Indeed, Florida was a flashpoint for foreclosures, and in 2008 the state saw one of the most catastrophic housing crises in the country—its

magnitude intensifying in the years that followed. By 2010, Florida still held a 19 percent distressed property rate (up from 17 percent in 2009)—the highest in the country. Yet, paradoxically, the largest increase in single-family home construction in the region also occurred in Florida during the same time. In fact, despite continued foreclosures, in 2010 the state issued over 30,000 building permits (up from 25,000 in 2009).[44] This haphazard padding of the housing supply seemed like an odd course when Florida cities consistently maintained the highest vacancy rates of any metropolitan area in the country, sometimes reaching as high as 20 percent.[45]

But Miami still had a 10-percent vacancy rate in affordable and public housing even *before* the crash. Further, the city had demolished 482 units of public housing, and, despite $8.5 million of city money allocated to the rebuilding of affordable units, the lot remained vacant until it was later offered to developers at no charge.[46] Such shenanigans inspired the *Miami Herald*'s "House of Lies" series, which highlights the corruption and incompetence of city politicians with regard to housing. According to Debbie Cenziper of the *Herald*, the paper "spent seven months investigating the Miami-Dade Housing Agency and found that the housing agency [had] squandered millions of dollars on insider deals and pet projects, giving developers millions of dollars for houses that were never built. Money is gone and what the developers left behind were empty lots all over the county where they had promised houses for the poor."[47]

So Rameau and Take Back the Land began a two-pronged direct-action approach. Much like Homes Not Jails and other groups that preceded them, Take Back the Land used twin tactics to achieve its goals: public demonstrations as well as quiet move-ins. These two brands of action are what Peñalver and Katyal call "expressive" versus "acquisitive" action. Rameau's project required considering both; he planned to use squatting as a way to address the inequities of black life in Miami, underscoring the racial component to the housing struggle (and the housing component to race struggles).

> In segregation we were forced *into* one area and in gentrification, we are forced *out* of one area.… The root issue then was not segregation and the root issue now is not gentrification. The

> root issue is *land*. Not just land in the physical sense of the word, although that is included, but land in the political sense of the word, meaning power and control over land. Land is an essential element of liberation, an absolute prerequisite. The lack of power and control over land condemns the majority of African (black) people in America to an endless cycle of moving from one undesirable lot to the next, at the behest and for the benefit of the rich.[48]

In April 2009, one in every eighty-five housing units in Miami underwent foreclosure, creating optimal conditions for Rameau's plan to rehab houses, move families in, and then rally support around those families' right to stay. Police Chief John Timoney—previously known for his sinister masterminding of many of the major squat evictions in New York City during the '90s—even told the media that he had little interest in interfering.[49] So the group continued organizing, and in May 2010 orchestrated a nationwide Month of Action, boasting squatting actions across the entire country. Because of its far-reaching campaigns, Take Back the Land now has active chapters in Rochester, New York; Madison, Wisconsin; and beyond.[50]

But the group's efficacy soon led authorities to tremble. Thanks to promotion on the Take Back the Land website, word of Florida's seven-year adverse possession statute spread, prompting instances like Yvette Swain's "burgling" arrest at a vacant, bank-owned Tampa property—she claimed that she was in the process of adverse possession.[51] So many Floridians began attempting adverse possession claims, in fact (800 in Polk County alone), that the state passed a bill adding roadblocks to the process. Under the impression that the "archaic" statutes could be legitimately used on rural land but are "abused" by city-dwellers living in foreclosed houses, lawmakers panicked and put a rush on the bill.[52] The new law requires that property owners be notified when an adverse possession claim is filed. Further, "anyone who seeks adverse possession must disclose, under penalty of perjury, the intended use of the property."[53] Some municipalities, including Pasco County, also initiated "foreclosure registries"—lists of foreclosed houses that could be used to help mandate properties' compliance with blight ordinances.[54] Palm Beach took measures to

mitigate squatter activity by adding staff to the code-compliance division, creating a system to better manage properties that had been taken over by the city, and contacting banks and management companies responsible for foreclosed properties. The fewer houses that appear abandoned, they figured, the fewer of them would be targeted by squatters.[55]

While Florida is one of the few states frantically amending the law (Washington has added a clause about requiring an adverse possessor to pay back-taxes—but that is already standard for adverse possession in most other states[56]), squatters in other states have experienced other—sometimes bizarre—forms of repression in this age of foreclosures. In Las Vegas, for example, there was a short-lived security company called Squatter Alert. Its cheesy YouTube promotional video boasted its team's ability to monitor vacant properties and oust squatters for a fee (from the sensational tone of the video, viewers might have thought that Squatter Alert was protecting its clients from such menaces as cockroaches or SARS). Syndicate Executive Security in Detroit offers similar services (its website looks like the intro screen to an Atari game), and Clifton Burks, who could pass for a bounty hunter, personally evicts squatters for a $300 fee.[57] In another slam against squatting, in June 2011, a Detroit court (in Wayne County, which has 140,000 vacant homes) ruled that occupiers of derelict buildings are not protected against warrantless police searches—even if the resident actually *owns* the condemned house.[58]

Renters of properties that go into foreclosure face similar problems to owner/occupiers of such houses. In many states, no notice to tenants that the property is undergoing foreclosure is required.[e] In almost all states, tenants are required to vacate the property within a given amount of time after foreclosure (this could be immediately upon sale or up to several months). On the whole, almost no rights are guaranteed to tenants of properties undergoing foreclosure. Massachusetts and Washington, DC, are notable exceptions in that tenants under lease are legally allowed to continue living in their homes despite the change of owner, notwithstanding the expiration of the lease.[59] A temporary act was passed federally in

e. Including Alabama, Arizona, Arkansas, Connecticut, Georgia, Kentucky, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia.

May 2009 to grant renters at least ninety days notice, but few people are aware of the extended protection and continue to move from their homes when prompted. The act is set to expire at the end of 2014.[60]

The National Law Center on Homelessness and Poverty reported that 40 percent of foreclosure victims were indeed renters, and by the end of 2009, at least 208,795 renters in California lived in properties that underwent foreclosure.[61] Don Hughs was one such renter, at 1120 Center Street in Oakland, California. When the house underwent foreclosure in September 2007, it was snatched up by the Bank of New York (BNY), an out-of-state speculating entity, and Hughs and his roommates found themselves in a leaseless housing limbo. Unlike many victims of foreclosure who wind up displaced, Hughs decided to stay (in California, tenants have sixty days to leave a foreclosed property). As the leaseholder, he received a letter from the bank requesting that the residents leave within a month. If they could produce a copy of their lease, they would be allowed to stay for an additional month—which they did.[62]

"They wrote in the letter 'We're not in the business of being landlords,'" Hughs summarized. "'We don't want any money from you. It's our policy not to do any work of a landlord. We only care about speculation.'" Hughs refused to leave, citing the Oakland's "Just Cause for Eviction" ordinance, which states that owners must have a valid reason for evicting a tenant. Valid reasons can include non-payment of rent, subletting, selling drugs, damaging property, trash accumulation, or implementation of the Ellis Act, which is when a property is taken off the market in order for the owner to live in it. But "Just Cause" holds that a tenant cannot be evicted arbitrarily.

BNY's attorney, Ronald Roup—infamous in the area for ejecting people from their homes—filed a Verified Complaint for an Unlawful Detainer (an eviction lawsuit). Roup's written argument was that the tenants were "living there without permission," but as Hughs pointed out in an answer filing at the city clerk's office (a person has five days to file an answer, including weekends), that's not actually a reason to evict someone. Consequently, the case was dismissed.

In March 2008, BNY reemerged with a new offer. They said that they would play landlord if the tenants paid the $12,000 that they owed in back rent. "They were banking on the fact that we didn't have $12,000,"

Hughs said. Which was accurate. Hughs filed another claim at the city clerk's office—this one stating that they were on rent strike until the landlord fixed a host of problems with the house. Problems included broken pipes, sewage leaks, a broken gate, mold in the carpet, a broken toilet, and non-secure windows. According to Hughs, the conditions were so bad that "the city had declared us a health hazard."

BNY sent an inspector to the house to verify the claims, but he gave no notice, and no one was home when he arrived. A few days later, a man arrived at the door and introduced himself as realtor Mason Yanowitz. He claimed that he was there to list the problems with the house and make an assessment for the bank. Hughs still refused to let him in.

"It wasn't an issue of trying to evict someone," Yanowitz argued. "I couldn't even get inside to do the assessment of things that needed to be fixed. I don't have a magic wand—I can't fix things from the sidewalk."

Hughs told Yanowitz that he wasn't allowed on the property and that he wouldn't talk to him until his lawyer was present. But Yanowitz darted into the backyard with a camera anyway, declaring that he had an appointment with the owner, which gave him permission to be on the property. Hughs chased after him, attempting to block all photographs of the yard.

"He tried sticking the camera between his legs, thinking that I wouldn't go near his crotch," Hughs laughed. "When I got close, he shouted, 'You stink!' So I said, 'I'll rub my armpits all over you if you don't go away.'" According to Hughs, a farce ensued in which Yanowitz jumped about the yard as Hughs nimbly blocked his camera. They pushed each other some and climbed around the picnic table. In the end, Hughs' fingers wound up in every one of Yanowitz's photos.

"This is not 2005 when people were making offers without seeing inside," Yanowitz said. "Now there's so many properties to choose from that it's not that way anymore. With the market dropping as fast as it has been, it's in the bank's interest to sell it fast with the tenants still in there. I need to clean the place up to get it sold, but I can't get inside."

Eventually the frustrated realtor left. Feeling violated, Hughs promptly fashioned a "no trespassing" sign with permanent marker on a piece of corrugated cardboard and wedged it on top of the fence. He also jammed a log behind the gate in lieu of a functioning lock. Months went by. The next time that Hughs heard from BNY was the following

November when he received another form demanding the names of the people living at 1120 Center Street and also a copy of the lease. Hughs replied that BNY did not need to know who was living there and that they had already sent a copy of the lease. BNY lawyers had, in fact, referred to it in a previous filing.

"They were just trying to make us sound crazy," Hughs said. "They tried to claim that we never sent the lease and that we wouldn't let inspectors in." Luckily, Hughs was able to contact the Eviction Defense Center in downtown Oakland. The Center is a non-profit law corporation that specifically helps low-income Bay Area tenants fight eviction. According to executive director Anne Omura, Hughs's case was not unique. "A lot of times, a landlord gets foreclosed on and leaves tenants behind," she said. "There is a really sad trend of tenants who've done nothing wrong, and a lot of times tenants continue to pay rent but the landlord doesn't own the property anymore. And then that money is just gone."

The Eviction Defense Center does not represent prior owners who have been foreclosed on—only tenants, who are protected by Oakland's Just Cause Ordinance. According to Omura, however, many attorneys who represent banks are from out of county and are unfamiliar with local laws. When they do know the laws, they try to circumvent them. Numerous law firms and real estate agents, including BNY's Ronald Roup, are on watch lists for continually filing lawsuits with no legal merit. Or for using intimidation. "Banks hire aggressive and oftentimes unscrupulous agents who will bang on the door and threaten [tenants]," Omura said, "and a lot of people don't know their rights and end up getting displaced."

Hughs first approached the Eviction Defense Center on November 20, 2008. The Center filed a demand for a jury trial, and on February 6, 2009, the organization represented him at a court appearance. A week later, Hughs got his settlement. After a year and a half of maintaining his home and living rent-free, he promised to leave the property within thirty days in exchange for $4,000.

Toward the beginning of the foreclosure crisis, lender Fannie Mae agreed to let some renters stay in their homes with a new month-to-month lease until the property was resold. This quickly proved unsustainable since lenders, as Hughs pointed out, are not in the business of property management—meaning that they do not have the desire nor the capacity

to act as landlords. Here Don Hughs might remind us that when title is unclear and so is the law, everything is negotiable.[63]

When residents aren't able to keep their homes through legal loopholes or sheer tenacity, some are compelled to join the growing tent cities around the nation—now no longer comprised of the chronically homeless, but also of individuals and families who teetered just a little too close to poverty and then plummeted into foreclosure. Tent cities are like the homeless encampments frequently seen beneath bridges, but are much bigger. Some of the most well known are Dignity Village in Portland, Oregon; Hopeville in St. Louis; and the tent city in Sacramento—a top-ten urban area in national foreclosure rates.[64] Occasionally, such tent cities are evicted, displacing the already displaced, who must then find another place to camp before they are shooed along once more. And when squats, tent cities, and homeless shelters are no longer options, some particularly creative types build their own shelters. In Michigan, a local news station discovered a "highway hut" on the grassy median of Interstate 96 and called the police, but "officers wouldn't approach the squatters because safety risks were too great." The Michigan Department of Transportation (MDOT) was also of little help, its representatives stating that MDOT does not have a policy about removing the homeless. "We don't want to kick people out because when you do that you have to have a relocation program as well," the spokesperson said, though he admitted that such huts are a growing problem on Michigan highways. The television station, grasping for a prize-winning piece of investigative journalism, was disappointed by the apathy of MDOT and other officials. If there is one sensational way to represent the plight of Americans in the foreclosure age, it is through illegal acts of desperation—embodied in such innovative displays at the Highway Hut.[65]

By far the most common way that squatters are represented in the U.S. media is as careless pyromaniacs. News of squats accidentally burning down hits the stands with such regularity that it is no longer surprising nor evocative. It is just scarcely tragic, in the way that a terrible, normalized truth is vaguely saddening but easily discarded. In most cases, the articles are only a few short paragraphs—enough to mention that squatters, now gone, had been staying in the house and probably started

the blaze by mistakenly leaving a candle unattended, by cooking on a grill indoors, or by keeping warm at an open-flame.

In one instance, a squatted building in Oakland caught fire at 2:30 a.m. on an April night in 2011, prompting eight fire engines to arrive at the scene.[66] The event was covered in four sentences by local TV station KTVU, but suspecting that there was more to the story than the media let on, I contacted Bay Area squatting guru Steve DeCaprio. Indeed, his reply was action packed, as it detailed a sordid tale of squatter passion and betrayal:

> That was the house called the "Safehouse." The "owners" attacked the squatters twice in a self-help eviction. The second time they were successful using violence to evict them. I think there were three possibilities of what happened.
> 1. Disgruntled former squatters burnt it down.
> 2. The owners burnt it down.
> 3. Property managers brought in by the owners burnt it down accidentally.
>
> First, there was a lot of anger when the house was evicted. The squatters had just finished installing a new kitchen, bathroom, garden, lighting, etc. The house had just finally become habitable on a sustainable basis after a lot of hard work. Also, the owners had agreed to let them stay there in exchange for signing waivers, but instead broke their word and violently attacked them while trying to rally neighbors against the squatters by turning it into a race issue.
>
> It would seem possible someone out of that group of fifteen or so squatters may have been disgruntled enough to do something stupid. On the other hand, since the owners' plans were to demolish the building, it would be an empty gesture. In fact, it is possible that the owners would collect insurance money on a building they intended to destroy in the first place, which brings me to the second possibility. Also, this seems unlikely since most discussions post-eviction were focused on reclaiming the building and pursuing legal remedies, not revenge. The squatters I spoke to were actually very mild mannered, so I doubt they would turn to arson for revenge.

Second, the owners themselves may have set it on fire hoping that they could blame the squatters and thus collect insurance money from an economically worthless building. The property is more valuable as an empty lot anyway, so the owners would probably more than double their money on such a scam. The weakness in this theory is that the insurance company will likely refuse to pay out on what appears to be a clear case of arson, and will likely blame the policy holders regardless of who is to blame. Still, it may reduce the cost of demolition and deter further squatting. In fact, just making the property less appealing to squatters could be sufficient motivation so they won't have to deal with ongoing drama at the property. Since the fire started in the staircase this seems to be the most likely scenario.

Third, I hear the owners moved some people in after the squatters were evicted. From what I hear, the new occupants were drug addicts. In my experience, drug addicts have a tendency to set their homes on fire when they are without electricity. Candles and drug-induced passing out from heroin or coming down off stimulants is a bad combination.

So my preferred theory is the owners themselves burned it down. The squatters have moved on to other projects and largely put this house behind them. There are other squats being established all over Oakland, and it appears there is little interest in holding grudges or even fighting property owners who create problems. There are a lot of abandoned properties, and OPD [Oakland Police Department] and the city are tolerant of squats. Nobody has been talking about that house, and there is a lot of other stuff going on to focus on or be distracted by.

So ultimately, who knows?

I saw the burned out husk the other day. I was saddened, but it appears I was more emotionally invested in that squat than the actual squatters who squatted it.[f]

f. Personal correspondence with Steve DeCaprio. May 3, 2011. Another squatting advocate in the area suggested to me that the white squatters should not

A similar story unfolded three years earlier, a mile and a half away, at a squat called Hellarity House—which, after ten years of occupation, was sold sight-unseen to Pradeep Pal at a court bankruptcy sale. According to the *San Francisco Bay Guardian*, Pal "wasn't exactly a freewheeling real estate flipper—he was a South Asian immigrant who…never owned real estate in the area other than his own home." Upon discovering that the house was already lived in, Pal tried suing to get the residents to leave. The squatters counter-sued, and the court case dragged on for years. When the foreclosure crisis hit, it might not have mattered to Pal, as he had bought the house outright. "But Pal faced a different threat. It seems likely he bought the house as an investment, and as the market crashed, he was stuck with a house he could neither renovate nor sell, and was left to watch its value tank as he slogged through court proceedings."[67]

Toward the end of the dispute's saga, in a video of Pal interacting with the squatters, he is visibly distraught over the outcome of the court process. Out of money and in a fit of last-ditch desperation, Pal threatens the squatters with retaliation on a personal level: "If it's gonna get dirty, it's gonna get dirty," he says. "I don't care. Because you know what? That's the way it's gonna be, because this is what I need. I need to have it. I don't have any lawyer. I can't afford a damn lawyer. So it's gonna be me and you. One to one. Man to man." Not long after this, three fires were set in the house. Was it Pal's final effort to smoke the squatters out?[g]

Fires continue to be a common undoing of many squats and are frequently pinned on careless occupants, which is only sometimes the case—arson-for-profit by property owners purposefully destroying vacant

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have even been there in the first place since it was indeed a black neighborhood, and the property had black owners, and that advocate seemed mildly embarrassed by the squatters' eviction resistance.

g. Bauer, Shane. "Hellarity Burns." *San Francisco Bay Guardian*. May 27, 2008. I recommend this comprehensive article for anyone seeking more information about the history of Hellarity House, a relevant and well-known icon of U.S. squatting culture. Because so many people have lived in and stayed at Hellarity over the years, much of its institutional memory is murky. Bauer does a fantastic job recounting the complete narrative of the house, beginning in the '90s with long-time non-confrontational owner Sennet Williams's unrealized cooperative pipedreams. The article is dated, but indeed representative of the saga through 2008.

buildings also threatens squatters and eliminates available housing while contributing to neighborhood blight.

In the summer of 2011, Camden, New Jersey, saw a string of arson attacks on abandoned buildings, leaving residents scratching their heads. Locals posed every theory from building owners seeking insurance money to disgruntled firefighters protesting layoffs to efforts at redeveloping tracts of land in Camden.[68] In 2009, Cleveland City Councilman Tony Brancatelli claimed that within the previous year there had been over sixty vacant-house fires *in his ward alone*, with no leads on arsonists. The theories were the usual: It could be squatters, it could be insurance scammers, it could be mischievous kids. "Brancatelli, though, wonders aloud if it might be vigilantes who don't like the blight on their block," wrote Alex Kotlowitz, for *The New York Times*. "'More likely, he's projecting. He would like to see many of these houses just disappear."[69]

The economy crashed in October 2007, but five years later real estate is still reeling. Over 7 million homeowners have lost their houses since, and 8 million more are predicted to lose theirs in the next several years. In a perilous lending climate such as this, it is no wonder that over half of Americans said they would resort to squatting before becoming homeless or utilizing city-sanctioned services.[70] Some are even exercising rights that don't exist: Asaru Ali and Kenneth Lewis, of the Moorish Science Temple of America, for example, claimed ownership of a $770,000 foreclosed property in Charlotte, North Carolina, by way of "religious sovereignty." Despite the novelty of this bizarre claim, the two men were arrested. Lewis was charged with breaking and entering, first-degree trespassing, obtaining property by false pretenses, and possession of stolen goods, and was held on a $500,000 bond. Ali was charged with breaking and entering and taking possession of a house without consent.[71] Shortly after this news was reported, North Carolina Policy Watch blogger Rob Schofield published a blog post begging the question, "If two poor squatters can face such extensive charges and potential punishment for attempting to take a house that didn't belong to them, what kind of charges should the criminals who worked for and ran several major American banks face? After all, these people filed all kinds of false affidavits and used myriad shady practices in the process of taking thousands of homes that didn't belong to them."[72]

Incidentally, that same day—almost as if responding to Schofield's query—Chicago city council passed an ordinance to hold banks accountable for their neglected properties by fining them for uncut grass and unboarded windows.[73] While this move is as well-intentioned as it is ineffective, it is also a fairly representational answer to Schofield's question about the banks. In reality, nothing is being done. Ordinances such as the one in Chicago are a happy way to vaguely punish negligent banks, but they are not a deterrent. Further, they are founded on fears of squatters and blight feasting on the wreckage of a crumbled real estate market. And besides, banks can quickly and easily appease much of the public by making hollow concessions, including paying small fees to municipalities or "donating" foreclosed properties to land banks. In Cleveland, for example, Wells Fargo donated twenty-six properties and Bank of America donated a hundred to the Cuyahoga Land Bank—and even helped pay for the structures' demolition. Cuyahoga then delightedly passed the lands on to churches for extra parking and to locals who sought to extend their property bounds.[74] In Chicago, Bank of America plans to give away another 150 properties to the non-profit Community Investment Corp., as well as to subsidize the costs of demolition.[75]

These suspiciously generous property donations are a drop in the bucket for major banks. When banks can afford to let a bulk of foreclosed properties languish and deteriorate, their "donations" start to seem more like self-interested forfeitures. When they are hard-pressed to maintain a glut of empty properties, it is beneficial to burden someone else with the problem. In one case, Yohanna Butler of Englewood, Illinois, was relieved to have her dilapidated liability of a house foreclosed on by Wells Fargo. But Wells Fargo decided it wasn't worth repossessing. "The bank didn't want to take it back," said Butler, who is now left responsible for the $900 in unpaid water bills and other issues with the decaying structure. "Why are you letting me keep the house? I don't have any money to take care of it." In the Chicago area alone, there have been 1,900 cases of banks walking away from foreclosures, leaving the title in legal limbo—a state that is problematic for the city government as well as for future buyers who must then wade through turbid legal muck in order to acquire a clear, lien-free title. In many cases, properties like these wait years for a caretaker, as there becomes no legal way to utilize the land.[76]

The idea of big banks relinquishing properties tickles most, but that's exactly the ruse: Giving up idle, fallow properties unburdens banks of their upkeep. But it's too little too late. This brand of corporate philanthropy does not consider the people already displaced from houses fated to remain vacant and eventually be razed in such displays of good works as expanding church parking lots. Most importantly, this senseless disposal of property reinforces principles of the corporate largess, the American code of self-reliance, and the Malthusian myth of scarcity. Reverend Thomas Malthus (who was born in the late-eighteenth century in England, and considered the world's first economist) devised a system of economics rooted in the notion of scarcity. According to Iain Boal, "Expropriation of the commons was…not a one-time event at the dawn of capitalism. And Malthus was the economist rationalizing and justifying the cutting off, or another way to put it is *the rendering scarce*, of the means of subsistence for the laboring poor, in the name of thrift and self-control and the efficiency of private property."[77]

In this sense, Boal argues, we are still living in a Malthusian world. When people are afraid of scarcity—even the *myth* of scarcity—competitive economics (or capitalism) can continue to thrive on exploitation until, as we saw in 2007, it self-destructs. Now picking up the pieces of the housing-bubble burst, those who still believe in the system are so very afraid that the rest of us may finally shake off our capitalist hallucination. They will ceaselessly try to assure us that we are wrong.

CHAPTER FIVE

Surreal Estate: Adverse Possession and Other Tales of Squatter's "Rights"

"We purchased it in the 1970s, as an investment. We paid the taxes on it every year, but never looked at it. We thought, who's going to steal it? It's land. You can't put it on a flatbed and haul it away."

—Anonymous victim of adverse possession

"I adversely possessed your boyfriend last night."

—Law school T-shirt

Matt Bruce is a magician. He works kids' parties for money and entertains friends with sorcery in his spare time. His room is bursting with occult paraphernalia, and he has countless tricks up his sleeve. But Matt Bruce is no one-trick pony; he knows more than how to manipulate a deck of cards or how to make a quarter crop up behind your ear: Matt Bruce knows how to make rent bills disappear.

Bruce hasn't paid rent at his bungalow home in Salt Lake City, Utah, for years.[1] The journey to rent-free living began in early 2003 when Bruce overheard some friends discussing the possibility of living in an abandoned house in their neighborhood. A month later, the group (not including Bruce) moved in, naming it Bike House. A few weeks later, one of the residents noticed a stranger taking pictures on the property. When he asked the stranger who he was, the man replied, "I'm the one who boarded up this house." This man, who claimed to work for the city of Salt Lake, threatened to call the landlord and expose the squatters to the authorities—but then residents noticed that he was not so much opposed as he was confused. And because he was not already resolute in his opinion of the squatters, they were eventually able to change his mind. "If you don't say anything, I won't say anything," he said. "You took the eyesore out of the neighborhood." And that seemed to be all that mattered. The city worker gave the residents his business card in case they needed

anything in the future, and then he left. Indeed, the rundown property had once attracted drug dealers and addicts by its ramshackle appearance, but the presence of the new caretakers drove away those elements. Even the small gesture of taking the boards off the windows lifted the mood of the property.

In October of that year, Bruce moved in with the others. Half of the small house still wasn't habitable, and for a long time there were seven people sleeping in one room while they made improvements. Bruce described their renovations to the house as attempts at unlocking mysteries about its history. There was a door with a wall behind it, and when they knocked down that wall, there was a whole other room that no one had known about. He said that there had been a number of walls erected in counter-intuitive or downright illogical places. According to the Census record and the electric bill, the house had been a duplex at one point, but Bruce couldn't figure out how that was structurally possible. He considered that perhaps the basement had been its own apartment—but the fact that the basement was unfinished and that the main part of the house had three kitchens didn't add up in any meaningful way.

Bruce noted that the house had more significant problems than its murky past. Over the years, water damage had caused the structural posts in the basement to weaken, allowing the house to gradually slip off its foundation. This sort of structural damage is often irreparable, barring the expenditure of tens—if not hundreds—of thousands of dollars. This is frequently the reason that properties are abandoned in the first place, and despite lovingly tending to the aches and pains of their houses, the costs are also often the downfall of many well-intentioned squatters.

But Bruce and his friends wouldn't worry about the structural damage for a long time. Instead, they focused on making the interior livable, and they expanded their squatter family. The group cleared the trash out of the basement and built internal walls down there to create three more bedrooms. In 2004, the squatters constructed a tree house in the back yard as still another bedroom. Despite the house itself being small, Bruce's desire was to fill it with as many people as possible. He described this as the community aspect to squatting.

"We were really trying to build something," he said, no longer referring to studs and joists. "There is a very romantic side to anarchism, but

protests aren't fun. Living in an abandoned house and taking full control of the situation, we put all our energy into the outcome of the house. In this sense, responsibility is freedom. There *shouldn't* be just one person here—there *was* just one person, the landlord, and he fucked up and lost the house. It would be impossible without many people helping."

