“The debate over public versus private misses the point. In fact, it hides the real issue... By framing the issue as public versus private, government versus the individual, we blind ourselves to the ways in which corporations distort our democracy.” —John a. powell and Stephen Menendian
Beyond Public/Private: Understanding Corporate Power

By john a. powell and Stephen Menendian

Who inhabits the circle of human concern? Who counts as a person or a member of the community and what rights accompany that status? In a democratic society, there is nothing more vital than membership. Those who inhabit the circle of human concern, who count as full members, may rightfully demand such concern and expect full regard. It is they who design and give meaning to that society’s very structures and institutions; they have voice. This is the ideal of democracy. But there is an important question: Who inhabits this circle?

In our history, there have been varying answers to these questions. In Dred Scott, our nation’s highest Court announced that persons of African descent were not and could never become members of the political community, and enjoyed “no rights which the white man was bound to respect.” Yet the same Court carefully carved space in the circle for corporations, extending quasi-citizenship rights and eventually, full personhood. Consequently, corporations today enjoy never intended constitutional rights and protections. They exercise authority, power and influence that threaten not just democratic accountability, environmental safety and the rights of workers, but individual freedom, personal privacy, and civil and human rights.

The architects of this nation and its citizens understood that concentrated power in either government or the economy may threaten freedom.

Occupy Wall Street

The Occupy Wall Street Movement is a grassroots challenge to this power. The Movement harkens back to the 1870s populist and farmers’ rebellion against unchecked financial speculation, which regularly set off Wall Street panics that sent families ever deeper into debt. The Occupy Movement highlights the contemporary predatory practices of companies like Goldman Sachs, one of the engineers of the great 2008 financial meltdown. On the other hand, the anti-statist Tea Party would insulate and secure corporate power, leaving individuals defenseless against unchecked corporate avarice. Its most basic tenets are market fundamentalism and governmental noninterference in the economy: Roll back regulations, reduce taxes and privatize government. These ideas are offered as the best, last defense of individual liberty in what is commonly perceived as an enduring contest between the public and private spheres.

Yet, the debate over public versus private misses the point. In fact, it hides the real issue. The debate over public versus private, the size of government, the tax rate, the stimulus, the jobs bill, public worker benefits, and so much more draws attention away from the behemoth in the boardroom: corporate power. By framing the issue as public versus private, government versus the individual, we blind ourselves to the ways in which corporations distort our democracy. The Occupy Wall Street Movement senses this, but cannot name it as such.

When is Private Public?

The public/private distinction papers over meaningful differences between real human beings and corporations. Entrepreneurs, small business owners, farmers, workers, and enormous corporations are all swept up into the “private” sphere. In turn, the public sphere is seen as a threat to the private and any growth in government as harmful to all “private” persons. From this perspective, regulations intended to curb the excesses of corporate behavior seem equally hostile to the small business owner or homeowner. For example, the Dodd
Frank Wall Street Reform and Consumer Protection Act, which was designed to protect consumers and homeowners from the kind of predatory lending practices that resulted in the meltdown of 2008, is attacked as an unnecessary regulation that strangles local banks, small businesses and start-ups.

How have we gotten to the point where any regulation that constrains major corporations is viewed as an attack on individual liberty, small farmers and business owners? We must know that neither corporations nor markets can exist without enabling and constraining regulations. There never has been or will be an unregulated market. The architects of this nation and its citizens understood that concentrated power in either government or the economy may threaten freedom. But those on the right miss this reality in current debates, in large part because the public/private dichotomy uncomfortably sorts everyone into one of these two categories. The result is a blind spot in which corporations dwell as merely “private” persons like everyone else. In essence, the public/private distinction has grounded the expansion and protection of corporate power.

A Brief History of Corporate Power

Corporations were never intended to be persons or citizens. In our Republic’s early years, corporations were public institutions, chartered to serve public purposes: build roads, facilitate commerce and educate the public. In exchange for the benefits of corporate form, including perpetual life, corporations were expected to serve the nation. Early Americans were as wary of concentrated economic power in corporate form as they were of concentrated political power in monarchal form. But 19th century lawyers and judges, often in the service of corporate entities, began to free corporations from state control.

Corporations were traditionally understood to be creatures of the state—artificial entities that could enter into contracts, sue and be sued, and enjoy perpetual life. By the 1840s, the Taney Court decided that corporations counted as citizens under the Constitution for the purpose of suing in federal court. Passage of the 14th Amendment, designed to protect the rights of freed slaves after the Civil War, became an even firmer basis for protecting corporate prerogative. The equal protection and due process protections therein were quickly extended to corporations. And, in Santa Clara v. Southern RR (1886), the Court asserted, without argument or explanation, that corporations were considered “persons” under the Constitution and enjoyed many of the rights it afforded. Just as the Court extended standing rights to corporations, it denied those rights to blacks. This inverse connection between limited rights for blacks and other marginalized groups and the concomitant expansion of corporate power persists. Between 1890 and 1910, just 19 cases brought under the 14th Amendment dealt with the rights of descendents of slaves, whereas 288 dealt with the rights of corporations. Justice Hugo Black pointed out that by 1938, of the cases that applied the 14th Amendment since the Santa Clara decision, “less than one-half of 1 per cent invoked in it protection of the Negro race, and more than 50 per cent asked that its benefits be extended to corporations.” This period is well known as the Jim Crow era and in legal circles, as the infamous Lochner era, named for Supreme Court decisions that struck down state labor and minimum wage laws and economic regulations. The Tea Party’s anti-statism is reminiscent of this era, which severely curtailed the power of the federal government and states to regulate the economy. This period came to a crashing halt with the New Deal and FDR’s court-packing plan to stop the Court from overturning it.

The Court reversed course on both race and economic regulations in a series of cases epitomized by Carolene Products. In that case, the Court announced a rule that economic regulations were presumptively constitutional rather than presumptively unconstitutional, and that courts would defer to legislatures to fashion reasonable labor and wage laws in the public interest.
At the same time, the Court announced that laws that reflect prejudice against “discrete and insular minorities” would be more carefully scrutinized by courts. As the law constrained corporate and economic prerogative, it conversely protected the rights of “minorities.” Even as this approach helped spur the Civil Rights Movement, a massive resistance emerged in the South, followed by a backlash in the North. The country and courts again moved away from protecting, first minorities, then all people, in favor of expanding corporate discretion. It was Justice Powell, a former lawyer in the firm that opposed Brown, who secured renewed corporate power that had been limited by civil rights and labor. He simultaneously rejected the claim that the 14th Amendment protected “discrete and insular minorities,” and revived the spirit of corporations as deserving of protection as persons and citizens.

In the 1970s, Justice Powell authored a series of decisions arguing that commercial speech did not lose First Amendment protections because of the corporate actor. Even the conservative Justice Rehnquist foresaw the danger of protecting the “blessings of potentially perpetual life and limited liability” for vast amounts of economic power. In particular, the dissenting Justices warned of the potentially distorting influence of corporate campaign contributions—protected as speech—in a democracy. These fears have now been realized and the full logic of corporate personhood exposed. In *Citizens United v. FEC* (2010), the Court held that corporations enjoy unbridled First Amendment rights to spend independent money on political campaigns.

We are currently living out Powell’s dream, not Dr. King’s. It is Justice Powell’s vision that Chief Justice Roberts and his Court have embraced, along with the Tea Party. Speaking less in terms of the 14th Amendment and its purposes, they frame this dream in terms of “public” and “private,” with some acknowledgement that we may need to cut back on civil rights, unions and environmental protection in order to secure these liberties for corporations.

**Beyond Public/Private**

We do not mean to suggest, however, that the exercise of excessive corporate power is simply a by-product of errant Court decisions rendered over the past 125 years. While removing corporate personhood and limiting corporate speech rights within our jurisprudence would be a step in the right direction, the manifold bases of corporate power are much broader. It is the public/private distinction that distorts our legal and political culture into thinking that corporations are just like everyone else. The case against corporations is not anti-capital. Rather, it is an indictment of the pernicious influence of corporate power to influence our political system, manipulate our democracy and even reverse legislative decisions. We suggest that a more appropriate schema for understanding corporate power and observing the dangers posed by it is to think in terms of four domains rather than two: public, private, non-public/non-private, and corporate.

The conflation of the corporate and private spheres confuses small business owners and ordinary citizens with powerful corporate actors. It also makes any legislative act that curbs corporate power appear to infringe upon the liberties of ordinary people. Legal scholars have long criticized the public/private dichotomy as a meaningless and misleading legal distinction. Historically, corporations were both quasi-public and quasi-private entities, but the conflation of corporations and their confirmed personhood with private space has become a source of corporate power and continues to generate unintended corporate constitutional protections, rights, powers, and authority. The idea of public or private spheres is also misleading for certain margin-

Photo: Prison laborers in Western North Carolina. Courtesy of Millions for Reparations.
alized groups that historically have had neither the rights and freedoms of the public in a public space, nor the rights of individuals in a private space. The public/private distinction makes it more difficult to appreciate how corporations threaten individual freedom and privacy, and to understand the exclusion of marginalized groups from both public benefits and private rights. Historically, women and slaves inhabited the non-public/non-private sphere. Today, immigrants, the incarcerated, the formerly incarcerated, and to some extent, the disabled, also inhabit this space, which is sometimes abusive.

Privatization as Corporatization

The expansion of corporate power represents a threat not only to the public, but to the private and non-public/non-private spheres as well. In *Kelo v. City of New London*, the Supreme Court upheld the condemnation of a stretch of riverfront homes when the sole purpose of the undertaking was to enable private redevelopment by pharmaceutical giant Pfizer, Inc. Although not a privatization case, this decision suggests the true function of privatization. The privatization of public entities or property is not simply a shift from public to private control; it is a shift from public to corporate. As a heuristic, the public/private dichotomy fails to capture these shifts in power or account for the consequences. Not only may corporations collect and store personal information (Google’s “street view project” is one example), individual privacy and speech rights are often sharply circumscribed in corporate space. Consider the context of a commercial shopping mall. We may think of that space as public, but it is not. Not only are there limited privacy rights free from surveillance, First Amendment rights are also limited and there is virtually no right to organize or petition. Meanwhile, the Tea Party would shield and protect the discretion of corporate prerogatives from the government under the banner of free markets, while remaining silent regarding the exclusion and oppression of the “private sector.”

