Pension Fund Evictions: Lessons for Housing and Labor

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PENSION FUND EVICTIONS: LESSONS FOR HOUSING AND LABOR

by

MARNIE F. BRADY

A dissertation submitted to the Graduate Faculty in Sociology in partial fulfillment of the requirements for Doctor of Philosophy, City University of New York

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Pension Fund Evictions: Lessons for Housing and Labor

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Marnie F. Brady

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THE CITY UNIVERSITY OF NEW YORK
Abstract

Pension Fund Evictions: Lessons for Housing and Labor

by

Marnie Brady

Advisor: Frances Fox Piven

In this dissertation I analyze an institutional investor portfolio of over-leveraged multifamily rental housing in East Palo Alto, California to demonstrate how changing forms of landlordism produce both new and familiar targets for tenants organizing against displacement and for housing security. Venture capital investors in the first decade of the 2000s exploited the Silicon Valley regional conditions of racial exclusion, uneven development, and weakened municipal rent control. I introduce the legacy of Black political organization in East Palo Alto as a way of contextualizing the tenants’ and the city leaders’ response to the monopoly investment purchase. The structure of this rental portfolio demonstrates the multiple actors involved in such large-scale residential investments, including institutional state pension funds, high-net worth individuals, local and international lenders, money managers, and the Security and Exchange Commission. The case study analysis considers how tenants, advocates, and a local union representing shareholders in the country’s largest pension, the California Public Employees’ Retirement System (CalPERS), mobilized city and state officials to exert influence over these targets, focusing on the institutional investor in particular, albeit with limited success.
This case finds that venture capital investors backed by public pension funds exacerbated the escalating renter crisis in East Palo Alto, and elsewhere. I suggest that the findings from this case study, particularly those detailing the points of leverage available to tenants to target public pension funds, as well as the power of cities, bear lessons for tenants organizing in other large-scale multifamily rental portfolios and bundled scattered site single-family real estate owned (REO) foreclosure-to-rental portfolios. The analysis concludes by drawing from principles of housing security and offering what a coalitional, labor/community, racial justice politics for “the right to the city” might entail when taking into account changing conditions of investor landlordism.
Acknowledgements

_I dedicate this dissertation to my dream team for life:_

_Carlos, Ramon, and Maeve_

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List of Abbreviations

California Urban Real Estate Fund (CURE)
California Public Employees Retirement System (CalPERS)
Commercial Mortgage Backed Securities (CMBS)
East Palo Alto (EPA)
East Palo Alto Council of Tenants (EPACT)
East Palo Alto Municipal Council (EPMC)
Local Agency Formation Commission (LAFCO)
People Improving Communities Organization (PICO)
Peninsula Interfaith Action (PIA)
Real Estate Investment Trust (REIT)
Real Estate Owned (REO)
Rent Stabilization Ordinance (RSO)
Residential Mortgage Backed Securities (RMBS)
Right to the City Alliance (RTTC)
Service Employees International Union (SEIU)
Youth United for Community Action (YUCA)
Chapter 1. Introduction

*Pension Fund Evictions: The Case of East Palo Alto*

A casual observer might regard as par for the course that in 2009, in the midst of a chaotic housing market collapse, Page Mill, a venture capital-backed firm registered in Delaware, lost a $270 million dollar real estate portfolio to foreclosure. That year, 2.8 million U.S. properties went into foreclosure (Blomquist, 2010). The U.S. real gross domestic product (GDP) contracted by more than 6 percent and more than 750,000 jobs were lost each month (Executive Office of the President Council of Economic Advisors, 2010: 25). Page Mill, like many “opportunistic” investment funds, had placed its bets on a U.S. housing market that would continue to boom, if even for a few more years.

Underpinning the Page Mill earlier prospects were pension fund managers increasingly willing to take greater risk and, relatedly, bankers amenable to skewed debt ratios feeding into the ever-ravenous securitization markets. At first glance, it might appear that Page Mill’s partners simply made and lost the gamble in overestimating the market’s arc or in timing its foreseeable collapse.

A closer look at the case of this particular loss, however, reveals that the Page Mill gamble also rested on a widely held assumption regarding the political scaffolding of the neoliberal economy: the dominance of corporate political power over and through city governance.¹ Page Mill executives premised their investment on plans to railroad the

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¹ The reference to *governance* here and throughout employs the definition offered by Ekers, Hamel and Keil (2012): “the varying institutions, practices, discourses, ideologies, and representations that affect how different spaces are produced, contested, and experienced” (24). This definition attends to the private-public dimensions of rule, and differs for its very broad definition that includes private enterprise. This is
small city government of East Palo Alto, California and dislodge thousands of people, mostly Black and Latino, from their homes. They calculated they would be able to undermine the city’s rent control law through existing loopholes, in addition to strategic lawsuits. Page Mill presumed, ostensibly, that the City of East Palo Alto would have neither the capacity nor political will to effectively defend and enforce its own rental regulation ordinance.

Through an analysis of the City of East Palo Alto’s response to the Page Mill investment, this dissertation exposes how land and housing speculation entails a gamble not only on the global market, as if a reified entity, but also over the municipal urban city government as a mediating actor, complicit ally, target, or oppositional force in real estate speculation. The City of East Palo Alto ultimately strengthened its rent control policies and enforcement, passing a new ordinance in direct retort to Page Mill’s slew of costly lawsuits meant to weaken city control over its regulation of rental housing.

The Page Mill portfolio also sheds light on another state-based actor commonly involved in the private equity and private real estate fund corporate model: institutional public-sector pension funds as limited partners. In this case the East Palo Alto speculative venture was financed indirectly by the state through California’s public worker pension funds. Notably, several tenant leaders, city officials, and pertinent judges reviewing Page Mill lawsuits against the City of East Palo Alto were contributors to the very same pension fund invested in this specific Page Mill gamble. These complexities challenged tenants to consider their housing security through the organization of economy and state

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distinct from Hall’s useful definition of government: the machinery of the state (McLennan, Held, & Hall, 1984).
at multiple and embedded scales within and beyond the micro politics of individual grievances or building-based landlordism.

As this study details, tenants pursued the California Public Employees Retirement System (CalPERS) based on the tenants’ expanded power analysis of housing finance. California advocates also exploited public information provisions regarding state managed funds to win the release of more than two thousand pages of otherwise proprietary documents pertinent to the Page Mill investment portfolio. Tenants’ and the City of East Palo Alto’s efforts ultimately led to CalPERS ceasing any renewed commitment to Page Mill, a contributing factor that pushed Page Mill into foreclosure, and resulted in a $100 million loss for CalPERS.

This dissertation considers challenges and lessons for political actors who assert their right to the city. The case study provides an example of the uneven practice of the right to the city amidst the politics of increasing housing financialization and state signals of retreat from rent protection. The analysis pays particular attention to the City of East Palo Alto’s response to Page Mill through the city’s and tenants’ efforts to engage CalPERS. In so doing, the case highlights how capital stakeholders may be made vulnerable to tenant demands of the state, beginning at the leverage held by urban claimants at the scale of the city and reaching to the regional and state political spheres.

The tenants’ efforts also led to initiatives by organized labor to scrutinize their members’ pension investment options in CalPERS. Service Employees International Union (SEIU) Local 521, a union that includes public service workers in California’s Central Valley, worked in concert with tenant advocates in opposition to CalPERS’ investment in the Page Mill monopoly holding in East Palo Alto. The union subsequently
worked together with tenants to spearhead a state legislative initiative to prevent California public pension investment in “predatory” real estate. The local also created a pension advisory committee to strengthen the union’s capacity to influence CalPERS investments.

The “predatory” investment model called for creating short-term returns on what for nearly half a century had required long term investment. Beginning in the early 2000s, multiple rent-regulated residential portfolios were packaged as opportunistic investments to high net worth individuals and pension fund institutional investors. An exemplary case, the 2005 sale of NYC’s Stuyvesant Town Peter Cooper offers a similar case in-point: CalPERS lost $500 million and CALSTERS, the California State Teachers Retirement System, lost $100 million in that deal. CalPERS also invested in overleveraged rent regulated multifamily complexes, Riverton Houses in Harlem and Parkmerced in San Francisco. In New York City, the New York City Employees Retirement System (NYCERS) and the New York State and Local Retirement System (NYSLRS) additionally invested $85.9 million and $72.3 million, respectively, in predatory equity purchases of five former publicly subsidized Mitchell Lama buildings (Pincus, 2007). In fact, this dissertation research began in New York City before the study of the Page Mill portfolio came into focus.

The dissertation raises the following questions pertinent to these various portfolio examples, but which will be discussed through the specific details of the Page Mill portfolio case study:

1. *What is the relationship between the racialized valorization of land and housing*
and institutional investors’ risks and returns?

2. Under what conditions did opportunistic corporate landlordism become financed by workers’ capital and the state?

3. What are the political vulnerabilities of the investment portfolio structure that allowed renters to pry open ‘actually existing’ spaces of political leverage and opposition?

Before presenting the dissertation framework and chapter sequence, the following section explains how I arrived at the case of Page Mill in East Palo Alto, California. My dissertation focus emerged following an exploration of the right to the city efforts and a view of ‘predatory equity’ in New York City.

Research Background: Beginning at Home

This dissertation first began with an inquiry into the theory and practice of “right to the city,” specifically the work of the U.S. anti-gentrification organizing alliance that consciously borrows its very name from the work of the French social theorist Henri Lefebvre, le droit a la ville (1996[1968]). I spent a year working as co-principal investigator with Tony Samara, at that time Associate Professor at George Mason University, conducting more than twenty interviews with U.S. Right to the City Alliance.

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2 The translocal U.S. network of membership-based organizing groups that formed in 2007 in response to gentrification and public housing demolition (See Samara, 2007).
member organizers around questions of gentrification, criminalization/ incarceration, and urban strategy in New York, New Orleans, San Francisco, and Washington, D.C. At the same time I was deeply involved in the questions of right to the city at home.

