FINANCING HUMAN DIGNITY

Taxing Corporate Speculators to Bring Equitable Housing to Scale

My Mother bought this house when she was a state employee and I inherited it when she died. It's incredible that her pension funds now are being used to evict me.

—EDDIE SMITH

(reflecting on the fact that the Maryland State Employees Pension Funds invest in Oaktree Management, a multi-billion private equity fund that now owns his mortgage and is foreclosing upon him).

The foreclosure crisis of 2008 highlighted the speculative nature of our current economy that preys upon families and individuals, especially those caught at the intersection of structural racism and inequality. The ultra-wealthy and their asset funds, ever in search of increasing returns on investment, hungered for mortgages that could provide the highest return on investment, no matter how risky or damaging. They parlayed these mortgages into securities, bonds, and credit-default swaps—whereby profits were exponentially increased through a series of financial trades. When the structure collapsed, banks foreclosed on one in ten American homes, and one in six mortgages exceeded home values.[1]

Because Black households were targeted for speculative and abusive mortgages at the highest rates, these households lost 50% of their wealth during the crisis and its aftermath.[2] Specifically, Black households, long shut out of home ownership through racial red lining became a target for predatory lenders marketing sub-prime mortgages with balloon payments or unsustainable adjustable interest rates.[3] Many of these households are now effectively redlined again, as foreclosure, bad credit, and bankruptcy eliminates them from a "reformed" mortgage market that is stingy with its loans.

Large investors, however, emerged relatively unscathed. As the Bush and Obama administration bailed out banks to avoid another Great Depression, equity funds that specialize in turning failure into profit for investors moved into the breach. Examples include, Blackstone Goup L.P., a $31.5 billion global fund, which purchased foreclosed-upon homes at discount prices and converted them to rental property.[4] Others like Oaktree Capital Management, purchased distressed mortgages at a discount from the federal government, and began another form of exploitation—re-financing with employed home-owners—again on predatory terms—foreclosing on the disabled and destitute, and holding foreclosed vacant housing until property values rise.[5]

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THE ALTERNATIVE: NON-SPECULATIVE, COMMUNITY DRIVEN, SECURE HOUSING

The practice of speculative equity firms such as Oaktree and Blackstone is well documented and has even triggered protests around the globe.[8] Our work in Baltimore, knocking on doors, organizing, protesting, and representing homeowners in litigation, is now pivoting from protest to policy. Public policy must be used to shift these profits for equity giants into non-speculative, community-driven and secure housing in all neighborhoods.

Shared-equity housing, such as Community Land Trusts, deed-restricted housing, and limited equity co-ops occupy the place between public and speculative housing. These are models that give families and individuals the opportunity to own their homes, but keep those homes out of the speculative market. This is done by "right-sizing" resale prices through a legally binding formula that is designed to keep the housing affordable to multiple generations. In most communities, these models co-exist with speculative housing without negatively affecting adjacent property values.

Community land trusts enable individuals to own their homes, but the community, through a non-profit structure, owns the land. This approach offers great potential for reducing the harms of speculation, if designed with racial equity and diverse leadership of the CLT in mind. As landowners, the community is transformed from being a bystander to speculative real estate transactions to an active agent of development in their neighborhood. The model also allows for rental housing when members of the community are unable to purchase the home.

CLTs provide security against displacement and assure homeowners future financial success. During the foreclosure crisis, less than 2% of all CLT homeowners experienced eviction or were seriously delinquent, compared to rates of 14% to 28% for sub-prime and other loans.[9] Furthermore, studies of all CLT programs show that they out-perform other traditional programs for first-time, low-income buyers. Under traditional programs, 50% of buyers return to renting within five years of home purchase.[10] During the same time period in CLT programs, 90% remain housed in a CLT home or have become homeowners in the speculative housing market.

These models can be created through grants or public financing. And they ensure that when communities invest—whether socially or financially—in development of home and neighborhoods, the property owner and the community equitably share the benefits.

GOING TO SCALE WITH PUBLIC FUNDS & COMMUNITY CONTROL

Despite deep government subsidies for speculative housing,[11] funds for the development of CLT's and other models of shared equity are in short supply. If secured at all, these funds usually come through federal community development money such as Community Development Block Grants, HOME, etc., which decline annually and are now facing elimination in the current Congress. CLTs and shared equity housing also face challenges in securing private financing from lenders skeptical of alternative models.

