From the Ground Up

Community Centered Policies to Scale Equitable Development

Contents

1 EXECUTIVE SUMMARY

3 INTRODUCTION

Political Alignment Around Rising Property Values 4

Speculative Capital 5

Racialized Lending 5

Solutions 6

7 ON-THE-GROUND EXPERIENCE

9 ROUNDTABLE PRINCIPLES

10 TAKING ON THE STRUCTURAL FORCES OF INEQUITABLE DEVELOPMENT

Weakening & Breaking the Political Alignments Around Higher Property Values 10

Community Land Ownership 11

Getting Community Land Ownership to Scale 12

Using City Bonds to Scale Up, Meet Need, and Deliver Equity 12

Getting to Deeply Affordable Housing 13

Decreased Reliance on Property Taxes 15

Public Financing of Campaigns 18

Curbing Speculative Capital's Impact on Real Estate 19

Regulating Speculators via Transparency 20

Divesting Public Pension Funds from Speculative Capital 20

Limiting Private Pension Investments in Speculative Capital 21

Using Property Transfer and Other Taxes to Redirect Capital to Local Trust Funds 22

Ending Racialized Lending 24

Profits, Race & Risk 25

The Community Reinvestment Act 26

A Racialized Foreclosure Crisis & Remedy 26

Place as Race 28

Other Sources of Lending: Community Development Finance Institutions (CDFI), Credit Unions, and Community Banks 29

Solution: Public Banking 30

32 CONCLUSION

Executive Summary

Human rights-based development requires that we own, develop, and use land in such a way that it protects our fundamental human rights, including rights to housing, work with dignity, education, health, food, and environmental security. Yet in urban and metropolitan development in the U.S. today, fetishism of higher land values has taken precedence over development for human wellbeing, locking out renters and people with lower incomes and no access to inherited wealth. This is especially true in Black and Latinx communities.

This speculative, exclusionary development regime is held up by the convergence of the political, economic, and social interests of real estate developers, financiers, landlords, local politicians, and homeowners.[i] Together, they back policies and create economies that produce scarcities of affordable housing and community land, bend public finance to serve private rather than public interests, and privilege the financial interests of speculators over the rights of low-income residents. But if we are willing to take on the powers and structures driving speculative and exclusionary development, we can begin to usher in a new, just development regime.

This report shares the lessons learned from almost a decade of on-the-ground work in Baltimore. There, we fought a separate and unequal trickle-down local development policy that promised jobs, commerce, and a lifting of all boats. These policies were destined to fail because they were centered on increasing land values, not meeting human need. Local organizations and activists were able to identify the power dynamics and structural forces that perpetuated this failed development. We then created an alternative vision for urban development that directs land and development policy toward

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building a local economy that would increase employment, wealth, and security for all. The foundations of this “Fair Development” model envision using public policy and private action to transform who owns and controls land, how we harness profit-driven speculation, and how we invest in our neighborhoods. They also involve the creation of new institutions which, if democratic and accountable, can form the building blocks of a new development paradigm. Specifically,

- Community land ownership, particularly in the form of Community Land Trusts (CLTs),

[i] Research indicates that homeowners are more likely to vote than renters and homeless people and that their interests often shape local and state policy towards driving up property values. However, we recognize that across the wide spectrum of homeowners, low-income owners in communities of color do not hold the same social capital and political influence as wealthier homeowners congregated in wealthier segregated communities.

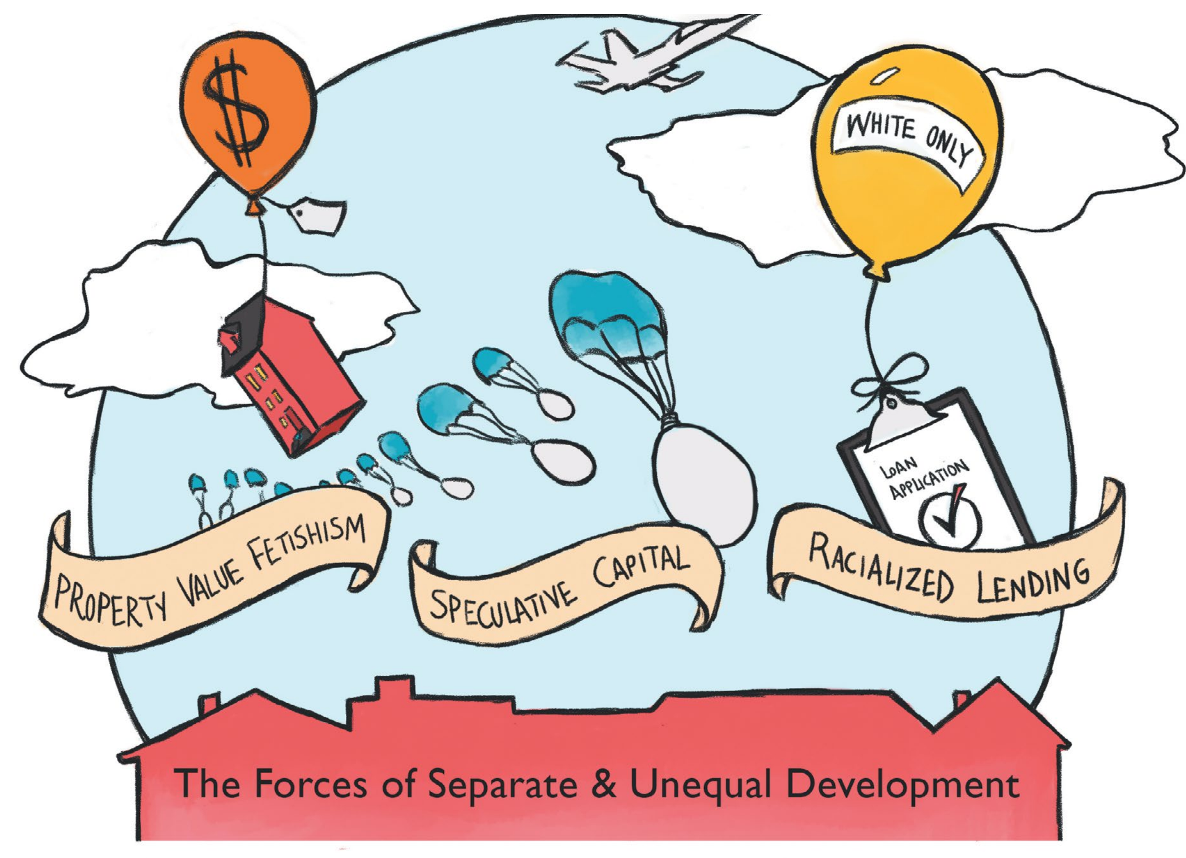
can pierce existing political alignments around land value fetishism by adding a new institutional player, if a certain scale is achieved;

- Non-lapsing, community controlled Affordable Housing or Equitable Development "trust" funds can be funded by taxing speculative capital through the use of local property transfer and other assessments; and
- A state or local Public Bank can shift current lending dynamics, increasing the amount of capital available and lowering its cost for communities of color, both for residential and commercial development.

Other practices that might help include public campaign finance systems that reduce developer and real estate finance influence over politicians; divestment of public (and private) pension funds from speculative real estate; and increased regulation and transparency of Limited Liability Companies (LLC) and other corporate entities engaged in speculation.

There are other measures beyond the scope of this report: major investment in public and social housing, rezoning to enable more affordable and diversified housing construction, reparations for Black communities locked out of homeownership, and an array of tenant protections. All can provide a combination of policy and structural interventions that could transform the politics of development.

Given the political forces at work, none of this is low-hanging fruit. While the advent of city and state "equity" initiatives is a welcome first step, the politics involved requires effective community organizing and coalescing that will build the power to take on vested interests and reshape development around fundamental human needs, not real estate.



Introduction

Successful economic and community development meets our fundamental human rights to housing, work with dignity, education, health, food, and environmental security. But it's more. Human rights-based development means not only that we are the central subject of development, but that we are also its active participants and beneficiaries.[1]

But the central focus of development in most of our cities is not people but property—specifically the value of property. In economic terms this means dollars. The value of property affects so much more than the price of the housing that it sits on: it affects the quality of education in the community; the level of employment; the presence of environmental hazards; and the availability of healthy food. Inequitable development is guaranteed if we assume that higher property values will by themselves work to meet fundamental human needs.

Unfortunately, the thirst for higher property values appears to be the foundation of most state and local development policies and of many that engage in community development. This emphasis has produced policies that produce scarcities of affordable housing and land, a perpetual hunt for profit, and development that is exclusionary in its public participation, leaving us far short of what we truly need.

Certainly, organized opposition to development projects has produced community agreements that have advanced affordable housing, work with dignity, education, and other human needs. And indeed, the ever-growing equity-based development frameworks recently adopted by cities are long overdue.[2] But until we directly confront the issue of land, its value, its use, and its control, we avoid a keystone of inequity, and we risk incrementalism in our attempts to bring human rights to development.

This report discusses three critical areas in development that must be addressed if we are ever to achieve real justice:

1. The political alignment among local politicians, real estate developers and homeowners[ii] (and landlords);
2. The rise of speculative capital; and
3. The continuation of racialized lending practices.

These three forces have led to an increase in evictions, homelessness and displacement—disproportionately affecting Black and Latinx residents and other low-income communities of color—while enriching mostly White real estate developers, hedge fund investors, and landowners.

[ii] Research indicates that homeowners are more likely to vote than renters and homeless people and that their interests often shape local and state policy towards driving up property values. However, we recognize that across the wide spectrum of homeowners, low-income owners in communities of color do not hold the same social capital and political influence as wealthier homeowners congregated in wealthier segregated communities.

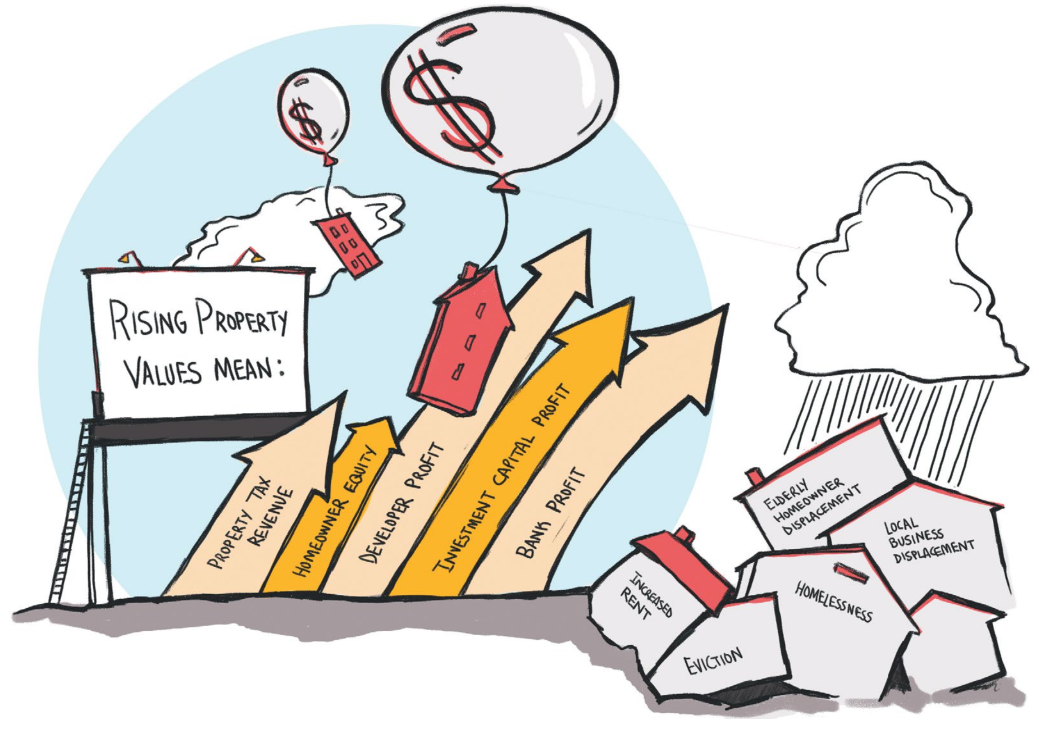
POLITICAL ALIGNMENT AROUND RISING PROPERTY VALUES

The lust for higher property values produces powerful and incestuous bedfellows.