All this time, an otherwise homeless man named Roy had been living in the garage. The residents of the house generally tolerated him, but eventually he became problematic. He was constantly drunk, which would prompt him to get naked and break things. He was a Vietnam veteran, and his flashbacks caused a lot of destruction inside the little shack. "He would get naked in the winter and not use the sleeping bags on the walls, so we gave him a heater," said Etta, a Bike House resident in 2003. "I thought he was going to die back there." Roy's outbursts called unwanted attention from police for obvious reasons, so the squatters helped him convert the garage into a real room with the hope that he would stay there and not wander unclothed into the back yard. Unfortunately, having his own room further enabled his drinking problem. He supposedly had a job, but he never contributed any money to the house for repairs. The residents of the house tried to work with Roy to allow him to stay, but eventually, weighing their options, they decided that if Roy didn't go, inevitably they would *all* have to go—because he was calling too much attention to a situation that was already illegal. This decision was particularly difficult for the squatters, because, after all, Roy was a squatter too. How could the two parties reconcile their equal claim to a property that legally belonged to neither of them? The residents say they never forced Roy to leave. Instead, they gave him $600 and told him to find his family.

So the group of squatters went on living in their free house. Years passed, and the house became known around town as a squat. Seemingly everyone knew that they were squatting except for the neighbors, who remained either blissfully unaware or simply uninterested (according to Bruce, not even Roy had known that the house dwellers were not renters). Even the police knew that Bruce and the others had been living there illegally, but they seemed to turn a blind eye.

Then, one day in September 2007, the landlord came to the door—at least, someone claiming to be the landlord came to the door. The squatters later considered it possible that anyone off the street could have heard the

rumors about the house being a squat and thought to scam them by asking for rent. It wouldn't be hard to find out the owner's name and pretend to be him. (While it was possible, they never asked for ID to confirm one way or the other).

Unsure how to respond, they told the alleged landlord, "Let's talk later" and shut the door. After that, there was a different feel in the house. Having coasted along for years, for the first time now Bruce and the others felt threatened. They considered the legal consequences of their living in this squat.

According to Utah Code, the squatters could have potentially been slammed with charges of burglary, criminal mischief, or trespass. In order to be charged with any of these crimes, the landlord would have to first take the squatters to court. For a burglary charge, the prosecutor would have to prove that the squatters intended two crimes: trespass (that they went into a building or part of a building—even by just putting a toe inside) and the *intention* to steal something or hurt someone—whether or not this actually happened. If the prosecutor could prove the intention to do one of these crimes, then a third-degree felony burglary charge could stick. If the prosecutor could prove that *and* that the building was a residence (a "dwelling" in legal jargon), then the charge would increase to a second-degree felony.[2]

Because a prosecutor would have trouble proving that the squatters entered intending to steal something or hurt someone, the burglary charge seemed unlikely. So they considered the possibility of a criminal mischief charge. In this instance, they would have to be found guilty of setting out to tamper with someone else's property; actually tampering with it; and then, through their recklessness, risking a significant amount of damage to critical infrastructure of the property—such as knocking down a load-bearing wall without knowing it's a load-bearing wall, or removing old plumbing systems.[3]

This one also seemed improbable, as the group had not been intentionally damaging the property and was instead working to improve it (though, depending on the quality of the improvements, they could have been viewed as damages). The final possibility for a charge in court would be trespassing. In order to prove this charge, a prosecutor would have to, again, prove that the squatters entered onto a piece of property that was

posted as "no trespassing" and then stayed after they knew that they were supposed to leave.[4]

Since there had been no signs against trespassing posted, the squatters decided that it would be relatively safe to have a meeting with the purported landlord, especially since he didn't appear interested in pressing charges. Instead he wanted $1,000 a month for rent, to which the squatters immediately said no; the property's condition was too poor to justify that amount of money. He then went down to $600, which the squatters also declined. When they offered him $400, he grabbed his proposed lease and bluffed an indignant walkout, only to turn around and offer $500 rent, to which the squatters finally agreed.

When I talked to Matt Bruce and others about this decision to pay the rent, I could tell that they genuinely felt insecure in that moment. It had been more important to them to continue living in their home with some certainty (though also some sacrifice) than to fight hard and risk losing it.

Squatting is often associated with stories about radical, militant occupiers who prepare for eviction as though they are preparing for war (although those stories mostly emanate from European lore). Squatters barricade doors, booby-trap windows, and accumulate an arsenal of rocks and bottles to throw at police. Such actions make the event exponentially more romantic, which is one reason why the act of squatting often sounds so dreamy: It is the manifestation of a human tendency to fight for justice in the face of adversity. Even if the squatters lose, at least they followed through in a battle for righteousness, and the gripping and inspirational stories told afterward make up for the fact that the house itself was forfeited. In this sense, some activists charge that maintaining principles is more important than securing a safe outcome.

Though the Bike House started as an intentionally free space, the threat of losing their emotional investment in it was worse for the squatters than moving out and paying rent for a house that *was* physically worth the money. So the former squatters paid their rent for October and November, but morale was down. According to Bruce, people lost their faith in Bike House when they started paying rent—the idea didn't mean anything anymore. Where Bike House had once represented resistance to the extension of capitalism that reaches into the domestic sphere

of housing and day-to-day existence, it now represented little more than another housing unit. In Bruce's words, "It ended the romance."

Eventually, because they had agreed to an unfair deal—in light of the house's poor condition and because they couldn't even be sure that this man was the true landlord—the residents resolved to stop writing rent checks. If the police came with an eviction order, they would hunker down, inviting everyone they knew to occupy the property in preparation for a European-style squat battle. Even if they lost, they would have at least drawn attention to issues of housing injustice. Paying rent after all those years just felt like giving up.

November rent was paid, and for all of December the residents waited uneasily for word from the landlord. By January, there was still no eviction notice or request for money. At the end of January, the man who claimed to be the owner finally showed up. As it was told to me, one of the residents, Chris, opened the door, shouted "Fuck off!" and then slammed the door. Bewildered, the man stood on the front porch, unsure whether he should knock again or turn around and walk away. Chris then appeared in the window with his middle finger raised. Amazingly, this man claiming to be the landlord never returned.

Bruce isn't worried about legal repercussions from Chris's stunt. After all, their rental contract was not notarized, was not legally enforceable, and was not signed by any of the residents. The lease also outlined that the condemned property was to be rented "as is"—that is, not up to code or rental standards. Further, the lease was signed with the man's company name, a corporation that hadn't had a business license since 1994.

I asked Bruce about his adverse possession claim. In Utah (as in most states), a claimant must have openly and notoriously occupied a property for seven years. If the legal property owner interferes at all during that time, the clock starts over. Interfering can include eviction, but so can a lease or simply written permission for the possessor to be on the property. If the adverse possession claim is broken by a rental agreement, then the seven years start over from the last time that rent was paid.[5]

If the Bike House residents had occupied the property since 2003 without interruption, they would have had a sturdy claim to the property by April 2010. With the lease interference, however, the claim *might* have reset beginning in November 2007. But Bruce suspects that if they ever

went to court, the landlord probably wouldn't want to admit that he interfered with the squatters' adverse possession claim because the residents could rebut that they were simply on rent strike until the major problems in the house were fixed.

Per Utah code, the squatters' claim would have to include the payment of property taxes, past and current. While they had at one point been paying the $1,000-per-year property tax, Bike House residents have fallen behind. They have proof of residency, in the form of bills dating back to 2003, but if they were to realistically stake a claim, they would need to hire a lawyer and pay off their unpaid property taxes—which starts to seem like a lot of money for a house that is slipping off its foundation.

When I spoke to Bruce in April 2009, he was counting down the days until the claim could be made in March 2010, but when I visited again in June 2010, he had changed his mind about pursuing the house legally. He doubted that they would win the property in court, as judges in recent years have tended to interpret adverse possession law conservatively, and he feared that a judge could make an example of their attempt at self-help housing. Even if they did win, inspectors could quickly condemn the house and relocate all of the residents until they could bring the property up to code—an increasingly unaffordable process.

"What's the point in claiming title?" Bruce asked me. "We wouldn't be able to sell the house, and we wouldn't be able to live in it. We're in a comfortable position now." So that's where they stay: in a stalemate with the system. Bruce and his friends have settled for prime real estate in Limbo—a place full of houses for which no one wants to take responsibility.

In March 2010, the FBI raided Bike House in connection with an animal liberation case in Iowa. Agents ransacked the house and confiscated all electronics, detaining residents for eight hours. No charges were brought as a result of the raid, but curiously, the FBI even appeared to know that the place was a squat. One agent asked, "How do you guys get power and water?"[6] Bruce claims that even the pizza guy knows and has asked them about it, but no one has done anything to remove them.

"For what it is, it's amazing," Etta said. "It's more conservative here in Salt Lake City, but it's interesting to see how the city runs and what is actually enforced. It's complaint-driven. [The cops] are trying to act like an authority, but they are just enforcers at the mercy of neighbors."[7]

"Squatting is totally impractical," Bruce told me, sitting at a small wooden table in what might have once been a dining room. The room was now full of junk, mostly related to Bruce's profession in the magic arts. "It's all about luck and boldness," he said. "For years, the city has been sending notices to the landlord *about* the house *to* the house. The post office forwards his mail from his old house in Sandy. So we'd read the mail and fix the problem before he even knew about it."[8]

Indeed, Bruce raises a valid question: What is the sense in squatting? Could it be to temporarily enjoy free rent? To try a roundabout way at getting the title to property? To brazenly experience a sensation of defying convention?

The trouble with the first point is the word *temporary*. The notion of impermanence renders physical improvements to the property illogical. After all, why invest time, energy, and money in a space that could be lost at any moment? This problem suggests a solution in acquiring title, at which point the possessor can rest assured that, at the end of the day, all sweat equity is accounted for. But owning has its problems as well. Taking on a property makes the new owner legally responsible for its upkeep, and because most abandoned properties have been deteriorating for years, the task of satisfactorily rehabilitating a derelict building is all the more daunting—and many times is downright unaffordable.

So if squatting wastes energy because it espouses impossible burdens, then perhaps Bruce did it for the feelings of adventure—which are often as impractical as squatting itself. The traditional housing system is also impractical, of course, but Bruce feels secure in abeyance. "No matter what happens," he said, "we still win."

Salt Lake City differs from other U.S. cities in that much of the largess is owned, not by the government or by banks, but by the Mormon Church. Many other aspects of squatting in Utah, however, are the same. In adverse possession claims, the possessor is required to file for title with a county recorder. To have the claim canceled, the owner on record can argue a disability of age, mental instability, or imprisonment as a reason for neglecting the property. If the owner on record at any time consents to the squatters' use of the property, the adverse possession claim is also voided. In Utah, the statutory period for possession is seven years, and if the possession is interrupted at any time, the countdown begins again.

Possession must also be "actual, open, and notorious," putting the legal owner "on notice," so to speak—the belief being that any reasonable owner would check on the property often enough to discover someone living there if they were being open about it. Squatters who sneak around late at night might not necessarily lose a case based on this, but it certainly doesn't help.

Specific adverse possession requirements vary from state to state,[9] but many require the possessor to pay back-taxes on the property before a claim is valid. If all the other requirements are met except the tax payment, a court may choose to grant a *prescriptive easement*—a legal right to use a piece of the land, usually for a specific purpose, but not official ownership.

Frequently, a state will require some degree of "hostility" in order to stake a claim. Hostility means that the possessor is aware that she is trespassing and is intentionally seeking adverse possession on land that she knows she does not own. States that require hostile possession follow what is called the "Maine Rule."[10] States that follow the Maine Rule include Arkansas, Maine, Michigan, Missouri, Montana, Nevada, South Carolina, Texas, Vermont, Virginia, and Wyoming. Some states, such as Georgia, Iowa, and Louisiana, follow a "rule of good faith," where possessors must actually believe that they are using land under their ownership. Hostile, or "bad faith," possession, then, is discounted, and the only way to win a claim is in a good-faith boundary dispute. Other states follow the "Connecticut Rule,"[11] which doesn't specify whether or not possession must be hostile. In such states, courts maintain that "the motives from which the intention to claim title arises are immaterial and that one who occupies the land as his own is in adverse possession, regardless of his knowledge or ignorance of a paramount title. This doctrine, following the fundamental rule that possession is the best evidence of intention, avoids the uncertainty of an inquiry into the occupant's mental state, and does not favor the willful wrongdoer at the expense of the innocent disseisor."[12]

All states require "exclusive and continuous" possession, which means that the same party must occupy the property for the entire statutory period. In good-faith cases in which the possessor sells his property—including the part that wasn't technically his—the new possessor can "tack" his years of occupation onto that of the previous possessor and eventually be granted the land through adverse possession.

Case law for adverse possession dates back to 1854, to *Tapscott v. Lessee of Cobbs* in Virginia, but the law today is generally interpreted as a channel for resolving minor boundary disputes, such as fence placement. Only in the past few years—since the foreclosure crisis and subsequent unearthing of these historical statutes—has adverse possession been popularized once more.

In July 2011, the world heard about Kenneth Robinson, a Texas man who moved into a $330,000 mini-mansion for only $16 in filing fees. Neighbors called the police and the media because they were flabbergasted and generally annoyed that Robinson was apparently not following the rules of the housing market. "If he wants the house, buy the house like everyone else had to," one neighbor said. "Get the money, buy the house."[13] But Robinson claimed that he had done the research, filed the proper paperwork, and was on the track to adverse possession. Police wouldn't evict him because they said it was a civil matter—and for once, they were right; only an interested party with a higher level of paperwork proof than Robinson could contest ownership. For example, if someone came forward with a deed to the property, that deed would trump the adverse possession claim. If that person never came forward, Robinson would have to wait at least three years to achieve adverse possession (according to Texas law—though it could extend as long twenty-five) and then meet any other criteria requested by the case's judge.

This news story threw Texans and others around the country into a tizzy—as if this man actually paid only $16 for a $330, 000 house and instantaneously came to own it free and clear.[a] Adverse possession is so scary to people because they fear that this "loophole" could land squatters title to a property that is still in use (which it can't), and that it might happen quickly and often (which it doesn't). Further, on an ethical level, many Americans believe that it is inherently unfair that these squatters should have access to free housing when nobody else does. (The converse

a. Robinson eventually received an eviction order for February 13, 2012, after Bank of America finally completed the foreclosure process, trumping Robinson's claim. He moved out a week before the eviction date, and he did not face any charges. Merchant, Nomaan. "$16 house? Dallas Area Man Evicted After Squatting." The Associated Press. Feb. 6, 2012.

perspective would be that it is unfair for anybody to *pay* for housing when *free* housing abounds.)

Amid all the commentary from ruffled homeowners, in the media and on the Internet, about the injustice of citizens utilizing vacant and neglected properties, it was refreshing to stumble upon a blog entry on AboveTheLaw.com in response to Robinson's brazen application of a scary historical statute that few people remember:

> I love it when this kind of thing happens. I've loved it ever since my very first day of Property class. I love it whenever anybody, anywhere in this country, seeks or gains title to something via adverse possession.
>
> Every time it happens, it's just tangible freaking proof that laws aren't just a bunch of grand theories written in tomes that grow lonely from disuse. Adverse possession isn't an existential contemplation, it's a real-ass way that property can be transferred from those who are hoarding it to those who can use it.
>
> And the fact that laypeople always freak out when confronted with this most basic of property concepts delights me to no end. Everybody loves private property in this country, but 200 million of them have no idea where it comes from. You'd think "fee simple" is something they would teach in middle school in a country like ours, but you need a graduate degree before people even try to teach you about real property.
>
> I'm trying to say that the man who's trying to get a $330,000 house for $16 bucks is a great American….
>
> I understand the need for people to be outraged anytime anything good happens to anyone else. But this guy didn't "beat" the system. Adverse possession isn't a loophole. It's a fundamental underpinning of our system of private property. You can trace a line from John Locke's labor theory of property ownership (which disturbingly has a Wikipedia page) right to Kenneth Robinson's attempt to get a $16 house.
>
> It's not a technicality, it's a principle. Robinson isn't a squatting tenant, he's the embodiment of a tenet of private ownership.
>
> And he didn't even have to go to law school to figure it all out.[14]

In the foreclosure age, adverse possession claims have become increasingly common, though most are disappointing duds launched by first-time squatters with only a cursory knowledge of the process, which they gleaned from the Internet. These claims are usually given little legal recognition because they are done improperly, but they do manage to effectively spook most of the rest of the country. When a squatter enters a property that has long been in decline, neighbors don't like it but at least it makes sense to them. When a squatter enters a high-end development that just happened to go into foreclosure, it triggers fears of carpetbagging in busybodies who look for things to complain about. Generally, only the owner of the property can call for an eviction (not a neighbor and not the police), but with some of these foreclosures, it is uncertain who the owner is. If the foreclosure hasn't been finalized, the title may still be in the former owner's name, or it may be in the bank's name—or it may be unclear. If it is technically still in the previous owner's name then perhaps the person will not care enough to take action, and if the title is unclear then *no one* can legitimately call for an eviction. In a few years we will see how many of these claims have persisted long enough to win title. It seems unlikely, however, that a judge would ever sign off on an adverse possession claim to a half-million dollar foreclosure, as judges are hard-pressed to interpret the law as such, even in the best-case scenarios.

According to Peñalver and Katyal,

> [Adverse possession's] significance in recent years…has declined to such an extent that it is now plausibly described as merely a mechanism for clearing title errors and resolving inconsequential border disputes. This diminished role for adverse possession is the natural result of the increased affluence of our developed economy coupled with reduction in the cost of property surveillance that make it cheaper for property owners to oust potential adverse possessors, both of which diminish the incentives for potential adverse possessors to seek out property to possess in the first place.[15]

Perhaps this is why the doctrine of adverse possession has faded

from collective consciousness in the United States and is recalled merely as a vehicle for pedantic boundary debates.

Steve DeCaprio thinks about adverse possession differently. Having squatted for more than a decade and fought in court for three separate squats during that time, DeCaprio has emerged as the Bay Area's premier legally savvy squatter and expert on adverse possession. He taught himself property law in David Beauvais's law office, and plans to take the bar in 2013—and perhaps become the country's first squat attorney.

DeCaprio first started thinking about squatting during the late '90s and early 2000s housing boom when he was evicted from his slummy rental apartment in Oakland because he could not pay the rent. As an alternative to homelessness, he began searching for abandoned properties to squat; he rode his bike all over the East Bay, taking down addresses of potential squats, and eventually found a place that had all the trappings of a successful adverse possession case. He matched the address with an owner's name and address (which, oddly, was a P.O. box) at the tax assessor's office and the records department. He then went to the tax collector's office to check on unpaid taxes and the recorder's office to look up liens: As it turned out, the owner had been dead for twenty-five years and the property was owned by an estate. DeCaprio calls this scenario ideal. The owner died in the early '80s, and the estate was abandoned in '85. The file for the estate was recorded exclusively onto microfilm, which was "tucked away in some back area of the courthouse." There were no owners and no heirs. In fact, all the cosmetic renovations done on the house in recent years had been performed by contractors hired by the city because of blight complaints. The executor of the estate paid the property taxes until 2002—which was strange, DeCaprio thought, because that was *after* he had started working on the property—and in 2003 the executor passed away, leaving no remaining party to challenge DeCaprio's claim legitimately.

DeCaprio approached the situation cautiously and strategically. Though he had first spied the house in late 2000, it was 2002 when the neighborhood was visibly undergoing transition, and he knew that it would be clever to have a presence during this time. In fact, he mobilized his occupation while the adjacent house was being remodeled so that the new neighbors would be accustomed to seeing people next door when they moved in.

After establishing a constant presence for five years (the statutory period for California)—usually through continued renovations—DeCaprio paid off the back taxes in full. "I have fulfilled the adverse possession requirements," he told me in 2009, "and therefore, because of that, I own the property, and the only step that's left in the whole thing is to have the title recorded. I own the property fully right now—there's no legitimate challenge to be made—but, to get that title recorded and to have it be respected by all, I still have to go through a process where I go to court and say 'Look, I've paid these taxes. Look, I've been on the property,' so on and so forth, and tell that to a judge, and then they sign the order. And at that point I can take out a loan against the property, I can sell the property—neither of which I have any intention to do—but I could do anything that any owner of any other property could do. Right now I have full rights to do anything I want, but the question is, how does the rest of the world know that I have those rights?"[b]

Here DeCaprio raises a crucial issue regarding the *scale of legitimacy*. This is—though most people do not think of it—a core philosophical argument of squatting. The idea of squatter's rights isn't so much a legal construct (the only American legal construct being adverse possession, which is a flimsy right indeed) as it is a philosophical entitlement. So what level of legitimacy can any squatter have? Against the measuring stick of various codes in the United States, the legitimacy is negligible—and against the measuring stick of the dominant understanding of property ethics, the legitimacy is non-existent. But DeCaprio argues that legitimacy is not simply something a squatter has or does not have; instead, it is weighted on a scale, and whichever party's claim is heavier wins the claim of legitimacy. That said, before a judge or anyone else can denounce DeCaprio as an illegitimate force, they must first confirm that he is not *less* legitimate than any other party.

DeCaprio figured that because the previous owner had no living relatives, that he had already been uncontested on the property for so many

b. An action for quiet title is when the title holder/landowner brings a squatter/adverse possessor to court, at which time the squatter must prove her right to the property or else forever lose her right to claim it. In this case, DeCaprio acted as the owner, daring any other claimants to come forward at that time or forever lose their ability to do so.

years, and that he had fulfilled all the requirements of adverse possession, it was extremely unlikely that someone would come forward to stop it—so he filed a *quiet title* action.[16] "That said, I don't trust the courts ever to do anything according to the law, because the moment you go into court and get branded as a squatter, everything can go haywire. There's a real classist bias by judges… It's a real class issue," DeCaprio said.

Adverse possession claims are certainly not rare, and sometimes they are even won, such as in the case of an anonymous couple in eastern Pennsylvania in 2009. Having used their neighbors' adjoining land in an "open, notorious, visible, and hostile" manner for twenty-one years (the statutory period for Pennsylvania), they were awarded 55 percent of the property. Because the couple was already established in the neighborhood, the case could not easily be construed as a class struggle, making it a simpler case to settle. Had the land been squatted for twenty-one years by an interloper (if a person could be called an interloper after twenty-one years), perhaps the local judge would have fabricated more hoops to jump through before ceding title.[17]

At this point in DeCaprio's claim, however, there was no one who could make a legitimate argument against him—though he recognized that it was possible for someone to make an *illegitimate* argument. DeCaprio's judge, specifically, set the bar very high. Not only did he require DeCaprio to serve the estate (which he did—the attorney is still alive and said he doesn't really care if DeCaprio takes the property) but he also required him to track down all potential heirs through complex and expensive genealogical searches, as well as to serve the estate administrator, who is deceased. Strangely, it seemed, the only person alive who still cared about this property was DeCaprio's presiding judge, who realistically held no stake in it whatsoever. The estate's attorney, in fact, had been forwarding the estate's mail to DeCaprio, hoping he would simply take over responsibility for it (the attorney's biggest complaint of the whole process was that the estate had not yet been transferred to DeCaprio's name). "At this point I realized the judge was completely opposed to me gaining title," DeCaprio said, "and I voluntarily dismissed the case. For now I'm going to wait and re-file it at some time in the future after so much time has passed that no reasonable person would oppose it."[18]

DeCaprio says that he has a good relationship with the city, despite the judge's hesitation to record the title. The relationship is not rooted in what he called the "squatters versus cops" dynamic, which he describes as self-destructive. Instead, he used what he calls the *straw owner* tactic—a common legal concept used to obscure the true owner, though DeCaprio takes it to a new level. *Before* creating a visible presence on the property, which could have been questioned, DeCaprio filed a Homestead Declaration, a Notice of Intent to Preserve Interest, and a grant deed transferring the property to him and his wife (the case would have appeared more suspicious if he had filed the paperwork *after* being questioned about his presence). Next, he got a second cell phone. He hired friends (they wrote up work trade contracts to make it official) to start doing some of the serious work needed on the property, including painting, yard work, demolition, and deep cleaning (twenty-five years of bird droppings and dead animals in all stages of decomposition had accumulated through the holes in the roof, so there was no shortage of labor to be performed). Inevitably, the police arrived (as expected) and asked, "What are you doing?" which is where the "straw owner" came in. If the owner were on site, then the police could have barraged him with questions such as "How did you get this house?" "What kinds of permits do you have?" and so on. But instead, the hired help simply replied, "We work for the owner, Steve DeCaprio. Do you want his number?" So the police called the second cell phone, and DeCaprio didn't answer it—because he *never* answers it, because only police call that number. They declined to leave a message anyway, and that was the end of that. "The police have absolutely no business involving themselves in these situations," DeCaprio said, "but police involve themselves in lots of situations they have no business in, and cause a lot of trauma in people's lives, and I definitely didn't want to have that dynamic again."[19]

After the straw owner incident, there were no further visits from police. Instead, building inspectors and blight officers started popping in at the house in response to neighbors' complaints of the years of neglect (not because they suspected an illegal occupation).

According to DeCaprio, "You really have to decide when you're occupying a house, is this gonna be some political thing where we drop the banner and talk to all the neighbors and pass out fliers and say 'squatting's great,' and we all run around saying 'squatter, squatter, squatter,

we love it!'—are we gonna do that and then of course get evicted because nobody's gonna go along with that, or are we going to focus on the task at hand and when people ask you, 'Hey, what are you doing?' then say 'I'm fixing this door; it's broken,' and focus on what you're doing with the house and not this philosophical or political element that just alienates you from the neighbors…unless you live in Amsterdam or something."

Some people say it's important to reach out to the neighbors, but to DeCaprio, squatting is not a protest—because when you are squatting you are not *symbolically* challenging authority; you are *in fact* challenging authority. "People squatting from an overly activist perspective often shoot themselves in the foot by doing things that no normal person moving into the neighborhood would do…talking about lofty ideas," he said. He mentioned going door to door, which he describes as weird. It's important not to hide your presence on a property, but he also recommends against being unusually friendly, instead striking a balance between the two and acting like a normal neighbor.

For the first few years of his battle at "Noodle House," as he dubbed it, he was fighting a parallel battle at another squat called "Banana House."[20] The Banana House debacle was a learning opportunity for DeCaprio, who, through the experience, was able to formulate better theories on the process of adverse possession and develop a solid dos and don'ts list for squatters. Banana House went so wrong, in fact, that DeCaprio was removed from the property seven times and received six citations—five were cite-and-release and the sixth was compounded by a physical arrest. He spent a total of two nights in jail for repeatedly returning to the property—one night in the Berkeley jail and one in Santa Rita where he was strip-searched and made to sleep on a cold cement floor without a blanket or access to a bathroom. "Towards the end, the other inmates were pissing in the holding area using a plastic bag as a toilet," he said of his stay at Santa Rita. "After my trial I was sentenced to two months jail for a first offense misdemeanor, which the public defender said was unusually harsh. I was allowed to do a work-release program where I picked up trash and did landscaping work for Caltrans on the side of highways for approximately one year."[21]

About a year after that, DeCaprio was sued by the heirs of the previous owner of Banana House, who had finally decided to sell the property

and first had to officially eject DeCaprio by quieting the title. "We settled the lawsuit for $10,000, which didn't quite cover my time and out-of-pocket expenses, but was close enough," he said. "In the settlement I was allowed to remove my belongings, which had been rotting in Banana during the years I was prevented from returning. It was a very emotional moment to get all my life's belongings back after so many years of homelessness, squatting, and struggle."[22]

On paper, DeCaprio noted, Banana House seemed like the better of the two houses because there was no estate listed. At Noodle, the owners had died and the property was willed to an estate; at Banana, the owners had died but no one started an estate. In both cases, someone—he didn't know who—paid the taxes. At Noodle, that person eventually also died, and at Banana the person who could have started an estate eventually did, which ultimately made it untenable as a squat.

One of the things that DeCaprio learned through the Banana House proceedings was how to behave in court. If you have to go to court for squatting, he recommends walking into the courtroom like you belong there "because it's designed to intimidate and disempower people." (DeCaprio did this by dressing up, and he claimed that sometimes people mistook him for an attorney he looked so good.) When you arrive, confidently say "I'm here, I'm party to this case," and then lay out your argument. He emphasizes persistence. "If cops kick you out," he says, "you have to come back."[c]

When DeCaprio went to court, he simply approached the district attorney with a professional air and said, "I think there's some kind of problem. I'm the owner of this house." The DA went through his files, apologized for the misunderstanding, and dismissed the case. Eventually the police convinced the DA to press charges anyway and he had to return to court.