When I embarked on my dissertation research, I was living in a rent-regulated building slated for sale in Brooklyn, New York’s Bedford Stuyvesant neighborhood. For my majority Black, community-minded, and active neighbors, the right to the city as a right to inhabit and participate in the city and shape central city life, was not a given but a demand, negotiation, and persistent struggle. In the year that led up to my building’s eventual sale, speculators called on renters who were primarily seniors and harassed them to take moving money or face their threats of building disrepair and eventual eviction, which meant very possibly the loss of long-sustained kinships, and even destitution. The agents dialing my neighbors represented prospective owners, not actual purchasers. The brokers were testing the tenants’ responses. So did the broker who arrived with a fake deed at one senior’s door saying he was the new owner and would she please let him into her apartment. My neighbor laughed in his face. Deed or no deed, she knew her rights and would not allow him in to size up her home.³

When the building did finally change hands, obtaining the name of the new owner was a challenge. We wanted the name of the persons behind the limited liability corporation who were responsible for sabotaging the boiler, cutting off the hot water, and refusing to accept senior tenants’ rent. Eventually, we learned who was responsible when seniors in the building successfully sued the management company for harassment and 

³ A phone call to the management company that day confirmed there had not been a change in ownership, and that the present owner had not appeared at the building.
deferred maintenance. The “owner” was a fund of investors who had purchased the building for a price incongruent with the rent-rolls at the time. We later learned the profit model relied on tenant vacancy to subdivide family-sized apartments into single studios.

After interviewing housing organizers in Queens, New York, with a similar story of what tenants were facing there, I decided to shift my research focus to investigating the structure of speculation in what seemed to be a new rise of investor landlords. Unlike my small building, however, in the Queens’ Vantage Realty example, the stakes were at a mammoth scale of multiple rent- regulated buildings of thousands of units each bundled into over-leveraged\(^4\) portfolios involving tens of thousands of residents at risk of displacement. Vantage was a defining example of “predatory equity.”

“Predatory equity,” as housing advocates call it, refers to the marketization of rent regulated housing through large pools of investment capital in overleveraged buildings slated for debt exchange, securitization, and further investment. In the four years preceding the 2007-2008 housing crash, predatory equity firms had purchased with extraordinary sums of investment capital at least 100,000 rent-regulated units in New York City alone, all positioned to force existing tenants to vacate their units in order to raise rents through every means possible (Morgenson, 2008). Financing for these purchases were based on the premise that the rent regulated units would be quickly

\(^4\) “Leverage,” a widely used concept that emerges describes all kinds of social, political and economic relations, refers to using limited resources (in the case of real estate, borrowed capital) to maximize returns. Over-leveraged is a relative term and refers to debt burden. The New York City Housing Preservation and Development department began tracking over-leveraged NYC multifamily buildings in 2009 using the criteria of debt load greater than seven times a property’s rent roll (Pincus, 2009). See Chapter 5 herein for a discussion of this case’s measures of debt burden.
vacated and converted to generate market rate rental income. In other words, the current tenants would be pushed out.

Early on in my preliminary research on the role of pensions in these portfolios, I was moved by an interview with a NYC public school teacher ready to retire, but with no place in NYC to live in sight. Like any good teacher, she made every minute of her time with me count. We met in Manhattan’s P.S. 3 library so I could interview her about the private equity-backed firm that had purchased her building through her pension’s investment in the City Investment Fund, a partner with investors Putnam LLC and Urban America. She cut to the up-shot, “My pension made my apartment unaffordable” (personal interview, June 19, 2012). In a confusing twist of obligation, the pension fund’s mandate to make profits for its contributor-investors would seek to evict some of the same investors and raise the rent for other NYC workers. Although this African-American 30+ year public school teacher, the eldest member of P.S. 3’s faculty at the time, was finally nearing retirement herself, she spent much of her free time in tenant meetings and housing court.

For teachers in New York City, this use of their pension was at once tragedy and farce that Marx could not have imagined. Years before this teacher’s career started in 1975, the public school teachers’ pension had bailed out the city and saved New York from financial collapse. But 40 years later, there were few places the city had saved for the teachers to call home. Rent stabilized apartments, and those once regulated by the now-expired Mitchell Lama affordability program, were among the rental units that remained precariously “affordable.” For this city worker who had lived in the same
former Mitchell Lama apartment since 1987, rent was $2,400/month, half of what she calculated Urban America Management planned to collect at market rent.

Indeed, millions of people in hundreds of thousands of families, including this teacher and my neighbors, had remained in NYC during its “worst of times” due in part to the opportunity of public sector employment available to people of color and state regulated housing. Many of these same households in turn created value in the city through their neighborhood activities and, in the case of this teacher, by educating NYC’s future generations. In tightening housing markets like New York City, or the Bay area, however, rent stabilization programs, including regulatory programs such as the New York’s Mitchell Lama program, eventually became a source for and target of speculation. In the example of investment by public pension funds in public sector workers’ housing, it seemed as if the city had not only become entrepreneurial, the city was now eating (and spitting out) its own.

My original research design focused on a range of organizing responses to gentrification. After interviewing this teacher, and several more tenants in pension-funded portfolios in downtown housing court, and in their homes uptown, in East New York, and on Roosevelt Island, I decided instead to investigate the structuring of speculation through the relationship of capital stakeholders and the state. I sought to understand the role of the state as a historical development in creating racial capital conditions of contemporary corporate landlordism, the role of the state in facilitating and financing real estate predation, and the points of leverage vis-a-vis the political power of the state, if any, for tenants to strategically invoke their right to the city.
At the time, in the years of the onset of the housing crisis, there were multiple lines of strategy debated among housing justice organizers. One line of discussion was around a strategic de-emphasis on the state. Some organizers from the national Right to the City Alliance called for focus on the community-control of housing as the strategic direction for organizing in the “new economy” and austerity politics. Leaders in Take Back the Land, another prominent direct-action group responding to the housing crisis, referred to this as the “third way” that provided an alternative to individual private access to home ownership or to the public provision, or state rent regulation of housing. A few housing justice organizers likewise referred to state-centered demands as a vestige of the “old economy,” or industrial and state managerial economy, one in which the poor are at the mercy of a pendulum of state supports.

Notwithstanding the call for alternative control structures, this dissertation foregrounds questions of the state’s persistent role in both regulating affordability in the case of rent control, and in structuring and investing in opportunities for real estate speculation through the example of public pension funding of evictions. The study reminds us that in addition to the regulatory political decision making of state apparatuses, the state and workers’ contributions to public sector pensions make for capital investment opportunity. An effective housing justice movement both engages with the state and develops existing demonstration models of alternative control. These linked strategies that create lived spaces of democratic participation and amplify voices of possibility are the practice of the right to the city.

Methods and Sources
This dissertation foregoes my initial focus on New York City as my research site and instead seized the opportunity to analyze the Page Mill portfolio in East Palo Alto, California. The shift and opportunity was one of data access. The First Amendment Coalition of California had obtained by court mandate the disclosure of thousands of pages of pension fund documents pertinent to this predatory real estate portfolio, the Page Mill fund. It was in my research of pension investment in NYC multifamily portfolios in 2012 that I came across this significant transparency win, which was an outcome of the organizing of similarly situated tenants in California. The disclosure provides the public a rare opportunity to examine decisions of individuals within institutions whose investment strategies helped to shape the market conditions that led to the housing crisis.

This exceptional disclosure included emails between the Page Mill investment partners, correspondence by tenants and the City of East Palo Alto to the investment partners, and the Page Mill prospectus, or placement plan, which according to Page Mill executives and investors, amounted to “trade-secrets.” The documentation offers a window into the drama of large-scale institutional speculative investment in low-income housing, including the lead-up to the Page Mill deal in the years prior to the completion of their East Palo Alto portfolio. Terse email exchanges portend the fall of Page Mill, which the internal Page Mill documents attribute to the tenants’ and the city’s disruptive and obstructive plans by Page Mill executives to attract additional premium investors.

The focus of my analysis herein is the data obtained through the California Public Employees Retirement System mandated document release. The release allowed me to construct the ‘anatomy’ of the portfolio and the relationship of the fund to other capital stakeholders, the city, and the state. It was through this transparency that a fuller
understanding of the vulnerabilities of this portfolio could be made. The disclosure allowed for a study that analyzed the files held by the fund’s largest limited partner investor.

In addition to the primary source of the CalPERS release, this case study includes a review of media coverage from 2004-2015 using the database Lexis Nexis, as well as San Mateo County court findings, San Mateo Local Agency Formation Committee reports, legislative hearing transcripts, CalPERS Investor Committee session transcripts through use of the California Public Records Act and Freedom of Information Act (FOIA), City of East Palo Alto Rent Stabilization and City Council meeting minutes, City of East Palo Alto planning records, U.S. Census decennial and American Community Survey data, Page Mill, Wachovia and Wells Fargo filings to the U.S. Securities and Exchange Commission, CalPERS public pension investment annual reports, review of tenant-led participatory action research, archival video interviews with city founders and activists, and my own participant-observation. City incorporation documents and early history sources were obtained during my visit to the archival collection at Stanford University.

I also interviewed 23 subjects specific to the question of predatory equity including five public officials and city administrators and two private equity investment liaisons who provided background information of the industry. These interviews in East Palo Alto and New York City were supplemental to my primary source for this dissertation: the disclosure data. These interviews specific to predatory equity followed 20 additional interviews with housing justice organizers in the U.S. on the broader question of renters’ rights and right to the city.
In my research I found no other case of public-pension investment in venture capital funds involved in rent regulated real estate with data access to this level of detail. In fact, venture capital funds, as I discuss in Chapter 5, are exempt from most public reporting and disclosure otherwise typical of publicly traded funds. As I detail in Chapter 6, the particular arguments made by advocates for transparency in California demonstrated that the public good outweighed the need for confidentiality. Also, the CalPERS real estate asset class designation could not preclude a disclosure of the financial terms of the investment. Following an analysis of the disclosure data, the dissertation research brought me to East Palo Alto on four different research visits where I gained access to local document collections and conducted the bulk of my interviews.

I also found the case study compelling because East Palo Alto was not New York City, the latter a city that Marcuse (1999) calls in his survey of U.S. housing movements, both “paradigmatic and exceptional” (p. 71). Indeed, much of the U.S. journalistic, advocacy (Morgenson, 2008; Waters and Bach, 2008; Bindsirm, 2008; Brescia, 2010) and subsequent scholarship (Fields, 2015; Fields and Uffer, 2016) on predatory equity in multifamily housing has focused largely on New York City cases, albeit the role of public pension funds investment in the NYC cases remains under-examined. The East Palo Alto case allows for an understanding of corporate landlordism at a very different site and scale: a sub/urban site and small municipality.