Unexplored, for the most part, however, are local property transfer taxes on corporate investor-held property. What is a transfer tax? Equity firms like Oaktree and Blackstone utilize statutory trusts and other subsidiaries to hold and transfer property at the local level. A Delaware Statutory Trust is now holding the Johnson's Baltimore home.[12] When it transfers that house to a new owner, the City will tax the value of the transaction at 1.5%.

Diminishing speculation, ending displacement, and preventing vacant housing should clearly be critical public goals. By increasing the tax for statutory trusts and/or other pooled investor-held properties, localities could raise funds for stable, secure, permanently affordable non-specula-

CASE STUDY: THE JOHNSONS OF BALTIMORE[6]

When Wayne and Mildred Johnson were saddled with a predatory mortgage loan that was ballooning, they directed over $4,000 to an attorney promising to refinance it. Later, an Administrative Law Judge called the lawyer, "the worst kind of scammer . . . one who completely disappears." The ploy put the Johnson's behind on their Bank of America (BOA) mortgage, and they sought assistance through foreclosure prevention programs. BOA negotiated for a time, then disappeared, like the scammer. After almost eight months of silence, the Johnsons learned that Christiana Trust, a subsidiary of a $97 billion global equity fund, Oaktree Capital Management, was now holding their mortgage. What they learned next was even more surprising.

The Johnson's had purchased insurance from the Federal Housing Administration (FHA), which paid off BOA. Under the Distressed Asset Stabilization Program (DASP), FHA then sold the Johnson mortgage for roughly 40% of what it was worth to Oaktree. Rather than helping them reduce their debt and keep their home, the government literally sold them out.

Beset now by disabilities that forced each of them to Social Security, the Johnsons asked the equity company for new mortgage terms, with a reduced principle given that the company had only paid for 40% of the loan. Oaktree refused. The global equity firm then, acting as a debt collector, foreclosed. The grieving Johnsons were forced to leave behind their home, their neighborhood, and their city, so that global investors might profit through the home's foreclosure and resale.

The Baltimore Housing Roundtable, in partnership with NESRI, joined with UNITE HERE to knock on the doors of households like the Johnsons. A review of all Oaktree DASP purchases in Baltimore City revealed that 40% of the houses purchased in the FHA fire sale were foreclosed upon, 21% were delinquent and in foreclosure, and another 12% were subject to "short sales" (where Oaktree agreed to sell the home to a third-party at fair market value, rather than the amount of the mortgage purchased).[7] In short, Oaktree evicted ¾ of Baltimore households, despite the fact that they could have negotiated with each homeowner, offering to reduce the principal balance by half and still made a 10% profit. The Johnsons and hundreds of others could have kept their home with no financial harm to anyone. Adding insult to injury, a significant proportion of Oaktree properties are now vacant, held ostensibly until market conditions improve.

The Johnsons and households like them are stuck in the middle of the intersection between structural racism and structural inequity. Given the opportunity to own a home, they jumped at Bank of America's arguably predatory loan. The bank used that to fill the speculative housing bubble and fuel profits. The scammer exploited the Johnson's desire to escape the oppressive loan, which put them in default. When the mortgage industry collapsed, FHA paid off Bank of America and then sold the mortgage it now held to Oaktree, at a steep discount. All the private speculators profited or emerged unscathed. The Johnsons were made homeless.

tive housing. And by focusing on statutory trusts, localities would be increasing taxes primarily on outsiders speculating on the housing market but bringing no value to the city. For example, it is estimated that a mere 1% surtax on statutory trusts in Baltimore could put $6 million annually into the City's housing trust fund.

Financing Solutions

Taxing outsider speculation would allow municipalities to:

- ***Fund housing trust funds***, which are government funds earmarked for the creation of affordable housing. With dedicated taxes and revenues, these funds can avoid the ebbs and flows of budget politics. Over 700 (state, city, county, regional) housing trust funds exist across the country. Most are used for low-income housing construction and preservation, and frequently target homeless, returning citizens, and special needs populations.[13]
- ***Underwrite municipal bonds and direct expenditures for non-speculative housing***, allowing for community-driven revitalization of neighborhoods littered with vacant homes transforming them into permanently affordable housing (CLTs, limited equity co-ops, CLT rentals) and community commons.
- ***Stimulate lending to non-speculative housing,*** which frequently faces financing obstacles because it appears unorthodox to banks. City housing agencies could provide low-interest loans to housing designed to resist market pressure, thereby preventing involuntary displacement and furthering choice.