"You can get a public defender, which isn't great, but it's something," he says. "And the best thing is evasion. Civil courts are better than criminal because you at least have the ability to make your case and you

c. This, of course, is only good advice to squatters in situations like that of Noodle House. Squatters who are ejected by living and non-absentee owners would do well to simply find a better squat rather than continually return to a house that is not truly abandoned.

can buy time to get the case together, because every day you litigate, you have a roof over your head."[23]

In the sunny front room of Noodle House, DeCaprio hearkens back to impressions of an ungovernable historic Wild West:

> This country has a history of lawlessness and it also is lawless today…people have the impression that we have strict laws on squatting—well, no, we don't; we have the best, most open-ended laws on squatting. Basically, you squat it, you keep it, it's yours…. Of course [cops] have a history of not being so benevolent…. The impression that people have of it being so strict is that all the other laws are so strict, and that we live in a police state. It just seems like the police are in everybody's business, and so they're definitely aggressive with squatters as well, and it has nothing to do with the laws.

If you're occupying a property then the burden of proof is on the owner. But that doesn't matter, he says, because we live in a lawless society.[24]

In the nineteenth century, Joshua Ingalls advocated doing away with laws protecting landowners rather than instituting laws to protect squatters. But in DeCaprio's lawless America, squatters continue to cling to the only shreds of protective legislation that they have. Adverse possession is the closest thing to "squatter's rights" that Americans can claim, yet few in recent history have ever successfully applied the statute as a method of acquiring a full tract of land or a standing structure. "I still have a *clouded title,* which I guess could be said to be partial legal title," said DeCaprio, who studies at the law library in his spare time, "but I think phrases like 'legal title' or 'true title' confuse the issue. All titles are 'true' and 'legal'—it's just that a squatter's title is subject to dispute by those with superior title."[25]

Considering the futility of Steve DeCaprio's adverse possession cases, it certainly seems odd that much of America continues to cower at this feeble archaic statute. When DeCaprio's claim to legitimacy involving a twenty-five-years-dead property owner and all his dead relatives turns up empty, the potency of adverse possession must certainly be weaker than many people fear. Yet, despite DeCaprio's inability to win complete title

to the property, he is still allowed to just *be* there, which is an arguably American method. In many ways, non-interference is even a *conservative* method. Pacific Gas and Electric still refuses to connect Noodle House to the grid, but DeCaprio has circumvented the need by generating battery power through use of a stationary bike—which might be, ironically, the most conservative tenet of all: self-reliance.

According to Peñalver and Katyal, by allowing people to live out an alternative vision of legal possibilities, lawbreaking can help overcome what might (to paraphrase Hannah Arendt) be called imaginative deficits, deficits that may well prevent majorities from embracing the previously unexplored shapes that the law might take.[26] But perhaps the answer to vacant properties and inadequate housing does not rest in legal action at all—but rather in the *absence* of legal action. Just as with Matt Bruce's Bike House, the abstract logistic complexities only mount higher when attempting to utilize legislative channels to confirm a legitimacy that already exists. DeCaprio and Bruce are both lucky in the sense that their neighbors, their police, their local governments, and their properties' original owners are all too distracted (or dead) to concern themselves with such trivial blips in convention. If the original owners have in actuality abandoned the properties, then they have already divested of the responsibility. And barring the presence of neighborhood busybodies, it seems reasonable that everyone else might mind their own business as well. It is certainly less hassle for all.

But as DeCaprio previously mentioned, squatting is a class issue more than a party issue. As Seth Borgos recalls of the ACORN squatters in the 1980s, "Squatting was a rebuke to the folks in power at City Hall, regardless of their political complexion. But there was also a strain of principled opposition, which, if sincere, carries a sense of paternalism. Some officials insisted that poor people could not renovate their houses adequately without massive financial and technical assistance, and refused to support the expansion of homesteading opportunities unless such assistance was guaranteed."[27]

Here is where party politics collide: To those with liberal sensibilities, the under-housed are charity cases to be managed by the government or a third party. To those with conservative sensibilities, government intervention is a wasted expenditure on a group of people who can't afford

to help themselves. But a third set of sensibilities takes the compassion of the left and infuses it with the self-reliance of the right to forge a pragmatic housing solution that accounts for unused space while also considering the welfare of the under-housed. Peñalver and Katyal endorse this third option:

> The consequentialist case for involuntary transfers of property can be quite strong when there is reason to believe that the outlaw places a higher value on the property in question than the true owner and there is some obstacle to a consensual transfer between the parties. People who have nothing (or very little) will have limited means to express in market offers the value they place on an item of property.[28]

In this way, fewer bureaucratic hoops would allow property to be naturally reevaluated according to its use value rather than its market value. Dissolving barriers to title transfers might be the first step toward equitably leveling the housing field.

In April 2011, Representative Jake Wheatley (D-PA), in a move contrary to the trend of other states, introduced a bill to *reduce* the adverse possession waiting period in Pennsylvania from twenty-one years to ten. "In addition to helping to reduce blight, this bill would help residents whose claim to a property is in limbo because of problems such as a defective or unfiled deed or an inheritance that wasn't provided through a legal will," Wheatley said. "Because they lack clear legal ownership, they have problems with getting property insurance, a grant or loan for property repair, utility discounts or real estate tax abatements, payment plans for real estate tax delinquencies or a loan from Pennsylvania's Homeowners Emergency Mortgage Assistance Program."[29]

In one sense, all the people who complain that adverse possession is an archaic statute that doesn't reflect the realities of modern America are right: The world moves faster than it did in the nineteenth century. Where twenty-one years may have once seemed a reasonable period to work a farm before winning title to it, today even ten years is like an eternity. This is why Jake Wheatley's bill is well-intentioned but also ridiculous; there is practically no difference between a ten- and twenty-one-year

statutory period in our accelerated era. The bill makes perfect sense considering that Wheatley's jurisdiction is Allegheny County, part of the heavily distressed Rustbelt, but Wheatley isn't here investigating realistic solutions to the abandonment problem in the region. And the bill was never about abandonment anyway—it was about *blight*, terminology that the housing market can understand.

In our culture of private property, so strong an emphasis is placed on homeownership that it even seeps into the consciousnesses of squatters and others who claim an aversion to it. While the concept of adverse possession is intriguing due to its superficial impression of "something for nothing" or of somehow "beating the system," it cannot currently be a wide-net solution to the housing crisis. It is questionable whether legislative channels can provide such solutions at all, or if involuntary title transfers are even desirable. Even adverse-possession poster-child Steve DeCaprio admits that "a more reasonable goal is to find a place and live in it for as long as possible."[30] In the next chapter we will explore the (sometimes misguided) desire for homeownership and what alternatives can lead to similar sensations of autonomy, *sans* actual title.

CHAPTER SIX

Outrunning the White Elephant:[a] A Thoughtful Approach to Homeownership

"I think people should own where they live. I think it's the most important move you can make, because you live in a place 30 years.… Over the years, you've paid all this money, and you don't own anything. The landlord still owns it. So, I think, the same way you own your clothing, I think people should own the place they live, because, at least, whatever happens, you have a place to live. There shouldn't be such a thing as a landlord. I mean, landlords, that whole thing should be abolished.

—William Parker, in *Resistance: A Radical Political and Social History of the Lower East Side*

"Do residents desire ownership, and are they capable of handling the responsibilities that accompany ownership?"

—Lauren Denny, Leda McIntyre Hall, and John Charles James in their essay on Resident Management Initiatives in 1994[1]

The answer to the question above is different, of course, depending on which residents we are talking about. In some cases, self-management is a desirable opportunity for increased autonomy, voiding the paternalism of state-run agencies and defying dependence on private landlords. In other cases, however, the high cost in time and energy is not ideal, particularly for people who move frequently, who physically cannot maintain a house on their own, or who have other priorities. I personally suspect myself of being capable and willing to own and self-manage a property, but every

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a. **white elephant**: *noun*; a possession that is useless or troublesome, esp. one that is expensive to maintain or difficult to dispose of.

Origin: from the story that the kings of Siam gave such animals as gifts to courtiers considered obnoxious, in order to ruin the recipient by the great expense incurred in maintaining the animal.

time I consider buying a house, my mom—who has lived in and landlorded a duplex for over two decades—shoots me a volley of warnings against it. Most recently she sent me this e-mail:

> You're not falling for that American Dream myth, are you? That is now a lie, given the current state of the housing market. And "Real Estate?" HA!! More like "*Un-Real* Estate." It makes my blood boil when I see commercials pushing what used to be The American Dream. Today it is BULLSHIT. But it was probably fittingly labeled a dream…. Today I could not sell this house without losing money, especially after 23 years of paying mortgage interest rates sometimes as high as 12%.

In addition to worries of depreciation, there is the unrelenting responsibility of maintenance. The duplex that my mom owns is huge and there is an endless stream of small and large tasks that need doing. Because she is financially struggling and overwhelmed by housework, she now won't let me visit for longer than two days without "earning my keep." Most recently this involved perching on the roof with the nine-foot extension of a wet-dry vacuum hose to suck the leaves out of the gutter. Then I had to scrub lichen off the shingles. My mom explained to me that her way of coping with the responsibility of ownership involves creative (and debatably reckless) ingenuity: This year she decided to cut down all the trees in the yard so next year she won't *have* to suck leaves from the gutter. That said, homeownership can indeed be an onerous burden. This is why the homesteading applicants of the '70s and '80s were often denied access to the program—because HUD didn't believe in the ability of poor people to autonomously maintain a home. It seemed strange that "such an initiative, seemly built around the values of self-reliance, independence, and hard work has not been more successful in a political climate that proclaims the merits of these very values."[2] Instead, the condemnation of the poor to circulate within the rent-poverty cycle excluded them from ownership while creating more work for centralized authorities, in the form of welfare programs like Section 8. In response to this, thinkers and activists like Lauren Denny, Leda McIntyre Hall, and John Charles James pushed for Resident Management Initiatives in the '80s, because, while

the responsibility that comes with ownership can be a white elephant for some, it can also be a point of pride. For instance, as much as my mom complains about incessant yard work, I happen to know that she is also quite proud of her garden.

It is true that sometimes renters do not *want* to own. After all, theoretically landlords will perform repairs and assume liabilities in rental situations, and for some people this is simply easier. But for other reasons, renting can be as labor-intensive as homeowning, especially for the poor or undocumented, who often can't afford to enforce repairs from slummy landlords or who don't have the legal status to safely take a landlord to court. Renting is also a trade for a piece of the largess at the expense of the renter's time spent earning pay and the renter's sense of personal agency. In the case that the difference is split evenly, some people would rather own because it allows for the accumulation of equity—which, in turn, can act as a building block to get out of poverty. Take, for example, Shirley Mason.[3]

Shirley Mason, a twenty-eight-year-old art-school graduate, part-time museum educator, and occasional DVD rental store clerk, took the backdoor to homeownership. Ready to move on after renting the same windowless, one-room studio for four years, she was bursting with energy for a fresh project—and having been an unwavering resident of Pittsburgh, Pennsylvania, for ten years, she was also ready to make it something permanent. So, much like a squatter, rather than scanning the real estate listings, Mason picked the house first, and figured out how to acquire it second.[4]

On her way to work, she regularly passed a lovely stone-façade rowhouse on a main thoroughfare in town, that had, curiously, stood empty for years. For a lot in such a prime location this was indeed peculiar. In fact, the phenomenon had so many people scratching their heads that in 2009 the property actually appeared in the "Eyesore Property of the Month" section of neighborhood development corporation's newsletter, pegging a Robert M. King as the owner since 2002. The editors were *so* confounded by King's willing abandonment of the house that they begged the question "WHY did he acquire the property???" (The urgency of their bewilderment necessitated *three* question marks to punctuate the thought; evidently the mystery was eating away at these people from the inside.) For 200 words the editors slung mud at the absentee owner, finally asking readers to phone them if "anyone knows the whereabouts of Mr. King."[5]

While Shirley Mason did not know the whereabouts of King, she did investigate more of the history of the property than the article's writers had bothered to. Evidently, King had bought this house, along with a handful of others, before going bankrupt in 2004 while rehabbing them as rentals. A local bank had held the mortgage to the house but bundled it with other mortgages and then sold the packaged debt for several million dollars to a larger Montana bank called Global Financial, LLC. (Of note, this is the exact scenario that created the mortgage crisis, which in turn caused the foreclosure crisis.) This new bank wanted to appraise the house before taking it to public auction, but King wouldn't let bank agents inside. Global Financial never finished the foreclosure process, since it didn't want to own a property that it couldn't guarantee would sell. Thus, for years the house hovered in proprietary limbo, somewhere in between King as owner and Global Financial as owner. This is why nothing had been done with the property: Banks are not in the business of owning or maintaining homes, and King, having declared bankruptcy, was legally prohibited from going inside the house (except to show it to the bank, which he would not do). Under these conditions, no one had the incentive to so much as *board up* the vacant building, leaving neighbors in the connecting rowhouse with the burdens of increased break-ins and vandalism.

When Mason learned about the property's bizarre ownership status, her interest in acquiring the house piqued. But because the rules of the bankruptcy prevented prospective buyers from legally entering the property, Mason was compelled to explore it extra-legally—she called it a "fact-finding expedition to see the condition of the property"—because it might have been too expensive for her to realistically renovate.

Before letting herself in, to be respectful and since the houses were attached, Mason spoke to the next-door neighbor about what she planned to do. She let the elderly woman know that the following day she and her friends would be going inside to inspect the building—just in case the neighbor heard any funny noises. The woman was supportive of this idea, since her property value had plummeted after the King abandonment. The situation had gotten so bad that her sons had to board up the vacant building themselves, she said, because of repeated break-ins.

"Everyone's concerned about boarding up properties, but no one's concerned about transferring the title onto people who are willing to do

the work," Mason said indignantly. "Who is responsible for the house in the meantime? When the title is unclear, the responsibility falls on the neighborhood."

Upon inspecting the structure, Mason was relieved to find that the house had a solid foundation, roof, and plumbing. "I took handyman friends in," she said, "and they were impressed. There were even radiators, and I later found out they were still good!" Now knowing that the property was in acceptable condition, Mason decided that she was definitely interested in owning the house, so she paid for a title search to ensure that there were no unknown leins. But where to go from there? How to do you buy something that is not for sale?

In many near-foreclosure scenarios, the property may go to a short sale, in which a new owner buys the mortgage for less than is owed on it. The previous owner doesn't get any money from the deal, but will sometimes take the offer as a way of avoiding both foreclosure and bankruptcy. King didn't qualify for a short sale, however, because he was already in a state of bankruptcy as a result of multiple debts.

The next option might have been to persuade the bank to complete the foreclosure process and take the property to public auction, also called a sheriff's sale. In such a scenario, the owner and all lien-holders are served with papers explaining that the property is going to sale. The owner then has the chance to pay back all the debt and stop the house from going into foreclosure. Threatening foreclosure is often a bank's last-ditch effort to get paid the debt they are owed, which means that banks shouldn't actually *want* to foreclose—unless they are certain they can get paid—because they don't have a use for a bulk of vacant houses. But Global Financial refused to take the house to sheriff's sale, so the only option left was for Mason to *become* the bank.

Taking a page from Global Financial's book, she offered to *buy the debt* (called an "assignment"). Since the bank was unlikely to make any return on its investment without an appraisal, much less the $51,000 owed on the mortgage, it had little reason to turn her down. Global Financial initially wanted $20,000 for the debt, but while perusing the county assessor's records, Mason noticed that the bank had stopped paying the taxes and insurance on the house in the past year, and that the owner's name had reverted to Robert King. This was a white flag; without the taxes

being paid, eventually the city would have taken the home and sold it at a treasurer's sale, leaving Global Financial with nothing. So Mason's lawyer, knowing that they had nothing to lose, advised her to "lowball them." Mason offered to pay $4,500 for the debt on the property, and Global Financial accepted. This doesn't mean that Mason bought the *house*; it means that she bought the *debt* on the house—a concept familiar to those in the banking and real estate industries, but one that sounds bizarre and abstract to everyone else.

With the help of her lawyer, Daniel Sautel, Mason could now take the property to sheriff's sale, since anyone with a lien on a property has vested interest in it and therefore the right to do so. During this sheriff's sale, anyone could bid on the property as a third-party buyer—but if they did, they would have to pay the debt owed, and they would pay it to Mason who was now acting as the bank. Mason could actually *make* money at this sale—after all, the debt owed was nearly $70,000, though Mason had paid less than 7 percent of the price. Despite how unusual this sounds, it is actually how banks behave all the time.

Unlike a bank, however, Mason was *hoping* that no one else would try to pay the debt so that she could simply have the house transferred to her name. In this case, if King or another person for some reason bid on the house, he would have to pay the first mortgage to Mason *in addition* to $28,000 that Global Financial had won in a money judgment against him to reimburse what it had spent on taxes and insurance for the house. In this case, because Global Financial was no longer the bank with the mortgage, the full $70,000 would have had to be paid to Mason. She was not a third-party buyer, so she was in a can't-fail position, destined to win either the house or the money.[b]

I went with Mason and her lawyer to the courthouse the morning of the sale. She was nervous that she might not get the house, but not too nervous—after all, if anyone had wanted to show interest in the property, it seemed like they would have already done so. Indeed, *going, going, gone*; the process was cut and dried, and the property was transferred to Shirley

b. Mason would not have had to pay on this second lien herself because the house acts as collateral, not as property, ensuring that Mason is not responsible for other debts, since the *house itself* is payment; the debt from other liens does not travel to other lien holders.

Mason. She was excited though not at all surprised by the outcome. Others in the courtroom, however, were not so lucky. In the cases of many properties, the banks that owned them sat at a special table in the front of the room. When the interested party (usually the previous owner) placed a bid, the bank would raise it by as much as $10,000 (since banks won't accept below a certain preset dollar amount on such properties). In this way, banks hold properties hostage—*not* because they actually want to own the homes, but because they are waiting to be paid off. In one case, the timid and mustachioed bidder, who wore a dirty T-shirt and jeans to the courthouse, sputtered and raised the bid by $1,000. The bank, then, without pause or remorse, raised the number by yet another $10,000. The blue-collar bidder was out of cash and dejectedly took his seat—though not before the sheriff publicly mocked him for not understanding the etiquette of the courtroom.

After we left the courthouse, Mason paid the money owed to the water and sewer authority as well as the back taxes, all of which she was now responsible for as property owner. Luckily she had done a title search for all liens on the house and, other than the second mortgage (for which she was not responsible), the only debts were small ones. But "that's the reason why people don't want to buy abandoned properties," she said. "Because they don't want to pay $60,000 in water debt because of a ten-year leak. At that rate you had might as well *build* a house or buy a new one."

Mason did not get the deed to the house at the conclusion of the sheriff's sale—in addition to clearing the remaining debts, she still had to pay to get the transfer processed. In the meantime, she secured the house with solid boards, but waited two months for the deed to arrive before she began renovations. The whole process, from the first day she noticed the abandoned property to the day of the sheriff's sale, took about a year. Mason estimates that she spent about $12,500 acquiring the house:

Title search	**$275**
Lawyer's fees	**$1,000**
Assignment (Global Financial, LLC)	**$4,500**
Two years of unpaid water and taxes	**$5,000**
Cost of sheriff's sale (including deed processing)	**$1,700**
TOTAL	**$12,475**

She then spent another approximately $35,000 on renovations, including new floors, electrical, boiler, roof, and ceilings. "I could have lived in it for cheaper," she said, "but I wanted everything to be new and done right."

I asked her if it was worth it: to spend a year investigating and almost $50,000 on a house that now compels her to be accountable for maintenance and liabilities. I thought that this would be a difficult question with a complex answer; after all, I thought, there are so many factors to weigh (including the frenzied warnings about homeowning from my own mother). Instead, Mason tilted her head and without hesitation replied, "Of course it was worth it." She *had* been paying $350 a month in rent, and on a monthly basis that money was simply disappearing. Now she owns a four-bedroom house in a neighborhood where few properties are selling below $100,000. "It was stranger than a short sale," she said, "but it was worth it to do the research."

Mason explained that she was only able to have a satisfying homeowning experience as a result of behaving extra-legally. If she had followed conventional, legal channels to obtain her house, the property may have transformed into a white elephant through unexpected costs and bureaucratic hurdles. Interestingly, the same house *was* a white elephant for Robert King, just as it had become a white elephant for Global Financial. We are a nation plagued by white elephants; there are many houses that are legally owned by people who don't want them, and the people who do want them often aren't legally allowed to pursue them. By circumventing prescribed modes of house-hunting, in this jungle of mortgages and foreclosures, Mason escaped the white elephant.

"It's interesting how the government will subsidize new houses, but I don't know if there's subsidizing of preexisting properties," Mason said of the institutionalized disincentives to pass properties on to those willing to tend to them. In fact, nobody seems to pay much attention to existing properties, which might be the problem. When people stop caring about houses, the structures can quickly fall apart. What is a house, after all, but civilization's persistent attempt at fending off nature and the elements? When a structure, such as a vacant foreclosure, sits for years without maintenance, it fast becomes uninhabitable. Beyond Mason's astute explanation of why few people are interested in purchasing abandoned

buildings (because of rehab costs), after so many years of neglect, many such structures are simply beyond repair. With the foreclosure crisis only a few years old, already there are estimates in some states that half of their vacant foreclosures have been inundated by mold and mildew, and water damage is a strikingly difficult phenomenon to combat.[6] As Alan Weisman gruesomely details in *The World Without Us*, all humanity's constructs are only temporary, to be remorselessly eroded by nature at some later date—which of course, within the vast temporality of civilization, makes the struggle for permanence in homeownership seem like a silly boondoggle. But barring all existential quandaries that are bigger than the scope of this book, the mythology of homeownership is far-reaching and affects many aspects of day-to-day life in contemporary America. The principal myths include "the psychological and 'natural' desire of owning, its inherent security of tenure (and by implication the inherent insecurity of other forms of tenure) and the capital asset which is produced."[7]

Homeownership has generally been growing since 1900, when fewer than half of Americans owned their homes. By 2000, that statistic grew to two-thirds. The District of Columbia, however, has always had a less than 50 percent homeownership rate (which makes some statistical sense since it is not a state, but a city), and California reached its high-water mark for homeownership in 1960 at 58 percent. Utah is the only state where the homeownership rate has never fallen below 60 percent.[8] But this "American Dream" presentation of housing is infuriating partially because it is so unattainable and partially because so many people are still interested in it. While such upward trends of homeownership suggest that it is only "natural" for citizens to yearn to own, Jim Kemeny argues in his essay "A Critique of Homeownership" that we are merely seeing the result of social engineering based on a lack of equitable or comfortable alternatives. "This vicious circle is not at all peculiar to housing but operates in many areas where the state has been involved in providing communal facilities as an alternative to private ones. If public transport is neglected and services are poor, then most people will 'naturally' prefer to be car owners."[9]

Kemeny further outlines the disadvantages and (in certain cases) the oppression of a society that emphasizes ownership:

> Systematic discrimination in favor of homeownership…restricts real choice in housing tenure; it ossifies tenure patterns by discouraging two-way movement into and out of different forms of tenure; it stratifies housing tenure in terms of social class; and, by artificially stimulating the expansion of homeownership, it amplifies the limitations of homeownership as a form of tenure. In addition, policies to encourage homeownership are necessarily inequable…. Homeownership policies are therefore paternalistic and authoritarian, as well as being biased toward both the preferences of the rich and the interests of existing homeowners.[10]

If this is the case, then maybe *ownership* is not necessarily the key component of *homeownership*. Which would mean that the crucial element is *home,* rather than *ownership*—a notion that we've overlooked for most of our housing history. So if this is the case, how can we attain the important piece of *home* without wallowing in this muck of *ownership*?

I must admit that I am frequently seduced by the idea of buying property. When I lived in San Francisco it was never an issue I thought about since I didn't know anyone who could easily afford to even *rent* a house, much less consider buying one. But in Pittsburgh it's practically normal to buy a home, and every so often I get swept up in homeowning mania by scoping real estate listings and surfing the county assessor's website. The aspect I find most attractive about the idea of homeowning is the linked expectation of stability, not the idea of ownership itself. How romantic, it seems to me, it would be to manipulate and build out a space in whatever way I wanted—I could finally construct that secret-door bookcase that I've wanted since I was seven! In rentals I'm worried about my security deposit, and in squats I'm worried about the time investment with no guarantee of a return. In that light, an *owned* home translates to a permanent home; a home where I can act out my childhood dreams of installing a slide or fire pole to travel from the third story to the first.

As a squatter, I had grown accustomed to the fact that one day I would lose my building and that that was just the nature of squatting. Because of this, my housemates had convinced me that a perpetual state of laziness was not only acceptable, but was even practical. At any second

the cops could bang down the door, the building could burst into flames, or I could come home to find the place overrun with junkies. With this knowledge I could not reasonably go ahead with my elaborate projects, since they could be destroyed momentarily. I never expected anything to last beyond whatever day it was, but the more time that passed, the safer I felt making significant improvements to the building—despite knowing that eviction was imminent. Perhaps, by that point, being able to know at the end of it all that it had a good run was security enough for me.

The Lower East Side squatters who made their deal with UHAB, in this way, stumbled into uncommon luck. For many years, they had invested their time and energy (and money) in their spaces with zero guarantee of seeing a long-term payoff for their work, but then came to own their investments. Comic artist and illustrator Fly, for instance, has been working on her apartment at 209 E. 7th Street for twenty years. And "working on" is an understatement: The building, which was opened in 1987, was partially destroyed by a fire in 1990, thrashing the inside and disintegrating the roof. Fly and others, then, had to completely reconstruct that corner of the building. They scavenged many of the materials, often striking deals with professional construction sites to haul away their damaged materials for free. I wondered why, at that point, the squatters didn't just find another building to live in rather than rebuild this one from the bottom up. "Where else am I gonna go?" Fly said. "What else am I gonna do? I gotta fight—they can drag me out as a corpse, because I'm not leaving. My blood is in this building."[11]

In her quaint, lime green apartment, Fly now keeps boxes and boxes of photo albums of her building's history, many of them lovingly tagged with the date and the people pictured. She claimed she could spend all day showing me every photo she had collected, but the one album I saw said enough about how hard Fly worked during those first years: The roof was actually *gone*, and the top floors were gutted and gazing up at the sky. There were no walls, and in many places, no floors. Instead, squatters balanced precariously on planks laid across joists. Fly said that she almost plummeted three stories to her death one time by walking too far on a plank, and it was only a bucket of cement on the other end that saved her. With this image in mind, I could see how it took her so many years to get her apartment to its current state. Fly explained that through squatting

and homeowning she learned electrical (mostly taught by "master electrician" and squatmate Michael Shenker), masonry, and a host of other skills. There were periods of time when she would rarely leave, working on the building like a full-time job.

This is what inspired Fly's comic book "A Day in the Life of Cement-Mixing Squatter Bitches," about female squatters learning hard labor skills and not shying away from hauling bricks and laying cement when it needed to be done. (In Fly's old pictures of herself, her arms were so buff that they almost looked unreal.) I assumed that the craftsmanship in her apartment was professional-looking because it was legally required as a condition of the UHAB deal—after all, a downside to owning legally is being compelled to follow the rules. But the squatters at 209 built everything up to code even *before* UHAB was in the picture. This is completely contradictory to the earlier analysis of my own experience squatting, when doing things right seemed like a waste of time. "We could be evicted at any time, but we were looking toward a future," Fly said, though she admitted that she never thought she would be in the same place twenty years later.

I asked her how long it took to finish. She blankly replied, "It's *not* finished." When I asked if it was all worth it, she looked at me like I had two heads. "That's an understatement," she said. "You don't put a value on that. That's like at the end of your life saying, 'Was it worth it?'"