Land is a limited commodity and municipal governments generally rely upon revenue from property taxes. As land values increase, cities reap more tax revenue. Theoretically, this means more government capacity to educate, heal, and house, but the politics and alignments formed by land value fetishism often interfere.

The results of ever-increasing land values are multiple and often destructive: higher land values increase profits for real estate developers, who then provide campaign financing for local politicians, ensuring their interests (more profits) are prioritized in city hall; they attract investors via hedge, equity, and various pooled funds; increase bank profits; and, finally, higher land values increase homeowners' (and landlords') real estate equity, making refinancing, remodeling, or sale more attractive. This homeowner interest is understandable, given the paucity of publicly funded safety nets and social insurance systems in the U.S.

Higher land values bring together homeowners (and landlords), who are more likely to vote than others, with local politicians who seek those votes, and with developers who underwrite politicians' campaigns. Banks and investment capital join this alignment. This is an equation for exclusion and displacement for renters, persons who are homeless, and homeowners on fixed incomes. As these groups are, for the most part, disproportionately Black people and other people of color, the road to equity in development begins with understanding and addressing land value politics. It also involves understanding the dynamics that land values play in these sectors.



SPECULATIVE CAPITAL

In May 2008, during the mortgage foreclosure crisis, This American Life joined with National Public Radio (NPR) to produce a program explaining the crisis, called "The Giant Pool of Money."[3] This pool, roughly $70 trillion globally at the time, was identified as "savings" by the very rich that needed profitable investment return. With low interest rates and returns on traditional investments, real estate became an attractive target. Creative and questionable financial practices followed, as did predatory lending.

The pool identified by NPR is called the fixed income security market—financial instruments that promise some sort of regular return on investment. They noted that it had taken one hundred years of capitalism for it to reach $36 trillion in 2000. Within six years, it had practically doubled to $70 trillion. Today, it stands at $123 trillion, roughly 33% higher in value than what the world's economy produces.[4] And it just keeps getting bigger.

The results have been disastrous. The foreclosure crisis and resulting Great Recession were the product of this financialization in housing.[5] While the explosion of the housing bubble led to some policy changes, financialization remains intact. As all this money in the form of financial entities such as Real Estate Investment Trusts (REITs),[6] Statutory Trusts,[7] and Private Equity Real Estate[8] gets injected in the local housing market, it is joined by local flippers, real estate developers, and other speculators in driving housing prices ever higher.

RACIALIZED LENDING

Like bacteria battling antibiotics, for-profit lending has mutated and continues to find different ways to perpetuate racism.

The gap between Black and White homeownership is now larger than it was when the Federal Housing Administration (FHA) was created in 1934.[9] At that point, racial zoning may have been outlawed, but the United States was about to enter into four decades marked by "redlining," blockbusting, racial covenants, and FHA mortgage insurance for covenant communities, all of which kept Black households from becoming part of a post-World War II "middle class," with its attendant wealth, education, and political power. This is well documented in Richard Rothstein's book, *The Color of Law*.[10]

Not surprisingly, private, for-profit lenders (with public policy assistance) played a key role in the racial and class disparities that we see in development today. Because property operates as loan collateral, its value will determine loan risk and potential profits for lenders. But property values have been artificially deflated in Black communities through years of racist policies and practices.

This disparity has created undue hardship for individual Black people and other people of color as they negotiate with banks and other private lenders over bank accounts, insurance, and mortgages. However, it creates an even greater problem community-wide, given that development rarely happens without loaned money. Struggling communities cannot develop and grow, whether it be with a small business loan or to develop Community Land Trusts (CLTs), without access to investment money.

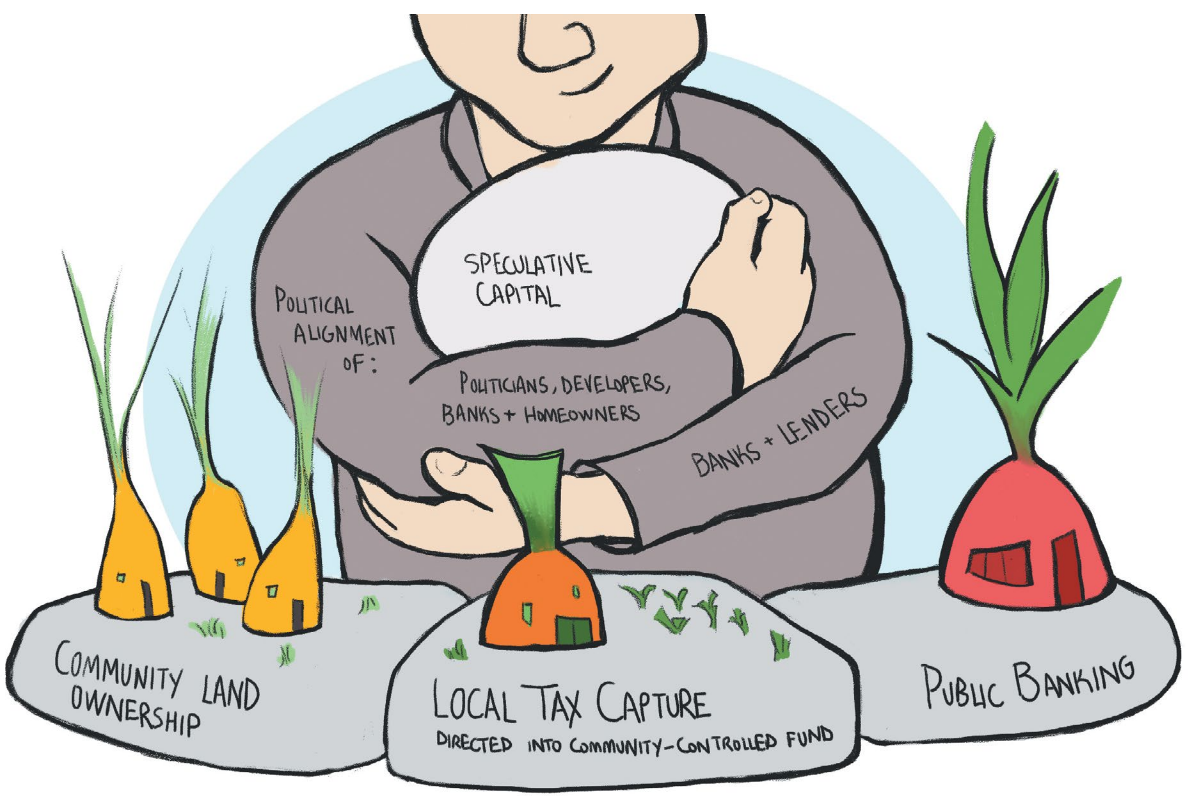
SOLUTIONS

Policy makers, planners, advocates, and activists must deal with the political alignments of land value fetishism and its dynamics to bring structural change to the landscape of development.

In this report, we offer a three-pronged approach.

- *Community land ownership* is the means to pierce the political paradigm that keeps politicians solely focused on raising property values. Decreased reliance on property taxes by localities and campaign finance reform can also modify the paradigm.
- *Speculative capital must be taxed* to capture the profits extracted from communities and returned to them for community-led investment and ownership. Cities also must divest from speculative capital funds and leverage their anchor institutions to do the same.
- *Public banking* is a means to change the current dynamics of for-profit lending, enabling Black people and other people of color *and their communities* to overcome the colorization of risk.

This approach is grounded in community experience and on-the-ground innovation, emerging from our work in Baltimore over almost a decade, as well as consultation with equitable development activists in similar cities.



On-the-Ground Experience

In 2013, a collection of Baltimore renters, homeowners, persons without housing, nonprofit developers, community associations, religious institutions, policy advocates, lawyers, and academics formed a coalition anchored by the United Workers (UW), an economic rights group that organizes low-income communities to end poverty. This "Baltimore Housing Roundtable" quickly formulated their own principles of equitable development and in January 2016 released *Community + Land + Trust: Policy Tools for Development Without Displacement*.[11]

Baltimore shared challenges similar to that of other cities. Like Philadelphia and Pittsburgh, it had a mixture of gentrification and continued disinvestment, depending on the neighborhood.[12] Like Detroit and Philadelphia, it had significant swaths of vacant property.[13] Like Oakland, it was seeing an influx of investor capital, eager to turn distressed mortgage property into new profit-making opportunities.[14] And like all these cities, it was dealing with private lenders who continued the practice begun with redlining of determining which neighborhoods deserved investment or neglect, with all its attendant racial ramifications.[15]

The Baltimore CLT report laid out a 20/20 vision for community-driven development.[16] It called for $20 million annually in municipal bonds to advance vacant house deconstruction, community greening, and urban agriculture, through the employment of people who were formerly incarcerated, and another $20 million annually in bonds to rehab vacant properties into community-owned, shared-equity housing through CLTs. The road map also included the creation of a Housing Trust Fund (similar to those in Philadelphia, Pittsburgh, and Oakland). It also called for a city Land Bank (as in Philadelphia) and operating funds to support community ownership.

For the most part, Baltimore political leaders were unmoved. Sidestepping them, the Roundtable and housing allies advanced a citizen ballot charter petition to establish the Housing Trust Fund, and political candidates were pressured to support 20/20. In November 2016, voters established the Trust Fund, and a mayoral candidate who had endorsed 20/20 was elected. Within two years, however, the new mayor had walked back her support, and legislation to put money into the Trust Fund stalled because of developer opposition.

Developers in Philadelphia also had upended an effort to create a new construction tax for its Housing Trust Fund.[17] While an eventual compromise netted increased fund revenue, it required creating a sub-fund catering to for-profit developers and targeted middle-income, not low-income, households.[18]

But concerted organizing can sometimes triumph. Pittsburgh took on developer lobbying power with a citizen ballot petition, which pushed the City Council to embrace a tax for its Housing Trust Fund.[19] Following suit, the Baltimore Roundtable began another ballot petition—this one requiring a $20

million annual funding of the Trust, regardless of the means.[20] As with Pittsburgh, the mayor and City Council relented to citizen ballot pressure and a transfer tax and recordation tax surcharge was passed to head off the ballot petition. These taxes were expected to net $13 million annually.[21] The mayor agreed to progressively increase bond budget allocations to bring the amount to $20 million annually.[22]

Baltimore is not alone in its attempts to grapple with a rising tide of gentrification. Public funds notwithstanding, a report released in 2019 showed that Baltimore had moved to sixth among U.S. cities gentrifying between 2000 and 2013.[23] Pittsburgh was ranked eighth, Philadelphia tenth.[24] Oakland was called "ground zero for gentrification and displacement in the Bay Area" by one publication,[25] despite the passage of $600 million in a city bond program that included funds for affordable housing and community development.[26]

It's not surprising that private investment outpaces public funds as it has myriad finance structures that pool investor monies globally that multiply profit-making opportunities. In the Bay Area, these pooled capital funds converted distressed mortgage property to speculative rentals, and then issued and sold private securities, using the rental income stream for return on investment.[27] In Baltimore, similar funds were evicting residents and flipping properties.[28] The financialization of housing, on full display during the Great Recession foreclosure crisis, has not abated.[29]

In each of these cities, the political alignment among developers, politicians, homeowners (and landlords), speculative real estate capital, and private lenders intersect to create displacement and maintain inequity.