The doubling of suburban poverty in the country’s 100 largest metropolitan regions between 2000-2010 (U.S. Census) suggests the rebounding effects of central city gentrification and Black and immigrant suburbanization contrary to the traditional sociological explanatory notions of ethnic succession. The police killing of Michael
Brown, a young Black man in Ferguson, MS, is one example among many others that has brought increased attention to the underlying conditions of the ex/sub/urban geography of race, poverty, and inequality. The suburbanization of poverty places new demands on fragmented municipalities to contend with shifting regional inequity. Moreover, inequities of core versus periphery regions, and within hyper-capitalized regional nodes such as Silicon Valley, raise the question of the right to the city in areas of capital centrality outside the largest global cities. The case of East Palo Alto demonstrates the path dependent but altered contours of financial expropriation, capital investment and (re)development through the place-making of a small city in what has become a massive regional economy.

**Dissertation Framework**

This case study of a corporate landlord in East Palo Alto exposes what several critical scholars (see Chakravartty and Ferreira da Silva, 2012; Wyly, Moos, et. al 2009) and I call “the logic of racial risk” in real estate. This mode of calculative risk has involved both state abandonment and state intervention in shaping and enforcing the racial dimensions of labor, land, and housing valuation. Contrary to the tenets of the American Dream, or regional notions of California’s progressive liberalism, U.S. housing markets are not race neutral, a point demonstrated in a vast body of research and street level observation. Today’s politics of housing financialization must be understood through an examination of how housing became a hyper-speculative market tied to debt, one embedded in state sanctioned, racialized hierarchies of risk and obligation.
The harnessing of public pension funds by venture capital firms to intervene in state-regulated housing points to the common interests of labor and housing activists to organize together in strategic opposition to accelerated financialization. On the one hand, the confidence of investment firms and their ability to displace tenants by the thousands, including public pension contributors, reflects the increased centrality of finance power. On the other hand, overleveraged institutional investor purchases in areas with few typical indicators of gentrification suggest an example of neoliberalism in crisis, “its logic stretched beyond reason” (Dumenil and Lévy, 2011:126). If ever reasonable (as opposed to rational) in risk and intent, the speculative creation of portfolios from working class communities reflects a persistent settler modality of border-making and frontier-prospecting.

Gentrification, what I call the racial property regime\(^5\) of neoliberalism in the U.S., emerges from and furthers the racialized uneven production of space. The resultant fragmentation is of socio-political, material, and psychic consequence for Blacks and Latinos in particular. Labor’s interests in urban processes as investor, producer, and inhabitant, therefore, go well beyond an instrumentalist understanding of housing as a component of workers’ wages. Urban contestations in the area of housing and in the fight for the right to the city are part and parcel of labor’s decommodification. Whereas the ‘central contradiction’ of capitalism is the simultaneous growth of capital and growth of inequality, this dissertation argues that the ‘central contradiction’ is not confined to a singular strategic relational location, such as the work site. Rather, the ‘central contradiction’ can be understood through the expansive relational dynamics of the city.

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\(^5\) Property regimes, for the purposes herein, refer to the economic, social and political relations that connect people to the built environment and underlying land.
that acts at once as work site, material product, home, and future financial portfolio through which productive capital also flows.

In this dissertation’s example of an over-leveraged, hyper-financialized portfolio comprised of what East Palo Altans called their homes, the renters and their city fought back. The dissertation maps the corporate structure of the portfolio, and provides a specific view of the points of vulnerability in the structuring of speculation. The lessons of this case demonstrate areas of strategic interest and alignment for labor and community. By extension, the ongoing renters’ crisis calls for collective, expansive, compassionate, radical imagination, and coalitional strategy for the right to the city as fundamental to the decommodification of personhood, labor, and home.

Dissertation Structure

The dissertation is divided into three sections after the literature review, Control, Decontrol and Recontrol. These terms also refer to the stages of rent regulation, deregulation, and re-regulation based on occupancy and vacancy of rent-controlled units in California post the state’s anti-rent control Costa-Hawkins Act of 1995. In broad strokes, I borrow these terms as reflective of the processes of people-centered place-making of East Palo Alto.

Control: Early History & Making A City

The case study begins with a depiction of the socio and political landscape of East Palo Alto through a broad historical accounting of the racialization processes that are constitutive of East Palo Alto’s development into cityhood. Chapter 3 demonstrates the
historical context to my claim that racial discourses and ideology tied to home, land, and security contribute to the impetus, consequences, and responses involved in calculations of urban land value. The historical overview section foregrounds how land and housing speculation, and the ongoing rental housing crisis, have been embedded in the social historical relationship of race and risk in the United States context.

It is important to situate this case through the iteration of race, space, and place-making to put into view the relationship of the East Palo Alto urban scale to regionally situated class and racial inequities. The fact that East Palo Alto had yet to follow in the footprint of Silicon Valley’s hyper-gentrification resulted from a particular regional history of race and housing that while reflecting the contours of national and state policy was site particular and contingent. This history includes the organized responses of East Palo Alto African-American and Latino residents to assert voice in San Mateo County and to practice community control within their claimed city.

As East Palo Alto’s former mayor Carlos Romero and Rent Stabilization Board member William Webster are quick to point out, the city’s very founding in 1988 was based on a campaign by Black and Latino residents for rent-control. The City of East Palo Alto’s founding assumed a right to the city, and its rent control ordinance, initially considered to be one of the strongest in California, emphasized the related “right to stay put” (Hartman, 1984) in an increasingly prosperous economic region.

Decontrol: Gambling on the City, Making a Portfolio out of East Palo Alto

Since the 1970s, capital innovation across U.S. primary cities followed the contours of redlining to predatory lending, sweat equity to predatory equity and mass
devaluation by state disinvestment to revaluation and extraction for private enterprise, notably in this case of a “predatory equity” deal via labor’s own capital. Chapter 4 presents the tenants’ experiences of Page Mill that catalyzed their mobilization. Tenants explain how the venture capital firm assessed and invested in Black and Latino renters’ communities in East Palo Alto. Their investment prospecting reflected a racialized rationale that framed gentrification as a contribution, rather than extractive liability, to the development of East Palo Alto. Chapter 5 of the dissertation analysis takes a step back from the impact of speculation on renters to demonstrate how the financial calculations were premised on debt, profits from fees, and the large scale and high speed of capital exchange.

In the period of Page Mill’s holding of the portfolio, the speculative investment threatened the near complete loss of the city’s regulated rental units and the displacement of thousands of residents. Ultimately, the tenants and city would bear the burdens of Page Mill’s opportunistic investment. Arguably, the greatest risks were incurred not by investors but by tenants with very little money but an entire community to lose, as well as by a strapped city government desperate for “development” revenue, but with the very principle of the city’s founding at stake.

Recontrol: Political Vulnerabilities & a Right to the City

The tenants’ and city officials’ response to Page Mill’s monopolistic and speculative investment just two decades following cityhood spurred renewed demands for the right to the city and community control. The investment shaped a critical juncture in the city’s development plans. The city, state, the limited partner CalPERS, and the lender
Wells Fargo were all political mediators and capital stakeholders in the making and unmaking of the portfolio.

Chapter 6 analyzes the vulnerabilities of this portfolio’s structuring of speculation and the stakeholders’ leverage using a framework borrowed from labor’s strategic corporate research comprehensive campaigns. Chapter 7 concludes with a discussion of right to the city as an organizing framework that by definition emphasizes the urban scale of popular power. The conclusion considers more recent lessons from this specific case in relationship to other renter organizing efforts in the Bay Area region, as well as for broader urban movements. At a time of ongoing and increasing crisis for renters and workers, the study concludes by suggesting the prospects for labor and community coalitional politics behind a transformative scale-able land and housing agenda that at once emphasizes racial justice, community/worker control, and redefines current measures of home and land security.
Chapter 2. Literature Review

Chapter Introduction

This section presents the scholarship in which I situate my case analysis. To begin, I honor Neil Smith who advised me to “start this dissertation with Engels.” Smith was right for pointing me to the political economy of the city. Engels’s writing on housing, from his journalistic description of industrial Manchester to his polemical intervention in socialist strategy, offers a touchstone for debate over sites, expression, and embodiment of class struggle. Engels draws boundaries between strategic sites of struggle of home and work, while also drawing conclusions that blur these distinctions in the everyday lives of the working class. This dissertation departs from such a binary between community and work to argue that the collective production of urban space by the city’s inhabitants (and by the worker-investor- renter) demands a more expansive and complex view of struggle and possibility.

The review begins with several works in the Marxist tradition from Engels to Harvey, Lefebvre, and Smith to outline the geography of capital, class formation, and class struggle. In the late 1990s and early 2000s, Smith’s theorizing of gentrification was influential to my own work in neighborhood-based organizing for housing rights and equitable development in Washington, D.C. It was in part through Smith that I came to understand the stakes of my organizing work not as housing per se but as the city, and the city as *the scene* (to borrow Lefebvre) and the stakes of neoliberal economic restructuring.

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6 The colonial arrangement of Congressional oversight of the District of Columbia made this city early testing ground and a place of contestation around the “roll-backs” and “roll-outs” of neoliberal projects (i.e. charter schools, vouchers).
in the U.S. My review of the literature on gentrification and financialization orbit Smith’s early-work that links the housing market, the economy, with policy, the state. The irony of neo-liberalism as an ideology that espouses market freedom, to echo many before me, is the state intervention that allows for market dominance.

I posit, and then disrupt, this literature in political economy to emphasize the framework of racial capitalism that shapes my inquiry into the historical development of East Palo Alto. This literature also shapes my understanding of gentrification, what I call the present racial property regime in U.S. cities of capital centrality. The historical context of land and housing in the U.S. demonstrates how housing became a racial, social and ideological signifier and organizer of value. I engage the work of Robinson (1983) and Hall (1980) specifically as well as Chakarvetty and Ferreira da Silva (2012), and McIntrick and Woods (2007) for their clarity in creating and demanding complexity and praxis. My presentation of the racial valorization of land and housing in the subsequent chapter extends from these frameworks. I am also indebted to Piven & Cloward’s (1967) provocative programmatic papers that bring to the fore questions of Black urban electoral and disruptive power. I point to the work of Pulido (2000), Gilmore (2007), and powell (2009) for their regional frameworks, and Geronimus and Thompson (2004), Fullilove (2001; 2011), and de Oliver (2015) for their attention to the social, cultural, and psychic effects of dislocation and displacement.