Fly's ownership experience—despite being active in the physical development and maintenance of the building—is different from other ownership experiences, because (a) she never expected to own in the first place, (b) the building is cooperatively managed, and (c) the residents technically still don't own the building yet—UHAB does. While Fly can't speak to the traditional mode of house hunting, nor the dominant experience of sole proprietorship, I think that her disregard for the stability associated with ownership is driving at the right idea. Fly's experience *transcends* ownership. Because she veritably *constructed* her building, and with no guarantee that she wouldn't be evicted the next day, Fly's investment exists on a whole other plane than most homeowners. This emphasis on physical and emotional investment is key to ethical homeowning: To Fly, being a legal owner or an extralegal squatter mattered little in her attitude toward the building, which she treated the same with or without

title. Because of this approach, Fly has also successfully outrun the white elephants of homeownership.

But Fly had something else that made her experience unique and that, frankly, made her experience easier: She was working with a committed group of people who supported each other throughout the grueling and outrageous process of rebuilding and renovation. Because most homeowners don't have access to such a support network, they can be left to feel overwhelmed and alienated in their own homes. In the next chapter we will look at alternative forms of ownership, such as cooperatives and land trusts, that make homeownership more realistic for more people, that negate the sweat equity stigma of "small-scale self-exploitation," and that bravely fly in the face of a white-elephant nation.[12]

CHAPTER SEVEN

Equitable Living without Equity: Housing Cooperatives and Land Trusts

"The only thing that will redeem mankind is cooperation."
—Bertrand Russell

From ages four to eighteen I lived in what I perceived to be a terribly ordinary suburb, full of terribly ordinary people. I was certain that my parents were ordinary (though I simultaneously believed that they were certifiably nuts), and my high-school experience was similarly ordinary (though I tried as hard as I could to stir things up by wearing wide-leg jeans and circulating a four-page underground "newspaper" full of my personal incendiary opinions). Most relevant to this book, I lived in an ordinary house that my parents bought with a mortgage in 1988—and which later became the sole responsibility of my mom when my parents announced their divorce in 1993.

Little did I fully comprehend at the time, my "ordinary" parents had entered into a rather extra-ordinary living situation only a few years prior: a housing cooperative! In 1983, my parents and two other couples collectively bought a three-story house, which they divided into three apartments; we lived on the third floor and my best friend Emily and her family lived on the first floor. My adolescent idea that my whole existence had been oh-so-conventional completely overlooked that my (mostly forgotten) rug-rat years were quite unconventional, living as we did in an unfinished attic apartment owned cooperatively by six people (including, conveniently, my childhood best friend's parents).

Even if my conscious memories of this place are mostly lost to the sands of time, this experience might explain something about my life today. During college and beyond, I lived in a handful of housing cooperatives—including, but not limited to, a circus warehouse with eighteen other people (counting clowns). Most of these co-ops in the Bay Area involved no collective ownership of *property* (since property ownership in the Bay was restricted to the very wealthy and speculators), instead,

merely collective living practices. All food and chores were shared—which might sound like a lot of work, but with such tasks divided among so many people, I only had to go grocery shopping once a month and cook dinner roughly twice a month. The division of labor and resources was more economical, practical, and convenient than living alone, and we each seemed to be worth more than the sum of our rents.

The notion could be transposed over property as an ownership model, too, I thought. After all, if my parents could do it in the '80s, there was no reason why such an experiment couldn't work now among a handful of dedicated idealists such as myself. This is something like what Mac was probably thinking in 2006 when he bought a gutted $36,000 four-story historic Georgian townhouse in Pittsburgh, Pennsylvania. Having moved from New York City (where he experienced similar housing co-ops to the ones I lived in on the opposite coast), he intended to buy a cheap house, find five or so other people to buy into it, and together fix it up in happy co-op fashion. When I moved in at the end of 2009, however, the cavernous building was still mostly vacant. There were more rooms filled with junk, accumulated over the previous three years, than there were roommates; there was no sink in the bathroom; and one whole room was sealed off from the rest of the house because it had been colonized by pigeons through a hole in the roof.

Needless to say, Mac had not found people to buy shares. A few here and there would spontaneously agree to the buy-in, but they always jumped ship—and with much ease since no binding paperwork was tying them to the house. Mac couldn't understand why no one wanted to take him up on the deal: It cost only $6,000 for an ownership stake in the house. But he wanted the $6,000 in one lump sum, which, for the kind of people who are willing to live in and renovate an unfinished house, is almost always more than they can afford. The closest he got to realizing his dream of a fully cooperatively owned house was in spring 2011 when three of us had agreed to the buy-in, though we were all still saving up.

Over the years of waiting for cooperators to materialize, however, the roof developed serious problems, causing leaks in at least four places (enough to fill small buckets when it rained). Even if we could have all saved enough money to buy our shares of a broken house, none of us would have had enough cash on hand to pay for the roof repairs.

Finally, depressed and disillusioned, Mac decided to put the house on the market.

Most of this book, in fact, I have been writing from within the walls of Mac's dead dream house. I write to you from inside the room that I built, listening to the rain drop into a bucket the next room over. Though it was never technically a squat, in some ways it always kind of felt like one.

The house's demise was not a failure of the cooperative model—rather, it came about because of a failure to *develop* a cooperative model in the first place. When the stress and burden of a property falls onto a sole owner, it seems downright inevitable that it will be abandoned, spiral into foreclosure, or just collapse on itself when that person gets overwhelmed. This could explain why so many were afflicted during the late 2000s mortgage crisis: Without the combined energies and capital of a group of people to ground a property, individuals are freely tossed about in the waves of the market. Of those seeking security in their home purchase, many are then disappointed by the reality that homeowning itself can be a struggle. But ownership, in this case, is not the problem. Instead, it is the ownership *model* that dictates the true sustainability (and equitability) of a space. There are different frameworks and methods for housing cooperatives, including some condominium-style cooperatives, but here I'd like to discuss "limited equity" and "zero equity" co-ops as channels to maintaining accessibility and long-term affordability.

The benefits of collective ownership are numerous and include monthly operating costs 15–25 percent below rental-market rates, tax deductions, accumulated equity, limited liability and zero personal liability, community building, tenure security, and overall savings due to shared costs such as building improvements. Usually co-op members make monthly payments to the cooperative for their pro-rata share of actual operating costs, blanket debt principal and interest, property taxes, insurance, and reserves. Some housing co-ops share common spaces such as a communal kitchen, and in some cases individual units comprise the cooperatively owned property (such as an apartment building). Cooperatives decide how to distribute responsibility for dwelling-unit maintenance and repair between individual members and the cooperative as a whole. Many limited-equity cooperatives

assume most or all responsibility for dwelling-unit maintenance and repair, as a way of balancing and reducing costs to their members.[1]

Co-ops can be structured in a couple different ways. The way my parents did it (which they don't particularly recommend) was to simply have six people on the title to the house. This can get messy when removing names or adding new ones, which costs money and can make co-owners feel trapped. A way around this is to incorporate as either a legal Cooperative or as an LLC (Limited Liability Corporation). This corporate entity then acts as a buffer between co-op members and direct ownership. The corporation technically owns the property, and the walls of the corporation are permeable for easy joining and easy retreat.

Which type of corporation you choose may depend on the state you are in since some states have better co-op laws than others. Massachusetts, for instance, is known for having the best cooperative statutes in the country, basing them on the Mondragón co-op model in Spain. Other New England states then based their co-op law on that of Massachusetts. Some states, such as Pennsylvania (which I can speak to from direct, frustrating experience), give cooperatives their own corporation type but limit them to non-profits only, or just make the process too baffling to understand. Most lawyers, meanwhile, are unfamiliar with co-op law, and are eager to claim that there is no such thing to avoid learning law outside their specialization. If you are interested in legally structuring as a cooperative, seek out local co-op advocacy or co-op development groups for help. It is also possible to incorporate in another state (for big corporations this is often referred to as the Delaware Loophole), but if your state does not offer the cooperative option for incorporation or if you don't like the looks of it, you can also incorporate as an LLC (or the newer B Corp), a simpler type of corporation. An LLC is a better choice than a Partnership or Sole Proprietorship since it offers protection in the form of limited liability. Liability protection is often why informal groups incorporate in the first place; without incorporation, everyone in that group can be held individually liable if someone is hurt on the property or in the event of other damages at the hands of the organization.

Tom Pierson, executive director of the North American Students of Cooperation (NASCO), has seen groups use a broad range of approaches in their incorporation phase. "Sometimes they use a cooperative law in

their state, and other times it's a non-profit or 'association' law," he said. "LLCs and other structures pop up here and there, too, as do Sole Proprietorship and Partnership—but with those options the likelihood of the group ever becoming a legit cooperative quickly approaches zero."[2]

To make matters more complicated, in addition to incorporation, there is also tax designation to consider. One of two tax statuses is often pursued: the first being 501(c)3 federal exemption under "affordable housing"—by incorporating under a state non-profit law and then pursuing federal recognition of that tax status. The other approach is to use a cooperative corporation at the state level and seek to use the section 216 tax deduction.[3] Even if a cooperative is unable to get 501(c)3 non-profit status, the group can still claim *not-for-profit* status, which is different and less recognized. The not-for-profit's location determines its level of tax benefit, since property tax rates vary by region, and some municipalities require not-for-profits to pay some or all property taxes despite their exemption status. That said, there are some not-for-profit cooperatives that also are ineligible for the 216 exemption, since not-for-profits are less vetted and less official than proper non-profits.

"It is actually my understanding that, in some cases, a discretionary Committee hears appeals from [not-for-profits] to become exempt from property taxes," said Emily Lippold Cheney, also of NASCO. "From my research a few years ago, these places seem to be in more rural areas (e.g. Indiana) where churches and homesteads get automatic or nearly automatic exemptions. Depending upon property costs and tax rates, the award of an exemption can make or break a lot of cooperative living situations."[4]

She also mentioned that where many collective living situations have trouble being awarded non-profit status, some have succeeded in getting a 501(c)3 determination under the religious schedule, the religious distinction being met under 501d. According to Cheney, this claim is sometimes easier to see through to approval, as it hinges only on proof of some level of communal spirituality.

Obviously, an organized group of people can function as a cooperative without legally incorporating as one, but, again, as long as that group remains unincorporated, every person involved retains legal liability. Beyond legal protections, incorporating as a cooperative makes everyone involved feel safer about the investment, since not only is the asset equally

distributed among members, but so is the responsibility. Further benefits include democratic (and often consensus-based) governance, and cooperative decision making and approval of new members. In this way, the group is able to directly determine the course of their social as well as physical environment. To be rewarded with this sense of collective agency, burgeoning co-ops must simply adhere to the seven principles of cooperatives:

1. Voluntary and Open Membership

   Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership without gender, social, racial, political, or religious discrimination.

2. Democratic Member Control

   Cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary cooperatives, members have equal voting rights (one member, one vote), and cooperatives at other levels are also organized in a democratic manner.

3. Member Economic Participation

   Members contribute equitably to, and control democratically, the capital of their cooperative. At least part of that capital is usually the common property of the cooperative. Members allocate surpluses to any of the following purposes: developing their cooperative, possibly by setting up reserves, part of which would be indivisible; benefiting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.

4. Autonomy and Independence

   Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy.

5. Education, Training, and Information

> Cooperatives provide education and training for their members…so they can contribute effectively to the development of their cooperatives. They inform the general public—particularly young people and opinion leaders—about the nature and benefits of cooperation.
>
> 6. Cooperation among Cooperatives
>
> Cooperatives provide the most effective service to their members and strengthen the cooperative movement by working together through local, national, and international structures.
>
> 7. Concern for Community
>
> Cooperatives work for the sustainable development of their communities through policies approved by their members.[5]

Because a housing cooperative is a self-governing entity, individual co-ops can determine the specifics of governance and financing for themselves. That said, not all housing co-ops utilize the same operating procedures.

The Bread and Roses Collective, for example, is an anarchist housing co-op in Syracuse, New York, that began as traditional student housing. Gradually, residents formed a cooperative cohesion through collective decision-making, shared responsibilities, and the desire for a more communal environment. In 2001, the owner of the house asked the group if they would like to buy it. The anarchist and activist residents took the offer, excited to try an experiment that might drive at their ideals of equitable and affordable housing. They spent the next three years developing their bylaws, defining a legal structure, and hammering out the logistics of collective ownership, and in 2004, the Bread and Roses Collective bought their home.

The cost of living includes a base rent, which is determined by adding up all operational expenses such as mortgage, bills, taxes, insurance, and payments into a maintenance reserve. The sum is then divided by the minimum number of residents that the house should reasonably hold (five). That number is the base rent. When more than five people are living at the house (there are usually eight, and sometimes more), the additional residents pay the same base rent, and the extra money goes toward paying down their mortgage principal faster. Co-op members who earn more money contribute more for rent: those who would pay less than

25 percent of their income to rent contribute approximately $20 extra a month for each additional $5,000 earned annually. This money goes into a supplemental fund for maintenance or house savings. "Thus, everyone bears a proportionate responsibility for the costs of the house while not developing an unequal share," Steve Penn and Richard Vallejo wrote in an article about their home in *The Nor'easter*. The goal is "for Bread and Roses to be an affordable place to live for activists while also being sustainable." Overall, by combining expenses, each co-op member lives significantly cheaper than their surrounding neighbors.[6]

Bread and Roses is a zero-equity cooperative, meaning that payments into the co-op can never be paid out again, as shares are never sold. Residents pay into the cooperative every month, and that money is considered an investment in community. Even after the mortgage is paid off, future residents will continue to pay the established base rent, partially to be fair to past residents and partially to meet the co-op's commitment to community building, as that money will go into a community development fund for outside projects. If the house is ever sold, the money from the sale will be distributed similarly.

During the interview process, the co-op intentionally selects candidates who are excited by the vision and can commit to living at the house for at least a year, making them more likely to be a motivated member. This keeps turnover low and improves the long-term sustainability of the project. Residents who stay for a year or more are offered "permanent resident" status, so even after they move on, they are still consulted about big-ticket decisions such as buying additional property with co-op funds.

Richard Vallejo joined Bread and Roses in 2008, about the same time that the group decided to purchase the house and unused land on the vacant lot behind their property, with the intention of doubling the co-op's capacity while becoming accessible to families with children and people with mobility issues. But taking on this much property cooperatively is a challenge and unfamiliar territory to radicals, low-income people, and even lawyers. "Trying to be a bunch of anarchists owning property—" Vallejo said, "it's a lot to figure out."[7]

Vallejo is talking about the murky specifics of legal ownership structure and tax designation. For example, Bread and Roses is a Type C

(Educational) Not-for-Profit Corporation[a] in New York State, but is not a non-profit at the state level because, in order for that tax status, Vallejo claims that 51 percent of the board of directors would have to be non-residents—though Pierson argues "that is hogwash, often perpetuated by fear-mongering lawyers and their ilk." Because the group was not interested in having non-residents act as their governing body, the co-op sidestepped this designation, which, according to Vallejo, resulted in all co-op members being doubly taxed.

Because the process and the structuring are so convoluted, it sometimes seems impossible to legally be a cooperative, as many mechanisms of homeowning are designed to benefit the individual. According to Pierson,

> I've seen many collective houses that seek to obtain personal home-owner mortgage rates, rather than the higher commercial mortgage interest rate, by transitioning their house to individual ownership...and stating the intention that this is a temporary process that will eventually be surrendered by the sponsoring individual who is technically the home owner. This doesn't work... or at least I've never seen it work in practice. Instead, the power dynamics poison the house culture or the long term home-owner person doesn't follow through with their end of the bargain, or some other factor sabotages their success. In my opinion this route is a trap for small groups who are looking to get a decent interest rate in a mortgage marketplace that is geared toward the individual homeowner and against group living/ownership.

a. According to Emily Lippold Cheney of NASCO, "The incorporation process for the [not-for-profit] status is pretty simple, but time consuming: Author articles of incorporation, file them with the state for a pretty minimal fee, you then have 27 months max (with the filing of an extension request) to submit the dreaded Form 1023 to the IRS... You will also get an Employer Identification Number for a small fee before turning that in, as well. To be a cooperative as most folks in our community would understand it, additional corporate documents are required (e.g. bylaws, house constitutions, general charters, etc.). The Form 1023 is a bear of a document—it's where a lot of groups will get stuck with the formalization process, but not necessarily cause them to stop operations." Personal correspondence, Dec. 17, 2011.

"If we could, we'd like to not have to think about those things [legal statuses, etc.]," Vallejo said of Bread and Roses. "Laws in New York and in the U.S. in general are not very welcoming or conducive to collective ownership. It's been a hurdle."

Vallejo explained that such discussions are only in terms of the formal co-op entity, but, he maintained, members spend much more time focusing on the *informal* entity instead. They have a meeting once a month (down from two or three) and have divided into committees to prevent individuals from getting overwhelmed by house responsibilities. For Vallejo, the informal entity—the community aspect of cooperative living—makes the hard parts worth it.

> It's impossible for me to own something on my own, and that's the case for everyone living here. It's better than renting from a landlord. It gives you a level of autonomy, but with that comes responsibility—and you need to accept that in order to be okay with living in most co-ops. You can't just let the landlord know that something broke and expect him to fix it…. Having more people makes it easier. We have to coordinate, which takes time, but none of us have to do it alone. It's difficult in our society to learn to do things collectively because we didn't grow up that way. Autonomy doesn't mean you can come in here and do whatever you want; it's about individual and personal responsibility and collective responsibility.

I asked Vallejo how long he intended to stay at Bread and Roses. "I can't imagine where else I'd want to live," he responded. "At times I've gotten frustrated, feeling like it was too much, but any time I've at all entertained the notion of moving out, I think *where the fuck else would I want to live*?"

As Bread and Roses was incorporating in New York in 2003, a non-profit housing cooperative called Cooperative Roots was forming on the other side of the country, in Berkeley, California. There, a group of UC Berkeley grads with post-graduate energy organized with a mission to provide low-income housing for people who want to live collectively. Most of

these early-twenties idealists had lived together in student co-op housing and wanted to carry the torch beyond university life. With the privileges of time and financial support, the group got a loan from the Parker Street Foundation—otherwise known as aging Bay Area hippie Jack Sawyer. The group immediately used the money to buy a distressed two-story house in South Berkeley that they later dubbed Fort Awesome. Interestingly, this house was one of the half-dozen or so that local eccentric Sennet Williams (a.k.a. "Sand") had bought in the '90s with settlement money and some vague intentions of launching a bohemian colony, but that he later lost through bankruptcy. (Hellarity House was another of Sand's old houses.)

The ambitious group then raised the house to insert another first floor (transforming it into a three-story structure) and essentially camped upstairs during renovations, which lasted several years. The group had momentum; they had several meetings weekly, they were motivated, and they all had time to give to the project. Under the influence of all this productive energy, the core group then decided to buy the house next door (also previously owned by Sand), with more Parker Street Foundation money, when it went to auction in 2005. The second house, the one-story little sister of Fort Awesome, became known as Fort Radical.

Around the same time, a nearby house on Acton Street was evicted, and with the purchase of Fort Radical, folks like Daniel Sheridan were able to migrate with ease into this new living arrangement. When I first talked to Sheridan about the situation in 2005, he excitedly explained to me the logistics of cooperative ownership. Both houses were owned by the entity Cooperative Roots, and by moving into a room in either house, a new resident automatically became a member of Cooperative Roots and subsequently a co-owner. But at Cooperative Roots, also a zero-equity co-op, an owner really only works toward ownership of their "share," which is essentially just their bedroom. A resident then pays into the room's equity each month, but because residents can never take that money out again, the whole setup is kind of a modified form of renting. The ultimate intention of the group was to be an umbrella organization and conduit for neighborhood people interested in keeping their housing affordable through cooperative means. For example, if a neighbor

were in peril of losing her house because of unmanageable payments, she would have the option to sell it to Cooperative Roots while continuing to live in it as a member of the cooperative.

This sounded like a stellar solution to unaffordable Bay Area housing, so I was disappointed then when I checked in with him six years later to learn that no such community resource ever materialized. In fact, once both Fort Awesome and Fort Radical became livable, the co-op lost the momentum that afforded it two houses. Many original members had moved on, and many of the remaining members weren't around for the toughest growth spurts of the organization and had trouble appreciating the uniqueness of their situation. Fort Radical still needs some semi-major rehabilitation, including mold remediation, but everyone seems to be too busy working in order to pay rent, leaving them with little time or energy for additional labor.

Sheridan explained that the zero-equity format has the potential to exhaust residents: "If we hold no stake in it, then why should we keep it nice? If we were a landlord we would not be a good landlord to ourselves." Further, regular house meetings have fallen by the wayside, he said, which results in only meeting in crisis mode when there is an urgent issue to discuss. "When you collectively make decisions with ten other people, there's only so much of yourself you can put into your space. Three or four people maybe, but trying to get ten people in a room together is like pulling teeth."[8]

Sheridan attributes this behavior to people, especially low-income people, not feeling ownership over most other aspects of their lives. He also attributes it to the high-turnover rate of Bay Area residents. With a heavy influx of students and travelers, it is difficult to keep a steady co-op roster (one reason why a co-op without equity seems impractical), and when people are in and out so quickly, they tend to dismiss investment in the space and neglect personal responsibility.

"Have I been sounding negative?" Sheridan asks me after a pause.

"Uh…I mean…" I was not sure what to say, since it was all sounding like a pretty problematic arrangement. Having explored the personalized nooks and crannies of Fort Radical myself and been admittedly seduced by the romance of Bay Area homeownership, I was indeed startled by Sheridan's description of his living circumstances.

But he quickly back-pedaled on his comments, clarifying that those are just the down sides and that there are—obviously—amazing advantages, since so many people choose to live there. "We live in sub-par housing conditions because we believe that this place can be cool. Even in a collective house with a landlord you are limited in the things you can do." He explained that because they own their house, Fort Radical can have a grey water system. Also, they qualify for a free low-income house-painting/lead-abatement program through the city (they painted the outside red and black). They can divide up rooms however they choose. They have more housing security. They decide their own rent increases. If they are late on rent, they are accountable to their peers rather than to an outside authority. And the benefit to being a cooperative within a cooperative (Fort Radical within Cooperative Roots) is that when Fort Radical needed to fix its roof but didn't have enough money, they were able to access the general fund, drawing financial support from the larger co-op.

A few days later, in fact, Sheridan forwarded me a lengthy e-mail from one of the residents excitedly detailing a proposed plan for mold remediation. "Looks like people are actually excited about doing this and gonna make it happen," he wrote to me. "I guess people do feel invested enough."[9]

I asked Sheridan what the incentive is to stay at Cooperative Roots. "I want to be part of something cool," he said. "And I hate the idea of a bank or landlord making money off me. Plus, when it's finished it'll be badass."

Bread and Roses and Cooperative Roots both use zero-equity cooperative models, which resemble homeownership in decision-making only, while economically resembling renting. Other co-ops use a limited equity model, which allows for some return on investment, while maintaining affordability of shares and preventing the wholesale cashing in on a property.

As a simplified illustration of this model, let's say you and a group of seven friends want to buy a really cheap house (in, say, Cleveland). The house costs $40,000 but requires an estimated $8,000 in immediate renovations, which brings the house to a new value of $48,000. Divided into eight shares, each share is worth $6,000.

Supposing you and your friends are able to secure interest-free financing somewhere[b] (Bread and Roses was able to get a loan from a progressive credit union in 2004, but that was before the financial meltdown; Cooperative Roots happened to be on good terms with a wealthy and benevolent idealist), perhaps you would each contribute $2,000 as your base buy-in, half of which would go into a renovation fund for the immediate renovations and half of which would go to your mortgagor as a 20 percent down payment ($8,000 down on a $40,000 house). Perhaps then each resident would pay $100 into equity every month—that is, $100 toward paying off the mortgage. Each resident might also pay $50 toward utilities, $50 toward house goods and future renovations, and $50 toward buyouts. Total "rent" per month would be a flat rate of $250 (which, in a place like Cleveland, is reasonable). Any extra money would also go into the house's fund for future renovations.

In this limited equity co-op, if a resident moves out, she might receive the $2,000 down payment—which would be replenished by the replacement resident—plus 10 percent of the total equity of her share ($4,000/10 = $400) per year residing at the house, paid from the buyout fund. (The value of the share is marked at only $4,000 because, while a resident would actually work toward $6,000 equity, $2,000 of that is always tied up in individual deposits, not in the buyout fund.) Residents would have to commit at least one year to the project in order to expect any money back, since the buyout fund must mature in order to be able to pay out. Further, as time passes, the buyout fund will continue to grow exponentially as new residents start their equity process—which, even after the mortgage is paid off, will remain consistent with the founders' equity process.

The buyout fund is replenished when the replacement resident begins monthly payments into the fund. The total individual equity achievable is $4,000, which is reached after three and a third years (forty months). A *buyout* at $4,000, however, is only reached after residing at the house for ten years. The additional money paid beyond the value of the share is considered an investment in community, but the limited buyouts provide incentive for longer tenure and enhanced commitment to the space and to the project. In other words, for residents, *real* rent would be $50, as half

b. For simplicity's sake, in this example.

of the $100 paid per month into equity would ultimately be returned in a buyout scenario. While the 50 percent return on the investment may seem small, this scenario saves residents cash in the long-term when compared to the 100 percent that is lost when renting.

After three and a third years, a resident would have paid off her portion of the mortgage, meaning that after three and a third years, that resident stops making payments toward equity (though payments for other living expenses continue). By the tenth year of living at the co-op, all residents (supposing there was no turnover) would have paid enough into the buyout fund to be able to buy themselves out entirely while still maintaining the asset of the house, which is worth the equivalent of the buyout. In this way, the house is a bank, and the buyout fund serves as flex money for the house to buy and sell shares when a resident needs to leave, which reduces personal liability for that share.[c]

To illustrate, if a resident stays for one year, she would receive a $400 buyout. If she stays for five years, she would receive a $2,000 buyout—half of the $4,000 that she cumulatively paid into rent. If she stays for ten years, she would receive the full $4,000 worth of the share—the same amount that she would have cumulatively spent on rent, since equity payments would have stopped after three and a third years. This reduced cost of living after three and a third years is incentive to stay with the co-op. The downpayment acts as a deposit to show initial investment and commitment, and the payouts from the buyout fund act as incentive to stay with the project for longer. (See below for a financial projection table.)

With incentive to stay in the co-op for as long as possible, the only question that is left is how long you want to stay in *Cleveland*.[d]

As Sheridan pointed out, even equitable models are not without their pitfalls. For instance, he seemed bewildered that the justification for laziness didn't disappear with ownership of their house. Roommates still forget to do their dishes, and major problems like holes in the walls continue

c. In the event of a complete liquidation (that is, the house is sold), the co-op can decide whether and how to disperse the money among current and former residents. That money could also constitutionally be earmarked for further cooperative development in the community, since in theory everyone will have already been paid out for their investment.

d. Just kidding, Cleveland.

Financial Projection Table for Co-op Housing

Home Cost	$40,000									
Repair Cost	$8,000									
Year	Rent	Rent (cum)	Fund	Fund (cum)	Total	Total (cum)	Mortgage Remaining (total – rent X 8)	Buyout	Total Fund (X8)	
Down	$2,000	-	-	-		-	$32,000	0	-	
1	$1,200	$1,200	$600	$600	$1,800	$1,800	$22,400	$400	$4,800	$4,800
2	$1,200	$2,400	$600	$1,200	$1,800	$3,600	$12,800	$800	$9,600	$9,600
3	$1,200	$3,600	$600	$1,800	$1,800	$5,400	$3,200	$1,200	$14,400	$13,200
4	$400	$4,000	$600	$2,400	$1,000	$6,400	0	$1,600	$19,200	$16,400
5	0	$4,000	$600	$3,000	$600	$7,000	0	$2,000	$24,000	$19,200
6	0	$4,000	$600	$3,600	$600	$7,600	0	$2,400	$28,800	$21,600
7	0	$4,000	$600	$4,200	$600	$8,200	0	$2,800	$33,600	$23,600
8	0	$4,000	$600	$4,800	$600	$8,800	0	$3,200	$38,400	$25,200
9	0	$4,000	$600	$5,400	$600	$9,400	0	$3,600	$43,200	$26,400
10	0	$4,000	$600	$6,000	$600	$10,000	0	$4,000	$48,000	$27,200
11	0	$4,000	$200	$6,200	$200	$10,200				
12	0	$4,000	$200	$6,400	$200	$10,400				

← If one original member moved out every year starting at year 3, the total fund would increase as such.