Baltimore is not alone in its attempts to grapple with a rising tide of gentrification.

In 2017, a group of funders in California came together to address gentrification and displacement in the state and nationally.[30] They observed that market-driven development, government policy, structural racism, and unequal power dynamics were mutually reinforcing systems at play in gentrification and displacement. The answer, they concluded, lay in "addressing the unequal power relations between low-income communities and the economic and political elite that now define development decision-making."[31]

Taking on these unequal power relations involves organizing, public policies, and new narratives of development.

Roundtable Principles

In 2013, the Baltimore Roundtable settled upon principles for equitable development as the cornerstone for organizing, public policy, and a narrative around community-driven development. It was not alone. Equity frameworks exist in dozens of cities, including Seattle, Minneapolis, and Oakland. The Government Alliance on Race and Equity has supported and advanced these efforts with a toolkit and resource guide.[32]

The Baltimore Roundtable used the following human rights principles, all intertwined and all equally important:

- **EQUITY** – Development policies must enable equality *of outcome* in meeting human needs, thereby prioritizing populations and communities with the greatest need and those of color.
- **UNIVERSALITY** – Development shall increase all residents' ability to access the resources required to meet their fundamental human needs. No single development goal should take precedence over another, as all are inter-related. (For example, good jobs must not come at the cost of involuntary displacement.)
- **PARTICIPATION** – Development is a process that must *actively* engage city residents and support their decisions on how their fundamental needs should be met.
- **TRANSPARENCY** – Development policies must be open and accessible with regard to information and decision-making.
- **ACCOUNTABILITY** – There must be a means for holding government and private actors accountable for failing to meet human rights standards.

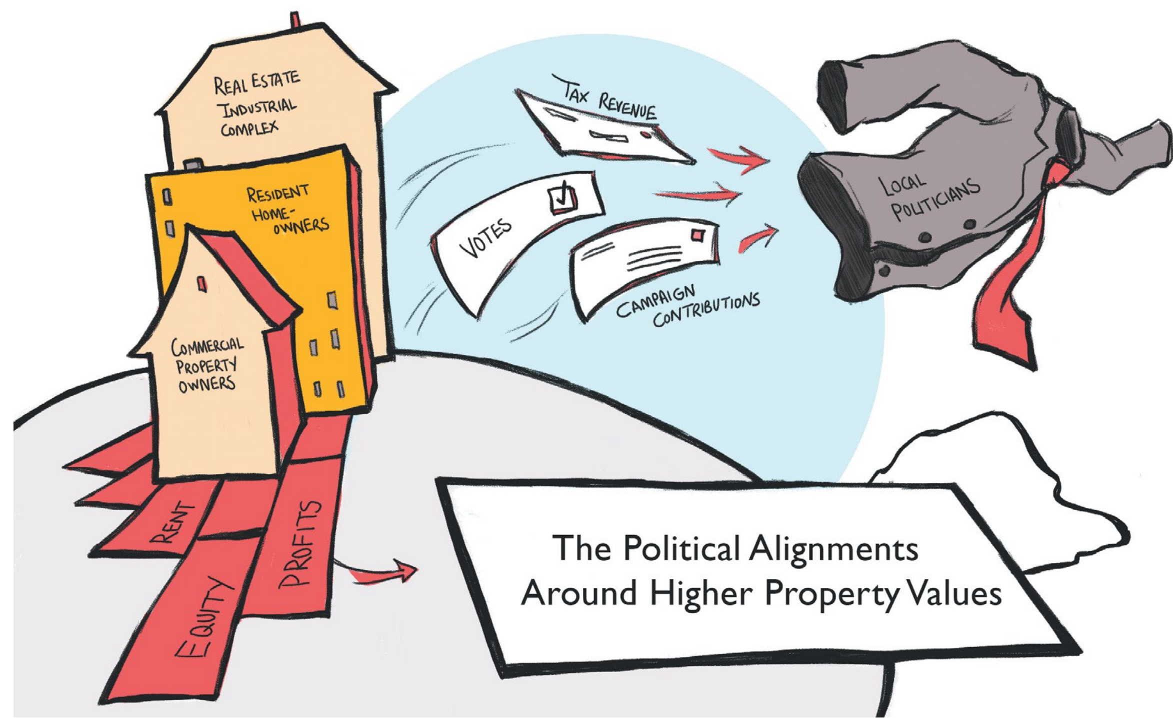
In 2018, the Baltimore City Council passed an Equity Assessment Program that seeks to close the gaps in policy, practice, and allocation of city resources so that "race, gender, religion, sexual orientation, and income do not predict one's success, while also improving outcomes for all."[33] Other cities preceded Baltimore with their own equity frameworks and others have followed since.[34] The need to apply such a framework is acute. But to do so with rigor requires significantly rethinking current approaches to land ownership, capital, lending, and decision-making.

Taking on the Structural Forces of Inequitable Development

The political alignments around higher property values, which also attracts speculative capital and exacerbates racialized lending, are structural forces that impede inclusionary development. While many of these issues are deeply entrenched in our communities, there are, in fact, effective ways to deal with each.

WEAKENING & BREAKING THE POLITICAL ALIGNMENTS AROUND HIGHER PROPERTY VALUES

City governments are largely dependent on the use and value of land for revenue. Since most cities rely on property taxes,[35] when land prices are bid up through competition for this limited commodity, city revenues increase. If the locality has an income tax, higher income households drawn to expensive properties will also add to public coffers. And increased



commercial activity will add to the sales, excise, and entertainment taxes that many cities also use. For example, the District of Columbia was on the verge of bankruptcy in the 1990s and made subject to a federal "financial control board."[36] But, increasing gentrification over the last 15 years has made surplus budgets common in D.C. as property and income tax revenues have risen.[37]

In addition, in many cities, hospitals, colleges and museums are exempt from property taxes because of their nonprofit status,[38] putting even more pressure on cities to embrace policies that drive up land values and attract high-income households.

All of this incentivizes policies that allow or actively fuel speculation. The prevalence of local campaign support from real estate developers gives city elected officials an additional incentive to favor speculation, and the windfall to homeowners (and landlords) from increased home equity resulting from higher land values keeps these officials in office, as homeowners (and landlords) are more likely to vote than the residents most harmed by speculation—renters, or people without housing.[39]

COMMUNITY LAND OWNERSHIP

Community land ownership provides one way to flip this toxic script. Community Land Trusts (CLTs) "right size" land values through non-profit, democratically controlled, resident-led organizations that own land upon which housing, urban agriculture, or commercial development occurs. Property resale values are set not by the speculative forces of the marketplace, but by community values, embodied in ground leases, which can ensure affordability for generations. Furthermore, community and private ownership can co-exist on the same block.[40]

CLTs transform residents from interested bystanders to actual agents of neighborhood development. Control of land means the ability to curb housing speculation, intervene in the siting of pollutants, and preserve neighborhood businesses. It also allows the development of low-income housing, solar energy, fresh food, and community-oriented enterprises.

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Roughly 225 CLTs exist nationally, stewarding an estimated 35,000 rental, 30,000 co-op and 19,000 homeownership units, and operating urban gardens and commercial property.[41]

CLTs are founded upon concepts most of us already have about property values and housing: 1) There is public and private ownership; and 2) Schools, transportation, retail stores, safety, and community cohesion all impact private property values and improvements related thereto put upward pressure on housing and commercial rents.

New to this understanding is the idea that private profit (equity) from increased land and housing prices should be shared with the community that helped produce it. CLTs operationalize this "shared equity" through ground leases that "right size" the profit (equity) return to individual homeowners, landlords and businesses, making CLT properties perpetually affordable. If brought to scale, CLTs can create a housing sector that is relatively immune from speculation and provides a safe harbor against involuntary displacement—for renters, homeowners,

neighborhood businesses, and urban farmers. CLT homes were relatively immune to delinquency and eviction during the foreclosure crisis because of the community safety net inherent in the model.[42]

Community land ownership is a means to strike a more appropriate balance between the private use of property and its public impact. Local zoning, land use, or development regulations alone are inadequate because they too often perpetuate economic and racial power dynamics.

Community land ownership is a new player added to the political dynamic, and as such, acts as a first step to a different political economy paradigm in development. CLTs form a new political flank, with new values. As direct agents of community development within a democratically run community-based organization, CLT participants can collectively act upon the kind of higher community values that are often subordinated when they are acting as individual homeowners, renters, or businesses. Operationalizing the balance between private ownership and public responsibility in democratic CLT organizations, they are better able to envision, create, and mobilize around equitable public policies from a place of direct experience.

Getting Community Land Ownership to Scale

Community ownership is challenging, particularly amid financial and government systems that prioritize private ownership. Successful CLTs, like traditional Community Development Corporations (CDCs), take on a host of planning, pre-development, and development activities. They differ from CDCs in that they hold property forever, set resale terms, and are governed by residents, neighbors, and stakeholders.

Community organizing, however, is the key to building the political power necessary to get to scale. In Baltimore, organizing helped create a Housing Trust Fund (that includes CLTs), leverage a Trust Fund tax, and secure city bond commitments. But CLTs will need to gain a lion's share of these resources to get to a scale that will pierce the political alignment around property values. Otherwise, affordable housing will remain marginalized. With that in mind, Baltimore activists mobilized around and secured a CLT priority in the city's housing trust fund for its first three years.[43]

Using City Bonds to Scale Up, Meet Need, and Deliver Equity

Municipal debt enables cities to build and update basic infrastructure (roads, parks, police and fire stations, courthouses, schools), but it also subsidizes projects targeted for tourists and developers (arenas, convention centers, hotels, or roads and infrastructure for corporate headquarters). This debt is in the form of "bonds," which come in many varieties. It is a key to scaling equitable development.

General Obligation bonds (GO bonds) are the most basic from of municipal debt and are backed by the city's general taxing power. **Revenue bonds** are supported by specific income streams from projects that the bonds have financed (fees from housing or industrial developments). **Tax Increment Financing (TIF) bonds** are a hybrid of the first two—treating expected increases in city property tax revenue *within a designated geographic area* as a specific income stream to support a project within that area financed by the bonds. (See more on TIFs below.)

Bonds are purchased by investors attracted to their tax-exempt status, which compensates for their low interest rates. Investors seeking higher rates of return will invest instead

in private bonds, stocks, commodities, currencies, real estate and the like.

GO and Revenue bonds are given ratings by bond agencies that effectively determine the interest rate a city will pay on the bonds. (TIF bonds in most cities are not rated). As higher interest rates constitute a larger “debt service” slice of the city budget pie (possibly “crowding out” other city priorities), most cities limit the amount that can be borrowed (“issued”) annually and/or that can be outstanding at any one time. Bonds are generally used for “bricks and mortar” projects. While some proceeds can go to the other costs related to development, the use of public debt to pay for personnel or operating expenses is frowned upon by rating agencies.

With the disappearance of industrial jobs, many cities pivoted to hospitality, entertainment, and tourism as employment sectors. Municipal bonds (also called MUNIs) were used to create much of this infrastructure.[44] For the most part, MUNIs are still used to maintain and expand these “downtown” developments, while many poor neighborhoods of color are ignored.[45] Additionally, the hospitality and entertainment jobs maintained by this infrastructure often keep workers impoverished.[46]

While practically all state and local laws require public bonds to be issued for “public” purposes, their use often perpetuates structural racism and inequality.