The literature review then raises questions of ‘actually existing’ spaces of social contestation in the neo-liberal city. I examine sociological notions of social movements and tenancy. I consider the power analysis tools of labor’s corporate campaigns as useful for tenant organizing efforts examining the financialized portfolios of housing investors. I
conclude the literature review by returning to Lefebvre’s (1996 [1968]) formulation of the right to the city that shifts political centrality to the otherwise dispossessed and appropriated. It is the necessary collective ‘call and demand’ for the right to the city to participate in the democratic decision-creative-making processes of the city, as the right to place (Samara, 2014) and to place-making, as a right to the city where “Black Lives Matter”—that provides the premise and perspective for this dissertation’s study.

**The Question of Housing**

When Engels wrote the essay *The Housing Question* in 1872, German cities faced a severe housing shortage and the working class masses experienced little if any reprieve in their daily lives between the miserable conditions of home and work. Engels wrote his essay in part to counter a socialist assertion that the relationship of the tenant and landlord is akin to the worker and capitalist; Marx and Engels strongly disagreed with this analogy. Engels argued that whereas the concentration of both private property and proletariats in cities is a contingent factor for proletariat insurgency against capitalism, the issues of slum dwellings, slum clearances (ie. Haussmann forms of urban renewal in Paris), and workers’ rental versus ownership of housing were symptoms of capitalism rather than axes, or levers, for social change.

Throughout the essay Engels pointed to the terrible conditions of workers’ housing as not only a secondary but also a necessary evil that would help cohere class polarization and militancy. Attention to housing or other social issues within the city did not impact the central contradiction between labor and capital; therefore, Engels stated,
any successful struggle to improve the conditions of poor workers in the city would only force the same terrible conditions to emerge in another area of the city. In this way, the essay privileges struggle at the site of production over struggle focused on the conditions of everyday life, or social reproduction. Engels’ polemic raises the strategic question of connectedness and dissonance between the housing crisis for the working class and the conditions of their labor at work.

A century later, Harvey (1978) speaks directly to this “housing question” raised by Engels in his study of capital circuits. Harvey first focuses on a strategic question for class struggle: how accumulation provides the means for the capitalist class to reproduce itself and how over-accumulation results in crisis. He specifically elaborates on Marx’s discussion of the primary circuits of investment (production) and secondary circuits (the built environment for production and for consumption). Harvey demonstrates how the movement of capital to other circuits, including what he calls the tertiary circuit (knowledge production, sciences, technology, education, etc.) mitigates crises of over accumulation in the primary circuit. The secondary and tertiary circuits are constitutive of the reproduction of the primary circuit, but remain distinct.

There are multiple contradictions that arise in the flow of capital to the secondary circuit of the built environment pertinent to the housing question. For example, devaluation of the built environment precedes its revalorization (“creative destruction”). Harvey draws attention to the state in this process, which he says plays a mediating role between the primary and secondary circuits. The state also helps to guarantee profitability in the secondary circuit by making available “fictive capital” through credit. This last point was important in Harvey’s perceptive analysis of the secondary circuit as a
potentially expansive terrain for finance. At the time of his publication, the bricks and mortar of the illiquid secondary circuit required much more time to generate profits compared with surplus extraction through the direct appropriation of labor in the primary circuit. Harvey ultimately argues that class struggle must be as expansive as the realms upon which capital relies for absorbing crises of accumulation.

In this way Harvey complicates the housing question by pointing out that issues of housing or social reproduction more broadly can serve as either an “antidote” or “springboard” for class struggle. Harvey did not anticipate the securitization of residential housing debt and the opportunity to conquer time through the space of the built environment, so that all that is solid melts to liquidity. Yet he provides a framework for considering the potential expansion of the finance economy through urban processes, and specifically in the concentration of capital in the built environment. Instead, Lefebvre provides a provocative call to consider the city itself as not simply a circuit but a means of capital accumulation.

Harvey’s work on capital circuits followed the tumultuous years of the 1960s when key Marxist theorists turned their attention from conflict at sites of production to contestation over everyday life and the city. Partly as a response to the quick dissolution of student struggles in France due to capitalism’s pervasive presence and recuperative capacities in everyday life, and partly as a rejection of the homogeneous character of urbanism under socialism, Lefebvre (1996 [1968]; 1970) came to recognize urban subjectivity and social questions as strategically important to class struggle. Following Marx, Lefebvre also engages questions of over-accumulation pointing out that industry is
the primary circuit of capital, and the built environment of land and infrastructure acts as a secondary circuit.

Unlike Marx, or Harvey’s work, however, Lefebvre (1970) theorized that these circuits would eventually blur in the production of surplus value. Lefebvre goes much further than Harvey’s distillation by declaring a dialectic, or opposition, between industrialization and urbanization. Lefebvre imagined the city as ultimately the means of production itself and anticipated increasing class conflict over urban space. Urbanization, and the domination and commodification of fused social and physical space by capital, would become the central contradiction according to Lefebvre. In this way Lefebvre reframed the site of class struggle outside the walls of the factory and into the city.

Much of the later seminal research on the rise of neoliberal urbanism in the US and UK context, specifically, demonstrates the heightened urban contradictions to which Lefebvre’s larger body of work alluded: an increased centrality of power that widens division of classes despite greater integration of world economies, communication, and people. A primary expression of neoliberal urbanism in the finance-nodes of global cities (Sassen, 1991) is gentrification (Smith, 2002).

Gentrification and Uneven Development

Smith (1984) explains that uneven development is the capital organization of spatial inequity. Smith’s work conceptualizes how urban space becomes both homogenized and differentiated for exchange value and speculation as a function of capitalism within the limits of capital in a finite planet. Gentrification is an expression of
uneven development and the tendency of urban disinvestment and investment cycles to (re)create opportunities for capital movement and expansion.

Gentrification, in shorthand, conflates all aspects of the exploitation and (neo)colonization of the urban terrain for exchange value by its wealthier residents, government authorities, and enterprises whether local or global, resulting in the displacement, or serial displacement of those who preceded fixed investment. As distilled by Marcuse (2016) gentrification can involve “economic upgrading: up-pricing; physical upgrading: redevelopment; and social upgrading: upscaling” but all, for the purposes of the very definition of gentrification, lead to displacement of lower income residents (p. 2). There is no gentrification without displacement.

A heaving trove of scholarship on gentrification, including Marcuse’s, provides a range of perspectives that extend from or contrast Smith’s early work on uneven development, and specifically Smith’s (1979) “rent gap” theory of gentrification as a causal explanation of the movement of capital to urban centers in the U.K. and U.S. These works include demand-side explanations (Ley, 1994) and related debates over the social, cultural, political and geographic impacts, drivers, and, more recently, conceptual relevance of the term gentrification (Sumka, 1979, Hartman, 1979; Zukin, 1982; Zukin, 1987; Marcuse, Smith and Williams 1986; Vigdor, Massey, Rivlin 2002; Slater, 2008; Lees, Slater, Wyly 2013).

Smith remains particularly relevant to this case study for contributing a compelling theoretical framework to gentrification studies by linking urban change to neoliberalism (see 2002). Neoliberalism refers to the subjection of all social value to
market fundamentalist logic, much as in the fusing Lefebvre (1970) describes (albeit if not resulting in the production of surplus value).

Federal urban disinvestment and privatization spurred a shift in urban governing from the managerial to the entrepreneurial (Harvey, 1978). The most enduring wave of gentrification in the US since the 1990s, Hackworth and Smith (2001) demonstrate, was brought about by the agency of government in expanding gentrification to a generalized scale. Smith contends that development for the middle and upper middle class in previously lower income neighborhoods has become part of an international strategy forging private investment with public policy (see, for example, World Bank [1993] report on how governments could enable finance take over of housing markets in Rolnik [2013]).

In his case study of New York’s Lower East Side, Smith (1996) identifies state disciplining and stripping policies that ushered in gentrification. He describes the punitive policies of zero tolerance policing, anti-squatting, and welfare controls as part of the right-wing revenge, or revanchist take-back of the city following the gains of the civil rights movement of the 1960s. Whether an orchestrated “take-back” as Smith describes, or a spatial fix for capital surplus demonstrated by Gilmore (2007), criminalization and mass incarceration surged in the 1970s and coincided with the dove-tail processes of urban disinvestment and gentrification. In recent ground-breaking scholarship on eviction, Desmond (2016) claims that mass incarceration for Black men is analogous in prevalence as evictions are for Black women in their experiences of serial displacement. These processes of encagement and displacement are both formative and symptomatic of
homes as places of “organized abandonment,” referred to by Harvey (1989) then Gilmore (2008) to explain the development of under-development that prequils gentrification.

By the early 2000s, in the wake of an enabled housing market of softened state regulations, housing advocates in New York City and rent regulated municipalities in California came to recognize a surge of major capital investment in multifamily rent regulated housing, which they came to call “predatory equity”. Displacement via gentrification was nothing new, but mass-buy ups and evictions in large residential rent protected properties exemplified an opportunity for the expansion of gentrification. Epitomizing the contradictions at the epicenter of the housing crisis, and in stark contrast to Glass’s (1964) first conceptualization of gentrification as a phenomenon of individual homesteaders, predatory equity relies on the displacement of tenants, en masse, from properties ostensibly protected by the state from full market exposure. This capital prospecting in rental housing invests in short-term financial extraction and circulated, socialized risk.

The Accumulation of Homes

In 2007/2008 when the collapse of the housing market became clear and widespread, a growing number of scholars turned to the built environment to grapple with how to explain the expansion of market financialization post-1970s. Krippner, an economic sociologist, was among the first to take an empirical assessment of the growth of the finance industry before the collapse, and to consider the 1980s political context in
which this market grew. Krippner (2005) refers to financialization\(^7\) as “a pattern of accumulation in which profit-making occurs through financial channels rather than through trade and commodity production” (p. 181). Financial channels capture the movement required of capital, and as a result the financial industry (FIRE) profits, in part through collecting fees (Krippner, 2005; Aalbers, 2008; Aalbers, 2009).

Krippner’s work establishing the long-term developments that led to the existing upsurge of the financial industry demonstrates that financialization relies in part on the valorization of real assets on which to deploy financial innovations over time. In the realm of real estate, the portfolio (and related derivatives) becomes a financial channel to realize investment returns in an expansive economy. Returns along with profits from fees represent financial capital, or the non-productive income off the movement of economic and financial capital through assets, investment, and banking institutions. In the scope of financialization channels, short-term liquidity opportunities trumped long term equity realization.