Notes: a) Must live at least one year in the house to qualify for buyout. b) Each new person must pay a $2,000 buy-in downpayment. c) Downpayment of $2,000 is recovered when spot is replaced or house is sold. d) Total fund is considering no one is bought out.

to be ignored and blissfully put off for another day. Sheridan does admit, however, that when I originally talked to him, Fort Radical was

> going through a time of being short on finances and so all "land-lordy" type of work being done on the house was purely on a DIY volunteer basis, whereas before, people within the house who did structural improvements and "land-lordy" stuff would get rent credit or money for their sweat equity. So at that time, very little was being done or even talked about being done. Now a-days because of the motivation to get emergency mold remediation done, there is money enough to pay people from inside and outside the house to do structural work thanks to Cooperative Roots' capital improvements fund. For the folks who live here, it means more motivation to contribute time and energy if they know there is more give and take and living conditions will improve for all. As we speak, a contractor is putting in new hardwood bamboo flooring into two bedrooms. Soon he will be fixing the bathroom ceiling and some minor plumbing repairs.... It's interesting that I think you really caught me at a low point in all the six years I've lived here during that interview, but there are always ups and downs.[10]

Where Sheridan's co-operators struggled to feel a strong stake in their house, Howard Brandstein, a homesteading organizer and Director of the Sixth Street Community Center in New York City, confesses that the people in *his* cooperative building might feel too *strong* of a stake, echoing a more traditional ownership model: They "seem reluctant to allow new people moving in to become members; they want to be landlords, even though we're collective landlords at this point, and the people moving in become tenants, so we end up in a two-class kind of system…. Over time as people move out, the remaining members do not allow new people to share in the decision-making and membership…. We don't want to re-create the same conditions that we're confronting today ten and twenty years from now."[11]

Brandstein's final sentiments are worth echoing: Cooperatives, which seek to create affordable, community-based housing, would be

remiss not to ensure that down the road the hard work of its members doesn't transmogrify into a specter of the system that it is meant to challenge. Preventing such a perversion is the mission of Community Land Trusts (CLTs), a larger form of cooperative.

A Community Land Trust (not to be confused with private or corporate land trusts) is a non-profit legal entity similar to a corporation, created for a cooperative, which owns a piece of land in perpetuity for specific, designated purposes. These purposes necessarily align with and reflect community needs and wishes (such as affordable housing, cooperative businesses, or environmental preservation), as only members of that community can serve on the board of directors, and for limited terms so that the broader community can more completely retain control of the trust. The trust then leases its land (sometimes as a long-term or lifetime lease) to community members for the approved purposes—but the unique thing about a CLT is that it only owns and leases the *land*. That said, it is possible to privately own a house *on top of* CLT land, the structure being owned and the land beneath it being leased. Such a structure would not be subject to the whims of the real estate market and would instead accumulate equity through *use* value. As eloquently described by the Institute for Community Economics in *The Community Land Trust Handbook*, "No seller will profit from unearned increases in market value, and no buyer will be priced out of the market by such increases."[12]

This arrangement necessarily eliminates the property-as-commodity paradigm, permitting only equity built through improvements to the property, and is never affected by external factors since the land has been removed from the market and all its volatility. In this way, CLTs are perhaps the most democratic form of property owning, rendering absentee ownership and land monopolies impossible. Even gentrification becomes obsolete when the community members involved are able to directly control the development of the land, vetoing projects that decrease affordability or otherwise violate the CLT's mission. The land remains accessible to the people who live on it, in ways that most patterns of landownership forbid. And because this land is held by the trust in *perpetuity*, it can legally never return to the market or be used for any other purposes.

> The community's claim to this equity rests on two principles: that the inherent value of the land is not of human creation and thus cannot rightfully be regarded as personal income for any individual, and that the appreciated value of the land (as opposed to the value of improvement made to the land) is the result of the activity and efforts of individuals, organizations, and public agencies throughout the community, and economic forces outside the community.[13]

The core assumption of community land trusts is that caring for a place should not necessitate owning it. This concept of *stewardship* is strongly advocated in the CLT world, and it makes sense, even beyond CLT life. Ownership, as a mad-grab mechanism for hoarding properties, is a primitive (and rather unbecoming) outlook. Squatting can be a fantastic example of stewardship without ownership: Each day, squatters wake up to tend and mend properties that are technically owned by someone else, *stewarding* their environment in the absence of any other caretaker. In this way, squatting is more philosophically *reasonable* than owning, since owning doesn't necessarily require stewardship of the property; whereas, squatting emphasizes caretaking, though it never requires formal title.

When we talk about ownership, perhaps we would do better to discuss stewardship instead, rewriting market value in terms of use value, and rewriting claim in terms of willingness to care for a space. If we eliminated all forms of ownership that don't include stewardship, there would simply be no room for unjust phenomena like slumlording and monopolies.

Community Land Trusts are called such because they en*trust* communities to care for themselves, together. That trust is what is missing from today's housing policy. Governments, corporations, and developers don't trust communities—particularly poor communities—with self-determination, and instead unconsensually compel citizens to live with a manufactured set of discriminatory ownership assumptions. Within these assumptions, alternatives seem impossible. But, say the whole world were composed of community land trusts—perhaps then we'd not only be better stewards of our properties, but also of each other.

CHAPTER EIGHT

The Stories of Spaces: Urban Planning and the Wonder of Used Places

"It's energizing to live in a place that believes that its best days are ahead of it, and I certainly feel and revel in that. But without reconciling with the real history of this place and developing a genuine understanding of what we are building on—and who we are standing beside—that optimism and energy is going to be facile and hollow."

—Matt Hern, *Common Ground in a Liquid City*

A pal and I were recently admiring the river from an abandoned capsized boat that had washed ashore many decades ago. This seemingly forgotten vessel is actually, evidently, a popular hangout spot in Pittsburgh—the unfeeling metallic beast is covered in graffiti with messages ranging from "up the punx" to "I had mad sex here." The boat appears to have been anchored to a nearby tree, at one time, with a thick, braided dock line. When I pointed this out to my friend, we then noticed that the rope had been tied there for *so* long that the tree had grown into it and had now almost completely subsumed it. It was at that moment I realized that I knew more about the history of both the boat and the tree (and, I suppose, the dock line) than I knew about anything at the *active* marina a quarter of a mile up the river. I wasn't just seeing the tree and the boat at one point in time (now), I was seeing it over a *period* of time, and on that intangible timeline unfolded the histories of the pieces of my present. I suddenly also knew about all the people who had sat on this discarded watercraft before me, through their written messages scrawled across the boat's patina. In this way, I can say that Pittsburgh is a city with a history.

Of course, *all* cities have histories, and all *places* have histories. But some places only tell their stories in rustles and murmurs. In Rustbelt cities such as Pittsburgh, however, striking messages are left behind in

sites of disrepair such as crooked sidewalks, derelict houses, and even this capsized boat.

Once, in Boston, I noticed two city workers jovially repainting by hand the yellow "no parking" line on a curb. While a city like Boston can evidently afford to hire and pay *two* people to hand-repaint a singular yellow line, a city like Pittsburgh is hard-pressed even to pick up its residents' recycling. Because of the stark differences in the strengths of each city's economy, a municipality like Boston—that technically has more history than most other urban areas in the country—can *afford* to display only a singular moment of its story (that moment being the current one) by paving over all of its sordid past. This, of course, sounds ridiculous because probably the bulk of the city's structures are considered historical, but none of the "historical" edifices appear aged since they are maintained so meticulously. In Pittsburgh, buildings are dilapidated, roads have potholes, and there is rarely funding for any two people to hand-paint lines on the streets the way that Boston does. While the strapped public works department is certainly an *inconvenience* to many, there is no doubt that its negligence at least allows for the city to express its stories more visually. All of which explains why no one ever moved this capsized riverboat from which my friend and I wondrously contemplated the recent past.

I had always thought that people like me[a] were interested in places like Pittsburgh[b] because people like me[c] are infatuated with the post-industrial landscape motif or because we cannot let go of the idea of a pending apocalypse or because we inexplicably like broken things better than working ones. But as I gazed at the place where that tree had digested that thick old rope, transforming it into one expressive object, I understood that we love those places because they tell us a *story*. It is for the same reason that squatting is, if nothing else, more *entertaining* than renting: rather than settling into a white-walled blank space, squatters daily uncover the stories of their houses and the stories of the people who lived there before them.

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a. People who might live in abandoned buildings.

b. Places with abandoned buildings.

c. People who write books about abandoned buildings.

Recently, some friends began squatting a house that was abandoned as late as 1997. This house is different from many other squatted houses because the structure is in surprisingly good condition and because the previous residents are likely still alive. The attic was noticeably a kids' room, and I was, for all intents and purposes, also a kid in 1997—meaning that, mind-bogglingly, whoever grew up in that house is likely to be roughly the same age as I am. They had left behind all kinds of ephemera that I recognized from my own childhood: Teenage Mutant Ninja Turtles posters, Trapper Keepers, Lisa Frank school supplies. We even found a photo of a kid with a stupid '90s haircut on a Big Wheel in front of that same house in 1993. These people were beginning to feel real to me—after all, I was touching all their stuff—which of course begged the question of why they ran away from the house in the first place. The dwelling was almost in the state of the eerily empty domicile of an apocalyptic sci-fi movie, where the breakfast table is set and the eggs and toast are still waiting to be consumed, but all the humans have mysteriously evaporated. In that same vein, this family had even forgotten its laundry in the dryer. What would possibly prompt these people to make such a slapdash departure from their home of almost two decades? These are the questions never asked and the stories never told at high-turnover rental apartments, where dwellers' curiosity is instead piqued by issues like the cost of the deposit and whether or not the walls can be painted.

It's important to mention here that these stories of previously used and discarded structures continue to be written when the squatters resume caretaking. When you, as a squatter, have *carte blanche* to renovate a space, it becomes a physical manifestation of *who you are*, and in every shelf, every paint job, and every decision of "carpet or hardwood?" you can see yourself reflected. The space becomes yours in ways that transcend money and legal title: The regular, continued, and unique care of a space is the strongest and most valid indication of ownership. Notions like adverse possession and community land trusts are rooted in this stewardship theory and in personal responsibility.

The idea of responsibility is central to the squatting milieu in that squatters make improvements to their environments out of their own want for an improved space. John F. C. Turner, the British architect who spent time in Peruvian squatter settlements between 1957 and 1965,

makes no subtle note of the virtues of self-management in his book *Housing by People*: "Although there may be no analytical way to prove it, it is obvious to me that both economy and conviviality can come about only through personal responsibility."[1]

Thirty years before Koolhas coined the term *junkspace*, Turner was lambasting the wasted resources and desecrated social dynamic that result from unsightly housing-related junkspace. "Even if big housing developments do not look hideous to everyone, they are hideously expensive and socially destructive. Whether in the United States or elsewhere, both material and human viability evidently demand a small scale, social and physical diversity, and variety. It is equally clear that this can only be provided, and sustained, by large numbers of responsibly self-governing persons, co-operating groups, and small local enterprises."[2]

He goes on to say that "the triply polluting consequences of centrally administered or heteronomous systems—the hideousness of characteristic modern housing being the reflection of the defilement of personal relations and the desecration of life, as well as the dirtying of the environment—are inevitable to the extent that they divide and alienate."[3]

Turner's 1976 observations, possibly influenced by the FHA foreclosure crisis of the '70s, are telling of a phenomenon that continues today and drives at the central questions of this book: When vacant housing abounds, why aren't we using it? And why are we building *more*? Of the current epidemic, Patrick C. Doherty and Christopher B. Leinberger wrote in 2010,

> There is now a massive oversupply of such suburban fringe development, brought on by decades of policy favoring it—including heavy government subsidies for extending roads, sewers, and utilities into undeveloped land. Houses on the exurban fringe of several large metro areas have typically lost more than twice as much value as metro areas as a whole since the mid-decade peak. Many of those homes are now priced below the cost of the materials that went into building them, which means that their owners have no financial incentive to invest in their upkeep.... When developers do propose to build denser projects, with narrower streets and apartments above retail space,

> they often run up against zoning codes that make such building illegal. Consequently, few compact, walkable neighborhoods have been built relative to demand, and real estate prices in them have often been bid up to astronomical heights. This gives the impression that such neighborhoods are only popular with the affluent, when in fact millions of middle-class Americans would likely jump at the opportunity to live in them.[4]

Planners estimate that, in 2025, more than *half* of our built environment will not have existed in 2000. Of these, 22 million will be unwanted large-lot suburban homes, which continue to be built despite their pattern of depreciation.[d] Because primarily residential suburbs rely almost solely on income tax for revenue, when roads and highways need rehabilitation, taxes rise. Residents are then driven out by the cost of replacing the deteriorating infrastructure in the original "first-ring" suburbs, which in turn affects commercial development, which follows the population. Because it is easier to get funding for new developments and new infrastructure projects than it is to fund repairs, developers often move out to cheaper, undeveloped land in the outer rings. These newer suburbs then, for about ten years, will "live the good life, but ultimately they'll be the victim."[5] As more and more land is developed for fewer people, suburbs with policies that promote sprawl will inevitably spend more on infrastructure than will urban governments. The people who are left behind in these suburbs not only endure impending poverty (the poor population in suburbs rose by more than half after 2000) but also a lack of public services in an environment that was built with the privatization of life in mind.[6]

Turner prophesied this result from a profligate system in 1976, by comparing it to "modern factory and office conditions, where the alienation in work is increasing along with the alienation of use."[7] The factory-like approach to housing manufacturing is particularly ironic when cities like Minneapolis, Youngstown, Detroit, and Cincinnati allocate at least a

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d. Nelson, Arthur C. "Leadership in a New Era." *Journal of the American Planning Association*. 2006, Vol. 72, No. 4: p. 393–409. In 2010, the problem of sprawl became so destructive that the New York State Senate passed the Smart Growth Public Infrastructure Policy Act, which implements a program to use existing infrastructure to reduce sprawl.

third of their "neighborhood-stabilization" funds to *demolition*.[8] The real estate production line thus replicates the lifecycle of something as disposable as a single-use camera—to be used for twenty-seven brief snapshots and then trashed in exchange for an even faster, even lower-quality one.

This practice is reminiscent of Stull's "filtering model" from 1977, which is still palpable today. The HUD 2010 Regional Housing Report indicates that while new development permits did technically decrease after the economic crisis began, they did not vary directly with the vacancy rate. In fact, new construction trudged ever onward, even as more homes spiraled into foreclosure and more properties came to languish in legal limbo. In some regions, such as the Midwest, construction activity actually *increased* during the twelve months ending in September 2010, despite the continued stream of vacancies. In Columbus, Ohio, for example, with its 10.9 percent rental vacancy rate and 5.1 percent homeowner vacancy rate during the same period, construction increased by 14 percent. And in Detroit, Michigan—a city with so many abandoned structures that officials have suggested simply razing the outer ring of the metropolitan area—despite its 16.1 percent rental vacancy rate, construction permits increased by *69 percent*.[9]

What is even more confounding about construction during a foreclosure crisis is that, for every new unit that is developed, the vacancy rate of an area actually rises, compounding the cruel absurdity of the whole fiasco. Further, as home-owning dwindles, the renting class grows, creating more demand for rentals and mind-bogglingly *raising* the average cost of rent—during a recession, no less.

HUD's own statistics point to a correlation between construction and turbulence in the housing market. For example, the rate of distressed properties increased for all states in the Southeast, except Alabama, where the rate was unchanged, and Tennessee, where the rate fell an insignificant .2 percent. Florida, not surprisingly, recorded the highest distressed-property rate in the region at nearly 19 percent. Curiously, all states in the region also recorded an increase in single-family home building activity, except Alabama, where permits remained virtually unchanged. And the largest increase in construction was, of course, in Florida, where permits increased by *21 percent*. Disturbingly, the distress rate and construction rate in this case are almost interchangeable.[10]

Turner pinpointed this predicament decades ago:

> To treat housing as a commodity is silly enough but to assume that it must or should be supplied by "ever-larger pyramidal structures and centralizing technologies" is suicidal. Yet this is the basis of all modern housing policies—a quicksand into which they all sink, even if they can be kept afloat awhile with money. And all this has gone on while real demands have been almost completely ignored or misinterpreted by heteronomous systems impervious and blind to the plentiful resources available.[11]

According to Turner, self-help is an expression of individual liberty, and in a climate such as that caused by a preposterous foreclosure crisis and a ludicrous housing system, self-help—which many times translates to squatting—has never been easier or more rewarding. This is what Tony Schuman calls "sweat ecstasy," an adorable play on the traditional idea of sweat *equity*. "There is an implicit assumption that small communities can be sustained internally and *independent of larger economic and political forces*," he says of self-help housing (which may include other types of efforts besides simply squatting).

> The model calls for an expanding number of local efforts, leading to the eventual incorporation of like communities in a new, self-governing network—society is transformed from the bottom up. This view reflects both a populist orientation, distrustful of a government controlled by giant corporations, and a conservative anarchist perspective, wary of centralizing tendencies in large-scale organizations.[12]

Here Schuman delightfully outlines a prospective egalitarian housing system based on tribal decision-making and a do-it-yourself ethic. But carving such a space into a housing establishment as faulty as the current one is tricky:

> Put crudely, unskilled workers are superfluous to an increasingly service-sector economy, and so is their housing. In this context,

> the ability of the urban poor to remain in the city at all depends on their willingness to subsidize their own existence. But self-help housing cannot compete with private interests. A few buildings may be salvaged, but urban land is controlled by capital.[13]

So then we face the problem of capital. As we saw illuminated in the tale of the failed Urban Homesteading programs, lower economic bracketing precludes potential self-helpers from housing autonomy, and instead compels them to rely on bureaucracies and authorities for their shelter. Even squatters who seek to make significant, long-term improvements to their spaces need start-up capital to complete sufficient renovations (not unlike an urban homesteader), flying in the face of the understanding that squatters subsist at truly no cost. Perplexingly, beneficiaries of federal housing subsidies are often middle- and upper class rather than low-income consumers, even though low-income self-helpers are often capable and willing but intentionally barred from subsidization—reminding us of Reich's suggestion that the system we live within is actually a feudalistic one. And Schuman bitingly points out that "although no neighborhood group can be faulted for seeking critical financial assistance, there is at least an element of irony in the attempt to solve housing problems by reinforcing the tax-shelter and investment mechanisms that maintain a housing system based on profit rather than need."[14]

This irony leaves the under-housed in a critical bind, since "the greater the dependence of housing on hierarchic supply systems, the greater the mismatches, the greater the inhibition of users' resources, and the smaller and the poorer the eventual supply. So, according to Turner, "the more housing that is provided by centrally administered systems, the bigger will be the gap between potential and actual production, and the worse will become the housing conditions."[15]

So where do we look to if we do not want a government-run centralized housing authority but we also are not interested in a free market run amok? Turner proposes that citizens practice their self-determination and self-reliance by constructing their own homes. But with 14 percent of the nation's housing unutilized, that seems like an excessive effort. To build and develop *more*, even with a do-it-yourself ethic, appears not only illogical but also downright wasteful.

When a structure is left to decay, it is *thrown away*, contributing to the obsolescence that defines the urban development cycle and the detritus that defines urban character. The longer such properties are neglected, the more work they will require to make them habitable. These buildings then increasingly accumulate code violations, which in turn make such structures increasingly unaffordable. Some argue that the environmental cost of the materials needed to rehabilitate old and decrepit structures is significant, which it is, but could it be worse than constructing entirely new, certifiably "green" buildings? Ted Bardacke, a senior associate at Global Green USA, admits that building new "eco-cities" is a boondoggle if planners aren't also retrofitting the existing buildings to "green" standards.[16] And Gordon McGranahan, of the International Institute for Environment and Development, maintains that environmental challenges are indeed linked to social issues. He led a study in Brazil that found that "many environmental problems arise because of urban inequalities—not the other way around."[17] Most of all, despite the green-washed mirage of Leadership in Energy and Environmental Design (LEED)-certified structures and other well-intentioned claims of eco-friendliness by the U.S. Green Building Council, "there is a problem with green architecture: architecture is not green. The construction process consumes a huge amount of energy—the greenest solution is always not to build…. Dense city-centre housing is green. It is our lives, rather than our cities, that are unsustainable—everything, from our food production to our laptops, consumes a vast amount of energy."[18]

In the conservative era of 1986, Emily Paradise Achtenberg and Peter Marcuse posited, in their liberal essay "Toward the Decommodification of Housing," that the public would do well to expand collective, community, and resident-owned properties, and prohibit resale. They suggested upgrading and expanding the housing supply, with social control. They were interested in land-banking and the "right to remain in place or to move to other neighborhoods of choice." Most intriguingly, they advocated the conversion of foreclosures to "social ownership":

> Rehabilitation could be financed debt free by tapping the FHA mortgage insurance funds (financed in turn by mortgagor contributions and off-budget Treasury appropriations), and

> available rental assistance subsidies could also be provided. In this way, a growing portion of the existing private rental stock could be converted to permanently debt-free social housing that is relatively affordable and in good condition.[19]

Achtenburg and Marcuse oppose financing from private sources and champion public funding from the government. But in this post-scarcity age, isn't choosing between the two an unnecessary dilemma? There is so much vacant/surplus real-estate that generates no tax revenue (and has the potential to generate less revenue the longer it languishes), so why not to start a free housing program to dispose of the bulky property excess owned by disinterested banks? Or better yet, don't do that at all: Since a program would require a bureaucratic administration, it would also require funding and would inevitably institute arbitrary rules that prevent all those in need from accessing the largess (or at least make it more difficult). Instead of a program or a new law, why not simply loosen the existing legislation? For example, what is the sense in charging a person with trespassing if the owner of the property has been dead for twenty-five years? If no other parties actively show interest, why not normalize the quiet title process for squatters, gracefully ushering them into homeownership rather than criminalizing them because of a stubborn adherence to a philosophical principle?

And what philosophical principle was that, anyway? As Schuman writes, referring to the "pioneer spirit," "Indeed, who can offer anything but encouragement to those who, unable to compete for housing in the private market and neglected by inadequate public programs, provide shelter for themselves and their families through the sweat of their brows?"[20] Squatting, as it turns out, *is* the American Dream. It's just that most people have not thought about it that way for a very long time.

On November 2, 1980, a twenty-two-year-old black housing activist named Yolanda Ward was assassinated in Washington, DC, in what was made to look like a street robbery. Ward, however, had been a key activist in uncovering a racist U.S. government housing policy conspiracy known as "spatial deconcentration," which called her seemingly arbitrary killing into question—especially when her co-organizers for the Grassroots

Unity Conference were similarly harassed and attacked by government officials since uncovering the plan.[21]

The following year, the Yolanda Ward Memorial Fund wrote, "It was not until 1979 that we discovered and began to research a Federal government program called 'spatial deconcentration,' the hidden agenda behind the phenomenon of displacement. We discovered that displacement had an economic base to be sure, but more importantly, it was a means of social control—a means to break up large concentrations of Blacks and other inner city minorities from their communities."[22]

They went on:

> This would break up concentrations of Blacks within the central city and thus disrupt their potential to erupt into violence in response to their economic conditions. The commission recommended that Blacks be systematically placed in outlying suburban counties and dispersed, so that the counties themselves remained white dominated, but the Blacks would be isolated and broken up, neutralizing their violent potential…. So when poor people are forced into a position of having to move, they are granted Section 8 certificates which appear to ease the burden of not having a place to stay. However, the catch to the Section 8 program is that by using it, you no longer have a choice in where you can live. The new "housing mobility" created through Federal subsidies actually eliminated freedom of housing choice because at the same time HUD is giving Section 8 certificates to the suburbs, they claim there is not enough money available to keep people in DC. They will give Section 8 certificates to families in DC but allow them to use them only in specifically selected suburban counties, not allowing the people to stay in DC to be close to the jobs, the Metro, the culture or the human services. This forces them out to the suburbs where there is no way to join together to struggle.[23]

Startlingly, the Spatial Deconcentration agenda was tied into the Housing and Community Development Act of 1974—which similarly spring-boarded the seemingly progressive Urban Homesteading program.

But what is most disturbing about this plot is that it seems to have worked. Nearly forty years later, higher concentrations of poor and people of color live in the remote suburbs—the former playlands of middle-class whites, but now the deteriorating sprawly landscapes of yesteryear.

Not only is this forced migration racist, classist, and generally unjust, but it is also entirely unnecessary. Such housing policies hinge on assumptions of market value, which hinge on assumptions of scarcity. These assumptions are simply *incorrect.* Why exile *anyone* to the outer rings when housing abounds within city limits? Even if capital is the primary or only consideration in planning, surely economists have realized that property values drop when inner-city housing is left to wither and potential homeowners are shipped to the suburbs. In this respect, "planned shrinkage" (otherwise known as "benign neglect")—a term coined by New York City Housing Administrator Roger Starr in 1976, which never became official policy—has become a de facto reality due to abandonment, arson, and service cuts. But planned shrinkage is a bit of a doublethink concept: Because the national population is ever-increasing, cities would theoretically need to bolster their capacities, not minimize them. But even planned shrinkage is not what it sounds like and is simply another euphemism for racist housing policies that preclude people of color from participation in the new-urbanist Garden City model, since the shrinkage was realistically more like "drainage" of services from poorer neighborhoods. The poor, in turn, have been somewhat ironically banished to the 'burbs, where they grow increasingly poor without public transportation or functional infrastructure. Documents like the Kerner Commission Report investigating the race riots in 1967 provide evidence of this trend, and conclude that the U.S. was "moving toward two societies, one black, one white—separate and unequal," recommending that the government develop policies to encourage black movement away from cities.[24] This phenomenon, according to Frank Morales, is why there are houses to squat in the first place. And squatting the houses, Morales says, is a form of "self-defense" against these very strategies.

So here we are in a society that has endured spatial deconcentration, planned shrinkage, and a foreclosure epidemic—all modes for displacement that invariably leave empty structures dotting the landscape—and we are somehow still convinced that we are immersed in a "housing

crisis." There is a crisis afoot, for sure, but it has nothing to do with a lack of places to live. Constructing new housing, despite the existing glut, is like constructing new histories despite our existing ones. All of this said, the repurposing of abandoned properties is not only pragmatic, but it also keeps the story unfolding. If we don't maintain a periscope to the past, we may just forget how we arrived at the present.

We would also, of course, miss out on abandoned Teenage Mutant Ninja Turtles ephemera and old Trapper Keepers. Occupying a space with a past is indeed a wondrous transtemporal sensation.

Conclusion

"I realized for the first time what a fragile object a door is. The concept of 'door' is much stronger than a flimsy bit of wood and if you want a door open, then two crowbars will most probably do it."
—"Using Space" Two

"The rest of the day is spent celebrating as the squatters have finally achieved a victory in the squatters revolution…"
—"Squatter Comics"

From 2004 to 2007, I filmed a documentary called *Shelter: A Squatumentary* about three groups of squatters in the San Francisco East Bay. The original version of the film included an opening sequence in which a slideshow of abandoned buildings in the area was juxtaposed with random facts about homelessness. The intention was to illuminate the discrepancy between empty structures and people without homes. The rest of the film went on to document groups of people, not particularly at risk for homelessness, living at squats, which they sometimes took seriously and sometimes treated as venues for embarrassingly juvenile antics. This non sequitur drew attention away from the issue of *homelessness* (which I had misleadingly implicated as part of my thesis) and focused instead on a group of nineteen-year-olds with a dozen pet rats.