A 2018 racial equity assessment of Baltimore’s Capital Budget by the city’s own planning department found that MUNI spending in predominantly White neighborhoods outpaced spending in neighborhoods of color by alarming margins.[47] An average of $15 million was authorized for projects in Baltimore neighborhoods where residents were at least 75% White. Only $8 million was authorized in areas where residents were more than 75% people of color.[48] A class-based analysis showed a similar pattern, as did a 2020 Urban Institute report.[49,50] In short, Baltimore subsidizes their wealthiest residents at the expense of those most in need. The city is not alone.[51]

While practically all state and local laws require public bonds to be issued for “public” purposes, their use often perpetuates structural racism and inequality.

MUNI-funded projects should be guided by racial, economic, and gender equity standards, but rarely are. Capital budgets can be visionary, strategically directing projects and jobs to neighborhoods that live in the footprint of structural racism. Bond projects can employ city-residents (particularly those with arrest records) to deconstruct, demolish and renovate vacant houses, replace decaying schools, “green” properties, build grocery stores, create urban gardens, and construct health-care clinics. These projects yield long-term social value and are ideal for GO bonds. Investors buy these bonds with little regard for project type, as the returns are backed by the “city’s full faith and credit” promise. Spreading bond repayment over decades enables cost to be spread to future taxpayers who will also reap the benefits of today’s investments.

Getting to Deeply Affordable Housing

Given the decades of federal cuts to public and subsidized housing, the greatest need for housing in most cities is for those whose incomes are at or below 30% of the Area Median Income (AMI). These AMIs levels can differ by city and region. In the Baltimore metro region, the 30% AMI level for a three-person household in 2021 was $28,400.

"DOWNTOWN" DEVELOPMENT & TIFS

Many cities have publicly subsidized downtown tourist, entertainment, and hospitality sectors through discounted land, property tax breaks, payments in lieu of taxes (PILOTs), municipal bonds and their junk-bond cousin, tax increment financing (TIF) bonds.[52]

This strategy was spearheaded by Rust Belt cities in order to replace jobs and commerce that declined with the exit of manufacturing and industrial employers in the 1960s, but it was also a response to the gains of the civil rights movement during the same period, as noted by Randolph Hohle in *Race and the Origins of American Neoliberalism*.[53] The result was an increasingly privatized public downtown, based on the fundamental fiction that raising the tides of downtown developers, hoteliers, professional sports owners, commercial office investors, restaurateurs, and other financial moguls would lift all boats.

The "trickle down" promise of job creation was, for the most part, false. Repeated studies have shown that job creation numbers were exaggerated by publicly subsidized developers, and that the expanded tourist, entertainment, and hospitality sectors generated low-wage jobs with little dignity.[54] Cities that now rely on tourism and entertainment find the sector a slippery slope. Convention centers and hotels must upgrade and expand frequently to keep pace with other cities, requiring more public subsidies just to stay even.

While much of downtown infrastructure was built in the late 20th century with MUNIs or federal Urban Development Action grants (UDAG) that prioritized commercial real estate developers rather than residents,[55] TIF became the tool of choice in the 1980s and 1990s and is still popular in many cities today.[56]

TIFs operate on an inequitable fiction that cities can create financially "gated" sub-communities that eventually will benefit the entire city, like the downtown subsidies that came before. TIF bonds pay for infrastructure that supports development in a target zone specified by legislation. The bonds are paid off through the expected increased property tax revenue the zone will produce once the project is completed. If the expected tax revenue fails to support the debt, most TIFs require a surtax on the target zone property.

While target zone property taxes will only support the TIF bonds, increased police, fire, education, or other city services that the target zone needs will be paid by a city's general fund. In short, all city taxpayers will subsidize city services to the target zone, but zone property taxes will go only to TIF debt service.

This inequity is compounded if formula-based state aid to localities uses property values in their equations. For example, TIF projects in Baltimore increased city property values to the extent that state educational funding to the entire city was reduced.[57] The state formula made the traditional and reasonable assumption that city property value increases meant increased city general fund revenue. The formula didn't account for the financially gated TIF communities, where those property tax revenues were being used to pay off TIF bonds and were thus bypassing the city's general fund.

There are numerous studies indicating that TIFs do not accomplish their promised goal of promoting economic development.[58] California, one of the first states to fall in love with TIFs, now requires 55% voter approval, affordable housing increase or preservation, and extensive transparency on all its current TIFs. Where TIFs are inevitable, activists have managed to link them legislatively with affordable housing, city-first hiring, living wages, or community benefits.[59]

Within the city itself, the 30% AMI level was $15,113.[60] Regardless, those relying on public assistance and living on the street are well below 30% AMI.

The primary tools used to provide housing at these levels, which the federal Department of Housing and Urban Development (HUD) call “extremely low-income” (ELI), are public housing and housing vouchers. A significant expansion in vouchers and long overdue public housing investments were included in President Biden’s proposed $3.5 trillion “Build Back Better” budget reconciliation bill and in his FY2023 budget.

Build Back Better also included funds for CLTs. Historically, CLTs have served households earning on average 50-80% AMI.[61] But recently, CLTs have been reaching the ELI group. In a recent report done by Partners for Dignity & Rights, we studied 10 CLTs that provided a total of 288 housing units, with 67% (192) affordable to those with incomes at 30 percent of AMI or lower. Residents were either rental tenants or co-op participants.[62]

These community controlled housing developers used a mix of finance tools for property acquisition, development, and operating expenses. They also were highly motivated to reach deep affordability, driven by their community membership. They also differed from traditional low-income housing providers in that they:

- Keep the housing permanently affordable and retain the public subsidies to ensure as much; and
- Keep tenants secure and not subject to involuntary displacement when market conditions change or subsidies expire.

Increased federal investments in deeply affordable housing are badly needed.

In the meantime, community activism and mobilization have resulted in the creation of state and local affordable housing trust funds, bond measures, site acquisition funds, and even operating subsidies for ELI housing.[63]

CLTs and other forms of community controlled housing (i.e., co-ops and Mutual Housing Associations) are institutions with similar values that can be mobilized politically to promote policy changes that eventually will bring deeply affordable community controlled housing to scale.

DECREASED RELIANCE ON PROPERTY TAXES

Property taxes should not be the primary funding stream for local governments, as it incentivizes policies that allow and encourage real estate speculation.[64] Cities with low property values and a high demand for city services, like Baltimore, often see *any* development project as the means to jobs and city revenue, regardless of longer-term consequences. Cities flush with property tax revenue also are not immune to temptation.

Cities must diversify their revenue streams. Other revenue sources include progressive income taxation, and taxes on wealth, services, entertainment, property recordation and transfer, as well as state aid formulas that recognize that displacement in cities affects other localities.[65]

Changing tax structures is an uphill political battle. But unless we begin to advance an alternative vision that puts equity at the center of public revenue strategies, we cannot hope to change the ongoing land speculation that displaces working-class communities and leads to unsustainable housing costs.

TAX LEXICON

Wealth Tax — assessment on property that is not tangible or personal (i.e., holdings in stocks, bonds, currencies, commodities, or other instruments that result in monetary gain or loss when sold)

Capital Gains Tax — tax on the gains made from the sale of intangible and tangible property

Property Tax — assessment on real property (land & fixtures)

Service Tax — assessment on services provided to consumer (i.e., accounting, legal, dry cleaning, brokerage, etc.)

Entertainment Tax — assessment on tickets or entry to concerts, sports, arts, or other events that entertain

Property Recordation Tax — assessment on recording of deeds and liens in public records relative to transfer of real property

Property Transfer Tax — assessment on sale of real property

Income Tax — assessment on earnings or other household revenue not generated by property sales, capital gains, etc.

Historically, state and local revenue and expenditure choices have not been guided by principles or values other than budget balancing. In 2011, the Vermont Legislature bowed to a political mobilization sparked by grassroots organizing and created a statutory vision and standard for spending and taxation guided by "outcome measurements" that involve equity, sustainability, and stability.[66] As indicated earlier, many localities have adopted similar guides, most with a racial equity focus.[67]

In order to help build pressure toward enacting tax justice, the first challenge is translating narratives of how tax policy impacts people's daily lives into accessible terms. We must also develop strategies that ensure that tax policy decisions are made in more participatory ways. For example, people who do not own property may not see how property tax decisions impact them. And it may be counterintuitive to assume that relying on property taxes for revenue can hurt their interests. But if that overreliance leads to pressure to increase land values, eventually rents will rise and people will be pushed out of their homes.

There are opportunities to tell that story in ways people both understand and respond to with political action. One powerful entry point is targeting outside speculators.

A PEOPLE'S BUDGET

In 2013, the Vermont Workers' Center mobilized a statewide campaign to transform the state budgeting process.

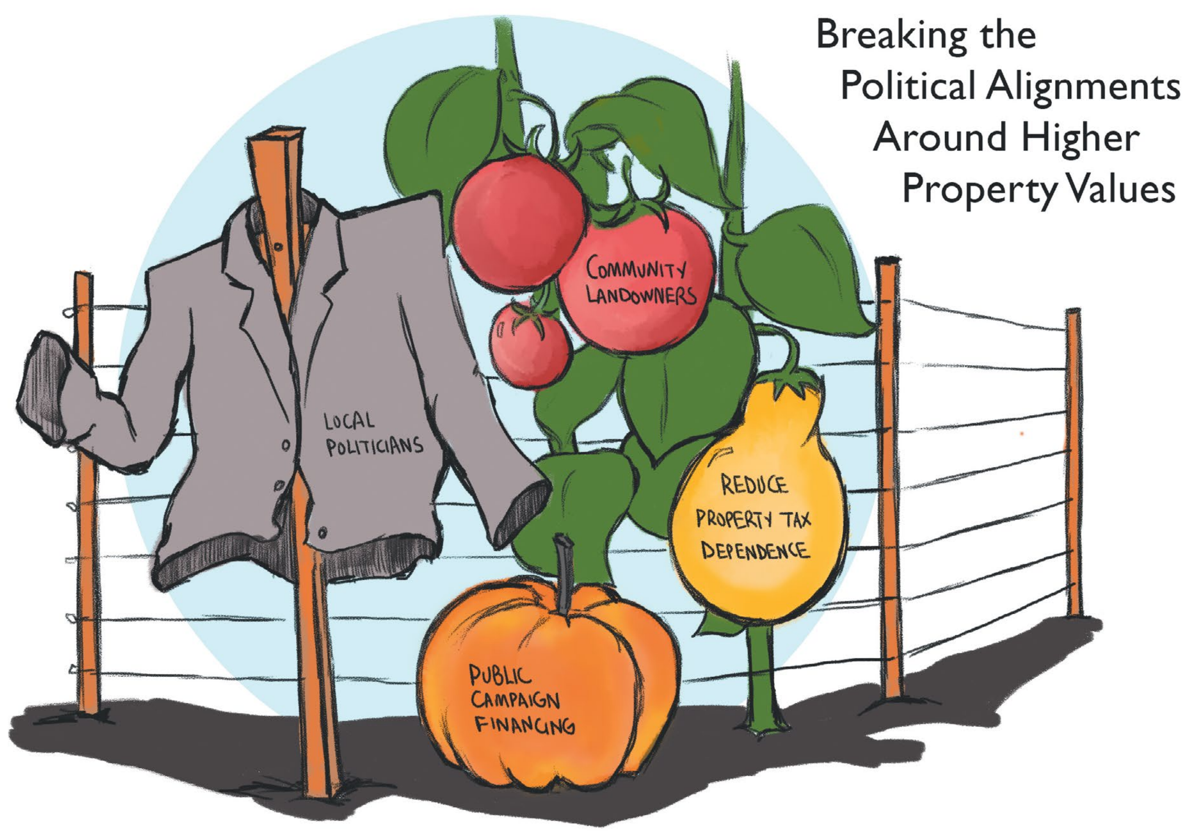
Instead of beginning with an estimate of revenue (money) available to spend, the *Peoples Budget* campaign directed lawmakers to first assess fundamental human needs: clean air and water, healthy and sufficient food, housing, health and health care, education, social & income security, and dignified work.[68]

Budgeting decisions, the *Peoples Budget* said, must be explicitly connected to accountability measures, so that Vermont could assess people's needs, and evaluate progress and outcomes in meeting those needs, using indicators based on human rights principles.