The unbridled exercise of corporate rights and prerogatives threatens our democratic process as well as “discrete and insular minorities.” It is our view that the market, banks and corporations should exist to serve people, as they were originally intended to do, not the other way around. Neither Adam Smith nor the founders of the nation subscribed to a faith in the intrinsic beneficence of corporate interests for the nation. On the contrary, they feared the concentration of economic power just as they feared the concentration of political power.

Who inhabits the circle of human concern? Some might argue that the poor, unemployed, gays, immigrants, and Muslims do not belong as full members of our democracy. On the other hand, many in the Tea Party movement and jurists, such as Chief Justice Taney, would argue that corporations do belong and enjoy constitutional privileges and rights. Along with the Occupy Wall Street Movement, we reject this position. We could draw the circle of inclusion and belonging liberally, but it would not include corporations. The public/private dichotomy is a false one that obscures what is at stake and blinds us to the separate corporate sphere. Despite the position of the Court and well-known politicians, corporations are neither people nor citizens. They do not belong in the traditional public or private space, but inhabit their own space. Our position is not anti-corporate. Rather, we call for a proper alignment of corporations in a liberal democracy. Corporations make good servants, but bad masters. To realize this realignment will require a transformative wave of individual, judicial and legislative actors. Our goal is not to eliminate corporations, but to build an inclusive democracy with a sustainable economy of shared responsibility and prosperity. This is the unfinished dream of America.
Disneyfication of Downtown Oakland

Business Improvement Districts and the Battle for Public Space

By Adrian Drummond-Cole and Darwin Bond-Graham

Oakland is far removed from Anaheim in look, feel and form. But as corporate real estate firms stake a claim to the maintenance and administration of public space in Downtown Oakland, the area is being reshaped in accordance with the model for a controlled and commodified space exemplified by the post-war suburban shopping mall and theme park par excellence: Disneyland.

While redevelopment agencies typically control the building phase of large-scale downtown projects, in the built environment, the “curb to property line” streetscape is often controlled by the Business Improvement District (BID), a lesser known but strategically relevant urban entity.

In early 2008, a small group of managers working for the largest real estate corporations in downtown Oakland partnered with New City America, Inc. (a San Diego-based consultancy that has established over 61 BIDs in the U.S.), to create the Downtown Oakland Association (DOA) and Lake Merritt Uptown District Association (LMUDA).

How BIDs Became Such Big Deals

BIDs have radically reshaped public space and the people’s right to their cities since 1994, when California passed a Property and Business Improvement District Law (PBID). The law was written expressly to facilitate the formation of BIDs by concentrated groups of large property owners, needing little help or approval from smaller property owners, and completely bypassing the non-property-owning residents of the area. It’s author, John Lambeth, is a land-use lawyer and developer who was then working for real estate corporations in an effort to “clean up” downtown Sacramento. Lambeth today runs Civitas Partners, a consulting firm that specializes in creating and managing BIDs, such as the Fruitvale and Temescal/Telegraph BIDs, and the Oakland Convention Center and Visitors Bureau.

Marketed as a strategy for downtown retail districts to remain competitive with suburban malls, the BIDs initially followed the mall paradigm in collecting fees for facility maintenance and security. Today, there are over 1,200 BIDs in the U.S.—and many more in Europe, Canada and South Africa—employing thousands of lawyers, consultants, developers, and planners who work with cities and real estate companies to operate districts.

Proponents credit BIDs with facilitating a “business renaissance” in many blighted urban areas and generating retail tax revenues. These accolades, however, belie the anti-democratic nature of BIDs, which have state-like powers in policing, sanitation, redevelopment, and taxation matters, but are run like private nonprofit organizations governed on the basis of votes apportioned to members according to their gross property ownership. BIDs are nearly always the creation of a few large corporate real estate firms and though they often unite small businesses seeking to increase sales through street improvements and public relations campaigns, their economic benefits are actually long-term and accrue to a narrow slice of the business elite. The real benefits are in the militarization and privatization of public space in a process that ultimately leads to greatly increased rent revenues for major real estate owners.

Ostensibly non-political organizations, BIDs actively lobby elected officials and civil servants, influence how city general funds are spent, shape police policy and practices, and pressure elected officials on a variety of controversial issues. Through lobbying, BIDs greatly increase the political power of those who own land and...
buildings at the expense of the non-property owning majority. Oakland’s two largest BIDs are a case in point.

**BIDs Facilitate Taxation for Benefit of Corporations**

Under Proposition 13—the single most destructive cause of California’s chronic fiscal crisis—property taxes can only be raised with a two-thirds majority of voters or the Legislature. Passed in 1978, the law has especially harmed cities with large non-white and working class majorities, such as Oakland, which have experienced capital flight and consequently, have a relatively small retail tax base.

By demanding an affirmative vote of only those corporations and individuals who account for 50 percent of proposed assessments in a district, the PBID law allows for two unique, anti-democratic modes of governance of city space and services: (i) a small alliance of property owners can effectively circumvent Prop 13; and (ii) a handful of large property owners, if they are organized and in agreement, can raise taxes on all other property owners in a district.

Under PBID law, taxes can be raised by a tiny minority who own a majority of a district’s real estate because the taxes are technically classified as “special assessments,” which may only be spent on improvements or activities that directly benefit those paying the assessments. The legal mechanism used to raise these “special assessments” cannot be used by a city, school district, or other state agency to improve under-funded public services, which disproportionately affect communities of color. Rather, the law, by design, only allows for raising taxes in ways that are favorable to the same parties who have benefitted the most from Prop 13—large commercial real estate holders. Under current law, they pay only 1 percent of a property’s valuation at its last sale and have managed via special loopholes for corporations to transfer property without triggering a re-assessment.

Marco Li Mandri, CEO of New City America explained it very well in a 2008 address to Oakland’s business leaders: “Experience has shown that once the assessment district management corporation is formed, the private property owners in the district can normally leverage a greater amount of general benefit city services than before the establishment of the district. This is due to the fact that those property owners are now organized and can request things, such as additional trees, trash cans, lighting, and sidewalk repairs, and the CBD assessment revenues can maintain these additional capital improvements.”

In other words, BIDs greatly increase the political power of real estate corporations in city budget politics, allowing property owners to demand greater shares of the shrinking general budget to be spent in areas that benefit them at the expense of others. Not surprising, therefore, that a few large real estate corporations hired New City America to establish and operate two BIDs in downtown Oakland, both of which have been aggressive political organizations on behalf of Oakland’s owning class ever since.

It only took a small number of property owners to establish each district—nine for the DOA and 12 for the LMUDA—even though each district spans many city blocks and is composed of hundreds of individual parcels owned by several hundred persons or companies, most of whom have no meaningful voice in the BID’s governance. Control of both BIDs is reflected very straightforwardly in their boards of directors. The DOA’s board has included executives of the largest property holding corporations in the district. (Figure 1 illustrates which companies control the DOA by right of their assessments and proportional votes.) Within the LMUDA, the holdings of a few companies dwarf all others, giving those companies a controlling interest in the district’s affairs.

**From Disneyfication to Militarization of Downtowns**

After a visit to Disneyland in 1965, architect Charles Moore articulated a position that has become the “mantra” for BIDs today: “You have to pay for the public life.”

For Moore, Disneyland exemplified an ideal form of public space, “much more real” in its austere, organized, and instrumental nature. However, even he admitted that such spaces do not allow for the full range of public experience, noting that political experience is wholly absent.

BIDs attempt to create a cityscape conducive to commerce, and by claiming “curb to property line” space, attempt to instill an atmosphere of publicly accessible private space, not unlike museums, hotels and enclosed shopping malls. In an apparent emulation of Disneyland,
friendly-looking, smartly dressed “ambassadors” in navy blue or bright orange uniforms patrol the sidewalks, ready to direct tourists and enforce district rules. The point, as is exceedingly clear in downtown Oakland, is to create a Disneyfied space safe for consumer citizens to shop and eat at trendy stores and restaurants, and for corporate employees to zip through from BART stations to their office towers. The entire process hinges on an intensive gentrification effort in which undesirable categories of persons and activities associated with them are removed.

Numerous scholars have commented about the increasing “militarization” of public space—the armoring of cityscapes and city politics against the poor. Militarized cities are legal-political constructs designed to withdraw a resident’s right to space in favor of capital’s right to increase its control and profit from the cityscape. They are achieved through a simple logic of inclusion/exclusion and the control of access.

Both the DOA and LMUDA have focused their efforts on driving youth of color, activists, the poor, houseless persons, and other targeted populations out of district boundaries. They have executed these gentrifying policies by: (a) environmental design practices; (b) using private security for order maintenance; (c) influencing the Oakland Police Department’s (OPD) deployment of force; and (d) lobbying public officials to eradicate unwanted persons, events or businesses from the districts.

**Occupy Oakland Challenges the Militarized City**

Until October, 2011, there had been surprisingly few criticisms of the practice of driving out “undesirable” persons from the boundaries of Oakland’s BIDs. But all that changed when police were ordered to crack down on Occupy Oakland and specifically, to remove the encampment from Frank Ogawa Plaza, which many in the city have since re-named Oscar Grant Plaza.

After the initial violent raid and several more episodes of police violence against peaceful protestors, evidence surfaced that Oakland's BIDs had pressured City Hall to remove the encampment. In a letter addressed to Mayor Jean Quan, the BID directors—essentially Oakland’s largest corporate real estate owners—demanded that the city remove any and all signs of protest from the downtown area, saying: “The protest has been allowed to run its course. Now it’s time to focus on jobs and the economic restoration of our city.” Ironically, the BIDs identi-
“Clean and Safe” Bad for Downtown?
A BID’s services are geared towards benefiting shoppers and businesses. Homeowners and homeless people who live in the area are not a part of the equation and are only visible on the radar if their property is considered “blighted” and in need of fixing or their persons are considered undesirable and subject to removal.