I only screened this version of the film once, and it was immediately called to my attention that paralleling homelessness and squatting is deceptive. Indeed, I didn't know much about real homelessness beyond some Census numbers I had read, so I deleted any insinuation that the documentary was about anything beyond a few groups of people who happened to live in a few buildings that happened to be abandoned. Supposing that the goal of the project was to simply *document* this phenomenon, the documentary achieved its goal. But, I realized, there was so much more room for a discussion on squatting that I was unable to capture on camera. Fast-forward to today, and I've written a book about it. But with

the book as with the video, it would be a shortsighted assertion that squatting could possibly be a panacea to homelessness, unequal land distribution, or capitalism in general. And if it is not a *solution* to these crises, can it be good for *anything* beyond immediate shelter or a clubhouse for the young and feckless?

Squatting is an incredibly complex concept with no simple answers, or even simple philosophies. I like to think I'm very talented at taking an idea, drawing conclusions from it, and wrapping up the result in a neat and compact package for easy distribution, but I have never been able to do that with squatting—which is probably why I've been deliberating on it for so many years.

For a very long time I considered squatting an act stemming from the radical left, as I think many activists do. I was startled to discover that squatting is instead a unique act that rides the fence between left and right politics. For much of my exploration, I was confounded by the revelation that many aspects of squatting are actually rooted in more right-leaning, conservative ideals—and here I was foolishly trying to smush those ideals into a left-leaning framework. Indeed, Steve DeCaprio described the judge in the Noodle House case as being on the left, yet he was entirely unsympathetic to DeCaprio's plight. Perplexingly, then, while squatting *could* be aligned with the right philosophically, it finds few supporters on that side of the fence either.

Because the philosophy of squatting straddles political ideologies, it finds both supporters and critics in either of two camps: In the one camp, right-leaners celebrate the idea of the homestead and detest government interference, and in the other camp, left-leaners advocate housing justice and push for equal access to shelter across classes. The broader notion of squatting embraces all of these things, which suggests that it actually transcends both party lines. But since it is easier to try to make sense of ideas by dividing them into opposing dualities, or even a complementary yin and yang, pundits have cavalierly shunted whole movements into sweeping categorizations. The Tea Party, for example, was an affront from the right, so then the Occupy movement must have been a response from the left. Stories like that of East Bay squatter "Magon" support this thesis: "At Magon's Occupy-affiliated squat, located in a rundown East Oakland apartment building, the occupiers control three of the bank-owned

building's four units…. It's clear that the squat isn't just about shelter—it's also a logistical hub."[1] This makes sense because the Occupy movement was explicitly a political movement, despite being rooted in pragmatic needs. In this way, Occupy may have indeed been a left-leaning ideological outworking, but squatting itself was just a tactic they employed. After all, in the following account of Occupy Oakland, the politics suddenly seem stripped away:

> The hungry got food, and the homeless got shelter. The street kids who smoked and drank at the plaza before Occupy arrived continued to smoke and drink—and now they passed around books from the free library. People were helping each other, looking out for one another, and turning their backs on the stresses of foreclosed homes and benefit cuts…. A woman with two kids who had been staying in a shelter got a free tent. Her kids acted like they were on a camping trip where mommy seemed less upset than usual.[2]

Who was this woman with her two kids? What she a leftie or a conservative? Or was she an anarchist? Was she interested in politics at all? The debate around the *philosophy* of squatting is a deceptive way of dressing up the *act* of squatting and justifying it by lending it the name of a political affiliation with which supporters already identify. The *act* of squatting, however, maintains no political affiliation and can only be viewed objectively.

Matt Metzgar, a former squatter at the Umbrella House in New York City and a current squat archivist at the NYU Tamiment Library, proposes introspection as a strategy for squatting advocates entrenched in the left-leaning politics of it. If right and left politics can be blended and reduced to one practical, objective approach, then we might be able to break down the logic problem of surplus housing:

> For true Right/Left morphing coalition-compatibility, it may require of the Left a self-critique of the original premise of what exactly was meant by "Property is Theft," and of a thinking-it-through within our own NYC and North American movement,

> of market value vs. use value. Myself, I do not believe that "ownership" is an end in itself, but I do believe that the Left should not bullshit its own people that we squat to do anything else but someday "own" our places…
>
> It has been pointed out worldwide, the remarkable irony of militant squatters defending their "illegal" homes, becoming instantly advocates of the value of property-ownership, with the same energy and verve. The irony here comes from bad paradox-digestion. It's not so ironic. We can still be anarchists if we eventually take title to our buildings. We can just as well become staid bourgeois, but it is nothing in the act of ownership that is a selling out of one's ideals. George Woodcock makes mention of this in his history of Anarchism: that Proudhon did not mean an artisan owning means to livelihood—his lodgings, shop and garden—was in any sense "theft." It was absentee ownership that is making money from your place that was "theft."[3]

Under Metzgar's approach, it is not as important for squatters to identify their political stance as it is for squatters to identify their desired outcomes from the act of squatting itself. Is it immediate shelter, a gritty adventure, a brazen political demonstration, or a strategy for long-term housing? Metzgar suggests that, while legal ownership should not seem like an attractive ambition, it is actually the whimsical fantasy of many. So should squatters aspire to legal ownership—or would such a status keep them trapped within the dysfunctional housing system that they hoped to challenge in the first place?

Say that the ultimate goal of squatters *is* to eventually, legally, own their properties. It would certainly be an unrealistic goal, since involuntary title transfers are quite rare. Unusual cases like that of the Bird house in Buffalo, New York, perpetuate the mythology of involuntary title transfers—though the Bird house residents actually gained ownership of their house through hard work and dumb luck, rather than adverse possession or any other formalized transferal process. With the support of city-housing court judge Henry Nowak, the Bird house residents managed to convince the heir to the property to sign a quitclaim deed and the

bank to forgive the property's $52,000 lien. Even the famous 2002 UHAB deal in New York City was only possible with the assistance of the city under special circumstances. Steve DeCaprio, having worked for a decade to crystallize his squat into an owned home through the channel of adverse possession, *still* does not have formal title to his property.

So if title free and clear is a long shot, why do squatters continue to do what they do? Interestingly, talking to squatters in different parts of the country yields different responses to this question. With housing so unaffordable, those who squat in the Bay Area usually do so either for temporary affordable housing or to make a declaration about the state of the housing market (Steve DeCaprio is a notable exception). In Berkeley, for example, when DeCaprio was squatting Banana House, he figured that the police and the neighbors were fighting him so hard on principle, because property is *supposed* to be unattainable in that economy. And in the kind of housing climate where few people expect to ever own a home, why would anyone expect to ever own their *squat*?

In the Rustbelt, on the other hand, where housing is cheap, you might expect more squatters to seek title to their spaces—yet (besides those at Bird house) I have not heard of a single squatter seeking such title, perhaps because property is worth so little. In Pittsburgh, councilperson Tonya Payne offered to put Landslide, a long-term squat, into receivership, but residents declined the prospect of formal ownership on account of the outstanding liens that came with it. Such squatters, instead, seem more interested in rehabbing their houses and riding them out as long as they will stay standing—since sometimes it is likely that their squats would collapse before they are evicted anyway.

At another squat in Pittsburgh, residents have constructed an elaborate water-collection system that saves rainwater in a series of connected barrels, which can then be heated and run through a shower head for hot-water bathing—though they show no intention of ever seeking ownership legally. This seems funny and uncanny that in both good and bad economies, for different reasons, squatters are uninterested in title. But where the squatters have neglected to pursue title to their property, they have instead strongly pursued *stewardship* of it—which underscores the most principled function of squatting beyond personal shelter: a pragmatic redistribution of property based on caretaking.

This revelation suggests that title could be a bit of a bureaucratic frill, an invisible and gratuitous accessory to the actual use of property. Fair redistribution, then, becomes the goal of squatting, but as we saw with the manor at Rensselaerwyck, forced withdrawal of a citizen's vested property is a legal nightmare to justify. Government intervention is a slippery slope, and corporate sponsorship seems to carry dystopian potential. Joshua Ingalls knew this even a hundred years ago and instead suggested making the legal status of a property less relevant by undoing laws protecting monopolists and by fostering an understanding of property in which usage is central. To Ingalls, even legislation like that of the Homestead Act of 1862 was too bureaucratic, mired in the muck of big government with its convoluted and restrictive tendencies. In the housing climate today, Ingalls might not ask for a new homestead act or any other statutes or government programs to utilize vacant housing; instead, he might respectfully request that we normalize squatting—self-help housing—as a direct method of redistribution.

Squatting is a civil matter, not a criminal one. But as Steve DeCaprio learned through his experiences at Banana House, that doesn't matter as long as police are interested in your case and willing to use enforcement to clear the building. If police stopped illegally evicting squatters based on their own presumption of criminality, then a squatting scenario might play out in one of several ways:

> (1) The squatters select a building with a dead or extremely absentee owner and civilly occupy the property, maintaining its upkeep. Because that owner is extremely dead or otherwise indisposed, no one ever comes forward to argue superior claim to the property. Also in this scenario, neighbors recognize the value of occupied homes, so no one complains to the city or to the police or takes justice into their own hands. Because no one is complaining, police then mind their own business and stick to investigating violent crimes or wasting gas in their idling patrol cars. In the end of this scenario, perhaps the squatters make a long-term home in this building and title remains unclear until the end of time, or until someone perhaps files some quiet title paperwork, which in this ideal scenario would be very simple and with a fast turnaround.

a. If things were extra ideal, several such squats would combine their land holdings and convert them into a community land trust, which would hold the new egalitarian utopia in perpetuity.

(2) The squatters select a building with a semi-interested or locally present owner who has an unrealized vision for the property, despite sitting on it for ten years and keeping it empty. The owner notices that the squatters are in the house, and so he pays a visit to alert them that they were mistaken in choosing *this* vacant house, since he indeed has plans for it (let's say, for his ailing grandmother to move into to avoid going to a convalescence home), and kindly requests that the squatters find a more suitable property with a more sinister title-holder. The squatters, embarrassed at their folly, apologize for the mix-up and pledge to move out just as soon as they are able to find another house—and if this process might take more than, let's say, a month, then perhaps they all draw up a month-to-month lease over hot apple cider in the parlor.

a. If the squatters refuse to leave because they are, let's say, young and hot-headed, *then* the owner calls the police and a non-ideal series of events ensues similar to property disputes outside the realm of my own personal utopian fantasies.

What if we could momentarily disregard our differences in ideology and support a unification of political platforms behind squatting as a pragmatic alternative to the housing crisis? I imagine that it would play out something like my scenarios above, because by that point the public may have cast aside the notions of scarcity that perpetuate hoarding and will have accepted that anyone is entitled to surplus housing. Indeed, there is no shortage of such properties in the United States, since the foreclosure crisis assisted in rendering 14 percent of all livable units vacant. So then, if the newest goal of squatting (beyond personal shelter and beyond principled redistribution) is its own normalization, then all we need now is a strategy for getting there.

It was the chilly, drizzly afternoon of December 6, 2011 when people of all ages gathered beneath the train stop at Grove and Livonia streets in the

Brooklyn neighborhood of East New York. To New Yorkers, this group quickly began to look familiar, with their devilish smirks and twinkly eyes. Some of them also held signs, which was a dead giveaway—as were the mounting number of cameras and audio recorders. Yes, these were the Occupy Wall Street (OWS) protesters, back in the streets. Having been evicted from Zuccotti Park three weeks before, OWS was hard-pressed to call it quits, since the purpose of the protests was not about the park itself or about fighting the cops, but rather, about taking space and re-appropriating the commons. Though the movement had started by occupying *Wall Street* (as the name suggests), months of solidarity encampments in other cities had shortened the vernacular in many places simply to "Occupy," and there was plenty more to occupy in New York City than a singular Manhattan park.[a]

The OWS Direct Action Committee had teamed up with another relatively young group called Organizing for Occupation (O4O), championed by squatter veteran Frank Morales, to begin phase two of the occupation movement: foreclosed houses. For a movement that was launched from the churning discontent of those affected by the housing and economic crises, housing occupations seemed like an obvious next step. In this way, the eviction from Zuccotti Park was actually a useful catalyst for the type of direct action that was really going to get the goods.

Some estimated that as many as a thousand people tromped through the streets that day, pausing every fifteen minutes or so at various vacant foreclosures in the neighborhood. At each stop, through the OWS mechanism of the "mic check," organizers would tell the story of a family ejected from their home.

The final stop was at 702 Vermont Street, a location that O4O had scouted ahead of time as a potential long-term squat with public

a. Such as the artificial reconstruction of the park by the set builders of *Law and Order: Special Victims Unit*. On my last night in New York, we got a call saying that people were headed back to the Financial District to occupy the television reconstruction of Zuccotti Park in Foley Square, only a half a mile away from the actual Zuccotti Park. Filming started at midnight, but, despite my eagerness to see how Wardrobe had depicted the extras for the protest scene, I was disappointingly unable to make it so last minute. Video, however, shows the real protesters congregating on the set, chanting the call-and-response, "Whose fake park? *Our* fake park!"

demonstration potential, and that they covertly called "the New England house" in the days leading up to the action. O4O worked with NYCC (New York Communities for Change)—formerly ACORN—and OWS, who planned the march component of the action. The scouts selected 702 Vermont Street because it was supposedly bank-owned, though they later discovered that it may not be, as the title was in limbo.[b] In one way, this truth detracts from the symbolism of re-appropriating *bank-owned* houses, but in another way, the unclear title hinders eviction since it is impossible to know precisely *who* should be lodging complaints with police. Police poked the alleged owner for concern, hoping for an eviction request, but when no such concern materialized, the only course of action they had was to harass squatters about whether they had permits for remediating the water damage and black mold inside the house. They couldn't even charge them with breaking and entering since a sympathetic neighbor had actually *given* the squatters a key.[4]

The squatters themselves were members of a formerly homeless and currently under-housed family, including parents Tasha Glasgow and Alfredo Carrasquillo and their two small children. "I'm doing this for my kids," Glasgow said, "for all the other kids out there, for all the families out there, all the homeless people out there. Hopefully somebody could look at my story and try to understand me and want to do something about it."[5] Such a smart-looking family with two adorable children is an impossible sight for the media to negatively spin, and the added protection of hundreds of supporters having a "block party" into the night with large balloons and free food, despite the rain, made the event impossible for police to disperse.

"I wanna thank all the people who live in these houses that support what we're doing," Carrasquillo said of the neighbors on Vermont Street in a mic check statement to the crowd. "I wanna thank all you people who came out today in the rain with nasty weather and supported us in this occupation. This moment is really special. Wow."[6]

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b. To the media's delight, the original owner of 702 Vermont Street—single father Wise Ahadzi—had moved his family out temporarily while he was in negotiations with Bank of America. The error of occupation did not reflect well on OWS, since it undermined the group's mission to re-appropriate *bank*-owned houses and redistribute them to people in need.

Trays of catered food were passed around, and the brass band played until it grew dark. At nightfall, playful projections of the "99 percent" were broadcast on the front of 702 Vermont Street, as supporters continued the festivities. Most neighbors seemed not only tolerant but even excited about the action: "We're one of the highest people to have foreclosures and predatory lending here in East New York," one neighbor said. "I lived on this block, I bought a house, I was also one of them that got suckered into predatory lending…and six months later I was out of my house. And I am *so* glad that they are able to come here, and we need this, and we need more and more and more."[7]

That same day, twenty-five other cities held similar demonstrations in a national day of action called for by the burgeoning splinter Occupy movement called Occupy Our Homes. The movement is endorsed by housing justice groups including O4O, Picture the Homeless, Take Back the Land, NYCC, Neighborhoods Organizing for Change (Minneapolis), MORE, Vocal New York, Housing Is a Human Right, Just Cause (Oakland), Foreclosure Hamlet, Alliance of Californians for Community Empowerment, Ohio Fraudclosure Blog, and more.

"We're trying to create a way for the public to support squatting," Frank Morales, of O4O, told me three days later, during breakfast at Odessa—a diner overlooking Tompkins Square Park, site of the historic squatter battles. "New York City has the toughest and grittiest squatters." He sliced an egg and recounted tales from an old squat that had been on 8th Street with no first or second floor. "We had to *swing* from floor to floor," he said, since the city removed all the stairs to prevent people from using the buildings. By this illustration alone, Morales had convinced me that New York squatters are indeed the toughest squatters. But that doesn't matter when the public can't see why they should agree with how those squatters choose to live—which is the point that Morales was trying to make: Non-squatters need an *access point* to support the squatting movement.

"Squatting is as practical as you get," he continued. "We wanted to create an *apparatus*, so that housed people can put their shoulder to the wheel." Through direct occupation and defense of evictions, Morales explained, O4O is "bridging classes." He mentioned several times that the group was bridging classes. But only by teaming up with OWS could the

opportunity for this bridging be possible. The timing of the Occupy Wall Street movement was at the perfect point in a socio-political pendulum swing for optimal support and momentum. The same is true for O4O and other organized squatting movements. Without OWS as a precursor, the actions of O4O might have been met with confusion or hostility. At this moment of disillusionment and rage in the political climate, however, the public is ready to listen to alternatives.

Morales has a plan for this, which he repeatedly called the *apparatus*. Building off squatting movements of the past, O4O's strategy is two-pronged—much like that of Take Back the Land or Homes Not Jails—incorporating direct-action-style public takeovers as well as covert occupations. O4O then extends those tactics to also encompass eviction defense, lending itself to another type of property justice activism while simultaneously garnering support from a larger base. This is partially what Morales meant when he talked about bridging classes.

O4O has a detailed and highly organized process for their work. Supporters can plug in to one or more teams that O4O has delineated as necessary components to the work:

- The intake team talks to un-housed and under-housed families and individuals and compiles a waiting list of people interested in squatting buildings that become available.
- The outreach team talks to neighbors and seeks support from a targeted neighborhood. The team organizes a specific neighborhood, asking residents if they would pledge their support in the event of an eviction in that area. Supporters sign a form promising to stand by squatters in an eviction.
- The research team investigates foreclosed properties to find the ideal legal conditions for a move-in, often working with the activist law group Common Law.
- The "crack" team physically enters the targeted house for the first time and "opens" the squat, changing the locks and securing the building.
- The demonstration team organizes mass occupations and public demonstrations, like the December 6 action, to call attention to the foreclosure crisis.

- The renovation team works on repairing houses to make them livable before squatters move in.

O4O does not plan for all their squats to be publicly occupied like 702 Vermont Street was. Its covert squats would go through the same process as the publicized squats, minus the demonstration; instead, squatters would renovate first, live there for thirty days (the statutory period in New York for squatting to become a civil matter), and then go public. They would not have to publicize the squat itself because, in the event of a police showdown, O4O would publicize the *confrontation*, shifting into eviction-defense mode and calling upon the broad support base that it had established when bonding with neighbors. The goal of O4O is to maintain long-term occupancy. (It is unclear at this time whether the goal will ever morph to include seeking title.) When I talked with Morales in mid-December 2011, he claimed that O4O already had people in two buildings (not including the December 6 building, since that was technically part of an OWS action).

I asked Morales if the illegality of the project was of concern to the people involved. "Homeless people," he replied, "have experienced the depths of fatalism more than others when it comes to government, services, and so on. They are happy to squat because they don't see any other future."

Morales also sees O4O as a fairly secure operation, buffered by the movement's large support base and public attention. In this counterintuitive way, squatting clandestinely and without the backing of an organization like O4O is actually higher risk now than participating in a high-profile reclamation experiment, since when the police come to bang down your door, no one would be watching to hold the police accountable.

Such is the case of Roderick Walker, a self-declared adverse possession consultant, who helps people in Georgia file adverse possession paperwork and move into high-end foreclosures. In some cases, Walker claims, the police are satisfied by the paper trail and don't cause a fuss, but other times, police dismiss the documentation and push straight through to eviction and jail time. Walker—and some of his constituents—have spent time in jail for what appear to be self-serving half-million-dollar heists. "What we run into is these individuals are telling

us nobody owns the property or cares about it, so why not move in and live for free for a year," said Douglas County Sheriff's Investigator Josh Skinner. "There's a good possibility had [Walker] not put himself in the limelight, that he could have got away with this for quite some time."[8] The officer makes a good point; without community backing, bold claims of possession ring hollow, casting squatters as a selfish nuisance—quite different from the Robin Hood hero media portrayal of the December 6 squatters.[9]

Morales explained that, in the '80s, the only safety net that squatters had was their eviction-watch phone tree—though he insists that through the phone tree, any one squat could mobilize a hundred people within half an hour. But the '80s were different for a lot of reasons. The climate for squatting was different, and everyone that I talked to who was active at that time stressed that it was actually a whole other New York City back then. One small difference was squatters' base of support, which in the '80s mostly included other squatters. Because there were so many, as Morales described, a hundred of them could turn out to defend another squat in no time at all. But today, with more potential squatter supporters than there are actual squatters, each squat's support base instead radiates out geographically in concentric circles. Not only does O4O create the base by talking directly to neighbors, but, Morales says, the group wants to recruit in a multiplicity of ways, including placing sign-ups in local cafés. He wants me to understand that there is no *one* failsafe—instead, the tactic is to create a synergy in which no *one* aspect is working alone to support the movement.

Needless to say, the linchpin of O4O's strategy is its support base—the *apparatus*. Without it, when squatters try to explain the thirty-day law during an eviction, authorities might try to deny it. But *with* the apparatus, people might then arrive to monitor the standoff, compelling concessions or barricading to buy time. The more police sent to the scene, the more money it costs the city. Because Common Law is also tied into the apparatus, the squatters can continue to buy time by filing paperwork—the end goal being to hold the property for as long as possible.

On the other side of the country, meanwhile, Steve DeCaprio is scheming again. On a timeline parallel to the development of Organizing for

Occupation, in the summer of 2011, DeCaprio founded an organization called Land Action, with similar goals but very different tactics. Uncannily, both groups were initiated *before* Occupy Wall Street and Occupy Oakland sprang up in the fall, and, serendipitously, the Occupy movements fueled and fortified the structures earlier conceived by both O4O and Land Action. While O4O fosters a mission of maintaining long-term occupancy, DeCaprio's plans for Land Action take direct action a step further by tinkering with property law itself.

Mesmerized by the labyrinthine legislative machine of the United States, DeCaprio set out to untangle the law and create a legal access point for squatters. This would be DeCaprio's version of the *apparatus*.

Having uncovered the legal concept of the "straw person" in preemptively defending Noodle House, DeCaprio devised a way to apply the same concept on a larger scale. Instead of hiring friends to refer authorities to a mysterious man behind the curtain, squatters in general could refer authorities to a mysterious *non-profit organization* behind the curtain. This group, called Land Action, would be the straw owner—a fairly anonymous corporation, and potentially justification enough for police that the squatters are on the property legally. In exchange for using the name Land Action, squatters would agree that if the organization can successfully achieve adverse possession or an action to quiet title, then the title would revert to the initial occupiers once Land Action's investment of property taxes paid, fines paid, materials bought, and staff time compensated is reimbursed. In this way, squatters could uniquely work for their own properties in traditional self-help style, while also drawing the support of this straw non-profit.

According to DeCaprio, the squatters themselves would raise seed money in the name of Land Action, and Land Action would then acquire a list of donors on a project-by-project basis. Once the organization has compiled a list of donors and begun an in-house fundraising campaign, it would hire staff to begin squatting properties. The group would set up an office and accept applications for anti-authoritarian projects to be placed in Land Action occupations, underscoring that title is always meant to revert back to the original occupiers of a site, whenever possible.

Supposing it is successful, Land Action hopes to grow to establish offices in other cities and work within national coalitions. That's "phase

three." Phase four, according to DeCaprio in jest, is that "the thing evolves into something bigger than I can handle. I step down as CEO and live on a farm with chickens."[10]

Obviously he has thought out this idea in great detail.

"I should also mention that I don't want to limit our activities to be exclusively squatting either," he added. "I want to work with property owners whenever possible to render land to beneficial uses. Squatting to me is not the purpose of my organizing. It is a vehicle for achieving larger goals."[11] Land Action's stated goal as an anti-authoritarian organization is to occupy and acquire vacant and unused land for the purposes of justice, ecology, and freedom—and squatting is just one method of getting to that place.

That's what squatting has always been: a vehicle, a tactic. Squatting has rarely been an ends in itself. Even most of the "toughest and grittiest" squatters in New York will concede that the reason they occupied, renovated, struggled with, and fought for those dozens of buildings in the '80s and '90s was to create affordable housing—not to create conflict—and that took years of organizing.

In much the way that O4O tapped the momentum of the Occupy Wall Street movement, DeCaprio and Land Action saw Occupy Oakland as an opportunity to share the knowledge about squatting that he'd been collecting for over a decade and fuel the non-profit squatting mechanism he had devised. Even before Occupy Oakland became interested in non-public spaces, DeCaprio garnered support by hosting teach-ins at Oscar Grant Plaza in front of Oakland City Hall with titles like "Intro to Squatting," "Property Law and Squatter's Rights," "Occupying Buildings as Political Strategy," "Fighting Foreclosures," "Defending Reclaimed Spaces," "History of Occupations in the Bay Area," "Strategies for Gaining Access," and "Gentrification and Squatting." He is even collaborating with Oakland's gentrification-fighting group Just Cause, sparking a convergence in the Bay of tenant's rights and squatter's rights. "Now we're all sharing notes and borrowing strategies," he said.

DeCaprio knows as well as O4O that building a base is crucial to a successful movement, and this requires patience. The approximately thirty members of Occupy Seattle who sloppily occupied an abandoned house in December 2011 only to be embarrassingly evicted by police, who found the walls graffitied and the floors "littered with garbage and food,"

jumped the gun.[12] A month earlier, police evicted fifteen members of Occupy Portland in a similar action, entering the house with a battering ram before making arrests.[13]

Poorly planned, hot-headed occupations like the ones above are frustrating to long-term organizers who lose footing when young squatters seem to relish in the conflict of squatting instead of making plans that work.

For those interested in squatting for shelter rather than protest, and without movement support, DeCaprio recommends taking the following steps:

1. Research

   Before entering a house and living there, it is often helpful to know exactly what you are walking into. With an address, you can find the owner's name and the parcel number through your local tax assessor's office. With that name and parcel number, you can find more information at your local courthouse and county recorder's office. The Internet can also be a good source of information, but don't rely on the Internet exclusively. I recommend researching numerous properties, so you can pick the most viable rather than the most desirable.

2. Prepare

   Before entering the house, imagine all the possible reactions by people who may undermine your efforts, such as neighbors, police, owners, and city officials. Brainstorm every possible reaction by those people and develop a strategy for taking possession of the house in a way that avoids as much potential confrontation as possible. Develop strategies as well to deal with situations as they arise. Treat such interactions as the theater of life and practice your lines with your friends.

3. Repair

   Make sure that the water is turned on and that you fix up the house in a way that both ensures your comfort and secures the respect of your neighbors. I recommend a fresh coat of paint and

> a garden if you want your neighbors to like you. If you turn an abandoned house into a filth infested shantytown you shouldn't be surprised if your neighbors turn against you. Respect your house and respect your neighbors.[14]

Entering a property without researching it or planning the next moves is a recipe for disaster. Ever since news broke of Kenneth Robinson adversely possessing a Texas house for the filing fee of $16, such claims have become prolific across the country and especially in the red state of Texas, where, by the end of November 2011, over seventy cases had been filed *in Tarrant County alone*.[15] There is obviously interest in a squatting movement, but it needs cohesion, otherwise confused neighbors and irritated police will continue to wage evictions without ever opening a conversation.