Public participation in the entire budget process was sought, especially in developing goals and priorities for spending and raising money. The budget process was to be fully transparent. Revenue policy (taxes) was to follow from spending policy

—not the other way around—and fund a needs-based budget in an equitable way.

The campaign achieved partial success. Vermont law now mandates that "state spending and revenue policies will... recognize every person's need for health, housing, dignified work, education, food, social security, and a healthy environment," and be designed to "address those needs by advancing dignity and equity." Taxes are to be based on "the principles of sustainability and stability," and budget and revenue proposals are to be part of a transparent and accountable process with direct and meaningful participation from Vermont residents.[70] The law, however, remains unenforced.



PUBLIC FINANCING OF CAMPAIGNS

Another means to reduce the influence of developers and real estate speculators in local policy is to reduce their influence in financing political campaigns. While the Supreme Court has limited campaign finance reform,[71] states and localities are moving into the vacuum with their own public financing mechanisms.[72]

In addition to the 14 states that currently have some form of public financing in place, New York City, Denver, Berkeley, Baltimore, and two counties in Maryland have all created public finance systems within the last few years that provide matching funds to candidates who forgo large contributions and/or stay within certain contribution ceilings.[73]

While these programs do not limit or restrict campaign contributions from developers, they do aid candidates who agree to accept only small contributions and subject themselves to limits that are unattractive to big donors. At the least, public financing may help to distinguish candidates from each other and allow voters to assess candidate susceptibility to influence from developers and the real estate industrial complex.

In conclusion, there's a powerful political alignment around higher property values that leaves out renters, the unhoused, and those on fixed incomes. It can be weakened through a number of tactical tools.

CURBING SPECULATIVE CAPITAL'S IMPACT ON REAL ESTATE

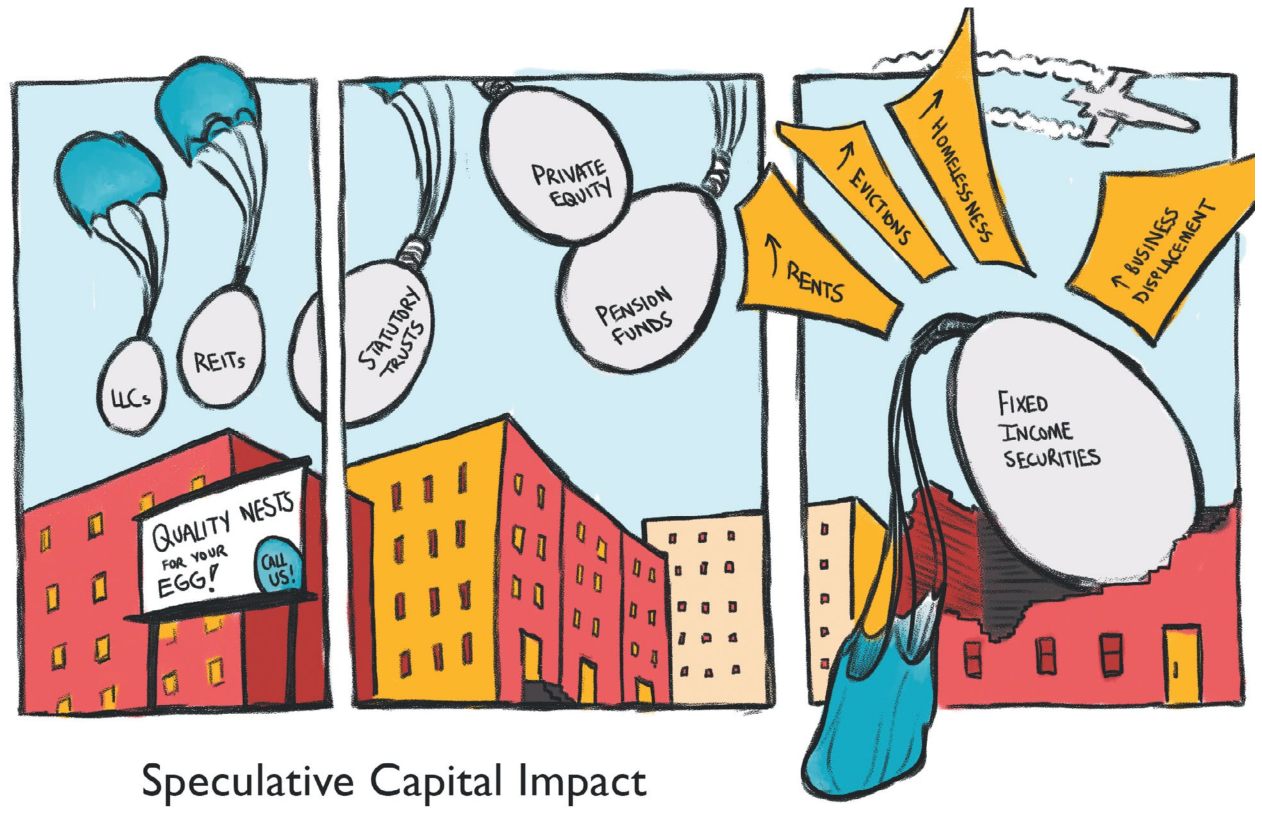
As noted earlier, wealth and income inequality has produced a glut of "savings" that circles the globe looking for returns on investment. Much of these savings have gone into real estate, which in 2020 accounted for two-thirds of global net worth.[74] This increased demand from speculation has pushed prices for rental housing and homeownership higher, even as the housing bubble collapse and Great Recession shifted the proportions of each.[75] The fundamental human right of housing is being steadily eroded by a surplus of capital. The production and distribution of this surplus must be curtailed and brought under control to ensure residents the right to housing in their communities. The public interest requires that state and local governments tax this surplus and place it in funds that maximize democratic participation and distribution.[76]

"POOLED FUNDS" ENTITIES

Real Estate Investment Trusts (REITs): Own and operate residential buildings, offices, hospitals, and hotels, using the rental income as dividend payments to REIT shareholders.

Statutory Trusts: Acquire property for the primary purpose of re-selling it. These profits go to trust benefactors, under the Uniform Statutory Trust Entity Act (USTEA) and enjoy tax benefits.

Private Equity Real Estate: Acquire, finance, or own property, again paying profits to investors. Unlike REITs, investors in these funds require a high amount of capital.



Speculative Capital Impact

REGULATING SPECULATORS VIA TRANSPARENCY

Speculation thrives on complex legal arrangements and structures that make accountability difficult. In Baltimore, Oaktree Capital Management, a private equity fund, had purchased distressed mortgages at a discount from the federal government and profited by foreclosing upon some, using predatory refinancing terms with others, or, in still other cases, simply holding vacant property until property values rose.[77]

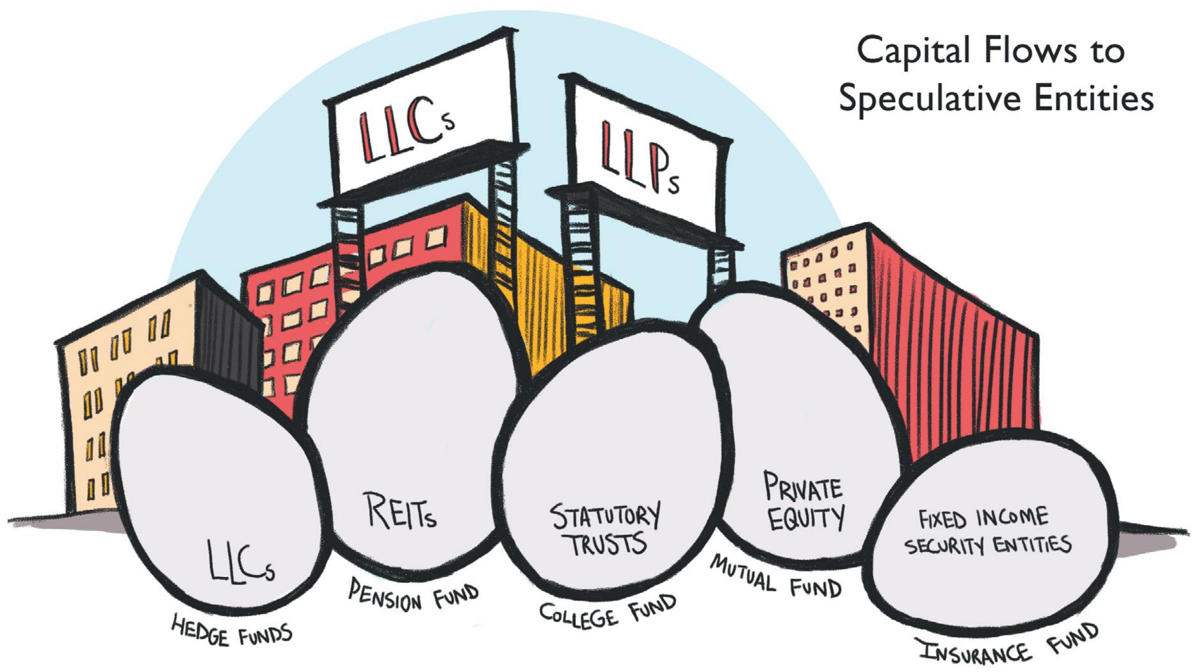
Homeowners threatened with foreclosure saw Selene Finance as the culprit.[78] Yet Selene was a mortgage servicer, not the property owner. Lawyers were able discover that the property owner was "Christiana Trust Series IV-A," a Delaware Statutory Trust. But the ultimate beneficiary of that trust was Oaktree Capital Management, a private equity fund.[79] This was not apparent even in litigation documents.

These trusts and LLCs are key components of financial capitalism, but their beneficial owners are hidden. Efforts to reveal these owners have been limited to date. At the federal level, the (mistitled) 2021 Corporate Transparency Act requires beneficial owner information to be filed for law enforcement purposes but prohibits public information access.[80] Few states require this information.[81]

Yet, these corporations are publicly created under laws that grant them legal status and financial liability protections. The rights and privileges they are granted are for us to determine.[82] Imposing beneficial owner information and reporting requirements on these actors, particularly with respect to property acquisitions and dispositions, is a foundational step to curtailing speculation.

DIVESTING PUBLIC PENSION FUNDS FROM SPECULATIVE CAPITAL

Public pension funds have a fiduciary obligation to have enough assets to pay benefits when due, so they seek to optimize long-term returns while avoiding risk. These objectives, however, can lead pension



investments into funds that fuel real estate speculation, thereby causing involuntary displacement or furthering blight.

For example, Baltimore Roundtable advocates were shocked to learn that the Maryland state employee pension system had investments in Oaktree Capital Management, whose real estate speculation was pushing Marylanders into foreclosure.[83] Texas, Oregon, Illinois, Washington, and Contra Costa County, CA, have also invested in Oaktree.[84]

U.S. Census data shows that 5,340 state and locally administered defined benefit public pensions systems existed in 2020.[85] These funds controlled $4.6 trillion in cash and investment holdings, taking in roughly $237 million in employee contributions.[86]

These employee contributions effectively come from the public, as do additional governmental contributions during pension funding shortfalls. We should not invest in real estate speculation that may cause our own displacement.