Critics of this approach argue that this perspective misses a vital point—that systemic issues are not being addressed. While there is no doubt that pinched city budgets have resulted in an increase in so-called nuisance activities—such as homelessness and low level crimes—and more visible blight, merely targeting the signs and symptoms, does not address the real problem. The BID approach fails to take care of the underlying causes, hence is unlikely to bring about a real reduction in homelessness, low level crimes, and blight, say critics. Moreover, they argue, BIDs present serious issues in regards to matters of governance and accountability because:
• There is no mechanism in place to oversee the BIDs and especially their private security patrols of public spaces.
• Area homeowners are greatly disadvantaged by not being able to participate in decisions that directly affect their property and lifestyle.
• Smaller businesses, unless they have consensus and represent a 50 percent or greater voting bloc, have no say in the setting up of BIDs.

Endnotes
1. The California Streets and Highways Code, Section 36621(a) reads: “upon submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district,” by voting on a resolution.
5. The LMUDA’s board has included executives from the Swig Company, Metrovations, Kaiser, CIM Group, BrandYWine, The Leamington, Beacon Properties, Metropolitan Estates, Signature Properties, Portfolio Property, Oakland Properties, and others.
6. LMUDA, Interim Board of Directors Meeting, September 22, 2009. According to the minutes of the meeting, LMUDA Executive Director “elaborated on a note from City Councilperson Nancy Nadel that state some small property owners are upset at Bylaws implying that the Bylaws somehow exclude small property owners from Board participation....”

Adrian Drummond-Cole is a writer, organizer and musician who lives in Oakland. Darwin Bond-Graham is a sociologist and author. His writing can be found in the East Bay Express, the San Francisco Bay Guardian and other publications.
The numbers are alarming. In recent years, the federal government has cut 400,000 vouchers from Section 8—the program that provides housing subsidies for low income people—even as 300,000 units of public housing have been turned into for-profit developments, rendering them unavailable to low-income people. Meanwhile, 2.5 million foreclosures have worsened the housing crisis for the poor.

These big numbers are more than real estate figures; they are real people—families with children, people in ill health, the elderly. But rather than trying to help them, cities are issuing “sit/lie bans” and “public commons for everyone” laws, which make it illegal to “loiter” in a public space. Criminalizing these simple acts and making them subject to police harassment and arrest is an egregious violation of the civil liberties supposedly guaranteed by our democracy. Yet it happens to homeless people all the time.

In a survey of 716 homeless people in 13 different communities, the Western Regional Advocacy Project (WRAP) found that 78 percent reported being harassed, cited or arrested for sleeping; 75 percent for sitting or lying on the sidewalk; and 76 percent for loitering or hanging out. Only 25 percent said they knew of a safe place to sleep at night.

This nationwide pattern has escaped civil rights protections because the ordinances are drafted very carefully to appear as if they apply equally to all people, but enforcement is very much impacted by a person’s skin color, housing status, economic class, and mental health. These laws were skillfully developed to withstand judicial scrutiny while criminalizing poor and homeless people. Or as French novelist Anatole France observed, “The law in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread.”

**BID Credo: Non-Consumers Not Welcome**

Paul Boden, director of WRAP, attributes the motivation behind these draconian laws to the rise of the Business Improvement Districts (BIDs) all over the country. Business owners are seeking “to create safe and friendly shopping environments by making sure there’s nobody there who is not shopping,” says Boden.

Members of BIDs tax themselves and use the revenue to hire private security people—called “ambassadors”—who wear special uniforms and look helpful and friendly. In reality, their function is to police the BIDs, which are “privatizing large segments of our community and removing the people that they feel are not business-friendly and tourist-friendly,” observes Boden, adding that “it’s absolutely frightening [how the] business community is running major sections of our cities.”
Janny Castillo, community builder at BOSS (Building Opportunities for Self-Sufficiency), says: “We are constantly engaged in the struggle to have the plight of those that are living on the streets, the homeless people, recognized. The challenges that they go through, the way the police and the city comes up with these laws that actually are designed to move them off the street, it’s illegal basically, even if there’s a law for it. It’s just inhumane.”

It’s even worse than denying people their civil rights, she says. “It’s all about the right to exist. It takes away the little bit they have left, which is their dignity, their respect.”

April Fool’s at the Union Square BID

To build awareness of the plight of the homeless amongst us and generate sympathy, WRAP and a number of other activist organizations called for a Day of Action on April 1, in cities across the United States and Canada. It was to be a day of nonviolent resistance to the efforts of business owners to create a private security force to harass and persecute the poor and homeless and enable corporations to gain control over our communities.

According to a press release from WRAP, the date was chosen because poor people were going to play “an April Fool’s prank” at Union Square in San Francisco, where several of the largest and richest corporate-controlled businesses have created a BID, hiring private security forces to drive away the “visibly poor.” WRAP was joined by Occupy SF, St. Mary’s Center, Food Not Bombs, and other groups that afternoon to convey their message in a number of creative ways, including dance and music by groups, such as Dancing Ambassadors and Brass Liberation Orchestra. A satirical skit featuring “BID ambassadors” in uniforms rounding up and arresting people who looked homeless and their subsequent triumphant jailbreak was received with great cheering from the crowd.

Hopefully, this bit of street theater will encourage more vigilance over the kinds of laws our cities try to pass and help to bring about more compassion for the people without homes who are being made criminals simply for sitting down, sleeping, or asking for help, says Boden. Above all, he adds, the homeless are targeted as being bad for business, which in modern America is an unforgivable offence.

Archdiocese Evicts Homeless from Vacant Building

At 5 P.M. on April 1, several hundred housing activists were joined by a busload of people from Occupy Oakland on a mile-long march to take over a vacant building at 888 Turk Street and set up a homeless community. The two-story building owned by the Archdiocese of San Francisco has been unoccupied for a long time. About 100 housing activists entered the building to occupy and reclaim it as a service and housing center for unhoused people. A banner unfurled from the top of the building and clearly directed at church officials read: “Give us this day our daily bread, and forgive us our trespasses.”

“There is no reason why any building should be vacant when people have no housing,” said Emma Gerould, a member of Occupy SF, adding that the archdiocese should be more sensitive to the extent of poverty in the community and allow the building to be used.

George Wesolek, speaking for the archdiocese, admitted that the building—which was used to hold music classes—has been vacant for 18 months. But archdiocesan officials signed a citizen’s arrest order on charges of trespassing and graffiti. Shortly after noon on Monday, April 2, police in riot gear ripped down the barricades set up by the demonstrators, entered the building, and arrested over 75 people. The archdiocese has since boarded up the building again and announced plans to bring in private security forces.
Affordable Housing Hit Hard by Redevelopment Agency Closures

By Rene Ciria-Cruz

Affordable housing advocates across California are scrambling for alternative sources of funding following the closure of the state’s redevelopment agencies in February 2012.

A state law upheld by the California Supreme Court mandated the dismantling, which aims to redirect billions in property tax earnings held by the redevelopment agencies (RDAs) back to local governments to help close a huge gap in the state’s general fund.

The demise of California’s 425 RDAs “comes at a very bad time,” says Rachel Iskow, executive director of the Sacramento Yolo Mutual Housing Association.

Money coming from the federal housing program has been substantially reduced. The $2.9 billion generated by the state’s Proposition 1C bonds—enacted by California voters in 2006 for various types of housing—are almost gone, and a sluggish development market has reduced money for local low-cost housing trust funds to a trickle.

“The end of redevelopment agencies significantly shrinks the total supply of financing for affordable housing,” Iskow explains.

She adds that her private nonprofit has built more than 900 homes in the Sacramento-Yolo area. It serves an ethnically diverse community of mostly “workers earning an average of $20,000 a year for a family of four people.”

It must now put a hold on the construction of 100 apartment units on six acres and the renovation of a decrepit 150-unit housing complex, all meant for low-wage workers. It also stands to lose well-trained professional housing managers and neighborhood advocacy organizers, says Holly Wunder Stiles, the group’s housing development director.

RDAs: Ready Source of Housing Funds

Redevelopment agencies served as the second largest source of funding for affordable housing in the state for 65 years. Local RDAs zoned out rundown or blighted areas, held down property values within them, and borrowed funds for infrastructure improvements—roads, services, open spaces—to attract private developers.

Once the property values in the redeveloped areas rose, RDAs kept the incremental increase in property tax earnings for their exclusive use. This amounted to 12 percent of all property taxes collected in California, currently around $5 billion a year. By law, 20 percent of the RDAs’ share of the new tax revenues went back to the county or city for affordable housing.

After the passage of Proposition 13 in 1978, which slashed property tax revenues, cities relied on RDA funds to build affordable housing and rehabilitate blighted areas. From 1998 to 2001 RDA money helped build 16,714 units, more than 75 percent of which were for low-income households, according to a 2002 study done by the Department of Economics at California State University/Fullerton.

Governor Brown Takes Down the RDAs

Governor Jerry Brown pushed for dismantling RDAs, in hopes of freeing up billions in property tax revenues held by them, to ease the $26-billion crunch in the state budget by at least $1.7 billion. His push gained traction because RDAs had become vulnerable to criticism over the years. Some of that criticism was directed at the diversion of as much as $5 billion a year in statewide property tax funds from local governments, depriving schools, law enforcement and other services of much-needed money. RDAs also have been accused of subsidizing private developers.

Critics charged that the criteria designating an area for redevelopment were loosely defined. By 2009, RDAs had incurred huge debts—$29 billion in out-
standing bonds. Oakland's RDA alone owes $160 million.

A CSU Fullerton study noted the contribution of RDAs to the state's housing stock but also found that they had very small low-to-moderate income housing funds—insufficient to have a dramatic impact on affordable housing overall.

**Feeling the Crunch**

With RDAs gone, large cities—Los Angeles, San Diego, Oakland, San Francisco—and sprawling suburban centers in Southern California and the Central Valley that benefited the most from redevelopment money are suddenly feeling the crunch.

Thousand Oaks may lose up to $20 million in cash and $10 million in assets. Oakland used most of its $39 million in RDA funds to support citywide staff salaries ($3.7 million for police; $3.2 million for city attorney staff; half the salaries of city council members). The demise of its RDA will cut 160 jobs in 11 departments.