Economist Minsky (1988) in broader strokes also named this shift: “a new money capitalism is challenging the dominance of managerial- welfare state capitalism: managers of money are replacing managers of industry as the leading players in the economy” (p. 5).\(^8\) Money managers, Minsky asserted, have come to rely on the financial

\(^7\) Aalbers (2015) points out the slipperiness of this term, as both “the explanandum (the phenomenon to be explained), and explanans (the thing that explains)” (p.2). For further reading on the production of the rentier class, and a broader view of the historical development of capitalism in relationship to financialization—by definition an historical process and therefore changing dimension of economy—see Arrighi (1994) and Montagne in Erturk and Gabor, eds. (2017, forthcoming). See French, Leyshon and Wainwright (2011) for their critique of the disjuncture of financialization from spatial analysis, and their analysis of financialization as spatial-temporal fix.

\(^8\) For an historical overview of the arc of managerial capitalism from 1920s to present day, involving the rise of shareholders over owners, and concurrent rise of managerial compensation, see Englander and Kaufman (2004).
industry for employment and profits at exchange points that were made profitable regardless of final returns. Indeed, this became the case as reported by the *New York Times* study of how the U.S. top ten public pension funds provided $17 billion in “management” fees alone to private equity funds between 2000-2010 (Anderson, 2010).

The agents or drivers of finance help to reveal the intermediaries who control, as agents of finance, the institutional structures of finance, not as causal figures but as movers and contributors of the structuring of financialization.

Whereas “managerial capitalism” signified the shift from corporate ownership control (i.e. traditional family firms) to intermediarily control, “shareholder capitalism” refers to the increased primacy of the investor in debates over corporate governance and control (Gelter, 2013). This shift to shareholder primacy is a far call from the idea of “pension fund socialism,” which was coined by economic sociologist Drucker (1976). Drucker asserted that workers ostensibly control U.S. equities, or publicly traded companies, production, and the economy through their pension fund investments. Indeed, over the last 30 years unions have pursued shareholder activism instead as a way to expand returns to the middle class despite labor’s weakening position in relationship to employers, a weakening position that is due in part to the dispossession of workers in the prospecting for greatest returns.

Pension funds at the time of Drucker’s assertion had received increasing attention including regulation through the national Employee Retirement Income Security Act of 1974 (ERISA). ERISA, notably, mandated private funds to make their ultimate fiduciary responsibilities to the market as much as to their contributors by making the highest returns, the primary function of pension investment. Despite the diminishing number of
traditional employer-based defined benefit funds, which since the 1970s have dwindled in favor of the private sector’s investment in 401ks, institutional pension funds continued largely through the survival of public sector unions. Public sector funds gained traction in the total share of funds when private sector unions began to lose numbers in the 1970s and 1980s (see for example accounts of union falls in Bronfennbrenner 1998: 262).

Notwithstanding deunionization, Drucker was right to suggest that pension investment is labor’s capital. Moreover, he predicted the rise of U.S. pension funds’ role in the economy, which from his writing to the time of the housing crash involved asset growth from $871 billion in 1980 to $11.3 trillion in 2007, including $196 billion to $3.1 trillion for state and local pension funds for those same years (Tonello and Rabimov, 2010:7). Rather than “socialism,” however, “pension fund capitalism” gained more traction in the literature as an optic for understanding the rising role of pension fund institutional investors, including both defined contributions (individual) and defined benefit fund (private and public employer-based), in shaping global financial markets (Clark, 2000; Clark and Hebbs, 2004; Aalbers, 2008; Duménil and Lévy, 2006).

Still, there was growing optimism in the potential of pension funds to align with corporate responsibility (CSR) and socially responsible investment indices (SRI) for social effect. CalPERS leading activist role in the late 1980s of demanding transparency and accountability in corporate governance in public equities had raised expectations around the potential of funds’ to be socially responsive in their investments (Hebbs, 2008). Indeed, CalPERS often pursues shareholder resolutions targeting large

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9 Haigh and Hazeleton (2004) find the composition of SRI and not SRI funds nearly indistinguishable despite the proliferation of SRI funds since 1993; also, per social effects, they find weak outcomes of SRI given the greater systemic issues of a deregulated market.
corporations, albeit with very limited success. In 2002 the first shareholder resolution requested by a public pension fund in the U.S. was passed involving employment anti-discrimination provisions based on sexual orientation for a publicly listed company (Haigen and Hazleton 2004:60). Also, in 2000, CalPERS announced the fund would divest from tobacco. Moreover, public pension funds’ targeted urban investment programs were seen as a net positive by those promoting social responsibility (See Chapter 6 for overview of CalPERS example of the California CURE program); there was little scrutiny by scholars of pension fund intermediaries and the implications of neighborhood gentrification by pension fund investment despite modest affordable housing financing (See examples Hagerman, Clark, Hebb, 2005; Hebb and Sharma, 2014).

More recent post-Great Recession attention to pension funds raises the most basic questions of austerity politics and pension viability around pensions’ two essential goals, (1) affordability for employers, workers, and taxpayers and (2) guarantees of anticipated retiree payment (Ambachtsheer, 2012). There is also continued attention in the literature to the effect of pension funds’ activism and governance structure in light of financial crises (Clark and Urwin, 2010 Domohoff, 2013). The greater the vulnerability of pensions to maintaining state support, the more distant pension fund socialism becomes as experiment or prospect. The higher the yields required and expected for contributor benefits, the greater leverage to be expected, and greater concentration, rather than redistribution, of corporate capital.

Lapavitsas (2009) also reflects on pension contributions in his work on the financialization of every day life through what he calls the expropriation of household
income for financial assets. For example, the potential for pension fund investment in overleveraged residential real estate increased with the expansion of the financial market, and vice versa (Rolnik, 2013). Investors in subprime securities, for one, replaced the traditional slumlord, albeit by establishing debt tenancy in single-family housing based on the illusion of “ownership” (Sassen, 2009). Lenders found profitability in upfront fees and investors gambled for returns on exchanges in the secondary market. Whereas this trend has been well documented, less attention has been given to the rise of investment in multifamily rental housing (see discussion of opportunity potential by Dipasquale and Cummings 1992; and New York City examples by Teresa, 2015; and a New York City and Berlin comparative discussion by Fields and Uffer, 2016).

It was not until the decade before the housing crash that multifamily rental housing became attractive to large investors. The dramatic reduction of interest rates in 1993 followed by interest rate reductions in 2000 and after 9/11, increased the availability of finance capital for placement (see herein Chapter 5). An investment conducive-politics of softening rent regulation in key states (see discussion of CA example in Chapter 3) increased the profitability for investment in multifamily rentals. Moreover, investment in even low-demand or lower rent-yield multifamily portfolios presented opportunity for cheap credit as cash. In this disjuncture from real estate primers, location simply isn’t ‘everything’, cash flow is (Linneman, 2004 in Fields and Uffer, 2016). Investors also turned to the promising commercial backed mortgage security market, which became widely available for multifamily properties beginning in the mid-1990s. The securities market created a surge of investment interest that during the peak years of the housing bubble (2005-2007) allowed for tremendous cash flow, including capital liquidity at
$17.6 billion a year (National Multifamily Housing Council, 2015). At the time of the housing crash in 2007, the Federal Reserve reported mortgage debt outstanding for multifamily residences amounted to $798 billion, up nearly double from $402 billion in 2000\textsuperscript{10} (Board of Governors of the Federal Reserve System, n.d.).

This dissertation elaborates upon this line of inquiry through an examination into the expropriation of homes: Black and Latino/a homes became investment vehicles, remade into real asset portfolios financed in part by workers’ contributions towards and desires for living out an old age. This case seeks to extend upon this literature to further understand how the financialization of household inhabitance (whether ownership, rental, single and multifamily housing) and futures (pensions) reflected calculations of risks and returns embedded in the historical and institutional racial valorization of land and people.

\textit{The Racial Logic of Capitalism}

The case of East Palo Alto reveals racial disparity as not only outcome of class disparity, but race as a mode of land and housing organization and value. Political scientist Cedric Robinson (1983) was among the first American scholars to distill the historical development of capitalism as racial capitalism, in what he calls “counterdistinction” to the Marx and Engels’ assumption of an eventual rationalization of social relations (2). Robinson explains the inextricable relationship of race and capital as an historical phenomenon:

The development, organization, and expansion of capitalist society pursued essentially racial directions, so too did social ideology. As a material force then, it

\textsuperscript{10} Multifamily residences refer to holdings with five or more units. Mortgage debt outstanding for multifamily units reported here for all holders for last quarter of year reported.
could be expected that racialism would inevitably permeate the social structures emergent from capitalism. I have used the term ‘racial capitalism’ to refer to this development and to the subsequent structure as a historical agency. (Ibid.)

As such, race is an historical phenomenon (Omni and Winant, 1994; Bonilla-Silva, 2006) constructed as if naturalized within relational (Kim, 1999), commodified valorization of peoples (Harris, 1993) and through negation (Rediker, 2007; Robinson, 1983). Race, in these terms, is not simply a signifier, but an organizing principle of primitive accumulation and advanced capitalism.

Cultural critic and sociologist Stuart Hall likewise raises a central political concern of the relations through which race unevenly “fractures,” or “expresses,” class struggle. Hall (1980) opposes conceiving race in formulations of totalities, transhistorical processes, universal applications, human nature (he deftly calls this one an “alibi”), individual psychological terms, and economic reductivism, which are related to naturalizing and teleological (inherently racist) explanations for how and why race works and what racism accomplishes. This conception draws upon Althusser’s framework of “articulations” to intervene in the dominant logic/s of economic versus sociological explanations. Hall argues the interconnectedness of historical moment, geography, politics, ideology, and economic relations (modes of production) in theorizing how differences and racisms may become specifically and distinctively assembled. This counters the notion of economics (“base”) as prescriptive of social formations and hierarchies.

Hall turns to Gramsci’s work on ideology to examine how modes of production structured in domination have relied on hegemonic processes stating: “Race is…the modality through which class is lived” (p. 341). Racisms, while not necessary for
capitalism, Hall posits, have served in “different degree and form.” The implications of this modality are multiple: centrally, while race functions in structures of domination, it is through anti-racism struggle that class struggle may be simultaneously waged.