In the last twenty years, socially responsible investment (SRI) and environmental, social, and corporate governance (ESG) guidelines have become more prominent.[87] States and localities should adopt SRI and/or ESG value-based investing and show taxpayers where all public pension investments are made.

If requiring responsible investment makes states and localities nervous, they should simply prohibit pension funds from investing in real estate or in larger funds that include real estate ventures. Such funds are inherently speculative and lead to the involuntarily displacement of poor renters and homeowners on fixed incomes and force our neighbors to into homelessness. Needless to say, this does not advance any "public interest."

LIMITING PRIVATE PENSION INVESTMENTS IN SPECULATIVE CAPITAL

Anchor institutions (colleges, hospitals, and the like) increasingly are being challenged to engage in community investment, purchasing, and other equitable practices in their home cities.[88] Pension fund investments of these institutions should be scrutinized as well.

Private pensions are more difficult to regulate because they are governed by the federal Employee Retirement Insurance Act (ERISA), which pre-empts state and local law impacting ERISA-related benefits.[89] ERISA prioritizes profit over social investments but does permit social goals when returns are competitive.[90] In short, anchor institution pension funds can shun real estate speculation when evaluating a host of investment options with similar rates of return.

Localities can steer them in this direction and avoid ERISA pre-emption by looking to the contractual agreements they typically negotiate with nonprofit anchor institutions relative to their tax-exempt property. As nonprofits, anchor institutions require city services, yet are exempt from local property taxes. In response, many cities have created Payment in Lieu of Taxes (PILOT) or other special assessment agreements with the anchors.[91] Since 2000, 118 municipalities and 18 states have utilized these arrangements.[92]

Periodically, cities facing budget crises or other fiscal exigencies have threatened additional fees on tax-exempt anchor institutions, but stayed their hand when anchors agreed to amend PILOTs or contractual agreements to provide more city revenue.[93] In Baltimore, the National Nurses Union partnered with community activists on re-opening and revising "anchor PILOTs"

because of city fiscal need, and issued a report documenting the lack of equity in these agreements, given anchor institution wealth, property holdings, and executive compensation.[94] The union tried to push the city council in 2020 to re-examine the PILOTs, with an eye toward increasing anchor payments to the city, but was unsuccessful.[95]

USING PROPERTY TRANSFER AND OTHER TAXES TO REDIRECT CAPITAL TO LOCAL TRUST FUNDS

The agents of financial capitalism, Real Estate Investment Trusts (REITs), Delaware Statutory Trusts, and Limited Liability Corporations (LLCs) shape local real estate markets by buying and flipping property, but they must "record" their property transactions at the local level. Most localities have the power to assess transfer taxes, recordation fees and other charges and direct these monies into local housing trust or equitable development funds. In some areas, state authorization is needed. But this is a key intervention point, as opaque corporate actors and subsidiaries are exposed financially.[98]

Legally, these charges are not property taxes and do not affect ongoing ownership.[99] By imposing these "excise taxes" on those who are in the business of buying and

"PAY YOUR FAIR SHARE"

In December 2019, a Labor-Community *Coalition for a Humane Hopkins* called on Baltimore's mayor to reopen and renegotiate the city's 2016 "Non-profit Assessment Agreement" with 15 of Baltimore's major non-profit hospitals, colleges and universities, including Johns Hopkins Hospital and the University of Maryland Medical Center.

National Nurses United spearheaded the coalition and published a detailed analysis of the non-profit agreements.[96] The contribution by ten hospitals and four colleges to the City constituted a mere 5% of the property tax revenue that would have been collected if the institutions were for-profit. The report noted that Boston's anchor institutions contributed 25% of what would be paid in property taxes as for-profits.

In a city where the median earnings for Black households stand at $33,801 annually,[97] Johns Hopkins Hospital and its Bayview/Health System paid out $211 million in executive compensation over a

four-year period. The University of Maryland Medical Center paid $80 million to its executives. Both Hopkins and Maryland showed operating budget surpluses during a period where the city faced annual deficits. In addition to being exempt from local property taxes, the medical systems reaped millions in state rate-setting and charity care subsidies.

The coalition, which included teachers, community landowners, and housing and environmental activists, pushed to increase the non-profit assessments to the Boston level, which would have netted the city an additional $23.9 million annually in revenue. The measure was rejected.

selling properties solely for profit, localities can simultaneously put the brakes on land speculation (if the taxes are prohibitive) while capturing a portion of speculative capital to meet the fundamental needs of city residents.

But these are not the only means to capture the excess capital that is pushing housing beyond our reach. States should look critically at these tax code changes if they haven't already enacted them:

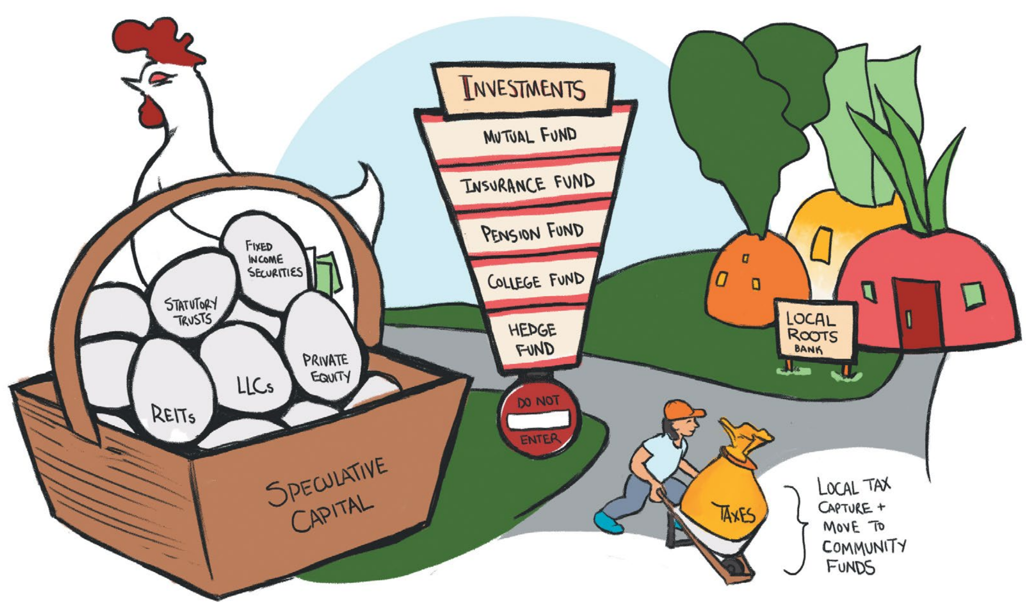
- "Combined reporting," which is a method for calculating a corporation's state taxable income that requires corporations to include profits from all parent and subsidiary companies when calculating their tax responsibility. This reform prevents corporations from using accounting gimmicks to shift their profits on paper into low-tax or no-tax jurisdictions.
- Utilizing a "throwback rule" that enables a state to tax profits from out-of-state sales that go untaxed. Specifically, when a corporation in State A sells goods into state B that does not have jurisdiction to tax those sales, the reform assigns the resulting income to State A for the purpose of calculating the company's tax bill.
- Close any LLC loopholes, by enacting an entity-level taxes on the largest LLCs, partnerships, and S-corporations, while exempting sole proprietorships.
- Close the "carried interest loophole," which allows performance-related income of certain investment fund managers to offset federal taxation of this income at the lower federal capital gains rate.
- Enact a capital gains surtax on the state level.
- Eliminate state tax breaks used primarily by investors (for example, those provided in New York to multi-family landlords via Consolidation, Extension, and Modification Agreements[100]).

In addition, wealth taxes could assess shares in for-profit real estate trusts and corporations. There are collection challenges, however, for localities and states. A federal level assessment would help. Indeed, both Elizabeth Warren and Bernie Sanders advanced wealth tax proposals in their 2020 presidential campaigns to finance more universal housing systems.

People increasingly understand that hedge funds, equity funds, and other organs of the finance sector are a large cause of the inequality and the economic pain Americans are experiencing. This financial capitalism avoids accountability by operating within an antiquated tax system crafted during industrial capitalism. Changing the overall tax structure is a heavy lift, but local activists and policy makers can tag this global capital when it touches ground in their communities and demonstrate how it impacts our ability to meet our fundamental needs.

> **People increasingly understand that hedge funds, equity funds, and other organs of the finance sector are a large cause of the inequality and the economic pain Americans are experiencing.**

Different types of anti-speculation taxes have been passed in Oakland (vacant property assessment),[101] considered in Philadelphia,[102] and advanced as a concept in Pittsburgh.[103] Baltimore's property transfer surtax began as a tax on pooled capital, and then morphed to a tax on property transactions solely between businesses. Surprisingly, this business-limitation would have captured more than two-thirds of city *residential* property



Divest, Tax & Invest in Human Needs

transfers annually. Eventually, the proposal was scaled down to cover only property sales above $1 million, which yields roughly $13 million annually that goes directly into a local affordable housing trust fund.[104]

Putting this tax money into dedicated, non-lapsing trust funds pledged to deeply affordable housing, reparations, or equity maximizes the opportunity for more democratic forms of public expenditure, such as participatory budgeting.

In conclusion, various strategies can be used at the state and local level to curb speculative capital's impact on development. Public pension funds must be divested from real estate, as should private pensions run by locally subsidized anchor institutions.

Real estate divestment from other sources of capital (mutual, insurance, college, personal retirement) also is necessary but involve tactical mobilizations to gain more control over private investment decisions. Models of governance might be gleaned from the current attempts to democratize private investment, such as the Ujima Fund, ROC USA, East Portland Community Investment Trust, all examined by Transform Finance in its 2021 report, *Grassroots Community Engaged Investment.*[105]

But divestment alone will not stop speculative capital's impact on rents, home prices, and development costs. State and local tax-capture of its profits and redirection into community-governed funds can give communities power to fight back and claim property for equitable development.

ENDING RACIALIZED LENDING

Development rarely happens without loaned money. For-profit, private lending plays a key role in every type of development, from home mortgages to large commercial real estate projects, as well as in the creation of alternative housing models such as CLT rental and homeownership, and co-op housing. Small businesses, such as co-ops,

frequently rely on credit and debt to handle emergencies, expansions, and start-up. According to the 2018 Small Business Credit Survey, traditional bank lending continues to be the primary source of funding for small businesses.[106] The repayment of debt impacts both housing affordability and business sustainability.

Not surprisingly, private, for-profit lenders (with public policy assistance) played a key role in the racial and class disparities that we see in development today. As Jeremie Greer, co-founder and director of *Liberation in a Generation*, recently wrote,

> Black people and other people of color are by design excluded from accessing the very products and services that provide households with financial security. This includes bank accounts, retirement and personal savings accounts, prime credit cards, insurance, mortgages, and small business loans. They may be excluded by geography (lack of bank branches, or higher auto insurance rates in formerly redlined neighborhoods), lower wages due to employment discrimination and segregation, the wealth gap itself (for example, account minimums, or lack of a cushion to maintain on-time payments during an emergency), or outright lending bias.
>
> This exclusion then leads to a vicious cycle: the financial services industry exploits the very insecurity it has created by offering predatory products and services, which strip income and wealth, to Black people and other communities of color who have been kept from access to better ones.[107]

Redlining may have ended, but it was only the opening salvo of decades of racialized lending, as the lending industry continues to find and use new means to discriminate.

PROFITS, RACE & RISK

The federal government's Home Owner's Loan Corporation maps of 1937, which classified neighborhoods by perceived financial risk—from the lowest ("green") to highest ("red"), guided private lending for decades thereafter. Black households and European immigrants that populated "red" neighborhoods were effectively excluded from bank credit and were subject to predatory and exploitative lenders.[108] While immigrants eventually were able to develop lending institutions that were accepted by other lenders (the Bank of Italy in San Francisco became today's Bank of America[109]), Black financial institutions were not.