CONCLUSION

Speculation is embedded in almost every thread in our economy with corrosive effects undermining the stability and well-being of countless neighborhoods. To address that structural challenge, we must tax "bads" and create public and community "goods." Statutory trusts are one clear "bad" that offers the opportunity to transform some portion of exploitive and damaging profits into resources to create stable and thriving communities.

NOTES

1. Rosenberg, *The Concise Encyclopedia of the Great Recession 2007-2012,* p.258.
2. National Ass'n of Real Estate Brokers, *The State of Housing in Black America (2013),* p.vi. *https://csd.wustl.edu/Publications/Documents/State-of-Housing-In_Black-America_2013-Official-Report.pdf*
3. Id.
4. *RENTING FROM WALL STREET: Blackstone's Invitation Homes in Los Angeles and Riverside*, July 2014, A Report By The Homes For All Campaign Of The Right To The City Alliance. http://homesforall.org/wp-content/uploads/2014/07/LA-Riverside-Blackstone-Report-071514.pdf
5. UNITE HERE report, *Will Oaktree run afoul of HUD requirements on distressed Baltimore mortgages?* October 2016. https://www.pecloserlook.org/wp-content/uploads/OaktreeHUDBaltimoreMortgages-UNITE-HERE-102516.pdf. See also *The Government Is Selling Thousands of Homes to Hedge Funds Without Their Owners' Knowledge*, The Atlantic, Sep. 23, 2015, https://www.theatlantic.com/business/archive/2015/09/the-government-is-selling-thousands-of-homes-to-hedge-funds-without-their-owners-knowledge/406771/.
6. The names have been changed because of privacy concerns, but this account is based on Maryland public real estate and judicial records. Contact Peter Sabonis, peter@nesri.org, for specific citations.
7. See n.5, UNITEHERE report.
8. Forbes, *Spanish Eviction Protesters Target U.S. Private Equity Giant Blackstone,* Apr.9, 2015. https://www.forbes.com/sites/debtwire/2015/04/09/spanish-eviction-protesters-blackstone/#1574027458f6 See also McShane, *Protestors Gather Worldwide to Protest Against Housing "Vulture Fund."* https://news.vice.com/article/activists-gather-worldwide-to-protest-against-housing-vulture-fund and The Irish Times, *The Great Irish Sell-Off - turning the spotlight on Ireland's vulture capitalists*, Jan. 10, 2017. http://www.irishtimes.com/culture/tv-radio-web/the-great-irish-sell-off-turning-the-spotlight-on-ireland-s-vulture-capitalists-1.2931597
9. Thaden, *Outperforming the Market: Low Rates of Foreclosure in U.S. Community Land Trusts,* http://cltnetwork.org/wp-content/uploads/2014/01/Outperforming-the-market-presentation.pdf
10. Jacobus & Davis, *The Asset Building Potential of Shared Equity Home Ownership*, p. 3, (Jan.2010). http://cltnetwork.org/wp-content/uploads/2014/01/2010-Asset-Building-Potential-of-Shared-Equity.pdf
11. Government subsidizes speculative housing through tax breaks such as the mortgage interest deduction, property tax credits, and even zoning.
12. Christiana Trust, a division of Wilmington Fund Society FSB, which was assigned the mortgage by DC Residential IV Portfolio Private Owner, LLC, after it was assigned the mortgage by DC Residential IV Loan Acquisition Venture L.P. c/o Oaktree Capital Management.
13. Center for Community Change, *The 2016 Housing Trust Fund Survey Report, https://housingtrustfundproject.org/* In Portland, the housing trust fund is targeted to fund non-speculative housing. 55 trust funds have commitments to address homelessness and 20 have set-asides for serving extremely low-income (under 30% AMI) persons. A federal Housing Trust fund was finally funded in 2016.