More recent work draws from these and other perspectives to engage in race and human geography. McKittrick and Woods (2007) in their edited volume *Black Geographies* invoke Fanon (1961) to present an expansive view of the relationship between race, space, and place-making: “racialized production of space is made possible in the explicit demarcations of the space of les damnés as invisible/forgettable at the same time as the invisible/forgettable is producing space— always, and in all sorts of ways” (p. 7). The social value of place-making, the very bodies of the place-makers, may be invisible, unknown, abandoned (“unescaped” in the case of Katrina), they explain. Yet the people who have been hitherto unseen may be excavated in metaphorical and material understandings of resistance and the “histories of the everyday” (p. 7). Their framing essay raises a central tension between socially contested place-making versus place-claiming, the latter what they consider a reproduction of a hegemonic ownership logic that can portend another’s displacement or invisibility.

Chakravarty and Ferreira da Silva (2012) remind us that the financial regime in which the housing crisis occurred was embedded in what they call a “logic” of racial risk and colonial and imperial architecture of debt (see also Graeber, 2011). Their work draws comparisons between the debt obligations of the postcolonial nations and the targeting of U.S. Blacks and Latino/as in subprime lending, which widened indebtedness in the U.S. Coates (2014), in a highly acclaimed and provocative essay published in *The Atlantic,*
tied the racial valorization of land and housing in the U.S. to intergenerational life chances and as a basis of his case for Black reparations.

The focus of these works on segregation, debt as servitude, and risk for individual homeowners remains applicable to renters and the overleveraging of portfolios by institutional investors. Most relevant is the point made in these works of who is deemed immoral, and who is not, for failing to realize an impossible debt obligation, which in turn exposes the neoliberal “post racial” fallacy. By extension, in the case of the predatory overleveraged multifamily portfolio, the risks are passed onto the renters where deferred maintenance results from debt service and low rent yields, where evictions are profitable, where renters are disposable and exchangeable until the financial asset, the building, their homes, can be exchanged for returns. Speculative investor landlords are akin to predatory lenders by blaming renters for their poverty while targeting them for their poverty and potential for turn-over, or financial expropriation.

Several scholars on the racial production of space draw attention to the regional interdependence, or racial capital investment in the U.S. metropolis. Pulido’s (2000) study of the regional dimensions of environmental sitings and Gilmore’s (2007) attention to regional scale for understanding criminalization and incarceration both demonstrate the center / periphery spatial racial and economic arrangements (see also Smith’s [1992] work on scale) that undergird the context of the city, suburban, exurban, rural regional divides and scales. Powell (2009) for one, in departure from much of the U.S. right to the city organizing emphasis, calls for a regional, metropolitan equity framework to counter the dispossession of minority populations in cities. Like many strategic organizers,
however, Powell views Black dispossession in cities as directly and historically linked to the postwar accumulation of opportunity for white populations in suburbs.

The “knots” to borrow from Pruitt (2011) of what Harvey (2005) calls “accumulation by dispossession” (p. 137), are tightly twisted in processes of gentrification, in both means and outcome. The number of people displaced in and following the wave of gentrification in the late 1990s in the U.S. surpasses the number of those displaced through urban renewal (Smith 2002). Fullilove (2001; 2009) underscores the psychic trauma that has been understood as the consequences of past mass urban renewal and parallels to experiences of displacement by gentrification. Homogenization and reconcentration of poverty are highly visible outcomes of advanced gentrification (Lees et al., 2008) that mask the individualized experiences of displacement. In this same vein, Geronimus and Thompson (2004) argue for the importance of cultural explanations in combination with economic analysis for grasping the “psychic costs” and “weathering” of people who experience alienation and racism in community fragmentation and dispersal based on mixed-income social engineering initiatives.

Piven and Cloward (1968 [1967]) warned that the Civil Rights liberal quest for integration was a mistaken strategy for that moment and in the realm of housing in particular. At that time a massive return of whites to central city “ghettos,” and dispersal of poor urban Blacks to suburbia would be required for such an ideal. The call for desegregation, they asserted, masked the enduring and urgent need for better housing for the Black urban poor now and where they lived (p. 185-187). This was not support for segregation but rather a call for Black control over their housing and support for the Black Power movement’s aims, which Tyner (2007) later explains as a radical spatial
move from segregation to “collective separatism” (p. 227). Programmatic aims for integration in housing, moreover, Piven and Cloward explained, could result in political mollification due to diffusion and dispersal of Black votes at a time of strategic possibility for Black political control in cities. For this and other reasons pertinent to Black political power, they also viewed proposals for metropolitan integration with caution.

Integration as a project of the Civil Rights era became, by some, conceptually recuperated as cover for privatization and “ethnic” culture a commodity for consumption. The integration of neighborhoods during early-stage gentrification has been used as an argument for gentrification. Diversity based on cultural displacement in early-stage gentrification in U.S. cities is an inverted shift from what de Oliver (2016) explains in his staged model of multiculturalism as “a social justice ethic to a middle-class amenity,” an act, he borrows from hooks, of “‘Eating the Other’” (p. 1299-1300). Indeed, the prospect of “diversity” in multicultural neighborhoods, often in gentrification transition, is sold as appeal to individual white consumers who at the same time displace people of color (Smith, 1996).

_The Neoliberal Subject & Urban Contestation_

Whereas Hall (1980) engages with Gramsci (2010) to explain the work of racial ideology, Foucault’s (1994) concept of governmentality provides another way of making

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11 This is apparent in the stripping of basic funds to maintain public housing and the destruction of public housing in favor of privatization and gentrification, and in the name of poverty de-concentration (Lees, et. al., 2008).
sense of the complicity of racial ideology cojoined to the policies and institutional project of neoliberalism. As an analytic framework, governmentality illuminates the historical processes through which individuals play an essential role in governing themselves in part through the notions of personal responsibility within an historical racial pathologizing of the moralized poor. Foucault refers to governmentality as a technology of power of disciplining and self-management of populations. Gentrification can be seen as a trope for the dual logics of neoliberalization, including economic deregulation and free market dominance on the one hand, and the promotion of individual rights over collective rights, and individual responsibility over collective responsibility, on the other.

Governmentality corresponds with the postmodern theorization of the diffusion of power and denotes the self-governing of individuals at the level of everyday life. This notion represents a different perspective from a traditional Marxist view, which as previously mentioned, focuses on neoliberalism as an elite-project from above. It also differs from a Gramscian lens in which mass-based consent is understood as obtained through a top-down imposition of falsehoods, or the concealing of contradictions within a hierarchical view of power and positionality (ie. former/organic intellectuals) (Gramsci, 2010). Instead the concept of governmentality and Foucault’s idea of how individual bodies become disciplined and instrumentalized in making populations governable—*biopolitics*—suggest that individuals become aligned with a new status quo by creating and embodying this status quo (Foucault, 2007).

It is helpful to quote Brown (2003) at length for an explanation of how neoliberal governmentality works at the level of the individual to create a citizen subject that in turn produces who s/he has become:
In making the individual fully responsible for her/himself, neo-liberalism equates moral responsibility with rational action; it relieves the discrepancy between economic and moral behavior by configuring morality entirely as a matter of rational deliberation about costs, benefits, and consequences. In so doing, it also carries responsibility for the self to new heights: the rationally calculating individual bears full responsibility for the consequences of his or her action no matter how severe the constraints on this action, e.g., lack of skills, education, and childcare in a period of high unemployment and limited welfare benefits. Correspondingly, a "mismanaged life" becomes a new mode of depoliticizing social and economic powers and at the same time reduces political citizenship to an unprecedented degree of passivity and political complacency. The model neoliberal citizen is one who strategizes for her/himself among various social, political and economic options, not one who strives with others to alter or organize these options. (Ibid.:42-43)

Neoliberalism inscribed within the discourses, technologies, and practices of governmentality converges dialectically in the subject-making of the neoliberal citizenry that Brown describes. Governmentality within neoliberalization therefore suggests a constraining and reductive analytic of citizen formation, narrowing the possibilities for strategic resistance and change.

Yet, the technologies of governmentality become operationalized not only through instruments and apparatuses but also over and through space, making spatial contestations an important aspect for re-thinking the political strategies of social claims within the dual logics of neoliberalism and governmentality. Spatial analysis of neoliberalization and governmentality would consider how certain places are open/guarded for included/excluded subjects during allowed/disallowed times. Spatial analysis also raises the issue of the Sovereign, and the “existing” political geography of the state with the notion of governmentality. Right to the city, a spatialized analysis of urbanization and collective social change possibilities, is useful for revisioning urban citizenry and to pry open the possibility for alternative forms and effects of subject-making in contestations over the racial property regime of gentrification.
This dissertation contends that neoliberalism remains unaccomplished as ongoing processes. Embedded within neoliberalism and financialization, the urban space becomes a dynamic field of power for not only private enterprise, but also for well-positioned local government, and threatened inhabitants seeking voice in the contentious making (and potential unmaking) of the neoliberal city. The irony of neoliberalism as an ideology of market-driven enterprise is that neoliberalism results from policies driven by actors who shape its form and function. In this way, neoliberalism is not an elusive force, but instead may be made tangible through the policies that invoke it and the nodes of interdependencies in command and control (Piven, 2008).

The case of this dissertation sheds light on what Peck et. al. (2009) terms “actually existing” neoliberalism by revealing the mediating actors and multiple interests at play in ‘actually existing’ accelerated attempts at gentrification through predatory equity. Resistance to serial displacement, including limited successes, suggests neoliberalism as processes, providing a departure from an ideal-type of neoliberalism as if a totalizing fait accompli, a point emphasized by Holston (2009). Neoliberalism as processes is multi-layered, contradictory and contingent, and can be understood through changes in institutional arrangements (Peck and Tickell in Gledhill, 2004). Varied state formations apply neoliberal policies (such as deregulation, neoregulation, and privatization) unevenly and within the interdependent processes and constraints of global capital (Ong, 2006). Ong (2006) posits the importance of understanding the role of state power in neoliberalization by examining the “hybrid-state” and forms of “neoliberalism as exception and exceptions to neoliberalism” (p.3). In this case, although neither exception nor exception to neoliberalism in whole cloth, the governing officials in City of
East Palo Alto played a key role in attempting to oppose the deregulation of rent controlled housing there.