San Francisco may be able to stand the hit better than other places, reports the San Francisco Planning and Research Association (SPUR). As a successor agency to its RDA, the city government transferred redevelopment funds and assets to the Mayor's Office of Housing and the City Administrator's office; so affordable housing and existing redevelopment projects stand to be protected.

As both a city and county, San Francisco does not have to send its redevelopment money to a separate county government where funds will be divided up among cities—unlike Oakland or San Jose, which are just part of larger counties.

“Redevelopment here in Hercules was under water even when it was around,” explains Hercules city manager Steve Duran, “but dismantling it sure doesn’t help.”

For Hercules, a middle-class community east of San Francisco with a diverse population, the end of redevelopment means “no money for affordable housing subsidies and no capital funds for potential infrastructure projects,” says Duran.

On top of this drought, a private financial guarantor is suing Hercules because its RDA defaulted on a $2.4 million bond, and the city is accused of diverting RDA funds to its operations. If it loses the suit, it could go bankrupt.

**Banking on New Legislation**

Housing advocates are seeking state legislation for a new source of funds and a statewide housing trust fund, which will be a permanent source for affordable housing. A trust fund would support the construction of affordable housing, the renovation of distressed housing stock, and foreclosure prevention and homebuyer assistance programs. Thirty-nine states have such trust funds, but California has none.

State Senate President pro tem Darrell Steinberg (D-Sacramento) and Sen. Mark DeSaulnier (D-Concord) introduced Senate Bill 1220, which would have charged a fee of $75 per document for recording non-sale real estate transactions—maps, easements, liens, title changes, and notices of default.

“All of the state’s affordable housing advocates focused on building support for this bill,” says Iskow.

The California Association of Realtors dropped its opposition to the bill once it was made clear that the purchase and transfer of residential and commercial property will be exempt from the fee. Nonetheless, the measure fell two votes shy of the two-thirds needed for passage.

“In an email to supporters, Housing California noted that despite the loss, this was the first time in several decades that permanent funding that would create a housing trust fund made it to a floor vote. Advocates vow to try again—after the election this fall. ■

---

Rene Ciria-Cruz is consulting editor at filipinasmag.com and writes for New America Media, which originally published this article.
Redevelopment: After the Fall

By Christy Leffall, Gloria Bruce and Marcy Rein

The abrupt shutdown of California's 452 Redevelopment Agencies (RDAs) left plans for hundreds of affordable housing units in limbo and billions of dollars worth of debt from RDA-issued bonds unpaid. The state law dissolving the RDAs (AB X1 26), set up complicated mechanisms for winding down their business, paying their debts and maintaining their housing assets. Advocates face the challenge of untangling the processes and monitoring the disposition of RDA assets while quickly formulating (and organizing around) legislative and policy solutions.

"It's complex and badly planned," Housing California Executive Director Shamus Roller says of the dissolution process. "From an advocate's standpoint, our first challenge is to resolve the confusion."

Low-income Californians Put at Risk

The California Community Redevelopment Act of 1945 (later called the Community Redevelopment Law) aimed to catalyze private investment by allowing a city or a county to designate "blighted" areas and establish an RDA, which could raise capital for infrastructure improvements by issuing bonds against future tax revenues. The RDA got to keep the difference between the original property tax revenue and the revenue from the improved property (the "property tax increment"). These funds were used to pay off the bonds and capitalize the RDA operations overall.

Amendments to the law in 1976 and 1993 required RDAs to set aside 20 percent of their funding to create and preserve affordable housing, and required cities to ensure that 15 percent of all housing in a redevelopment area be affordable to low- and moderate-income residents. This allocation supported the preservation and development of nearly 100,000 units of housing for low- and moderate-income families statewide between 1993 and 2011, and supported local first-time-homebuyer programs and rehab loans in many cities.

The fall of redevelopment has left community-based organizations and housing advocates concerned about how to finance affordable housing. Unless they can be particularly creative in identifying new funding sources and changing political will, the RDAs' demise may well result in displacement, instability, and even homelessness for thousands of Californians.

"Redevelopment has been key in funding supportive housing projects for some of the most vulnerable groups," Roller says. "Over the last 10 years, the supportive housing movement has learned a lot about how to help people who've been homeless and have disabilities. Losing redevelopment will be a particular blow to that movement," he says.

The affordable housing provisions in the redevelopment law also provided an important advocacy tool for residents to ensure that redevelopment did not just mean gentrification.

"It's not only the lack of funds that will hurt," says Evelyn Stivers, field director for the Non-Profit Housing Association of Northern California. "The law also came..."
with strings attached that made the people we work with part of the conversation,” Stivers says. “We’re losing that requirement for inclusion.”

**Cities Face Major Shifts**

Redevelopment agencies could float bonds without voter approval but only if they were spent on economic development or affordable housing. The RDAs received the increased taxes generated by rising property values—a pool of money that was generally separate from cities’ general funds and protected from the choppy seas of public budgets.

The loss of RDAs deprived some cities of operating funds—Oakland, San Jose and Los Angeles among them. (See “Affordable Housing Wobbles as Redevelopment Agencies Close,” page TK). Cities may also find it harder to attract commercial investment without access to redevelopment funds. Redevelopment supporters argued that it was the best and perhaps the only way to spur business development and improve infrastructure in areas considered “blighted.”

Losing dedicated funds for affordable housing will make it harder for many cities to meet their obligations under the Regional Housing Needs Assessments (RHNA) set up by state housing element law. RHNA spell out the number of housing units each city must build at each income level in order to take on its fair share of regional growth.

In the absence of flexible redevelopment funds, cities will also find it significantly more difficult to pay for the type of dense infill development needed to help them reduce vehicle miles traveled under SB 375, part of the state’s climate change law.

Ironically, a tool with a history of inequitable displacement had become one of the only ways left in California’s broken budget system to fund and build affordable housing near transit and opportunity.

**Why Redevelopment Made an Easy Target**

While nonprofit housing developers and advocates fight to retain approximately $1 billion in funds held by RDAs which could be used for affordable housing, they are facing the reality of having depended on a problem-plagued program.

Redevelopment’s negative history made it an easy target for the budget-cutters. Over the years, cities stretched the definition of “blight,” RDA funds subsidized for-profit developers, and redevelopment sped gentrification and caused displacement in historic low-income communities and communities of color.

A 2011 audit by the State Controller’s Office found that some cities took a broad definition of blight. “Coronado’s redevelopment area covers every privately owned parcel in the city, including multimillion dollar beachfront homes,” Controller John Chiang reported. “In Palm Desert, redevelopment dollars are being used to renovate greens and bunkers at a 4.5 star golf resort.”

Large swaths of many cities—including 40 percent of Oakland’s land area—were declared “blighted” and in some cases completely transformed, sometimes at the expense of residents and sometimes to their benefit.

Yerba Buena Gardens in San Francisco shows both the potential and the inequity of redevelopment. Its gardens and museums create a vibrant public space and tourist draw—but leave no hint of the more than 3,000 residents of SRO hotels displaced by its construction, many of them retired sailors, longshoremen and other working people who had no other safe housing options in the city.

Redevelopment’s more aggressive tools of creating mega-block projects like Yerba Buena and using eminent domain to capture and raze private homes have become less prominent over the years as communities pushed back. Project Area Committees—suspended since the RDAs’ elimination—offered public forums where residents of the redevelopment areas could respond to RDA projects.

But redevelopment’s complex community legacy got lost in the public and political debate about whether it should survive. Stories of fraud and abuse drowned out the voices of thousands of poor and working poor residents who found a quality, affordable home financed by redevelopment’s “low-mod” funds.

County governments and school districts also joined the chorus of opposition. Counties contended that city governments were unfairly claiming property tax revenues that could be used for crucial services. School districts argued that the RDAs’ economic and housing development projects stole funds from K-12 education.
California Gov. Jerry Brown played on the discontent when he proposed closing down the RDAs and transferring the property tax increment funds back to the counties. He touted the move as a strategy for closing the state’s 2011-12 budget gap, because giving schools an increased share of property taxes could reduce some of the state’s General Fund education expenses.

**Breaking Up**

The State Supreme Court decision on Dec. 29, 2011 that upheld the elimination of redevelopment left jurisdictions wading through an alphabet soup of processes to wind down the RDAs’ operations.

Each city or county that created an RDA has to designate a “successor agency,” which is usually the city or county government itself, and an oversight board composed of representatives from city government and other affected taxing entities, such as K-12 schools, transit agencies and community colleges.

The successor agency is charged with preparing an “enforceable obligations payment schedule” (EOPS) that lists all the RDAs’ contractual obligations, such as outstanding loans, housing projects in the pipeline, and even the 15 percent inclusionary housing requirement. The oversight board decides which of the EOPS will become "recognized" and thus paid off.

The former RDAs’ property tax increment goes into a trust fund administered by the County Auditor. The recognized obligations get paid out of this fund, which is supposed to hold enough assets to pay off all the obligations over time. Funds left over after these distributions go back to local governments.

A separate housing successor entity will control the housing and land that belonged to the RDA. Its functions will include enforcing HUD agreements and acquiring and disposing of land assets.

Affordable housing advocates and community members have a great stake in identifying and monitoring the successor agencies and oversight boards. These are public bodies, if rather obscure ones. The oversight boards have to follow state laws governing public meetings and records, so community members have a chance to ensure that the boards are distributing redevelopment’s assets fairly and transparently, with an eye to the hundreds of as-yet-unbuilt affordable housing units that hang in the balance.

**Moving On**

California legislators have written several bills designed to retain existing funds and/or secure new monies for affordable housing and community development. Advocates are organizing with their allies inside the Capitol to move these bills as fast as possible, but they will face an uphill battle as the legislature struggles to fill other budget gaps and Republicans continue their opposition to new revenue measures. In late May, SB 1220, sponsored by Sen. Mark DeSaulnier (D-Concord), fell short of a two-thirds majority by only two votes. The bill would have created a permanent source of funding for affordable homes by setting a $75 fee on the recording of real estate documents, excluding point-of-sale transactions.4

Advocates are also studying other types of districts that might generate money for redevelopment—infrastructure financing districts, business improvement districts, and districts for transit-oriented development.

“It will be hard to get this type of ‘redevelopment 2.0’ off the ground,” says Sivers. “Most districts take a vote of the people to initiate, and projects like brownfield remediation and sewer pipe replacement just aren’t too sexy.”