From the time of the first redline map to the enactment of the Community Reinvestment Act of 1977, the U.S. economy grew phenomenally, and a White middle class was created at the expense of Black households. Labor unions, the GI Bill, federal mortgage insurance, and suburban "covenant" communities all worked to hold Black households back, and away from the wealth, education, and political power that Whites enjoyed.

By the time law and practice changed, manufacturing jobs had been replaced by service sector jobs, providing high earnings to those with advanced education, but low wages for those without. Given how education is financed—through property taxes and household wealth—Black people again found themselves penalized.

The racialized footprints created post-World War II in this country are still with us today. And so is racialized lending.

"Predatory inclusion" is the term used by Keeanga-Yamahtta Taylor in her book

describing a late 1960s attempt by the Federal Housing Administration (FHA) and the U.S. Department of Housing and Urban Development (HUD) to increase Black homeownership, but the term could be used for the last 60 years.

Fueled by HUD-FHA guarantees, the late 60s saw low-income Black households targeted for expensive and extractive mortgages for substandard homes in already segregated urban areas.

The passage of the Fair Housing Act in 1968, the Equal Credit Opportunity Act of 1974 (ECOA), and the Community Reinvestment Act of 1977 led to a change in form, but not practice.[110] Unlike 1939 when race indicated financial risk, today financial risk indicates race. One commentator aptly called this "The Coloring of Risk."[111]

The Community Reinvestment Act

In 1977, the Community Reinvestment Act (CRA) was passed to outlaw redlining, eleven years after the Fair Housing Act was passed to forbid any racial discrimination in housing lending. It wasn't enough.

The CRA was crafted for transparency. The 1977 legislation encourages but doesn't require depository institutions to meet the credit needs of the low- and moderate-income (LMI) neighborhoods in which they operate. Each institution's record in extending such credit is evaluated periodically. These evaluations are considered during mergers, acquisitions, or applications for other deposit facilities.

Federal Deposit Insurance Corporation (FDIC) banks are graded every three to four years on 1) lending to LMI households and neighborhoods in which they are located; 2) supporting community development projects; and 3) maintaining branches in LMI neighborhoods.

The CRA has indeed drawn bank capital into community development.[112] Roughly $35.6 billion per year, according to the National Community Reinvestment Coalition (NCRC), is provided by the 25 largest banks, in grants, community development loans, and investments through CRA.[113] And CRA-related advocacy during times of bank mergers also have produced nine significant "community agreements" since March 2016.[114]

But the CRA lacks teeth.[115] Not only has it suffered from "grade inflation," it has failed to keep pace with institutional changes in lending and to eliminate the many mutations of redlining since 1977.

The number of banks servicing poorer neighborhoods has dropped precipitously. Mergers and acquisitions have caused two-thirds of banking institutions to disappear since the early 1980s—declining from nearly 18,000 in 1984 to fewer than 5,000 in 2021.[116] Small banks have suffered the greatest decline and the branch closure rate doubled during the pandemic.[117] Furthermore, one-third of the branches closed from 2017 to 2021 were in a low- to moderate-income and/or a majority-minority neighborhood where, as NCRC noted, "access to branches is crucial to ending inequities in access to financial services."[118]

A RACIALIZED FORECLOSURE CRISIS & REMEDY

Thirty years after the CRA was enacted, rolling multiple mortgages into securities had advanced to the point that securities were rolled into more securities. Black households again were targeted to provide profitable oxygen to a housing bubble. Sub-prime

lending and a host of predatory practices were used to pull households into what was essentially a global pyramid scheme, with government acquiescence and support.

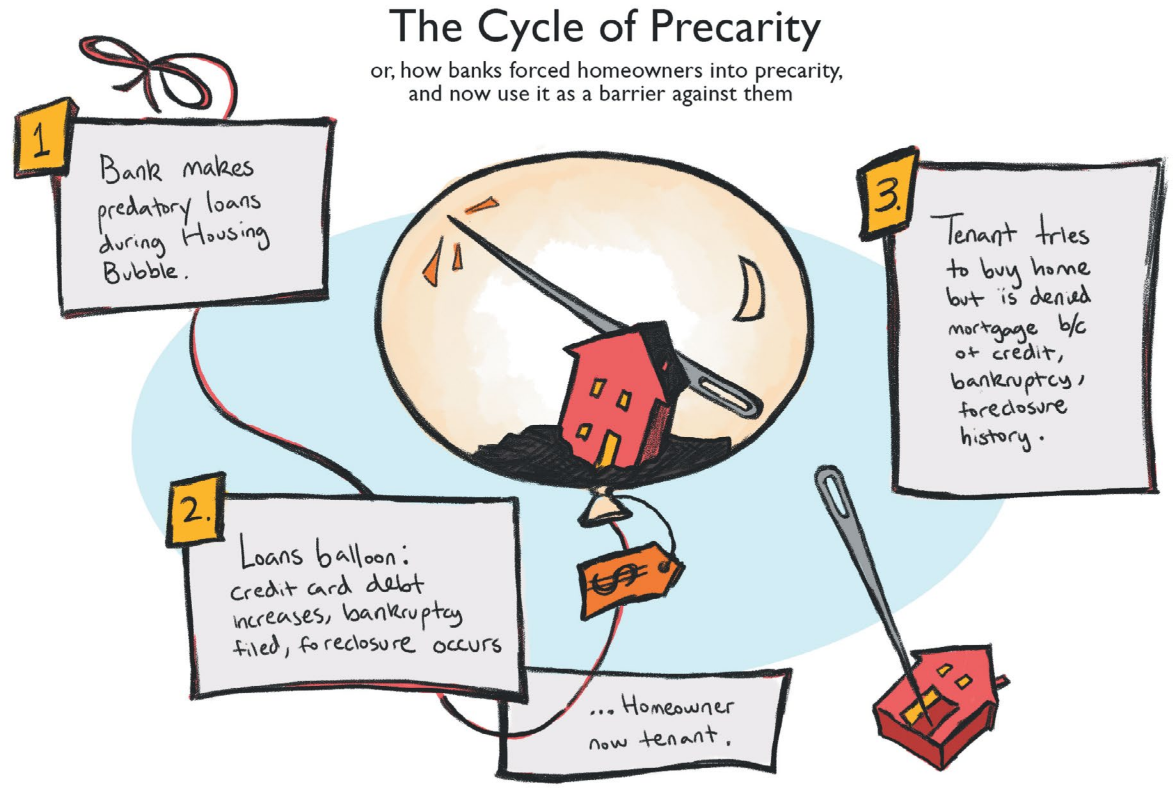
Its collapse and the mortgage foreclosure crisis harmed Black households and other households of color disproportionately.[119] But the cure was worse than the disease.

Congress passed the Dodd-Frank Act to address irresponsible lending practices, requiring residential mortgage loans on terms that "reasonably reflect (consumer's) ability to repay ... are understandable and not unfair, deceptive, or abusive."[120] This appeared reasonable enough.

But in 2014, the Consumer Financial Protection Bureau (CFPB) finalized regulations to implement the legislation, adopting restrictive ability-to-repay and Qualified Mortgage Rules (QMR).[121] The final rule allowed only borrowers with a debt-to-income ratio lower than 43% to be eligible for qualified mortgages.[122] The rule makers already knew this would disproportionately harm borrowers of color. Four years earlier, the Federal Reserve Board had found that 34% of Black mortgage borrowers and 32% of Hispanic mortgage borrowers would be ineligible for a qualified mortgage based solely on their inability to satisfy a 43% debt-to-income requirement.[123] Yet the QMR rules were approved.

In addition to these debt-income ratios, homeownership counseling agencies reported that banks also shunned those with records of foreclosure, bankruptcy, and bad credit.[124]

These characteristics are the scars of predatory lending. Those who tried to save their homes emerged invariably with records of poor credit, bankruptcy, and poor debt-to-income ratios.[125] Given that Black households were targeted for speculative and abusive



sub-prime mortgages in the 2000s, banks were able to blame their victims as a pretext to redline again.[126]

Reveal analyzed the Home Mortgage Disclosure Act (HMDA) data in 2015-2016, controlling for nine economic and social factors, and found that Black households were refused mortgage loans at higher rates than Whites in 48 states.[127] Latinx households were turned away similarly in 24 states.[128]

According to *Reveal*, banks recoiled at the suggestion of racism, instead

> ...they maintain that the disparity can be explained by factors the industry has fought to keep hidden, including the prospective borrowers' credit history and overall debt-to-income ratio. They singled out the three-digit credit score—which banks use to determine whether a borrower is likely to repay a loan—as especially important in lending decisions.[129]

A study of HMDA data in 2014 by Fair-Housing-Advocates in Richmond, Virginia showed similar results to *Reveal's* study.[130] The borrower's income levels could not account for the disparate treatment.[131] NCRC also found in 2015 that "race matters most in mortgage lending" in Baltimore.[132]

Home ownership has often been touted as the quickest way to wealth for most people of color, regardless of history.[133] Wealth is needed because our economic system and public policies do not enable all of us to meet our fundamental human needs by earnings, social insurance, or public assistance. Delayed in starting this wealth pursuit by racist public policy and private lending practices, Black households and other households of color had nevertheless been making gains in homeownership relative to Whites since the 1970s. Predatory lending and the Great Recession pushed them backward.[134] New mutations of discrimination are ensuring that they stay behind. White family median net worth is now nearly 10 times that of Black families, primarily because of mortgage lending disparities.[135]

PLACE AS RACE

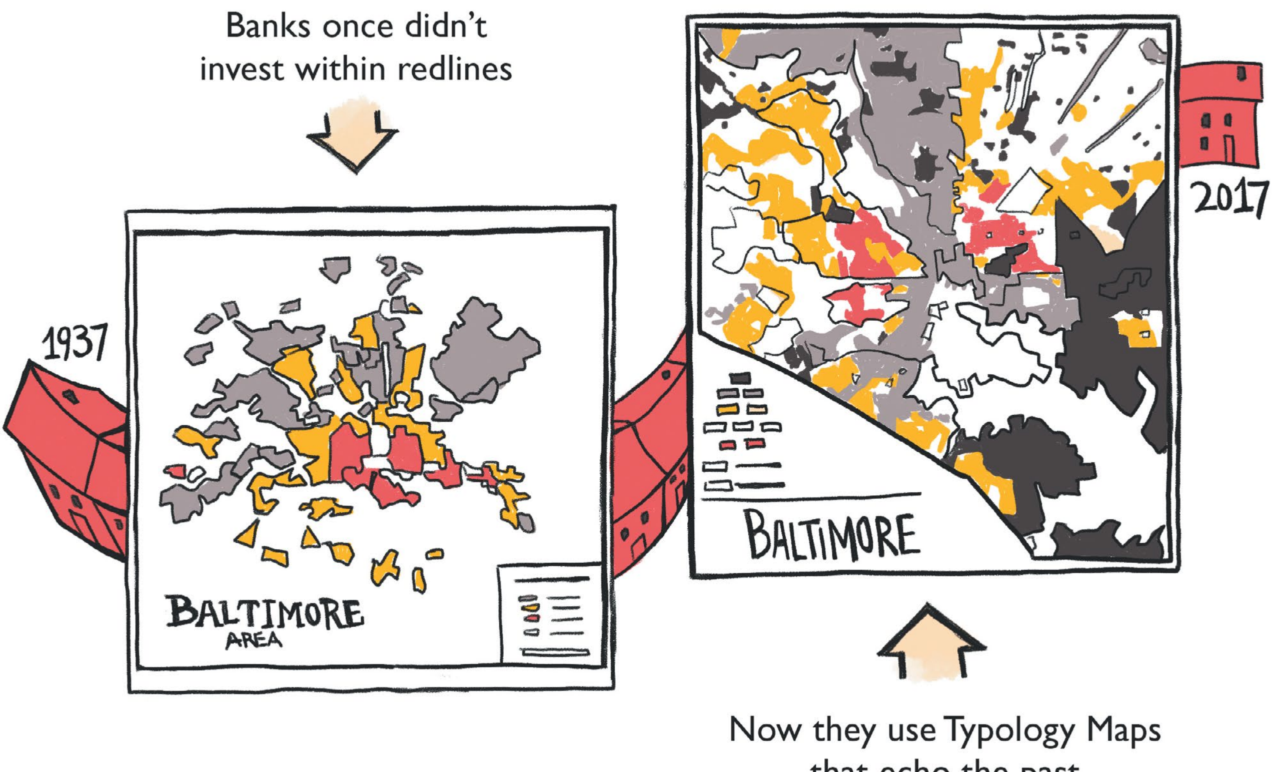
The commercial credit market also is not color blind. Literature has shown that higher denial rates for Black and Hispanic small business loan applicants are an ongoing issue.[136] The Great Recession also led to steep reductions in Small Business Administration 7(a) lending to Black business owners.[137] Business owners in wealthier areas received the largest share of loans: in six of seven metro areas analyzed, more than 70% of loans went to middle- and upper-income neighborhoods.[138]