Rather than operating as empty vessels of capital accumulation, or simply as indifferent carriers of the world division of labor, this study follows Brenner and Theodore (2000) in arguing that cities are the principle sites of struggle in which financialization, austerity, and privatization are tested and resisted. A moment of crisis in neoliberalism during the Great Recession also presented opportunity for urban claimants to invert the current terms of equity in housing. This study considers the changing city through not only institutional arrangements of capital, but how a municipal government and tenants attempted to exploit those arrangements and leverage their power through an optic of racial justice.

Sociology of the Social Movement Literature

Attention to tenants’ collective action is particularly relevant during a time of resurgence in rental demand as an outcome of the 2008 housing crisis that has shifted an “ownership nation” to a “renter nation” (see Samara, 2015). Indeed, the U.S. Census suggests that the decennial following the Great Recession will be viewed as the “decade of the renter” (Levy, 2011). The added pressures of foreclosures and loan restrictions since the housing fallout have exacerbated a nationwide acute shortage of affordable rental units for low-income renters (Joint Center for Housing Studies, 2011; 2011a).

What does social movement theory offer for understanding tenant oppositional organizing? For more than thirty years, social movement studies in the U.S. have principally orbited around resource mobilization theory (RM) and the related political
process model that privilege the effects of organizational capacity and political cleavages in the electoral arena for realizing movement goals (ie. Zald and McCarthy, 1979; McAdam, 2010 [1982]; Morris, 1984; Tilly, 2005). Much of this work assumes rational actors and a rational political system, ie., a functioning democracy. The literature generally attends to the mechanics of how it is that movements are organized rather than why.

Most notably, this literature remains evasive on questions of power, an irony not lost on participants in social movements. Several enduring discussions provide an exception in the literature by considering the forms of power available to movement participants as a condition for mobilizing resistance and realizing movement goals (Gamson, 1968; Piven and Cloward, 1977; Wrong, 1980). For example, in particular Piven & Cloward (1977) bring specificity to arguments and examples around why and how power becomes realized and operationalized in their work Poor People’s Movements. They are centrally concerned with the conditions in which the poor have resisted and what they’ve gotten out of it as a result of disruptive power (see also Piven and Cloward, 1971; Piven and Cloward 2000; Piven, 2006). Relatedly, and more recently, scholars attuned to questions of agency have challenged RM by focusing on how participants’ strategic choices affect movement outcomes (ie. Jasper, 2008; Ganz, 2009). My analysis of organizing responses to the housing crisis draws from this literature but contextualizes and emphasizes organizing within the particulars of the political economic landscape. The problems tenants confront at the micro scale of their buildings reveal fundamental changes in landlordism and the broader processes of (persistently) racial neoliberal urban development.
Although the sociological literature on tenants remains limited in scope, especially in the U.S., significant scholarly work considers and debates tenants as a social class, tenancy as revelatory of the structures of ownership relations, and tenant action as oppositional social contestation (ie. Engels, 1935 [1872]; Angotti, 1977; Marcuse, 1980; Dreier, 1982; Heskin, 1983; Hartman, 1984; Saunders, 1984; Morrissón, 1984; Shlay and Faulkner, 1984; Katz and Mayer, 1985; Lipsitz, 1988; Florida and Feldman, 1988; Leavitt and Saegert, 1990; Capek and Gilderbloom, 1992). Much of the scholarship on urban tenant struggles in the U.S. highlights tenants’ militant tactics during three periods: the socialist eviction blockades and rent strikes of the 1930s; “poor people’s movement” actions such as the Harlem rent strikes of the 1960s Civil Rights era, and the policy-oriented and coalition-based tenant advocacy efforts that lobbied legislators for tenant protections in the 1970s (Piven and Cloward, 1967; Neagu, 1972; Dreier, 1982; Lawson and Naison, 1986; Ceraso, 1999; Bratt, Stone, Hartman, 2006).

The entry of highly financialized corporate landlords on a large-scale changes the landscape for grassroots tenant organizing. Tenant organizing around what was called predatory equity during the housing crisis has been distinguished from past tenant organizing by the sheer number of rent regulated units in buildings purchased by single investment firms: the unprecedented level and severity of harassment of tenants; the multiple interests at play involving investors and the servicing and securitization of debt; and the ability of large investment firms to withstand short-term financial losses (ie. tenants’ rent withholdings and law suits) (ANHD, 2009).

The literature of “community” contestations pays particular attention to the possibilities and pitfalls of tactics, non-for-profit organizational forms, scales of action,
and identity-based boundary-making relevant to tenant organizing (ie, Alinksy, 1971; Katznelson, 1981; Delgado 1994; Fisher, 1994; Marwell, 2004; Saegert, 2006; Gilmore, 2006; Incite, 2007; McQuarrie and Marwell, 2009; Defillipis et. al. 2010; McAlevey, 2015). This literature makes in-roads toward what Bevinton and Dixon (2005) call “movement relevant theory,” addressing both the theoretical and programmatic problems raised in social contestation. Yet, rarely does the literature in community studies or community organizing adequately address the questions of scale, important to movement formation and radical ‘non-reformist’ reforms. It does, however, point to examples of how, even at the local level, people can pry open spaces for opposition and wins.

Models from Labor Studies

In contrast to the social movement literature, conceptions of power are prolific in labor studies (ie. Brecher, 2014 [1972]; Juravich and Bronnfenbrenner, 1998; Clawson, 2003; Olin Wright, 2000; Fung and Olin Wright, 2000; Milkman, 2006). This literature includes a large number of workplace-based case studies from which scholars have garnered general lessons to inform broader labor strategy. Furthermore, significant examples of work in this vein make explicit the relationship of workers’ power and conditions in the workplace to larger socio economic processes (ie. Silver, 2003; Jayaraman and Ness, 2005; Muñoz, 2008; McCallum, 2013). Urban processes for labor receive a great deal of attention by scholars who attend to historical developments of cities, and the relationship of urban change to workers’ dilemmas (Parsons, 1984; Logan and Molotch, et. al, 1987; Fainstein, Gordon and Harloe, 1992; Fisher, 1994; Radford,
Notwithstanding the complexity about labor’s divided interest (as investor and tenant) in investor housing, the labor literature also speaks to labor’s strategic confrontations against venture capital firms, particularly private equity (i.e. Fung, Hebb and Rogers, 2001; Bodie, 2008; Lerner, 2010). Strategic corporate research provides direction for tenants grappling with the structuring of exploitation, but only within organizing through intensive tenant-centered tactics that build momentum, confidence, solidarities, and ultimately wins. Juravich describes key areas for nuanced research for comprehensive campaigns that expose “profit centers, growth plans, decision makers, and key relationships” (in Bronfenbrenner, 2007: 32). These four areas allow for an analysis of mediating actors for tenants to develop and deploy strategy. I employ Juravich’s model of strategic corporate research in chapter six to identify tenants’ tactical possibilities taken from the analysis typical of union corporate campaigns.

The Right to the City

Fundamentally, this dissertation extends from a scholarship of critical urban theory that emphasizes how urban processes become shaped through social contestation (Brenner, Marcuse and Mayer, 2011). The stakes of this struggle for the poor, and for people of color, is the right to the city (Purcell, 2002; Samara, 2007; Harvey, 2008; Mayer, 2009; Mitchell, 2003). As Castells (2000) cogently extrapolates, the right to the city is for Lefebvre a struggle for not only material existence, but for urban culture. Lefebvre fundamentally privileged the city as a space for spontaneity and cultural
eruption. “The human being has the need to accumulate energies and to spend them, even waste them in play,” he wrote ([1968] 1996:147). The right to the city for Lefebvre, was the right to participate in its creation.

Lefebvre’s theoretical undertaking appropriates space and time to transform the city into a sphere for imaginative, artistic ‘lived’ interaction. The right to the city is the right to reclaim the urban as a potentially liberatory space of, by and for creative and collective social processes: “…[T]hus the city is an oeuvre, closer to a work of art than to any simple material product” (Lefebvre [1968] 1996: 101). For Lefebvre, the city was not just a product of or site for human relationships; the city was the process of these relations.

Lefebvre called for a radical configuration of time and space that rejects the use of the city (whether socialist or capitalist) as an object, as merely a means to material existence. Deeply rooted in his work on right to the city are several key reinforcing concepts, which remain relevant to today’s urban struggles:

The right to the city manifests itself as a superior form of rights: right to freedom to individualization in socialization, to habitat and to inhabit. The right to the oeuvre, to participation and appropriation (clearly distinct from the right to property), are implied in the right to the city. (Ibid:173-174 emphasis in original)

These reciprocal ideas reinforce strategic attention to radical citizenship and use-value, relevant to the demands for non-speculative housing raised by urban claimants today. Lefebvre’s framework for a right to the city for democratic participation, creative play and imagination is inextricably linked to the call and demand for the right to the city where “Black Lives Matter.” It is to the history of the construction of East Palo Alto and
to the production of land values embedded in historically contingent, relational constructs of race that I now turn.
Chapter Introduction

East Palo Alto resides at the doorway to Silicon Valley, crossed by the Bayshore Highway 101 on its west side, and bordered at its eastern edge by the southern arc of the San Francisco Bay. (See map, Figure 3.1.) The city’s current economic profile reads as literary foil to the adjacent, tony cities of Palo Alto and Menlo Park where the residents’ median household incomes were $122,532 and $111,244, respectively (2007-2011 U.S. Census). In East Palo Alto, a tiny majority-minority city of 28,867 residents (2012 U.S. Census estimate), the median household income of $50,137 (2007-2011 U.S. Census) was less than half of these other cities. Also, in inverse proportions to its neighbors, the majority of today’s residents in East Palo Alto are renters (2010 U.S. Census).

The founding of the small city of East Palo Alto followed a century after the adjacent cities’ incorporation and was distinguished by East Palo Alto organizers’

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12 “Geography is not the question, where is Kansas? But, why is Kansas, Kansas?” - Ruth Wilson Gilmore (u.d.)
ideological drive for political self-determination on the heels of the civil rights and Black Power movements. Black and Latino organizers called for local authority within a white dominated regional and county politics. More broadly, East Palo Alto’s incorporation into cityhood took place amidst state specific urbanization processes, and within a history triangulated by the California property regimes of settler colonialism, monopoly landholding, and privatization/financialization. Poignantly, the Page Mill housing gamble in the first decade of the 21st century evoked familiar terms of the frontier at the turn of the 20th century: Page Mill investors purchased state regulated property in monopoly fashion couched in racialized notions of discovery, bravery, and even moral duty. Smith’s (1996) theory of urban gentrification as a frontier logic considered such discursive tropes in his explanation of the return of capital to cities following periods of disinvestment. The frontier metaphor conjures an assumption that the people who live in areas targeted for re-investment are unseen, and/or undervalued, legitimating their disciplining, displacement, and outright political and spatial exclusion.