Roller of Housing California concurs, and urges caution. “Lots of things about redevelopment were problematic,” he says. “We ought to pay attention before we dive back in.”

**Endnotes**

1. <thecorecompanies.com/uploads/Redevelopment_brief_FINAL.pdf>
2. <sco.ca.gov/eo_pressrel_9789.htm>
3. <foundsf.org/index.php?title=The_Yerba_Buena_Center:_Redevelopment_and_a_Working_CLASS_Community’s_Resistance>
4. For updated information on affordable housing bills moving through the California legislature, visit: <housingca.org>

---

Christy Leffall is Land Use and Housing coordinator at Urban Habitat. Gloria Bruce is the deputy director of East Bay Housing Organizations (EBHO). Marcy Rein is a Richmond-based freelance writer and Urban Habitat communications specialist.
Oakland’s Civic Auditorium: Delivered Vacant

By J. Douglas Allen-Taylor

The City of Oakland, California, is sometimes compared to a good model car that, for strange reasons, never seems to be able to give uninterrupted service or get up to full speed on the highway. Strategically located and blessed with an interesting, industrious, creative, and diverse population, a wonderful climate, spectacular views, and the perfect blend of city, marsh and woodland hills, Oakland ought to be one of America’s jewels. It is not. Instead, it is often described as a city of missed opportunities and wasted resources. Nothing exemplifies that description more than Oakland’s treatment of the structure originally known as its Civic Auditorium (renamed the Kaiser Convention Center in 1984).

After years of bungled management, Oakland closed the 98-year-old cultural treasure in 2005—at the same time it was pouring redevelopment money into rehabilitating and reopening another entertainment venue, the Fox Oakland Theater in the rapidly gentrifying Uptown District. Then the city dithered for years over what to do with the Civic Auditorium before entering into a purchase-leaseback agreement with the Redevelopment Agency (RDA) in 2011, just in time for the statewide dissolution of the RDAs. In January 2012, the Auditorium became the target of the Occupy Oakland movement which staged a failed attempt to occupy the building and convert it into a social services center.

Buffalo Bill, Huey Newton, Grateful Dead, and the Oakland Ballet

In its time, the Civic Auditorium was the cultural center of one of the most multicultural cities in the nation. Built in 1913, it has hosted such varied events as Buffalo Bill’s Wild West show, roller derby contests, boxing matches, concerts by Duke Ellington, Elvis Presley, James Brown, the Grateful Dead, and Public Enemy, and even a massive benefit birthday party for then-imprisoned Black Panther Party founder Huey Newton featuring a speech by national African American leader Stokely Carmichael.

With a total seating capacity of 6,400 persons in a multipurpose arena and an adjoining theater, the Auditorium can still host all but the largest indoor entertainment activities in Oakland. For years, many of Oakland’s high schools held their graduation ceremonies in its confines, and the Oakland Unified School District held its annual holiday party performances for elementary school students and their families there. It has been home to both the Oakland Symphony and the Oakland Ballet. When Oakland was a segregated city, the Civic Auditorium hosted dances and other social events that attracted African Americans from all over the Bay Area.

Despite the still-weak national economy, these should be boom days for the Civic Auditorium. Ten years ago, Oakland voters passed the $198 million Measure DD water and park bond to renovate the southwestern end of Lake Merritt, near where the Auditorium sits. Measure DD workers are currently putting in attractive pedestrian- and bicycle-friendly bridges and walkways directly in front of the Center and opening up the Lake Merritt Channel that runs along its southern edge. This will eventually make both the Channel and the Civic Auditorium grounds a part of greater Lake Merritt, Oakland’s premier outdoor tourist and citizen attraction.

But the Civic Auditorium has been shuttered for seven years since the Oakland City Council closed it down at the request of then-Mayor Jerry Brown,
saying that it was losing $600,000 to $700,000 a year in city funds. “I just don’t think [the building is] profitable,” City Administrator Deborah Edgerly said at the time.

**Oakland Tries to Salvage Treasure—or Scrap It**

Since 2005, through the succeeding mayoral administrations of Ron Dellums and Jean Quan, the city has tried unsuccessfully to either sell the Auditorium property, lease it out, or reopen it. It tried to sell the Center to the RDA, which would issue bonds and re-sell the building to a private entity, which would lease it back to the city. It also proposed re-deploying the building as the site of the city’s main library or part of the Peralta Community College District, or selling it outright.

“Every time the city runs short of cash, they decide to sell off public assets,” says Naomi Schiff, a veteran of Oakland’s many development battles and member of the board of the Oakland Heritage Alliance. The 30-year-old nonprofit Heritage Alliance works to preserve Oakland’s architectural, historic, cultural, and natural resources.

Oakland officials “have tried to sell off pieces of land around the lake before, and the [Heritage Alliance] has fought it every time,” Schiff says. “I think if [Oakland] tried to sell [the Kaiser] into the private market then the Measure DD folks would react immediately and there would be loud noises made.”

Schiff believes the Center should remain public, and the city could face legal obstacles if it tried to transfer ownership of the property into private hands.

“There are some title issues as well as tidal issues involved,” Schiff says, referring to California’s environmental laws concerning preservation of tidelands properties as well as the original deed of the Civic Auditorium lands to the city.

But longtime Oakland City Councilmember Jane Brunner says that the Civic Auditorium probably cannot be saved without some sort of public/private partnership. Brunner chairs the Community and Economic Development Committee, which oversees development issues in the city.

“I’d love it to stay public, but in reality, it has to be a combination. That’s what we did with Children’s Hospital and the Old Merritt College,” Brunner says.

Several years ago, the City of Oakland went into partnership with Children’s Hospital on the long-shuttered former community college campus in North Oakland. The city put in a publicly held senior center and the hospital uses the rest of the campus for a private research center.

“It really has to do with getting creative and finding somebody who can work with a joint project,” Brunner says. “And it’s not just refurbishing Civic Auditorium; the other problem is that the operations are expensive,” she says.

Under Mayor Jean Quan, Oakland has made a renewed effort to do something, anything, with the Center besides letting it sit by the side of the Lake Merritt Channel and deteriorate. Late last year, the city solicited bids from firms who could market the Civic Auditorium and find a buyer, an operator or tenants; two companies submitted proposals. By that time, however, the rehabilitation of the Center had been caught in an epic government meltdown: the statewide dissolution of California’s city redevelopment agencies.

**Auditorium Pushed into Redevelopment Morass**

During its 2011 budget crunch, Oakland had
entered into a purchase-leaseback agreement with its RDA, selling both the Civic Auditorium title and its $14 million annual debt to the agency. But as that sale was being finalized, former Oakland Mayor Jerry Brown—now governor of California—got the state legislature to pass the bill that ended redevelopment in the state. AB X1 26 seized all city redevelopment funds to balance the state’s 2012-13 budget, forcing cities to take over existing redevelopment obligations.

This lobbed the Civic Auditorium and its problems to Oakland’s state-mandated successor to the RDA, a new public entity overseen by a seven-member board consisting of Mayor Quan and representatives of AC Transit, the Alameda County Board of Supervisors, the Peralta Community College District, and the Oakland Unified School District. The decision over what to do with the two bids to Civic Auditorium will now be made by that oversight board, taking the venue out of the sole hands of the City of Oakland for the first time.

Meanwhile questions linger over the wisdom of the decision to close the Civic Auditorium in the first place. Proper management and marketing could have avoided the shut-down, according to Schiff.

“The City Council people would lean on the staff to give them a good rate when all these churches and nonprofit groups would come and try to rent the place out, and then they wouldn’t backfill it out of their budget,” Schiff says. “Then they turned around and said, ‘We’re losing money on the auditorium.’”

The decision to rename the venue also hurt, she says. “It lost its identity as the Oakland Auditorium. Nobody was trying to keep that building going.”

Under Mayor Jerry Brown, responsibility for running the Civic Auditorium went to then-Director of the City Cultural Arts Department, Dennis Power. Already tasked with managing the Oakland Museum and the Alice Arts Center (later renamed the Malonga Casquelourd Center), Power had little time for or interest in the Civic Auditorium. During the debate over closing the Auditorium, Power called it “an anachronism,” adding that it was too large for some gatherings, and too small for other concerts and events.

Schiff sees no connection between the closing of the Civic Auditorium and the fact that the Brown Administration and the City Council invested massive amounts of city redevelopment money in rehabilitating and reopening the Fox Oakland Theater.

But others believed in 2005, and continue to believe now, that the city erred in planning to close one viable entertainment venue while reopening another, and that the real reason the Auditorium did not get city support seven years ago was that private developers had their eyes on the Center, and used their influence with city leaders to block its continued use as a public entity.

The massive demonstration by Occupy Oakland brought the abandoned building briefly back into the limelight but in the budgetary climate of today’s Oakland, there seems little chance it will be brought to life any time soon. For now Oakland’s Civic Auditorium continues to sit empty, forlorn and alone at the end of Lake Merritt, awaiting its ultimate fate.
Communities of Color Organize against Urban Land grabs

By Darwin Bond-Graham and Yvonne Yen Liu

The foreclosure crisis has disproportionately impacted communities of color because people of color were sold adjustable rate mortgages at a higher rate than whites, even where income levels and financial risk were on par. The upshot of this predatory lending practice has been a massive dislocation of workers and families (most of whom considered their homes their only economic asset) side by side with an unprecedented transfer of wealth to financial institutions and the private sphere.

Advocates abroad call this type of activity by a name more familiar to the third world—a land grab. Multinational corporations have acquired 15 to 20 million hectares of land in wholesale purchases in the global south to establish large-scale industrial farms for food and biofuels.

Closer to home, in the Detroit area, speculator John Hantz is trying to purchase 200 acres to create a large corporate farm. Indeed, land grabs have been afoot for some time within postindustrial landscapes from where capital has fled in search of cheaper labor. What makes the current land grabs especially troubling is the opportunistic use of the tsunami of foreclosures by banks to seize properties. Their willful enablers in this transfer of assets have been the states and their housing policies, ostensibly created to reduce the number of vacant bank-owned properties by converting them into rental units.