Indeed, these place based disparities in lending may pass a risk analysis, but fail racial equity tests. Market typology, which maps neighborhoods by vacant property incidence, rental-homeownership rates, and other data key to profit-loss decisions of investors, has replaced the HOLC maps of 1939 as a guide for lenders and investors.[139] Some formerly redlined neighborhoods are still underinvested. Others have flipped.

> **"Appraisal bias" is another form of modern-day redlining, where the valuations of homeowners of color are significantly lower than identical homes owned by Whites.**

Regardless, the maps reflect property values, and those values are lowest where persons of color reside.

This leads to an "appraisal gap" that leaves community-based and non-profit developers



starved for loans in their attempts at neighborhood re-investment in neighborhoods of color.[140] For example, a typical vacant rowhouse in Baltimore requires anywhere from $100,000 to $200,000 in rehabilitation. The necessary loans are dependent on the potential price of sale after renovation. But, guided by market typology and sales history, lenders are generally unwilling to provide loan amounts that make it financially viable for a rehab loan. This leaves community developers scrambling to locate funds and gives for-profit developers with capital already in hand a leg up to shape a neighborhood to their liking.

"Appraisal bias" is another form of modern-day redlining, where the valuations of homeowners of color are significantly lower than identical homes owned by Whites.[141]

Various role players operationalize appraisal "gaps" and appraisal "bias," but the driver is a private lending system with one paramount value—profit—despite the legislative intent and provisions of the Fair Housing Act, the CRA and the EOCA.

OTHER SOURCES OF LENDING: COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS (CDFI), CREDIT UNIONS, AND COMMUNITY BANKS

The CRA did enable banks to get credit for supporting other financial intermediaries who provide financing to people and institutions that traditional banks often refuse to help. Community Development Finance Institutions (CDFI) are one of those intermediaries, which generally finance lending to predominantly low-income persons, women, minority small business owners, affordable housing developers, and non-profits. CDFIs can be structured as banks, credit unions, as well as loan and venture capital funds. While

perceived as non-profit institutions, half of the 1,100 certified CDFIs are for-profit. Almost 30% are credit unions and about 20% are for-profit banks, bank holding companies, or venture capital funds.[142]

In 1994, a federal fund was created to build CDFI capacity, but funding levels have never met demand. Often, CDFIs need to entice mission-oriented investors willing to settle for lower than market rates of return on investment (ROI). In addition, CDFIs need to ensure its lending covers its own debts, despite its desire to lend to those starved for capital. Biden's Build Back Better 2021 proposal included a boost to the federal fund that supports local CDFIs, and some CDFIs have begun to pool their capital to address lending bias.[143]

Credit unions, non-profit financial cooperatives where members pool their money to provide traditional banking services, are another option, as they are allowed by federal regulators to operate with smaller financial cushions than traditional banks. As such, they pay higher interest rates to depositors or lend with a social purpose. Credit unions can be created at the state or federal level, but usually limit their loans to members.[144]

Community banks are yet another option. These are institutions that are locally owned, unaffiliated with national banks, and have less than $10 million in assets.[145] They are a prime source for small business lending, often providing them with favorable borrowing terms. Regardless, mergers, economic crises, and regulatory changes have lessened their number: there were 14,323 community banks in 1988, but only 4,979 at the end of 2018.[146]

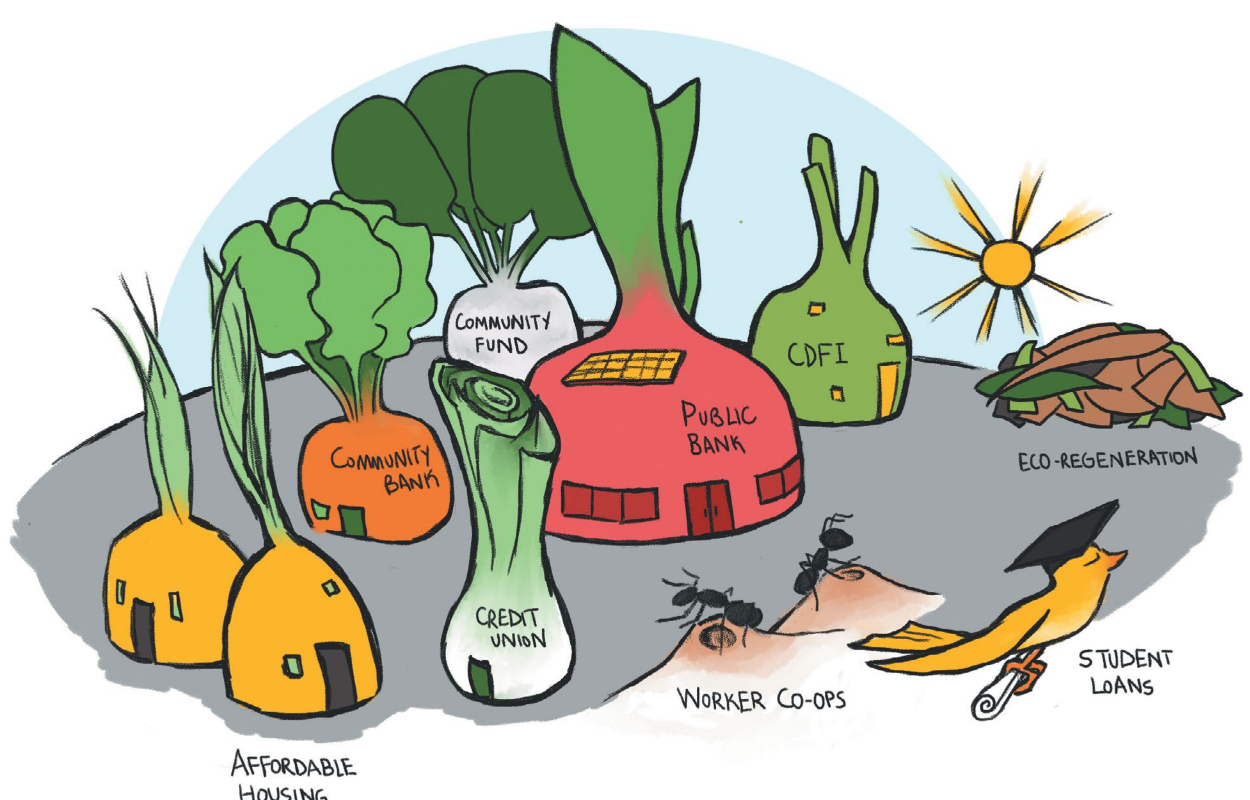
SOLUTION: PUBLIC BANKING

As with changing the paradigm around higher property values, the introduction of a new institution with different values is a means to change the lending system. That new institution is a public bank. Public banks are not driven by shareholder profits, but community values and solvency.

Created by a municipality or state, a public bank can hold a portion of city or state tax revenue that is usually deposited into a private, commercial bank. Instead of these public funds being used by the private bank to make profits for private shareholders, the public bank uses this money to make loans in the public interest, such as those for deeply affordable housing, small and cooperative businesses, student loans, equitable economic development, or for catalyzing "green" and "just transitions." It also can support a "retail bank" sector that is currently shrinking in low-income neighborhoods.

The Bank of North Dakota is the only state or local public bank in operation today, but this landscape is changing. The Philadelphia City Council recently created a public financial authority, establishing what is effectively the first city owned public bank in the nation.[147] State legislation in California has created a framework by which localities can establish public banks.[148] New Jersey's governor signed an executive order to create public bank implementation by the end of 2020, which was stalled by COVID, but he recently vowed to fulfill the promise.[149] In addition, legislation is now being considered in New York.[150]

Unsurprisingly, private banking is opposed to this effort. It has used its political influence to stop public bank legislation in a host of states and localities, and in some cases has managed to water down language in passed legislation.[151]



Vision of a Public Bank Lending Ecosystem

But public bank advocates are taking note, adjusting policy frameworks, and building political support by using the potential flexibility of a public bank. A public bank can be the keystone to a new lending system, depending on how it is structured and governed. As a retail bank, it could provide services to those who have no bank connection. As a lenders bank, it could support and guarantee non-profit social purpose lending by CDFIs, local community banks, and credit unions.

In North Dakota, half of the public bank's portfolio consists of business and agriculture loans initially made by smaller lenders.[152] The remainder of its funds are used for residential mortgages and student loans.[153] The bank does not make home loans directly, but buys mortgages originated by the state's community banks and credit unions, thereby creating a secondary market for the loans that are eschewed by the national and larger secondary market anchored by Fannie Mae and Freddie Mac.[154]

Regardless of the approach, a public bank offers the possibility of a new lending paradigm and could provide service to those currently excluded because of race and risk. It also could support a new economy based on human need, not profit.

As Frederick Douglass noted, "Power concedes nothing without a demand." A demand for public banking led by grassroots leaders of communities that have endured almost 100 years of financial exclusion—allied with environmentalists, unions, worker centers, co-ops, affordable housing, and community land advocates—is a formidable coalition that is already making banks nervous.[155]

The momentum and the movement for public banking will continue to grow.

Conclusion

For too long, profits have been the sole driving force behind development in our cities, and in the process, our need and right to housing has been ignored. It is time to recognize that housing is a human right, and that residents, not corporations or hedge funds, should be the active participants and beneficiaries of development decisions.

The first step is to recognize that higher property values are the seam that draws political and financial forces together, and to begin to pull at its threads to make it come apart. The political alignment around higher property values by local politicians, the real estate industrial complex who underwrite local politicians, and homeowners (and landlords) can be pierced by a new actor with different values—community land trusts—and by decreased reliance on property taxes and public financing of campaigns.

Global speculative capital targeting real estate can be captured when it touches ground locally and directed to local housing or equitable trust funds through recordation, transfer or other taxes. In addition, public and private pensions should divest from funds that facilitate real estate speculation.

And the long and continuing history of racialized private lending can be upended by public banks, which can create a new lending paradigm not based on profit.

These, of course, are not the only strategies to human rights-based development. Harnessing rent increases through state and local pricing controls, expansion of public and social housing, and reforms to local zoning and land use reforms that enable affordable housing are all necessary and worthwhile struggles.

We hope the information shared here can inform those efforts, inspire others, and help to build the kind of local, equitable economies to which we all are entitled.

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