"I am reminded of a conversation I heard in the Russian Baths down on Fulton St. after the crash," Matt Metzgar said. "Two Wall Street investors talking intimately about their housing investment, both agreeing the houses will never again be 'investments.' There will still be a 'housing market,' I'm sure, but that's kind of a comforting thing, if it didn't entail the enormous waste and decay…."[16]

If we're lucky, the housing market *will* never be the same again. But if we wish to move beyond the dysfunctional housing system that we have grown to abhor, then we will have to learn to reshape its remains, keeping in mind the disjunctions, the shortcomings, and the injustices of the old structure. This will necessitate a philosophical and legal paradigm shift in order to justify the wholesale giveaway of so many abandoned properties. We'll have to do away with monopolies and hoarding, cultivating a culture of ownership within reason, and an understanding of ownership as stewardship. Beyond that, we'll have to learn to share the things that we feel ownership in, fostering cooperative ideals and founding community land trusts to forever keep land safe from the perils of the free housing market. Like the fifth cooperative principle of educating others about the nature and benefits of cooperation, owning must go beyond individual proprietorship and advocate for the similar autonomy of others. And as the sixth cooperative principle states, there must be cooperation among

cooperatives. Only through working together in these ways will we be able to preserve affordable housing for all.

Despite moving beyond it, we must never forget the old system, lest we grow to take more equitable models for granted. Howard Brandstein has observed through his own experiences that "buildings have to be socially integrated. Otherwise, you revert to a social Darwinist model where those who are most resourceful become the ones who are predominantly living in these buildings and in control of these buildings." Forgetting the old ways can very well lead us to ignorantly retracing the old pitfalls.

Daniel Sheridan of Fort Radical, for instance, had been so immersed in his co-op culture for so long that he had lost sight of how advantageous his situation actually was. Even equitable models have problems, of course, but since we all come from a culture of hoarding and non-cooperation, we will have to unlearn those tendencies in order for more equitable models to truly be effective. We must keep perspective if we hope to sincerely delight in our new culture of housing.

This is why documentation is so important. When I began squatting at the Power Machine, I remember being keenly aware of my unique and tremendous circumstances, and I knew that I needed to document. I took photos, I shot video, I kept a steady journal, and at one point I even let a professional photographer shoot the space as part of her Master's thesis photographic essay about differing ideas of "home." I still have the prints of those images, which portray our squat like the rad hangout on an imaginary MTV program where all the disillusioned grunge-era youth of the '90s would while away their time, somehow hating life but also living the coolest existence possible.

Bewilderingly, few other squatters I have met are interested in this kind of documentation. Most are paranoid about any kind of media that might jeopardize their arrangement, and one young squatter I spoke to in Buffalo was adamantly opposed to "media in general," since it only created a spectacle and detracted from the reality of a lived experience. On his end, the discussion was philosophically profound, with Guy Debordish overtones, but to me, the argument seemed shortsighted, neglecting the power of independent media or of simple archival documentation.

The aging squatters of New York's heyday are now learning the importance of documentation as they get older and their squatting

experiences recede further into the past. They want to remember the way that things were—the battles they fought, the victories they won, and the lessons they learned along the way. This is why in the early 2000s, archivists began curating a squatter collection at NYU's Tamiment Library in Manhattan. Each box is an individual squatter's preserved personal papers regarding their time at the squat, organized into folder after folder of legal papers, news clippings, protest flyers, journal entries, and other ephemera from a crucial historical moment.

And what makes that moment crucial—which is increasingly recognized in this time of a burgeoning new squatter movement—is that the next generation can look back and learn from it. Nothing is more tragic than watching generation after generation trash potentially powerful movements by making the same mistakes.

Certain New York squatters have been particularly astute about this: Fly, for example, in 2000, curated a twentieth anniversary art show of ABC No Rio's[c] original "Unreal Estate" show from 1980, generating a veritable squatter museum and selling dime bags of "rubble dust" and necklaces made from old nails found within the walls of ABC No Rio to raise money. While this squatter museum technically still exists, it is carefully packed away in boxes in the spare room of Fly's apartment. Perhaps it will reemerge someday, like a time capsule. And perhaps it will have something to do with Bill DiPaola and Laurie Mittelman. As I write this Bill, of Umbrella House, and Laurie, who spent time at the autonomous community of Christiania in Denmark, are working on a permanent installation of squatter memorabilia called the Museum of Reclaimed Urban Space. I met them for brunch at Kate's Joint in the Lower East Side to talk about their plans, and as we perused the menu, Bill looked up and out the window. "Do you see that couple standing on the corner there, looking at that map?" he asked. "Those are tourists. They are all over the Lower East Side, and a lot of times the ones from Europe are here to learn about the history of squatting in the Lower East Side. Those are the people we want to target with our museum."

Just then, Rolando Politi, a well-known Lower East Side squatting elder, now in his seventies, strolled past the restaurant. "That's

c. ABC No Rio is a New York City arts venue founded in 1980 that continues to support "oppositional culture."

Rolando!" Laurie yelped, and called him inside to join us. In many ways, despite the overwhelming big-city tendencies of Manhattan, the East Village continues to be very much like a village indeed.

After brunch, Bill and Laurie took me to see the future site of the Museum of Reclaimed Urban Space at 155 Avenue C, better known as C-Squat. C-Squat is one of the eleven UHAB buildings working toward autonomous ownership, but it still heartily displays its punk roots within its walls. The front room that Bill and Laurie hope to rent for the museum is an old storefront with a metal roll-up door, but on this day the room was still far from being finished. The raw sheetrock boasted shoddy patchwork and irreverent graffiti messages about traveling, getting drunk, or just being downright punk. The floors were plywood, and not every piece was nailed into place. Romex wiring dangled down through the rafters of the half-drywalled ceiling, the craftsmanship of which was questionable.

Part of the condition of the proposed lease with C-Squat was that the museum commit to renovating the space before moving in. The residents who I met were adamant that the renovations be done properly and to code, which seemed contradictory to everything else about the space: When I asked to use to bathroom, I was directed up a set of stairs and through a door that opened out onto a balcony overlooking a pit with a stage for shows (where some anonymous punk noodling on a guitar stopped to look up at me blankly and then return to noodling). Colorful graffiti blanketed the walls from floor to high-ceiling, and the place smelled like old beer. I took a wrong turn and nearly tripped over a person who had passed out with their legs protruding from a closet. This was two in the afternoon. In a weird way, it was good to see that, despite pressure from UHAB to be legitimate property owners, C-Squat has maintained its unique punk culture. And in that way, C-Squat itself is part of the Museum of Reclaimed Urban Space.

While the goal of the museum is to educate people (both squatters and otherwise) about the history of squatting in the city, it might also inform the future. Bill (who has been working with direct action environmental organization Times Up! for twenty years), ever the activist, seems unlikely to output a stuffy, sterile museum of mummified memories and embalmed ideas. No doubt he plans to use this museum as a new form of squatting activism. By observing the intricacies of past movements, we might finally uncover the next step for squatting today.

Appendix A: Property Research

In his blog (http://blogsquats.blogspot.com), Bay Area squatting guru Steve DeCaprio has detailed a step-by-step process for researching abandoned properties. This process is specific to Alameda County, but a modified version can be applied most anywhere in the country. The following is an excerpt from DeCaprio's blog entry from November 26, 2011:

Lately I have become an ad hoc instructor on the topic of researching properties for housing reclamation and foreclosure defense by other participants in the Occupy Oakland movement. Occupy Oakland has begun to focus on bank foreclosed properties as the nexus between the takeover by the 1% of our country and its direct effect on our local community. This realization by Occupy Oakland has been a tremendous inspiration for me as I have been fighting for a decade for housing rights and squatting. I am proud to be offering my experience to the movement.

On that note I am offering the step-by-step process I go through in Oakland to research a property. I provide this information to expand the actions throughout Oakland as well as to offer a template that may be used by occupiers throughout the U.S. and the world.

Step One: Identify Properties

Before you can begin researching properties you must have a specific property or properties in mind. How you identify these properties depends on what you intend to do.

A. Foreclosure Properties

For foreclosure defense you can ask people who are in foreclosure to come forward for assistance. If you want to find foreclosures first rather than wait for people to come forward there are many sources for foreclosure listings. For a list that is already compiled the *San Francisco Chronicle* has an online database of foreclosed properties: http://www.sfgate.com/webdb/foreclosures/.

If you would like to do direct research on foreclosures rather than rely on the *San Francisco Chronicle* there is a process for doing that as well. You can access that information through the Alameda County Recorder's office. The information is available at their office in full or in part online: http://www.acgov.org/auditor/clerk/propertysearch.htm

When searching for foreclosures you will search for a document called a Notice of Default. Not all Notices of Default are foreclosures. The Notice of Default must be associated with a Deed of Trust. This is because in California the mortgage and subsequent foreclosure process is done through a Deed of Trust where a trustee is granted the authority to act as a referee between the borrower and the lender in a mortgage.

To find the location of the property in foreclosure you must find a description of the property. That description is usually attached to the mortgage agreement, which is in turn attached to the deed of trust. Usually the property descriptions leave out the actual address or parcel number. They provide cross streets and lot measurements instead so a little deduction will probably be necessary.

Although doing direct research is more work, you have the advantage of being able to identify foreclosed properties much earlier in the foreclosure process. With that in mind it should be noted that a homeowner receiving a Notice of Default will have time to avoid foreclosure by paying the bank the delinquent amount.

B. Abandoned Properties

The best way to identify abandoned properties is by canvassing a neighborhood house by house and block by block. I recommend identifying a specific area and go up and down in one direction, street by street, until you've covered the area. After that go back through the same area on all the cross streets. In this way you can cover a specific area in a grid ensuring that you have observed every house. Usually the best spots are the ones that are the least obvious, so it's important to be thorough.

An alternative method is to use the City of Oakland's blighted property list and then scout those particular addresses, even scouting them online with a street-view setting.

Here is the City of Oakland's list of blighted properties: http://www.oaklandnet.com/government/ceda/revised/blighted-properties/cover-blight.html.

Please keep in mind that only a few blighted properties are abandoned. The City of Oakland often uses blight as a means to harass people as well, so make sure you are careful when using the city's list.

In the end I prefer the canvassing approach since many abandoned properties aren't reported as blight and many so called "blighted" properties are just people being harassed by the city or uptight neighbors.

The next three steps involve a trip to Downtown Oakland near Lake Merritt. I go to the tax assessor, tax collector, county courthouse, and county recorder's office.

Step Two: The Tax Assessor

Once you've identified a property or properties of interest, it is then necessary to find the owner's name and address as well as the parcel number. This information is available at the office of the Alameda County Assessor Public Records, which is located at the Alameda County Administration Building, Room 245, 1221 Oak Street, Oakland, CA.

The Alameda County Assessor's office does provide some information on their Web site at http://www.acgov.org/MS/prop/index.aspx.

The owner's name and address is not provided online, so you must call, write, or visit the assessor's records department. I recommend going down physically because it is the easiest way to research a list of properties.

As you do this research you will start looking for red, yellow, and green flags on properties:

Red Flags

Property ownership has changed recently. The owner's address is near the property.

Green Flags

The owner's address is the same as the abandoned property. The ownership information has not changed in a long time. The owner's address is far away. The owner's address is invalid.

Yellow Flags (i.e. more research needed)

The owner is an estate or a trust. The owner is a bank or other such institution. The owner is a government agency.

Not all red, yellow, or green flags necessarily mean a property is not viable for your purposes, but they should be taken into account before deciding on a course of action.

Step Three: Tax Collector

With a property address or parcel number you can find if the owner has been paying the property taxes. This information is important if you are looking for an abandoned property to occupy. It is also insightful to know whether the owner has paid their property taxes, if only to have a general idea about the situation the property is involved with generally.

Tax info can be obtained at the tax collector's office in person or online at http://www.acgov.org/propertytax/index.htm. The Alameda Tax Collector is located in the lobby of the Alameda County Administration Building, so it is conveniently located in the same building as the assessor's office. In some counties the tax collector and assessor are the same administration. That is not the case in Alameda County.

Step Four: Court Documents

Now that you have the name of the owner, you can search the court records to see what litigation the owner of record is or has been involved in. In Alameda County you can reach the Rene C. Davidson courthouse through a tunnel connecting it to the county administration building through their respective basements.

After leaving the tax assessor and collector's offices you can take the elevator to the basement. Exit the elevator to the right and follow the long hallway past the registrar of voters. On your left you will see a set of elevators and stairs. They will take you to the lobby of the Rene C. Davidson Courthouse.

Near the security screening area you will see the entrance to the Clerk of the Superior Court's office. Enter that door and go all the way back. There will be some computers in a back area. On these computers you can search the court's databases for any litigation pertaining to any individual. Enter in the owner of record's name and choose the types of cases you are interested in and the time frame. I usually make my search as wide as possible.

Once you search the records, a list of cases may come up. Sometimes an owner of record has never been involved in any litigation, but usually there are at least some cases. You can write all the case numbers down and then look the cases up later on the court's Web site here: http://apps.alameda.courts.ca.gov/domainweb/html/casesumbody.html.

This Web site provides access to every document ever filed in any case since the court switched away from microfiche. Very old cases still stored in microfiche must be viewed personally.

Here are some red, yellow, and green flags:

Red Flags

Recent cases indicating that the owner is actively engaged in litigation (i.e. not a default proceeding).

A recently commenced probate case indicating that the owner's estate is about to be disbursed.

A recent unlawful detainer case (i.e. eviction).

Green Flag

A very old and unresolved probate case.

Yellow Flags

A bankruptcy proceeding.

A foreclosure proceeding.

Step Five: Recorder's Office

The Alameda County Recorder's Office provides access to all official recorded documents. Some research can be done from their Web site at http://rechart1.acgov.org/search.asp?cabinet=opr.

The information on the Web site is very limited, so a physical trip to the recorder's office is usually necessary. Fortunately, in Alameda County the recorder's office is just around the corner from the assessor, collector, and court offices. The Alameda County Recorder's Office is located at 1106 Madison Street, Oakland, CA 94607.

Here are some documents to look for:

Deed/Grant Deed

This document shows a transfer from a previous owner to another. The most recent Deed usually matches with the assessor's office records.

Deed of Trust

This document indicates that a mortgage has been taken out on a property. The lender is usually a bank, and the trustee is the referee between the bank and the borrower. A trustee has the power to commence a foreclosure proceeding if the bank is not being paid.

Notice of Default

As mentioned above.

Of course there are many more recordable documents and any of them may provide useful insights.

Step Six: Engage People Directly

Now that you have all this information, you may have a good idea what properties are viable for the purposes you intend. I suggest now directly engaging the owner for permission if they are available. Talking to neighbors is a double-edged sword. If you are starting a community garden or defending a foreclosed property, engaging the neighborhood directly can be a good idea.

If you are squatting an abandoned building, I recommend treading more lightly and focusing on improvements you are making to the property as the new owner or property manager. (Note: squatting is a form of property ownership, civil code section 1006.) If neighbors press you on how you acquired the property, I usually say that I paid the back taxes (code of civil procedure section 325). Of course I discuss this in much greater detail in other posts, but simply put it is usually a bad idea to tell your neighbors that you are squatting since the term squatting has such a negative stigma to some people in our society.

Summary

Doing research is very important when occupying contentious space. The more you know the more likely you are to succeed, the better you can develop your message, and the better your project looks even if you fail. Just by being informed you can garner a great deal of respect and credibility.

Of course sometimes it is important to take risks and act on what you believe to be right. The research you do should help you plan the best strategy given the circumstances. There never is a perfect property nor a perfect plan so there will always be a level of risk when defending a foreclosure, planting a guerrilla garden, or squatting an abandoned house.

Research can improve the odds of success, but it cannot guarantee it. What is important is that we take action based on our beliefs to fight for a better world. Occupy Oakland has already lost at least five spaces thus far. For each occupation this may be considered a failure, but for the movement it represents a tremendous success bringing awareness to the issues of injustice.

I hope that Occupy Oakland can reclaim more spaces and be able to keep them long enough to create a permanent or semi-permanent infrastructure.

Appendix B: Property Laws for Defending an Occupation

In his blog (http://blogsquats.blogspot.com), Steve DeCaprio has detailed the law relevant to squatting in California. The following is an excerpt from DeCaprio's blog entry from December 28, 2011:

So Land Action (our non-profit) organized a teach-in supporting Occupy Oakland to share our experiences and the experiences of others to provide information to develop the best possible strategies for establishing and defending occupations of all types.

Many people expressed an interest to defend foreclosures, reclaim foreclosures, establish new encampments, and establish new squats. All of these activities have legal ramifications and the following is what we covered in the property law teach-in.

Disclaimer: This legal essay is not all-inclusive nor do I make any assurance to its accuracy, as I am not an attorney. All the law cited in this post is California law as it pertains to Alameda County unless stated otherwise. Laws may vary from state to state, and their enforcement may vary depending on the city you are in.

There are three areas of the law that pertain to occupying land: adverse possession (best case scenario), criminal trespass (worst case scenario), and civil trespass (second best scenario).

1. Adverse Possession

First, there are the laws pertaining to adverse possession in which the occupier of land claims ownership of the land until proven otherwise. The most basic claim is title by occupancy pursuant to Civil Code Section 1006 where the occupier of land is the presumptive owner. This law is very simple so I will quote it in its entirety:

> Civil Code Section 1006. *Occupancy for any period confers a title sufficient against all except the state and those who have title by*

prescription, accession, transfer, will, or succession; but the title conferred by occupancy is not a sufficient interest in real property to enable the occupant or the occupant's privies to commence or maintain an action to quiet title, unless the occupancy has ripened into title by prescription.

Of course, simply because you occupy a property for a short time, it doesn't mean you own the property against someone who can prove they are the true owner. Civil Code Section 1006 does provide you the protection, in certain circumstances, requiring the property owner to prove they own the property in court before an eviction can occur. In some cases, especially foreclosures, the bank may have a difficult time proving they own the property because often the paperwork has changed many hands and has been done poorly. If the owner can't prove they own the property, an eviction cannot occur (at least in theory). In more realistic scenarios it may be possible to defend your occupation in court for a while during the time it takes for the true owner to make an offer of proof. This is what we did at Hellarity. I discuss this further below under the section entitled Civil Trespass.

Of course if you occupy a property long enough you may be able to overcome any eviction and become the true owner by adverse possession pursuant to Civil Code Section 1007. Adverse possession is achieved by five years exclusive occupancy without permission, along with payment of property taxes pursuant to Code of Civil Procedure Section 325.

Also, an adverse possessor can have their name added to the assessment rolls pursuant to Revenue and Taxation Code Section 610. The importance of this is that for government officials the assessment roll is used as evidence of ownership. If you add your name to the assessment roll it may be possible to prevent police harassment or deprivation of your property rights by government officials. When one makes a request pursuant to Revenue and Taxation Code Section 610, it is necessary to provide a "declaration, under penalty of perjury, that he or she currently has possession of the property and intends to be assessed for the property in order to perfect a claim in adverse possession." The request is made to the tax assessor's office.

2. Criminal Trespass

The worst-case scenario in any occupation is that the police arrive and threaten to arrest you. If no one on the property is committing any crimes

then the only charge that the police could arrest you under is misdemeanor trespassing. Usually the police provide an occupier one free pass to choose to stay and get arrested or leave the property and avoid arrest.

Before being confronted with that choice it is always a good idea to be aware of your criminal exposure. Under Penal Code Section 19, a misdemeanor is punishable by up to six months in jail and $1,000 fine. This is the maximum sentence. It would be very rare for a judge to impose the maximum penalty. I was sentenced to two months jail after a trial leading to three separate convictions. The judge could have sentenced me to eighteen months in jail under Penal Code Section 19 but gave me a much lighter sentence.

Despite this, I have spoken to some attorneys about this sentence and the consensus is that a two-month sentence is much harsher than normal. I was able to serve my sentence out of custody in a work program.

A more lenient conviction would be either a fine or community service, which is common for many convicted of trespass. If you've spent the night in jail, some judges will convict you with time served (i.e. no further punishment).

The most common trespassing charge is under Penal Code Section 602, which states that entry onto land posted as no trespassing or where police are requested by the owner to arrest trespassers is a misdemeanor.

Ironically, I was convicted of Penal Code Section 602.5, which prohibits the entry into the residence of another. I find this ironic since the house I was squatting had been empty for over a decade, which should have protected me from such a charge.

3. Defenses to Criminal Trespass

There are numerous defenses to a charge of trespassing. The best one, of course, is that you had permission to be on the property or you are the true owner. Before a situation confronting the police, I recommend reading my previous blog post "Is There Something I Can Help You With?" It's always best to avoid a prosecution than to fight one.

Another defense is that the prosecution is unconstitutional. This is actually a strong legal argument as it is taught in law school, but not as strong today when most judges roll their eyes when the Constitution is cited in a criminal court.

The most obvious constitutional argument is that you should be provided due process under the Fourth Amendment to the U.S. Constitution in the form of an eviction or ejectment (see below). The concept of due process would ensure that one who occupies vacant land is protected by Civil Code Section 1006 (above) as well as the Constitution. One such case that can be cited in support of this is *King v. Massarweh*, 782 F. 2d 825, where the owner accused his tenants of being trespassers and had them arrested.

The strength of this argument is that if land owners can simply remove occupants by calling the police then what is to stop them from calling the police to remove tenants, thus rendering the eviction procedure and tenants rights moot. This is what happened in *King v. Massarweh*.

Another legal principle that is emerging is that removing people from encampments and throwing them into the streets is cruel and unusual punishment prohibited by the Eighth Amendment of the U.S. Constitution. The rationale is that the punishment of depriving someone of shelter is cruel when a harmless misdemeanor trespass is the only offense being charged. This is a new defense, and there is only one citable case out of Florida where this argument prevailed: *Pottinger v. City of Miami*, 40 F. 3d 1155. There has been one victory in California protecting people living on Los Angeles's skid row, but unfortunately that case was not published in the proper legal journals to be considered having the weight of law in California. In California the Eighth Amendment defense has not been decided by the courts, but it's worth bringing up anyway; especially if the occupiers are otherwise homeless.

Of course, in the context of a political occupation such as Occupy Oakland, one could argue that the prosecutions are malicious police actions meant to deprive protestors of their free speech protections under the First and Fourteenth Amendment of the U.S. Constitution. The current situation reminds me of the case *Allee v. Medrano*, 416 U.S. 802 (1974), where farm workers in Texas were arrested numerous times for minor offenses by the police in an effort by the government to suppress organizing efforts by labor unions during the civil rights era. The Supreme Court decided that even though the labor organizers may have committed minor violations of the law, the selective arrests by the organizers were in "bad faith" by the police in an effort to deprive them of their right to free speech, free association, and equality.

Of course, if you find yourself in a jail cell I wouldn't put to much faith in the Constitution in today's political climate. Accepting the risk and doing as much as possible to avoid arrest is something I recommend during the planning stages. That is why I recommend doing your research before taking action, and developing a solid plan and following through with it.

4. Civil Trespass

A very likely scenario for an occupation that avoids the police is that at some point the owner of the property, their estate, or some successor will become involved. I always recommend that you assume the owner will intervene unless the owner is dead (with absolutely no living heirs) or has completely disappeared. That said, before entering a property I recommend attempting vigorously to contact the owner. At first I like to ask the owner for permission. If the owner doesn't respond then I like to inform the owner of my intention to adversely possess the property (see above). This way you know the owner is not engaged, and if the owner decides to remove you later you can use copies of your correspondence to show that you entered the property in good faith.

One analogy I use is that it is better to kick the hornets' nest than it is to get stuck in it. Do not tip toe around the owner before entering the property unless you want a confrontation later.

Assuming your intention is to adversely posses the property then there are some steps you can take to establish the legitimacy of your occupation.

If the building is your residence you can file a homestead declaration under Code of Civil Procedure Section 704.930. A homestead declaration can be filed with the county recorder's office. This document can be found online or purchased at a copy shop if they provide notary services. The homestead declaration must describe the property as it is described on the previous owner's deed, and be completely filled out.

In the line that says "I own the following interest..." one can put "occupancy pursuant to Civil Code Section 1006." Another way to fill out that line is "fee simple title." I am not sure the most appropriate, but it has never been an issue. In fact I have left that line blank most of the time.

Also, it is necessary that the Homestead Declaration is signed in front of a notary and then notarized before it is filed. A common mistake is for

someone to sign a document before taking it to the notary. The purpose of the notary is to ensure that the signature is authentic; nothing more. So no matter how many mistakes you make in your document, the notary only cares about ensuring that you are who you say you are and that you are the one signing the document. Notaries will not ask questions about your paperwork or provide any advice on how it should be filled out.

After notarizing your Homestead Declaration you can then file it with the county recorder. Both the notary and the recorder will charge a fee.

The advantage of a Homestead Declaration is that it can be used as evidence under Code of Civil Procedure Section 704.940. This means that if the owner comes forward at some later date then you can establish that at the very least you were in possession of the property at the time commencing when the declaration was filed, unless the owner can prove otherwise. If the owner comes forward over five years after filing the declaration, it will be more difficult for the owner to legally remove you.

A Homestead Declaration is not appropriate if the owner gives you permission to be on the property. If you have permission from the owner to be there you have a better chance of arguing that you are a tenant.

Also, under Civil Code Section 880.310-880.370, a Notice of Intent to Preserve Interest can be filed with the county recorder after the Homestead Declaration. The Notice of Intent to Preserve Interest enters the person's name in the ownership index. This can be filed in the same way as a Homestead Declaration and must reference the document number of the Homestead Declaration or some other document on file with the county recorder.

Another strategy for establishing record title for the purposes of adverse possession can be to file a Quitclaim Deed, which transfers your interest to a third party that is contractually obligated to transfer title back to you when you have been in possession of the property for five years.

The difficulty in filing a Quitclaim Deed is finding a person that you both trust and is also willing to accept the risk without the benefit of acquiring the property. This is a service that Land Action will be providing to certain occupations that fit within our mission, which is to support occupations that advance the principles of equality, justice, or equality.

These strategies for adverse possession may not end in successfully acquiring ownership of the property you occupy, but it does help

to establish your claim. Even if you are arrested, the absentee landlord will still have to sue you to clean up their title. This means that if you are arrested or removed through some illegal means, you can maintain your claim. If the owner doesn't sue you within five years after you are removed, you may still acquire the property. If the owner does sue you within five years then you can fight them in court and/or negotiate a settlement. What you decide to do depends on the circumstances.

There are two types of lawsuits that an owner may use to remove an occupier. One is called an Unlawful Detainer and the other is called a Quiet Title. Unlawful Detainers are usually used to evict tenants, whereas Quiet Title is used against trespassers.

Since the litigation process is so complex, I will be developing fill-in-the-blank forms for each step in the process in future blogs. Feel free to add comments if you have a particular situation that may need such a document so I know what to develop first.

Summary

Knowing the laws in an increasingly lawless society does not guarantee any outcome, but it can give you the advantage in developing your strategy and dealing with confrontational situations. Arguing the legality of your occupation with an adversary rarely succeeds, but developing your occupation in a manner that most conforms with the law might help avoid a confrontation or, at the very least, make it more difficult for an adversary to find a pretext to harass you.

Also, in the event that you find yourself in a courtroom, knowing the law can in a best-case scenario lead to your victory in fighting an eviction, but even in the worst-case scenario it can help you to take advantage of the process to minimize the harm caused by an eviction.

Appendix C: Organizing for Occupation's Tips 4 Squatting

The following is from a tip sheet written by members of Organizing for Occupation in New York City.

A group of people, of varying ages and skills decide that they have had enough of the shelter system, enough of the humiliation, injustice, and dehumanization of being homeless, or they simply can no longer afford the rip-off rents that eat up most of the money they have. Getting together, they decide to consider a direct action approach to securing a home here in New York City. They decide to take matters into their own hands. They meet, get acquainted, discuss, gain each other's trust, and start to explore the possibilities.

Spotting a vacant building in (for example) the Bedford-Stuyvesant section of Brooklyn, the former neighborhood of a number of the groups members, they decide to explore one particular building that according to the locals has been empty for some time, evidenced by the fact that the notices and garbage strewn in front of the place are months or even years old. The place looks and feels dormant. Checking it out from the street, but not being too obvious, they decide that all in all it looks good from the outside, and that the immediate neighborhood looks OK as well. Squatting works best in neighborhoods that are relatively peaceful, where gentrification, police, and hungry developers are only moderately, minimally (if at all) present. In other words, successful homesteading is more feasible on, let's say, Atlantic Avenue in East New York than it is on Park Avenue or areas coveted by the greed mongers.