Foreclosures: Excellent Investment for Some

A handful of fast-growing real estate management corporations are now stepping into the foreclosure crisis. Backed by billions of dollars in private equity, property management companies are viewing the crisis as a rare opportunity to amass tens of thousands of single-family homes and convert them into rentals—i.e. long-term high-yield investments. Beyond the stresses on families in neighborhoods experiencing the land grab, this nascent industry—promoted by federal policies—will in all likelihood facilitate the transfer of tens of billions in wealth from distressed homeowners—largely Black and Latino—to a few wealthy private equity firms.

The Bay Area has rapidly emerged as the headquarters for many of the most aggressive companies and largest investors in the land grab. Oakland-based Waypoint Homes, founded in 2008, has led the way in developing the technology and business model necessary to take advantage of the situation. Waypoint is the partnership of two wealthy entrepreneurs who struck up a conversation at an investment conference in San Francisco in 2008. Observing trends in the East Bay, especially in the suburban cities, such as Antioch and Concord where foreclosure rates have been phenomenally high and home values have plummeted in half, Doug Brien and Colin Wiel agreed to pool their money to buy as many distressed properties as possible. By the end of 2011, Waypoint reportedly had accumulated about 1,000 foreclosed homes, mostly in Contra Costa and Alameda Counties.

In an effort to “scale up” their operation, the firm’s founders welcomed a $400 million investment from GI Partners of Menlo Park, a politically connected private eq-
A private equity group that handles hundreds of millions of CalPERS funds. Executives with GI Partners have said that they intend to back Waypoint’s foreclosure-to-rental mill up to $1 billion. Waypoint has indicated that the focus of its purchases will be in the Bay Area and southern California.

It is worth noting that many among Waypoint’s senior staff were previously with companies that caused the foreclosure crisis or were poised to reap rewards from it. Waypoint’s chief operating officer, for instance, was a vice president at Wells Fargo for 11 years and head of its home finance group. The chief financial officer used to work at Kenwood Investments, Darius Anderson’s politically connected development firm. And until recently, the vice president of acquisitions was employed by Ridgeback Partners—a “real estate investment and development firm formed in 2007 to take advantage of compelling opportunities in the distressed residential and land sectors in the U.S. market.”

Cofounder Wiel is also involved in a Panamanian land grab as founder of Rainforest Capital Management, which has purchased 10,000 acres in Panama’s Mamoní Valley with the intention of developing an “eco” hotel called Junglewood, and is also developing multiple energy projects, selling carbon credits, and logging timber for sale in international markets.

Land grabs in places like Panama and in Africa have occurred as a form of arbitrage. Wealthy private equity funds and corporations purchase land at prices far below the actual value and derive immense profits from developing, farming, mining, or leasing—activities not very different from the Bay Area’s foreclosure-to-rental mill. A recent Bloomberg Report story about Waypoint’s arbitrage operation began as follows:

“Ken Major climbs the steps of a county courthouse in a San Francisco suburb with $500,000 in cashier’s checks in one hand and a list of addresses in the other. Major is a buyer for Waypoint Real Estate Group LLC, an Oakland-based investment firm that’s scooping up foreclosed homes in California. On this December afternoon, he joins a dozen house flippers as an auctioneer starts hawking the latest batch of defaulted properties to hit the market. Major bids on a three-bedroom house in Antioch, and after other buyers counter, he wins at $147,600.”

Although generally praising Waypoint’s entrepreneurship and innovation, the story does hint at the social costs exacted by this massive transfer of homes into the hands of wealthy investors, noting that upwards of three-quarters of residents whose homes are bought out from under them by Waypoint end up displaced.

“Most of the time, occupants have to leave within 15 days of Waypoint’s purchase because they can’t afford the rent or choose to go. Gordon returns to one residence where a family has refused to move out for six months as they pursue a legal claim that they’re the victims of mortgage fraud. No one’s home, but two brand new radio-controlled toy cars sit under the Christmas tree and family pictures line the mantle. Gordon sighs. It’s going to take more time before Waypoint earns a return on this property.”

According to news reports, Waypoint earned as much as a nine percent return on its foreclosure-to-rental investments in the last quarter of 2011.

**Replicating the Model**

Numerous other real estate management companies, backed by major investors, are seeking to copy the Waypoint-GI Partners model in the U.S. where little has been done to prevent or repair the massive foreclosure rates of major banks—even where they are in violation of state and federal laws and regulations.

San Francisco headquartered Landsmith, LP is targeting homes in Arizona, where the foreclosure process is faster and homeowners have fewer protections owing to weaker state laws. According to press reports, Landsmith purchased 225 foreclosed single-family homes in Phoenix in 2011 and is converting them into rentals, hoping to earn a yield of 14 percent. Also seeking to scoop up foreclosed homes in hard-hit Arizona is American Residential Properties, which reportedly bought 800 homes in the Phoenix suburbs in 2011. For expansion, the company is reportedly seeking funds from the New York-based Ranieri Partners, whose founder describes himself as the “father” of the securitized mortgage market.
McKinley Capital Partners is another Bay Area firm that has been rapidly purchasing foreclosed homes. According to McKinley’s website, the company has invested over $100 million through three funds to purchase nearly 400 “distressed single-family homes” in California. McKinley is backed by New York’s Och-Ziff Capital Management, one of the world’s largest hedge funds, entrusted with money from private investors, as well as public pension systems like CalPERS.

Foreclosure hot spots like California, Arizona, and Florida are also investment hot spots for opportunistic private equity groups and hedge funds. Now thanks to policies developed by the Obama administration (in close cooperation with private equity and corporate real estate managers), the federal government is poised to hand over tens of thousands of homes currently owned by the government-sponsored housing enterprises (GSE) and millions of foreclosed homes owned by banks, to private equity.

**Policies Promote Major Housing Grab**

The administration’s intentions to feed distressed U.S. housing stock to private equity investors was officially announced on August 10, 2011, when the Federal Housing Finance Agency (FHFA) put out a request for information “to solicit ideas for sales, joint ventures, or other strategies to augment and enhance Real Estate-Owned (REO) asset disposition programs of Fannie Mae and Freddie Mac (the Enterprises) and the Federal Housing Administration (FHA).” The government’s bias towards the private equity-funded model of Waypoint and GI Partners was clear in statements, such as these: “FHFA, Treasury and HUD anticipate respondents may best address these objectives through REO to rental structures.” The FHFA reportedly received 4,000 comments, many of them from the very corporations and investment firms that hope to earn billions of dollars from government-owned “distressed” homes.

On February 1, 2012, the FHA finalized plans and invited interested investors to pre-qualify for a pilot “REO disposition initiative.” At stake are roughly 83,000 foreclosed homes from the government-sponsored enterprises inventory. While this figure might seem small in comparison to the 1.17 million home foreclosures that occurred nationwide in the first half of 2011, the government’s plans for federally-owned housing poses serious problems in terms of racial justice. The inventory of Fannie, Freddie, and FHA foreclosures are disproportionately owned by non-whites and low-income families, and located in urban minority-majority communities, such as Oakland and Los Angeles.

The government’s pilot program, unveiled on February 27, 2012, targets federally-owned homes in Atlanta, Chicago, Las Vegas, Los Angeles, Phoenix, and Florida because these metropolitan areas contain the largest stocks of geographically concentrated REO single-family housing. Foreclosed homes held by Fannie, Freddie, and the FSA are especially valuable to private equity because they can be sold in large blocks in single metropolitan regions, allowing companies like Waypoint to profit from economies of scale. Such transactions essentially transform traditional single-family homes into massive multi-family apartment housing.

Federal policymakers see this pilot program as the start of a larger effort to sell off GSE-owned foreclosed homes across the U.S. The full program will surely include the San Francisco Bay Area and Sacramento regions, which accounted for 1,546 Fannie, Freddie, and FSA-foreclosed units in December, 2011. As of March, 2012, there were over 18,000 foreclosed homes in Alameda and Contra Costa Counties alone.

**Occupy to Liberate the Land**

Clearly, this is a story of Goliath swallowing up David. But, in communities of color around the country, people are organizing—often in conjunction with the Occupy movement—to sling rocks at the ravenous monster. The first volley included defending the right of families to stay in their homes while undergoing foreclosure.

More recently, the organizing has been on the offen-
The flag accompanied MST leader Janaina Stronza-ke when she visited the Occupy Wall Street encampment at Zuccotti Park last November. Occupation is a time to grow,” she told the assembly. “To grow education, empowerment, and food community.” The crowd roared back: “Occupy, Resist, and Grow!”

Endnotes
1. Applied Research Center Report. Race and Recession. May 2009. <arc.org/content/view/726138/1>
3. Laura Berman, Urban farming idea slowly sprouts in Detroit, Detroit News <detroitnews.com/article/20110320/OPINION03/20110320>
4. <ridgeback-partners.com/about.html>
5. <rainforestcap.net/news/project>
10. <mckinleycp.com/about-us/company-overview>
11. <mckinleycp.com/investments/distressed-housing>
15. <realtrac.com/trendcenter/ca-trend.html>
18. <mstbrazil.org/about-mst/mst-flag>

Darwin Bond-Graham is a sociologist and author. Yvonne Liu is a senior research associate at the Applied Research Center.

Race, Poverty & the Environment | Vol. 19 No. 1 – 2012

Photo:
Julia Landau translating “Ocupar, Resistir e Produzir!” for Janaina Stronza-ke, a member of Brazil’s Landless Workers Movement at Zuccotti Park in New York, October 2011. Courtesy of civileats.com
A crowd of more than 100 has assembled on the steps of the Alameda County Courthouse in Oakland as the auctioneer attempts to read out the list of properties to be auctioned publicly. But the crowd starts up a chant of “Banks got bailed out, we got sold out!” Musical instruments are played loudly, signs and banners are waved about, and the auctioneer is drowned out with hisses and jeers. The auctioneer endures the hazing for a few minutes, makes a whispered call on his cell phone, and ducks into the courthouse building. A long line of protestors immediately forms, preparing to follow him inside. A young African American male holds up an “Occupy Oakland” sign.