Next, your group ascertains the exact address of the vacant building. If the address is not immediately visible, they take note of the next-door address and figure it out. Point is, by whatever means, you need to ascertain the exact address of the house. Once having done so, locate a computer and type in the following address: http://webapps.nyc.gov:8084/CICS/fin1/find001i.

This is the NYC Department of Real Property, "property search" link. Explore all they give you here, especially the name and address of the current

owner along with the owner's office address, if available. Others knowledgeable in this area of research may direct you to other online means of securing this type of information, information that may become useful (necessary) later if you need to convince the "owner" to leave you be. If you can't decipher some of the coded lingo, find some trustworthy person who can.

Also make inquiries of the local residents, but don't tip your hand regarding your plans. Suggest, in your hobnobbing, that you're only interested in the history of the building or are checking it out for your boss, writing a term paper, or work with a homeless group that wants to buy it, or some such BS. These conversations with locals can sometimes get you info not available online, and more current and real, like has anyone been going in and out recently, any worker types, suits, etc. The locals will know this sort of stuff…how long the house has been vacant, etc. Just be careful who you talk to and most definitely do not suggest your plan to occupy with anyone but your group of trusted fellow homesteaders. Remember, "loose lips sink ships."

Once your group has a pretty good idea who owns the house and that it has been vacant for a significant amount of time, is tied up with some bank or absentee landlord that doesn't seem to be doing anything with it, you can move to the next step: A small group of two to four persons enter into the vacant building/house clandestinely (secretly), preferably through a rear or side entrance or (basement) window or door. If none available, then through the front door at a suitable time, utilizing spotters on the street. *The primary law here is secrecy*! Getting busted at this stage is not the end of the world but quite possibly means you have to give up on that particular site for a while.

To do the job, your group will need a good bolt cutter, pry bar and crow bar, flashlight, and sufficient hardware (locks and chains) to secure the place when you're done. If the house is chained shut, bolted, and/or boarded up, it will be necessary to use the bolt cutter (roughly four feet tall) and hefty crow bar (hide in old guitar case) to get in. Dress in dark cloths and wear hard-soled shoes. Days before, explore the block late at night and early morning (after 3 a.m.). Decide, based on this scouting, when is the best time to go in. Scout it out and see whose around. Don't hang out in front of the place, but across the street! Don't draw attention to yourself! Be cagey, remember, it's about doing things under the radar!

When you're checking out the site, sit on a stoop across the street or hang on the corner and watch for what happens. Note how often the police cruise by. Is there a local yokel that hangs out in front all night? In most instances, the best time to go in is 3–5 a.m., but that depends on the block. Sometimes a block with a lot of daily business as usual or hot Friday-night buzz kind of activity can provide a more suitable cover for entrance. You be the judge when it's best to go in and where the best and most covert point of entry might be and what tools to bring to make the job go smoothly and swiftly (don't be lugging stuff with you that you don't need). When you do decide to move, post one or two people outside, across the street or on the corner, as spotters with cell phones so that if anything weird or untoward takes place they can call you and give you a heads up. This is especially useful when you are ready to come out! You don't want to suffer the misfortune of bumping right into a cop strolling down the street or double-parked in front of the Dunkin Donuts on your way out, so best to get an "all clear" call from outside before you make your exit and lock the place up using the hardware (new lock, chain, etc.) that you brought for that purpose.

Going In:

OK, you and a friend or two (max), one of you with some basic construction skills, snap the chain, pry open a side basement or ground floor window, a back door, and enter into the space. It's dark, so you use your flashlight, but remember, don't point it out the windows or any cracks that will show up on the street at night and get spotted; focus flashlight down (see where you're going) and away from windows. Close the opening up after you get in so that it looks shut. Be quiet! Proceed cautiously, be careful once you are inside as there may be holes in the floor, depending upon how long the place has been vacant. Check structure: Do the floor and ceiling beams seem OK, floors level (not on major tilt), are the stairs intact; if so, check out the upper floors, check windows—they will need to be secured and "winterized" eventually so check to see if wood frames are intact. Does the house appear to have electrical wiring in place (i.e. boxes and switches still on the wall)? Bring an electrical tester so you can see if there's juice anywhere. If you don't know much about electricity, don't be touching things—some exposed lines could be live! Be careful!

Are the walls made of sheet rock, plaster, in decent shape? If accessible and if stairs are functional, check the roof: what shape is it in, are there large holes resulting in persistent water damage to the building? The reason you're checking all this is that your group is making a list of the materials and skills necessary that you will need when next you return, figuring where you are going to get the materials, the cash, the skills to do the job. Now remember, a one- or two-family, one- or two-year-old foreclosed home is going to appear a lot less damaged than a six-floor tenement walk-up water-damaged building that's been empty for a decade and open to the elements! So expect varying conditions depending on the venue you're checking out.

Other key stuff to look for: Is the building/house structurally safe (not going to come crashing down on your head)? In other words, are there obvious cracks in the exterior walls, radically slanted floors (beams are sagging), etc.? If so, you may want to move to another site or plan on doing major amounts of work to bring the house up to a standard that is not a threat to life and limb! If the house seems OK, figure out how much material (plywood and 2x4s) you will need to secure the space on your next trip(s) back to the building. Remember, you got in, so you want to ensure that no one else can. So for the time being, ¾-inch plywood (4x8) and 2x4s are the best bet for a ground-floor or lower-floor window seal-up. Decide which of the ways in is going to be your principle means of entrance during the early stages of occupation/renovation. Plan for how to lock that entrance once you exit (chain and lock, etc.). While inside, make a list of the materials that you will need to secure the space and get the electrical and water going. If uncertain, make sure you bring your plumber and electrician friend next time. She/he can check in the basement for electric meters and breaker boxes. Are they intact and usable? Is the water-main cut-off accessible? Are waste lines and water feeds intact throughout the house? Are electric fixtures intact? Sinks, toilets present and functional? Every house will vary in terms of what remains and consequently what you will have to acquire. Each time you return for work days, go in the same way, utilizing the same extreme precautions. The basic goal at this phase is to assess the amount of work needed to get light, water, security, and warmth (winterizing) in the place to allow for people to settle there. You'll need both skilled and not-so-skilled people to knock

out the work to be done (at this stage) all in secret! Rome wasn't built in a day and neither will your squat home. That's OK. The goal is to get settled and secure and commence working on it.

Now, the issue of how much work needs to get done before someone can live there depends on (1) the condition of the house and (2) the degree of need (desperation) on the part of someone (family) who is homeless. If the issue is to get in quick, then do so. If you have some time to renovate first then do so. It will depend on your group and its needs and desires.

Once securing the space is complete and the lower-floor windows and doors are ply-wooded shut and your new lock is put on the point of entry (whether or not it's in the front), choose one apartment or room as a base of operations, "winterize" it, and move in! Money for materials can be raised by everyone pitching in…. Also, dumpster diving construction sites for materials and getting bruised stuff from commercial lumbar yards/builder's shops. Yes, go ask 'em. Very often they will give away what they can't sell and will tell you when to come and pick up. Through various means you can locate the materials you need to renovate your house and figure ways to get the skills to do the job. Everyone can learn, so if a friend or member of your group can use a screw gun, they can teach you as well. One of the big lies is that the people can't renovate the homes they need. That's BS. There's nothing that you can't learn to do when it comes to making a home.

Materials you'll need early on: Besides basic materials to repair walls (sheet rock, plaster, joint compound, and assorted hardware) and materials to get the basic electrical and plumbing going, you'll want to pick up a roll of heavy duty 4 mil plastic construction garbage bags. A straight edge shovel, some metal dustpans, dust masks, brooms, and work gloves are also vital right from the start. Assuming there is no central heat in the house, you'll want to staple 4 mil plastic (comes in a roll as well) to windows. Cut pieces to size with a carpet knife leaving 4" over on each side for rolling up. Utilizing a heavy-duty staple gun and 1/4" or 5/8" T-50 staples, secure the plastic to the window frame, rolling up the edges a few times, stretching and stapling as you would a canvas (get an artist friend to show you how). Secure plastic firmly (cold wind will blow it out if too loose) to all the windows with staples two inches apart all around and then duct tape the entire perimeter of the window. If windows face

out to the street, you might want secure with staples an opaque (can't see through) blanket so that no light can be seen from outside (also helps to keep the heat in).

Now, presuming you don't have a functioning toilet yet, and you and your group are needing to squat immediately, you will want to arrange for a temporary means of "relieving yourselves." Obviously, make use of public accommodations when you can (bathrooms in restaurants, libraries, friend's homes, showers in gyms, etc.), but you will want to have some means of taking care of business at night. Joint compound buckets work quite nicely. One for #1 and one for #2. Liquid can be covered with plastic cover and emptied at the corner sewer (discreetly) and cleaned out with bleach and water. Try not to let them get too full as they can become heavy and fermented and emptying makes for a smelly spectacle on Main Street. As for #2, line said bucket with a plastic bag, do your business, knot the bag and discard in garbage can on the street. Top your compound bucket with a toilet seat for a more comfortable experience all around. Lastly, "piss buckets" have at times been utilized in defense of squatters facing eviction.

Heat one small room or area at first, which your group can use as a base of operations, for sleeping, cooking on hotplate, etc. Of course, this all relies on a minimum of electric current. This will be available either from lucking out and having live juice in the house, or having the juice turned on (legally or otherwise), running a line from a friendly source (next door neighbor), or tapping it directly from the streetlight pole. Your electrician member or friend can advise you….

So you have your lock on the door, possibly some basic electric and water. It's critical that the group begin to establish residency in the space (even if all in one room to start) and protect the place, organize itself, have regular meetings, set basic rules of the homestead, have work days, bring in new people if the space requires it, pool resources, and so on. As part of your practical occupation and homesteading of the space, you want to establish legal residency in your new home. By that is meant that you will need to be able to prove that you, your family, your housemates actually live there should someone dispute your claim. All cities have means by which one establishes legal residency in a space. In NYC, you can establish a legal basis for a claim of residency through the continuous receipt

of mail in your name at that site for thirty days or more. In other words, if you can show that you have been residing in a place for thirty days or more through the receipt of mail, you must be accorded due process in any attempt to evict you, you must be taken to court and evicted by the owner, and you must not be subjected to NYPD rousting as a trespasser. When does your group start this process? The sooner the better! In other words, as early as your group's first "crack" entrance into the space, following your having researched it, you'll want to start sending mail to yourself there.

How to you acquire that "resident" status? By having mail sent to you at your new home. As I said, start doing this at the earliest point in the process outlined so far. How do you pick it up? Either use (install quietly) a mailbox out front (tacked on the front door, front fence) and meet the mail carrier with "our mailbox is under repair, here's proof of who I am, can I have my mail?"; or set up a building drop, under the building's address at the local post office by telling them that your mailboxes are being renovated (which is true) so the entire building's occupants needs to pick up mail there. However you arrange it, you want to start collecting mail in your name at that address, ASAP!

Let us imagine that one day some disgruntled passer-by spots you and decides to prevail upon the local cop, just walking by on his beat. By showing your mail, "you see I live here," mail with your name and the address of the place, and clearly postmarked for at least thirty days prior, the "thirty day law" as it is known takes effect, and in most cases, the cop will move along and leave you be. Remember, the local cop has one job in confronting you at your doorstep, and that is to determine if you are a trespasser or a resident. That's it. He or she is not there to throw you out unless they have been given an order to do so or they determine you are a trespasser. The NYPD police regulations require the officer to determine if you are a legal resident in the house. By showing her/him your mail you make their job easy. Even if they are suspicious, the mail doesn't lie and they assume it's up to the owner to deal with you, whom they may or may not even contact (probably not) after they move on. Often the "thirty day law" (you showing your mail) allows the cops to wash their hands of it. It's up to the owner to evict you (if that's their aim) by way of "due process"—in other words, through the courts.

Now, the so-called "thirty day law" is the *only* legal defense in NYC that squatters can rely on in the early days of their occupation. Thin? Yes, but it has served the NYC squatter community well over the years. In order to get to that stage you have to receive and be in possession of mail for at least a month at the site, and remember, for the first month or two you are going in and out secretly….

While all of this is going on, the collecting of mail, the securing of the building from within, the work of getting electric and water going and winterizing the space, *in secret*, a local "eviction watch" group is being formed in the neighborhood of your new home. It's hard to work on the space and do this community organizing work, so ideally others are doing it for you, but you may have to take some of this on yourselves. Essentially, you're building local support for your occupation by growing a list of people who live in the vicinity of the new squat (but don't know the precise address of your home) who support more generally your right to a home through direct action in principle and are willing to sign on and agree to come out and support you in the event of an eviction attempt. The local "rapid response" to any shenanigans on the part of the alleged "owner" is organized and spearheaded by this local eviction watch group, which ideally is linked to a citywide network of like-minded people who support the human rights struggle for a home.

…Canvassing the neighborhood, handing out and posting fliers, "eviction watch" organizes the neighborhood to defend itself. Some of the activists involved in this work are also focused on particular local institutions in the neighborhood, others on the community orgs and centers, others going house to house to galvanize neighbors—many of whom may fear for their own homes…. Important allies in the community are the religious leaders. They can be asked to sign a statement that supports the moral right to occupy vacant spaces for a home and agree to come out to defend the occupants when asked to. Artists can design posters and other means of expressing the vision and grit of the new homesteaders in the neighborhood, expressing such sentiments as "we may be homeless but we're not helpless!" or "foreclose on the banks," or posters that call for "a moratorium on evictions."

One afternoon, after having been in the house for two or three months, been collecting mail and making repairs, the group goes "public" and begins

using the front door, inevitably smoking out the owner. Yes, sooner or later they are going to figure out you and your group are there! One day there's a loud knock at the front door. Standing there is some bureaucrat from the bank that claims to own your house. Temporarily removing the barricade you constructed, you make the determination that it's OK to open the door and speak with him (noticing no police.) Telling him that you can't let him in without a warrant (which is your right), he proceeds nonetheless to announce that you have no right to be there, blah, blah, blah…

Failing to convince the bank to let you and your family homestead the house and unable to reach a settlement, upon which the bankster says he is going to move to evict you and your squatter comrades, you decide to mobilize the names and contacts garnered through the "eviction watch" process and call for a peaceful picket in front of the bank. Non-violent, respectful with press statements and media spokespeople picked out beforehand, colorful banners and posters, the presence of professors and local politicians, you and they make the public case to the assembled media that housing is a human right and, yes, although you entered into the vacant premises in an unpermitted way, you only sought to protect yourself and loved ones from the violence pursuant to a life of homelessness (which is the real crime) and further, that the bank had no right to demonize your actions when they have themselves defrauded and victimized thousands through deceptive lending practices, and that they are the real criminals, not people courageously exercising their human right to a home.

At the peaceful protest in front of the bank that's trying to evict your homestead, you have Professor Peabody speak about the concept of land trusts and other forms of community-based and "mutual" housing, a campaign in which (according to the professor) "the squatters are leading the way." He also makes note of the long and colorful and history of the American homesteader movement. After the professor, the local councilperson is queried about her support for Intro 88, a bill that would reinstate "urban homesteading" and give credence to "sweat equity" as a replacement for financial equity, which many poor and working people lack, declaring that "we may not have much money but we have the sweat of our brow to make a home!"

…So, still out front of the bank, demanding that they leave you alone to make a home for yourselves, it's always reassuring to know, despite the

good intentions and working-class bias of most of the NYPD, that movement attorneys are present with us at these protests and at the site of any attempts to evict us. And when they are not busy in that regard they are coming up with novel ways and means of pushing forward and defending those engaged in the human right struggle for housing though direct action, or squatting.

As luck would have it, surrounded by hundreds of your supporters and shamed by critical and truthful media, the bank backs down and decides to "allow" you and the rest of your homesteader family to remain in your home (and the ten other bank houses that other autonomous squatter groups have occupied). The months and years pass, and maintaining a regular, non-sexist, non-racist, democratic means of decision making, pulling off effective work days and getting things done, and building true community with your housemates and your neighborhood community, your home becomes a model and inspiration for others who spread the gospel of squatting, the gospel of the right to a home actualized through self-determination and direct action, the moral equivalent of loving your neighbor and yourself.

Appendix D: Glossary

1202a Nuisance Abatement Program: A city program in Philadelphia in 1985 in which squatters could receive a $300 grant toward home renovations.

ACORN: Association of Community Organizations for Reform Now.

Adverse Possession: A statute that allows for an individual to claim unused property after using it for the determined statetory period.

Allodial Title: Title owned absolutely, without the acknowledgement of a fuedal lord.

Castle Doctrine: A legal doctrine in some states that allows a person to defend their property using deadly force against intruders without being prosecuted.

Color of Title: A title that appears valid but may be legally defective.

Doctrine of Discovery: The colonial doctrine granting land claims only to explorers and occupiers who were subjects of a European Christian monarch.

Eminent Domain: The right of municipalities to seize properties without consent but with just compensation to the owner, often to use the land for a street or a railroad, or some other public benefit.

Fee Simple: A permanent and absolute tenure of an estate in land, with freedom to dispose of it at will.

Lease in Fee: An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others.

Homes Not Jails: A squatting advocacy and direct action group orginally based in San Francisco.

HPD: Department of Housing Preservation and Development in New York City.

HUD: The federal department of Housing and Urban Development.

ICON: Inner City Organizing Network in Philadelphia.

Limited Equity: An ownership model that, as a method of maintaining affordable housing, has specific rules regarding pricing when shares are sold.

Patroon: A landholder with manorial rights to a large tract of land in the seventeenth-century Dutch colony of New Netherland.

(An Action to) Quiet Title: A lawsuit brought in a court having jurisdiction over land disputes, in order to establish a party's title to real property against anyone and everyone, and thus "quiet" any challenges or claims to the title.

Receivership: The situation in which an institution or enterprise is being held by a receiver, a person "placed in the custodial responsibility for the property of others, including tangible and intangible assets and rights."

Resident Management Initiatives: Arrangements in which low-income residents self-manage their apartment buildings.

Self-Determination Era: The period of time after 1960 when indigenous tribes in the U.S. began exercising self-governance and internal decision-making on issues affecting their own people, through social movements as well as legislation.

Straw Person: A figure not intended to have a genuine beneficial interest in a property, to whom such property is nevertheless conveyed in order to facilitate a more complicated transaction at law or to obscure the true owner.

Termination Era: The policy of the U.S. government from the 1940s to the 1960s that Native Americans must assimilate with mainstream European-American culture.

UHAB: Urban Homesteading Assistance Board in New York City.

Zero Equity: An ownership model that does not allow for the accumulation of equity or profiting from the sale of shares.

Appendix E: Adverse Possession Code, State by State

Alabama*	10 years under Color of Title** and payment of taxes	Alabama Code §6-5-200
Alaska	10 years in "good faith" or 7 years under Color of Title	Alaska Code §09.10.030; 09.25.052
Arizona	2 years under Color of Title	Arizona Code §12-523
Arkansas	7 years for unimproved and enclosed land under Color of Title; 15 years for unimproved and wild land under Color of Title	Arkansas Code §16-56-105; 18-11-102; 18-60-212
California	5 years with payment of taxes	California Code Civil Procedure §322-25
Colorado	18 years in "good faith"	Colorado Code §38-41-101, 108, 109
Connecticut	15 years	Connecticut Code §52-575
Delaware	20 years	Delaware Code §10-7901, 7902
Florida	7 years under Color of Title and payment of taxes	Florida Code §95.16.18
Georgia	20 years or 7 years under Color of Title	Georgia Code §44-5-163, 164
Hawaii	20 years if in good faith	Hawaii Code §657-31.5
Idaho	20 years under Color of Title and payment of taxes	Idaho Code §5-208, 209, 210
Illinois	20 years or 7 years under Color of Title and payment of taxes	Illinois Code §735-5/13-101, 107, 109, 110

Indiana	10 years in "good faith" with payment of taxes	Indiana Code § 32-21-7
Iowa	10 years under Color of Title	Iowa Code §564.1
Kansas	15 years	Kansas Code §60-503
Kentucky	15 years or 7 years if under patent from the state	Kentucky Code §413.010, .060, .020
Louisiana	30 years or 10 years if in "good faith"	Louisiana Civil Code § 3475, 3486
Maine	20 years under Color of Title and payment of taxes	Maine T. 14, §801, 815
Maryland	20 years	Maryland Courts §5-103
Massachusetts	20 years	Massachusetts Code 185, §53
Michigan	5 years under Color of Title by a court deed; 10 years if the claimant has Color of Title by a tax deed; and 15 years in all other cases. To have marketable title, the claimant also receives a court decree granting him/her quiet title	Michigan Compiled Laws §600.5801
Minnesota	15 years and payment of taxes for 5 consecutive years	Minnesota Code §508.02; 541.01-02
Mississippi	10 years under Color of Title and payment of taxes	Mississippi Code §15-1-7, 13
Missouri	10 years	Missouri Code §516.010-.030
Montana	5 years under Color of Title and payment of taxes	Montana Code §70-19-404 through 411
Nebraska	10 years	Nebraska Code §25-202
Nevada	5 years under Color of Title and payment of taxes	Nevada Code §11.070-.080
New Hampshire	20 years	New Hampshire Code §508:2, 3

New Jersey	30 years under Color of Title and payment of taxes, or 60 years if uncultivated	New Jersey Code §2A-14-30
New Mexico	10 years under Color of Title and payment of taxes	New Mexico Code §37-1-22
New York	10 years under Color of Title	New York Real Prop. A&P.L. §501-551
North Carolina	20 years or 7 years under Color of Title	North Carolina Code §1-35 through 43
North Dakota	20 years or 10 years under Color of Title and payment of taxes	North Dakota Code §28-01-01 onward; 47-06-03
Ohio	21 years	Ohio Code §2305.04
Oklahoma	15 years	Oklahoma Code §12-93; 60-333
Oregon	10 years	Oregon Code §105.620; 12.050
Pennsylvania	21 years	Pennsylvania Code §42-5530
Rhode Island	10 years	Rhode Island Code §34-7-1
South Carolina	10 years	South Carolina Code §15-67-210 through 260
South Dakota	20 years or 10 years under Color of Title and payment of taxes	South Dakota Code §15-3-7, 10; 43-14-2
Tennessee	20 years or 7 years under Color of Title	Tennessee Code §28-2101 onward
Texas	3 to 25 years, depending	Texas Civ. Prac. Rem. Code §16.021 through 16.032
Utah	7 years under Color of Title and payment of taxes	Utah Code §78-12-7.1 through 21

Vermont	15 years	Vermont Code §12-501
Virginia	15 years under Color of Title	Virginia Code §8.01-236
Washington	7 years under Color of Title and payment of taxes	Washington Code §7.28.050-.090
West Virginia	10 years	West Virginia Code §55-2-1
Wisconsin	20 years; 10 years under Color of Title; 7 years under Color of Title and payment of taxes	Wisconsin Code §893.25-.33
Wyoming	10 years	Wyoming Code §1-3-103

*State laws are constantly changing, so please be sure to contact an attorney or conduct your own research to verify these statutes.

**Color of Title, which is a separate element required in some jurisdictions, may arise when there is written evidence to suggest valid title to a property (such as a paper trail of bills or tax receipts), though such a claim to title may actually be legally defective (such as lacking a deed). Color of Title is often confused with Claim of Right. Claim of Right is a good faith claim to the property, in which either (1) the claimant is in objectively actual possession, or (2) the claimant simply has a good faith belief of ownership or intentional dispossession. Some courts will require Claim of Right—through case law—for satisfaction of adverse possession claims. Color of Title, in contrast, is a legal but defective claim to the land. The claimant under Color of Title has a document that says the claimant has a defective title. Under Claim of Right the claimant has a good faith claim to the land; under Color of Title the claimant has a purported claim to the land.

Notes

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The proclamation continues:

We feel that this so-called Alcatraz Island is more than suitable as an Indian reservation, as determined by the white man's own standards. By this we mean that this place resembles most Indian reservations, in that:

1. It is isolated from modern facilities, and without adequate means of transportation.

2. It has no fresh running water.

3.The sanitation facilities are inadequate.

4. There are no oil or mineral rights.

5. There is no industry and so unemployment is very great.

6. There are no health care facilities.

7. The soil is rocky and non-productive and the land does not support game.

8. There are no educational facilities.

9. The population has always been held as prisoners and kept dependent upon others. Further, it would be fitting and symbolic that ships from all over the world, entering the Golden Gate, would first see Indian land, and thus be reminded of the true history of this nation. This tiny island would be a symbol of the great lands once ruled by free and noble Indians.

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Chapter Two: "Scattering the Seeds of Dischord, Misery, and Insurrection with Both Hands"

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16 Eminent Domain: U.S. Code TITLE 28 > PART IV > CHAPTER 87 > § 1403

17 The kidnapping of Bill Snyder inspired what became the most well-known Anti-Rent ballad, entitled "The Ballad of Bill Snyder."

The moon was shining silver bright;
The sheriff came in the dead of night;
And on his horn, this blast he blew—
Keep out of the way—big Bill Snyder—
We'll tar your coat and feather your hide, Sir!
The Indians gathered at the sound,
Bill cocked his pistol—looked around—
Their pained faces, by the moon,
He saw, and heard that same old tune—
Keep out of the way, &c.
"*Legs! Do your duty now,*" *says Bill,*
When they catch tones they tar their coats,
And feather their hides, and I hear the notes"—
Keep out of the way, &c.
He ran, and he ran, til he reached the wood,
And there, with horror, still he stood;
For he saw a savage, tall and grim,
And he heard a horn, not a rod from him;
Keep out of the way, &c.
And he thought he heard the sound of a gun,
And he cried, in his fright, "*Oh! My race is run!*
Better had it been, had I never been born,
Than to come within the sound of that tin horn;"

Keep out of the way, &c.
And the news flew round, and gained belief,
And no one mourned that Bill was slain,
But the horn sounded on, again and again—
Keep out the way— big Bill Snyder—
We'll tar your coat and feather your hide, Sir!

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A person who

a. enters or remains unlawfully
b. in a building or a portion of a building
c. with the intent to commit
d. a felony, a theft, an assault, lewdness or lewdness involving a child, sexual battery, voyeurism

commits a third degree felony.

A person who

a. enters or remains unlawfully
b. in a dwelling
c. with the intent to commit
d. a felony, a theft, an assault, lewdness or lewdness involving a child, sexual battery, voyeurism

commits a second degree felony.

(Possession of instrument for Burglary)

A person who

a. makes or possesses
b. any instrument, tool, device article, or thing adapted, designed, or commonly used in facilitating the commission of any offense with intent, and
c. intends to use that thing in the commission of a burglary or theft

commits a B misdemeanor.

3 Utah Code § 76-6-106 (Criminal mischief).

A person who

a. intentionally
b. damages, defaces, or destroys
c. the property
d. of another

commits a misdemeanor or felony depending on the value of the loss.

A person who

a. intentionally
b. and unlawfully
c. tampers with
d. the property
e. of another and
f. as a result
a. recklessly
b. endangers
c. human
• life, or
• health or
• safety

commits an A misdemeanor if "life" and a B misdemeanor if "health or safety."

A person who
a. intentionally
b. and unlawfully
c. tampers with
d. the property of another
e. and as a result
• recklessly
• causes or threatens
• a substantial impairment
• of any critical infrastructure

commits a second degree felony.

4 Utah Code § 76-6-206 (Criminal trespass).

A person who
a. enters (meaning the intrusion of the entire body) or remains unlawfully
b. on property,
c. intends
i. to cause annoyance or
ii. to cause injury to any person or
iii. to cause damage to any property
iv. to commit any crime, besides a theft or felony,
d. and is reckless as to whether their presence will cause fear for the safety of another

commits a B misdemeanor.

Alternatively, a person who
a. knowing that their presence is unlawful and
b. *enters (meaning the intrusion of the entire body)* or *remains*
on property
with a notice against entering that has been issued by
the owner or agent of the owner
fencing or enclosure
posting of signs
commits a B misdemeanor.
If the trespassed property is a dwelling, then it's an A misdemeanor.

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