The auctioneer is told by a deputy that he cannot conduct his business in the building and there ensues a game of cat-and-mouse between him and the crowd as he attempts to conduct his business at a different spot outside the courthouse and the crowd splits up to hound him wherever he goes. Finally, the auctioneer leaves after another whispered phone call—presumably to a bank official—and the crowd moves on to another auctioneer, also identified by his clipboard. Having witnessed the crowd’s treatment of a fellow auctioneer, he leaves without attempting to read out the names of listed properties. A third auctioneer is also encircled and quickly shouted down.

In a little over an hour, the auction that day is cancelled and the bank agrees to discuss a loan modification with Nell Myhand, whose home was being auctioned. After two years of not receiving a response from the bank, she declares the action a “victory.”

Foreclosed properties auctioned on courthouse steps have become a sign of the economic times throughout California and the United States. In Oakland alone, more than 35,000 homes have been lost to foreclosure since 2007.

This particular foreclosure auction, however, was noteworthy for the irony behind it. The homeowner, Nell Myhand, is a veteran community organizer and housing counselor who had been actively helping other homeowners fight precisely this type of occurrence.

Myhand had bought her East Oakland home with her partner, Synthia Green, over a decade ago when they were both fully employed. But then, Myhand had to take responsibility for the full-time care of her mother who suffered from dementia and Green was forced into early retirement from her job as a teacher because of a stroke. Even as their income declined, the monthly mortgage payment on their modest two-bedroom home ballooned to over $2100. Myhand
made two attempts to get the loan modified but her request was denied by the bank. Then on March 8—International Women’s Day—Myhand and Green’s home was scheduled to be sold to the highest bidder on the steps of the Alameda County Courthouse.

If the bank expected the proceedings to go smoothly and for Myhand to go quietly, they were gravely mistaken. Myhand enlisted the help of Causa Justa/Just Cause, Global Women’s Strike, and the Occupy Oakland Foreclosure Defense Committee, who mobilized the supporters on her behalf, forcing the bank to cancel the auction and talk to Myhand.

At an impromptu press conference following the courthouse action, Myhand called for a national moratorium on foreclosures, saying: “It’s time for them to stop putting us out of our homes and leaving our homes empty and us homeless!”

Women of color, she noted, are 256 percent more likely to be saddled with a sub-prime loan than white men. Adding that in Oakland, “foreclosures are concentrated in three zip codes that have the highest concentration of African American residents, monolingual Spanish speakers, and elders.” The banks have “charted a strategy to transfer wealth from those of us who have less to those of us who have more. And we’re finished with that!”

Actions against foreclosures show the banks that “it’s not business as usual,” Myhand emphasized.

**Foreclosed Households: 20 Million and Counting**

As many as 20 million American households have been foreclosed since 2006, when the crisis began. Many of the foreclosures are directly attributable to sub-prime loans, which generated trillions for the banking industry and resulted in hundreds of billions in lost wealth for communities of color.

In cities like Oakland, where the foreclosure rate in 2011 was more than double the national average (according to RealtyTrac.com), there has been an overall negative effect on property values as a whole. Foreclosed, unoccupied properties attract blight, squatters, drugs, prostitution and violent crime. Yet banks are rarely held liable for the $1,000-per-day fee cities can lawfully charge for blighted properties. Additionally, foreclosures have a huge impact on emotional and physical well-being. A joint study conducted in 2011 by Causa Justa and the Alameda County Public Health Department found that foreclosed residents are twice as likely to experience stress, depression or anxiety.

The situation will likely worsen before it improves. In the next three years, as many as 1.7 million more Californian households face foreclosure. A $25 billion settlement against the five largest mortgage servicers recently accepted by state Attorneys General is not expected to effect a significant reduction in the number of foreclosures before 2015. Moreover, the settlement excludes Freddie Mac and Fannie Mae, which own 80 percent of all American mortgages and more than 60 percent of California’s home loans.

The economic reality of the situation and the corresponding lack of compassion toward homeowners by financial institutions—many of whom benefited from the bailouts, which they used to bankroll foreclosures—became a prime catalyst for Occupy Wall Street and the affiliated Occupy movements that sprang up in 2011. For organizations like Causa Justa and the Alliance of Californians for Community Empowerment (ACCE), who were already battling foreclosures, the timing was serendipitous.

Causa Justa Executive Director Maria Poblet finds...
considerable alignment between Wall Street critiques and campaigns for bank accountability. And ACCE organizer Grace Martinez points to the economic connections between job losses, service cuts, deficits, spending reductions, and the lack of funds for education. “A lot of the [university] regents are also part of the banks,” she says.

**Grassroots Network Spreads Far and Wide**

When Occupy Oakland started, it was about housing, Myhand recalls. Months later, it still is, as evidenced by the spray-painted message on one foreclosed West Oakland home: F_ck you for taking my home, Bank of New York Mellon.

Despite the closure of the Occupy encampments, the momentum against foreclosures appears to be building. Protests against financial institutions and occupations of abandoned or foreclosed properties are becoming more commonplace in Oakland and other cities. Increasingly, nonprofit organizations are teaming up with foreclosure victims, neighborhood activists, Occupy protestors, labor unions, policy advocates, and legal experts to “build a movement bigger than any one campaign or organization,” says Poblet.

Occupy Oakland’s Tactical Action Committee has staged several actions around housing, including taking over vacant lots and foreclosed properties. In February, its Foreclosure Defense Committee began holding regular meetings.

A group calling itself Occupy Our Homes has started tracking anti-foreclosure protests and actions against banks in cities across America, including Detroit, Washington, Riverside, Oakland, Los Angeles, Petaluma, Sacramento, Minneapolis, and New York.

Take Back the Land has been advising Occupy Oakland and activists in other cities on foreclosure defense strategies.

Occupy Atlanta has been garnering national news headlines with a succession of actions against Chase bank in the area.

In Seattle, five activists who chained themselves together at a Chase bank to protest foreclosures were found “not guilty” of criminal trespass last March—a hint, perhaps, that the judges were not turning a blind eye to the injustices of banks.

In California, ACCE has launched Home Defenders League, a campaign designed to empower homeowners and demand that banks develop fair, equitable and sustainable home loan practices. ACCE also helped to lead “takebacks” of foreclosed homes in San Francisco’s predominantly African American Bayview-Hunters Point neighborhood, where many have fallen prey to predatory lending. (According to a recent audit of county records, a staggering 84 percent of San Francisco’s foreclosures had clear legal violations.)

There is now increasing evidence of international solidarity around anti-foreclosure movements. Swiss-based aufbau.org recently announced an action against Chase in Zurich in support of Myhand.

While banks continue to advertise heavily on American television, grassroots networks relying on
social media and independent news outlets have played a big role in spreading the anti-foreclosure message. Using Facebook and YouTube, they have publicized cases like that of Katie Mitchell, an elderly African American woman from Oakland who was granted a loan modification after the Foreclosure Defense Committee and ACCE staged an action on her behalf inside Union Bank.

These actions send a message that protest tactics are effective, says Boots Riley, founder of political hip-hop outfit, the Coup, and an active Occupy Oakland participant. “When people think there’s a definite way to make a change in the course of actions, they respond.”

Assessing the ‘Occupy Effect’

According to Riley, Occupy has shown that the banks do not have a moral high ground: “People are willing and supportive of shutting down banks, shutting down home auctions, moving people back into foreclosures.”

Poblet points out that the movement reinforces “what the working class communities of color we work with have been saying for a long time—the problem of foreclosures wasn’t caused by lack of personal responsibility on the part of homeowners; it’s a symptom of a systemic problem caused by the big banks and financiers that control our economy and our political process.”

Where Occupy has been a game-changer, Martinez believes, is in “unifying people beyond constituencies.” Residents of San Francisco’s Bayview and Excelsior districts, for instance, were not previously active on housing issues.

Now the Occupy message may even be trickling upwards into state and local politics. During a New America Media forum on the 2012 election issues in March, media experts attributed high poll numbers for a proposed “millionaire tax” in California in part to the 99% meme resonating with the public. Moreover, in some jurisdictions, local officials are showing a new willingness to challenge financial institutions.

Poblet credits movement pressure on city governments with furthering discussions over bank divestment in Oakland and San Francisco and draws attention to Supervisor John Avalos of San Francisco’s Excelsior district, whose poll ranking as a mayoral candidate rose from fourth to second after he introduced legislation in favor of divestment from big banks and started a committee to explore the possibility of creating a municipal bank. Poblet attributes it “in great part [to] the alignment between his policy platform and the demands of the Occupy Wall Street movement, which many voters supported. I think that’s an example of Occupy politics trickling up!”

In Oakland, City Council Member Jane Brunner recently co-authored a proposal to explore divesting the city’s $300 million in municipal assets from Wells Fargo. She undertook the action because the bank has not responded to the city’s request for numbers on loan modifications and foreclosures in Oakland. “We’re trying to be creative about what we can come up with,” she says, adding that “the 99% message has changed the dialogue nationally” around foreclosures. Yet, Brunner maintains that Occupy Oakland organizers have not worked directly with any elected officials, making it difficult to determine the amount of political capital their activism has generated.

ACCE and Causa Justa, however, have clearly received a visibility boost from their alignment with Occupy, which helps their ongoing efforts at policy reform. That, says Martinez, is the endgame strategy. “To address systemic change, you have to think in terms of policy.”

Eric K. Arnold is a freelance writer and photographer. He has been documenting hip hop and youth movements since 1994.
Cuba Opens to Private Housing but Preserves Housing Rights

By Jill Hamberg

The mortgage meltdown in the United States has spurred renewed calls for a more rational financing system that prioritizes the right to housing over the profits of the banking and real estate sector. Interestingly, in socialist Cuba the government is experimenting with legalizing market mechanisms in housing.

For 50 years the great majority of Cuban households have legally owned their homes as a form of “personal property,” but with some limitations. In November 2011, the Cuban government legalized free-market sales and other measures aimed at bringing to the surface an underground market that had been largely unregulated.

But will this lead to widespread speculation, a full-fledged real estate market and eventual foreclosures?

The measures to legalize free-market sales of housing are part of a broad package of “guidelines” adopted by the Sixth Communist Party Congress in spring 2011 to “update” Cuba’s socialist system. These include a broad expansion of self-employment and the start of urban worker cooperatives, in part to absorb steep layoffs in state employment. Rather than heavily subsidizing certain goods and services, government has started providing needy households with assistance. The economy continues to be based on socialist ownership of the basic means of production and planning rather than market forces. But the model also includes cooperatives, small farms and a range of options for self-employment. While the new laws institutionalize many existing practices, they also create new problems and expand inequalities.

Fifty Years of Homeownership

After the Cuban revolution in 1959, evictions were halted, most rents were reduced and urban land speculation was largely controlled. Through the 1960 Urban Reform Law, tenants became homeowners by amortizing the purchase price of their units through rents. Landlords and other property holders were allowed to keep their own home as well as a second vacation home. State-built housing was offered as long-term “ leaseholding,” with rents set at 10 percent of family income. Private renting was prohibited. In addition, vacant units confiscated from emigrants were distributed to people in need, and the Cuban lottery was transformed into a short-lived vehicle for financing new housing. Residents of poor urban housing remained as long-term leaseholders, but by the mid-1960s, no longer paid rent.

Homeowners could buy and sell dwellings and land, but only at low government-set prices, and the state had first option to buy. Although little legal buying and selling of land and dwellings occurred for the next two decades, informal sales of land for self-building were common. Housing exchanges were the way most households moved to another dwelling, but the values of the properties—as determined by very low official prices—had to be certified as equivalent. Homeowners’ heirs were entitled to receive their share of a dwelling’s official price, however, the right to remain in and acquire the property—by amortizing the share due other heirs—was restricted to people who lived
The View From Havana  
By Bob Allen

A few blocks from Havana’s famed Malecon, another new joint venture waterfront hotel is on its way to completion. Across the street from the construction site a small wooden building draws in a trickle of Cubans searching for the latest available construction materials posted on a list on the front door. Despite the images and cliches of Havana as a city whose beauty is matched only by how rapidly it seems to be disappearing before your eyes, the city shows signs of being poised to take advantage of the Cuban government’s new laws governing private property.

Even with the uncertainty over the impact and details of how Cuba’s new property laws will be implemented, some residents of Havana appear to be convinced that the new reforms are worth investing in. But scarcity of resources—material and financial—as well as competing priorities seem likely to temper the enthusiasm of Cubans towards the reforms.

“I’m a child of the revolution, I believe in it and it has done many good things,” responded a resident of Old Havana when asked about how the new law that reforms how Cubans can buy and sell homes would impact his life. “But the problem is the way people in different neighborhoods live.” Tourism and related economic development may provide new employment opportunities but in areas like Old Havana they have not relieved crowded conditions or housing shortages, nor have they addressed differences between housing stock in Old Havana and areas like the suburb of Miramar in the west of Havana.

Outside Havana, in the city of Cienfuegos, a taxi driver explained that more than the ability to buy or sell houses or cars, what was needed were more employment opportunities. “The new laws won’t really change life for most Cubans.”

How these expanded private property rights will change the character and demography of neighborhoods in Havana or introduce forces of gentrification and displacement remains in question. What does not seem in doubt is the commitment of ordinary Cubans to preserve the gains of the revolution—like the right to housing—while trying to improve their own economic conditions.

Bob Allen is director of the Transportation Justice Program at Urban Habitat and just returned from a research trip to Cuba.
swaps be equivalent in value made it difficult to move. Cash poor but property rich families couldn’t downsize and obtain money to live on, while households seeking more space couldn’t legally use their savings or remittances to expand. The new measures are intended to address such discrepancies, bring greater transparency to the market and limit opportunities for corruption.

The New System
Provisions of the new law include:
- Instead of having to go through local housing officials, the buyer and seller complete the necessary paperwork before a specialized lawyer.
- Payment is made through a bank so the buyer must have a bank account.
- Sellers pay 4 percent personal income tax on the sales price and buyers pay a 4 percent property transfer tax.
- Residents are still allowed to own only one residence and a second home in a vacation area.
- People trading homes can pay for the difference in value.
- Cubans who emigrate can transfer or sell homes before leaving the country. If they haven’t done so, the state will transfer the property at no cost to family members rather than the value being confiscated by the state as was previously the case.
- Transfers and donations as well as property disposition in divorce settlements and inheritance have also been revised.

Issues and Concerns
Despite widespread agreement in Cuba about the need to loosen restrictions on the real estate market, there are concerns about implementation and its consequences. The most important issues relate to affordability, prices, speculation, and the source of funds for purchases. For years, Cubans living abroad have funneled cash to relatives to purchase, exchange or upgrade their dwellings, and this has swelled with legalization. Many are helping out relatives, but others are purchasing homes for themselves, despite the fact that legal sales are generally limited to Cubans and foreigners permanently living in Cuba. Other potential buyers are those with substantial earnings—whether gained legitimately or not—or convertible currency through remittances and jobs related to sectors, such as tourism and joint ventures. Some of these buyers may seek speculative investment opportunities. Buyers have to justify the sources of funds for the purchase price, which may lead those with illicit cash to continue to operate through the black market or declare a low purchase price. In any case, prices have spiked, especially in prime market areas.

Limiting homeownership to one primary residence is designed to prevent accumulation of wealth, but evasion may be possible by putting the names of relatives on different dwellings.

For the majority of the population without access to substantial funds, acquiring a dwelling depends on whether credit is available and on what terms. In December 2011, Cuba expanded access to loans for private self-employed workers, small private farmers, and households to pay for building materials and labor for home repair, rehabilitation and construction. Also allowed are loans to purchase "durable goods," such as vehicles, homes and other buildings, as well as other items, such as electric appliances. But according to the law, “these will be phased in as the country’s economic and financial conditions improve.”

Banks issuing credit perform a risk assessment to assure repayment. They usually demand collateral from borrowers and any co-signers. A new form of collateral is a “real estate mortgage,” but only on vacation homes and vacant lots and for no more than the low legal price. Items that cannot be used as collateral include the borrower’s primary residence and necessary furnishings and appliances, land owned by small farmers, social security pensions, child support, and two-thirds of borrowers’ incomes.

In January 2012, a new subsidy for low-income residents to build and repair housing was launched. Priority is going
to households where homes were damaged or destroyed in hurricanes and other natural disasters.

So far, the only taxation in effect regarding real estate is the property transfer tax paid by the buyer and income tax for the seller. Ongoing property taxes based on tax assessments are being considered as part of an overall tax law to be discussed at the summer 2012 meeting of Cuba’s legislature. Should tax assessments be instituted, they may force some households who had not intended to sell to downsize, crowd in with relatives or move to low-cost areas. However, tax rates may be low and exemptions may be granted for low-income families.

All these proposed measures are likely to accelerate the trend toward greater geographic differentiation by race and class. Neighborhoods became more socially heterogeneous after the revolution, but black market sales and house swaps in the last two decades have started to reverse this pattern. However, restrictions on sales or house swaps in special areas—for instance, those slated for tourism—continue from the past.

Some fear that market forces may lead not just to gentrification but also to homelessness and the continued growth of shantytowns. Not only could foreclosure (should there eventually be mortgages on primary residences) and tax assessments (should they be instituted) pressure people to leave, but some homeowners may find some offers so attractive that they will sell the house out from under other household members, which occasionally occurred during the brief period of free-market sales in the mid-1980s. The new law contains provisions to assure that occupants of the house being sold will have a place to live, but it is unclear how well it will be enforced.

Some planners and architects argue that families now have an incentive to spruce up their dwellings for sale or can fund building maintenance from proceeds of house swaps. This is certainly occurring but may also reflect easier access to building permits and materials. A new real estate boom could deal a blow to Havana’s crumbling architectural legacy. The Cuban curator and art critic Gerardo Mosquera noted that “if things don’t change, Havana will collapse. And if things do change, they’ll tear it down.”

Also of concern is the small, separate system created in the mid-1990s for joint venture real estate investment for foreigners. Thousands of units were built for sale to foreign business people, diplomats and snowbirds. After several hundred condominiums were sold, sales were ended and the rest of the units rented. The proposed law regulating this parallel housing system has gone through numerous drafts over many years, but has not yet been approved. The Cuban government recently agreed to permit a joint venture developer of golf course real estate to sell luxury condominiums free and clear. And some have questioned why, if foreigners can buy property through these special deals, they can’t buy regular dwellings.

**Housing is a Right, not a Commodity**

In Cuba, housing is seen as a right and not a commodity. Experience has shown the difficulty of eliminating the real estate market but leaving it completely free won’t work either. The challenge will be to establish an enforceable legal framework that regulates the market to prevent speculation and artificial price hikes. Prime areas in Havana, beach resorts and elsewhere are experiencing strong speculative pressure, but other areas may have a more “normal” market, influenced by access to convertible currency or other substantial income. Although some sources of corruption are eliminated, others will continue, since incentives to evade taxes or the need to justify the source of funds to purchase will deter some participants from completely going through legal channels. House swaps continue because families want to be assured they have a place to live, and it is more affordable to pay the difference in value in a swap than purchase a dwelling unit.

As the United States and Europe go through an extraordinary period of austerity where public assets are being sold into the market, Cuba continues its enduring commitment to social control of both public and private property. Cuba’s willingness to experiment with the introduction of market mechanisms in their economy provides a compelling contrast to the industrialized North where social control of capital seems to be out of reach of even the advanced social democracies of Europe.
Race, Poverty and the Environment (RP&E) is Urban Habitat’s national journal of social and environmental justice, founded in 1990.

For over two decades we have covered how low-income people and communities of color are organizing to win equality and justice. Multiracial, multi-issue organizations capable of uniting constituencies for social justice action have never been more critical. RP&E is a longtime and crucial connection point for advocacy groups, regionally and nationally.

Visit urbanhabitat.org/rpe to subscribe, order back issues, read from our archives, sign up for our quarterly newsletter, and catch up on the latest research and news in environmental, economic and transportation justice.

In 2010, RP&E forged print-web-radio collaborations with local and national radio outlets with production facilities in the Bay Area. Radio RP&E features in depth interviews and speeches from the movement for racial, economic, and gender justice.

Annual Subscriptions: $20/individual, $40/institution. Back Issues: $10/issue The complete archive collection, which includes over 60 issues from 1990 to present, is also available for $250.

urbanhabitat.org/subscribe