It is in the very early history of California as border and as frontier where the following section begins. The historical overview takes account of how the land area of East Palo Alto that was once sacred Native American burial grounds became sub/urbanized. The discussion also points to the numerous ways East Palo Alto’s social history offers a counterpoint to the well-worn historical narrative of California land use. East Palo Alto arose from a small farmers’ movement in a state of land monopoly. The town became a center of Japanese horticulture in a landscape of anti-Asian, nativist

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13 Constitutive of these relations in California are the multiscalar state policy and institutional apparatuses that regulate, allocate, or enforce those connections, thus assigning and producing land values embedded in historically contingent social constructs. For a view on the enduring forms of settler colonialism, reliant on displacement for land control see Wolfe (1999; 2016).
sentiment. In the post-war era, it developed as a majority-minority suburb and a seat of Black nationalism in contrast to the mythological racialized notion of postwar American suburban ethos and urban pathos. African-American migrants in East Palo Alto confronted containment and practiced emplacement. Further, cityhood became accomplished by the organizing thrust of tenants, not homeowners, contesting the very notion of homeownership as a prerequisite of citizenry. This history provides a context for analyzing the Page Mill monopoly buy-up of East Palo Alto’s rental stock as part of a speculative and racialized assessment of land value, and for understanding the tenants’ organizing response as part of an ongoing struggle for home and land security. The length of historical rendition presented here argues that property regimes necessarily are social productions that entail roads taken and not taken; present relations of a given place both reflect historical conditions and alter conditions for potentially very different futures.

_East Palo Alto’s Early History: Territorializing Space, Re-making Place_

Land grabs and abandonment mark the early history of East Palo Alto from when the Spanish Missionaries first made their way northward from San Diego in 1771, to the fatal detriment of the Ohlone/Costanoan people. Spanish soldiers purportedly left the South Bay area soon after they arrived due to their encounter with an insect infestation in abandoned Ohlone dome huts. The huts in the vicinity of East Palo Alto are now believed to have served as temporary lodging during funeral rites; East Palo Alto’s downtown was an Ohlone burial ground (Baxter, Allen and Hylkema, 2007).
The vast ranch that encompassed much of present day San Mateo County reflected the Spanish soldiers’ account in its name: *Rancho de las Pulgas*, Ranch of the Fleas (Rigenhagen, 1993). The area remained abandoned for nearly a century following Spanish missionary occupation and long after Mexico’s independence from Spain in 1821. Relatively few people lived on the ranch during American occupation, including in 1848 when Mexico relinquished California to the U.S., coincidentally within weeks of the first gold discovery in northern California.

Land monopoly in this “free state” stood apart from the 19th century family farm model prominent in the midwest and New England regions of the U.S. Concentrated land holdings in California resulted in part from a perceived scarcity of water supply and pending Mexican landholder claims. Prospects of gold and capitalization of the Pacific Railroad further resulted in enormous investor purchases of land available in the public domain. The Homestead Act of 1862 only led to widespread disappointment for new settlers and former miners in this state, many of whom scape-goated Chinese immigrants and Mexicans for their mining losses and narrowing land holding opportunities. (Pisani, 1996)

The U.S. had required Mexican landholders in California to submit land deeds for approval. Over 9,000,000 acres of Spanish and Mexican land grant claims were approved between 1852-1856; contested claims took up to 17 years for a decision (Ibid.: 12). In the area where East Palo Alto now stands and its surroundings, the U.S. originally denied the Mexican Arguello family two thirds of the total 12 leagues they claimed of *Rancho de las Pulgas* (U.S. House of Representatives, 1884: 1-5). Notably, the ranch included valuable
access to the Bay watershed in a region that would in short order experience a population surge.

California’s gold rush and the construction of a wharf in the South Bay had brought new settlement to the ranch, and specifically to the area of today’s East Palo Alto. Investor Isaiah Woods created the first planned community there after purchasing 3,500 acres of Rancho de las Pulgas in 1849 with backing by the Adams & Company Bank, where Woods was general manager. Paradoxically, the Arguello family and descendents had to sell off much of the ranch to American investors like Woods to pay for the legal fees involved in their land claims, which went all the way to the U.S. Supreme Court (Rigenhagen, 1993).

Woods was among the 2,298 people who owned more than 1,000 acres of land in California by the 1870s; in addition 122 individuals and companies each owned more than 20,000 acres of farms and ranches throughout the state (Pisani 1996: 87-89). Urbanization in California rose in relationship to land monopoly; ‘49ers without a farming future turned to the cities (Ibid.: 92). As a result, by the turn of the century over half of the California’s population lived in cities (U.S. Census, retrieved March 3, 2013).

Woods envisioned a booming regional transportation hub connection with the Pacific and Atlantic Railroads (San Mateo County, 1963). He named the town “Ravenswood.” East Palo Alto’s transformation from agrarian frontier to urban frontier did not follow a straight course despite Woods’ vision of a boomtown. The gold rush had helped spur urbanization, but elsewhere, the railroad bypassed Ravenswood entirely.

Still, agrarian regions and hamlets such as Ravenswood developed in relationship to demands of the nearby urban population. San Francisco required increased
transportation of the grains and produce harvested from the South Bay. Ravenswood also experienced a temporary increase in economic activity due to the traffic of the passenger steamer “Jenny Lind” that traveled the ports of the peninsula taking people by boat from San Francisco and connecting them to stagecoaches at the Ravenswood wharf for continued transport to the state’s original capital, San Jose. But when the state changed its capital to Sacramento, and new railroad lines made the steamer obsolete, Ravenswood became a virtual ghost town. The wharf became known, as it remains today, as Cooley’s Landing after its second owner who put it back to use for agrarian and, temporarily, brick shipping.\(^\text{14}\) (Ibid.)

Notwithstanding these start-ups, East Palo Alto did not emerge as a growing town until the emergence of California’s “little-landers” movement. The movement was a call of the yeoman farmer in the state of big-business land monopoly. East Palo Alto emerged as a town of small farmers through a large purchase of land subdivided for “utopian” purposes. Rather than reflecting an evolutionary change from agrarian to urban, new settlement in the area presented another path, an experiment in a form of urban agriculture that was made possible by the automobile and farming innovations.

The Weeks’ Utopia: A Modern Vision of A Retreat from Urban Life

The streetscape of present-day central East Palo Alto owes its long and narrow residential block organization to another “pioneer,” Charles Weeks. Originally from Indiana, Weeks became an innovator in California’s small farmers’ movement. He briefly

\(^{14}\) A brick production outfit employing up to 100 mostly Chinese laborers sent 40 million bricks produced between 1874-1884 from clay extracted from Ravenswood (Rigenhagen, 1993)
revived the area after purchasing and subdividing a total of 600 acres of Ravenswood beginning in 1916 (East Palo Alto Historical and Agricultural Society, et. al. 1997). Weeks created what he touted as a utopian poultry colony under the motto “one acre and independence” (Stanford Illustrated Review, 1917).

The one to five acre plots stood in juxtaposition to monopoly agriculture. Weeks’ unique chicken coops allowed for minimal land holding; most members owned just one acre for intensive farming. The colony, named Runnymede, included a cooperative market system, cooperative store, “garden” school and central social hall. The farmers’ cash-only land purchases and cooperative organization promoted an image in the Runnymede advertisements of both individual self-reliance and democratic community (Ibid.).

The poultry colony remained separate from Ravenswood until the neighboring town of Palo Alto threatened to annex parts of both communities; residents came together in opposition spurring the first of a half dozen attempts by the town to incorporate. Runnymede and Ravenswood residents attempted to incorporate in 1925 to thwart the annexation. In a compromise, the two communities came up with a new name: East Palo Alto. However, Palo Alto did not follow through with the threat, and East Palo Alto failed to incorporate due to conflicts between the Ravenswood and Runnymede residents, chiefly concerning the political control of a newly shared school. (Rigenhagen, 1993)

The name East Palo Alto stuck, even if unincorporated, and the town continued to grow into the late 1920s. Residences and business were established around the north area of the town by the military post, Camp Fremont, a training grounds for soldiers during WWI. In 1927, private developers opened the two-lane Dumbarton toll bridge; it was the
first bridge to connect the peninsula to the East Bay. New housing and development grew 
at the foot of the bridge in East Palo Alto. Despite the town’s growing development, 
including East Palo Alto’s first cul de sac, the “Gardens,” and the poultry colony 
continued to distinguish East Palo Alto from the suburban character of the neighboring 
towns of Palo Alto and Menlo Park. It wasn’t until the Great Depression hit at the end of 
the decade when a great many of the small farmers abandoned the area, which finally 
ended the Runnymede experiment. (Ibid.)

Weeks’ social enterprise is an often-recalled chapter in East Palo Alto’s popular 
history. Indeed, the “little land” farmers’ movement influenced East Palo Alto land use 
into the 1950s, with some of the same land plots converted to flower nurseries by 
Japanese and Italian truck farmers. Nearly a century later, several East Palo Alto tenant 
activists endearingly referred to the colony as a kind of socialist collective on which the 
City of East Palo Alto became superimposed. Urban agricultural activists also have 
invoked Weeks to highlight the historical legacy of small farming as an integral 
component for the city’s land use future (East Palo Historical and Agricultural Society, 
et. al. 1997).

Runnymede was an exclusive utopia by race and class, however, and therefore 
stood quite apart from the social justice ideals held by many East Palo Alto activists 
today. So too was the Runnymede motto a far cry from state managed socialism, and 
certainly contrasted with the revolutionary land reforms being played out at the same 
time in the far distant Soviet Union, and much closer Mexican countryside. Instead, 
Weeks’ small-scale colony sought to attract a middle class, the entrepreneurial, urban 
bourgeois. The egalitarian ideals of the intentional community were premised on
existing privilege; membership denoted the status of one’s ability to purposefully
distance oneself from urban industrial life, if after benefitting from it. The colonists were
all European descendents who had cash on hand to invest in the land, housing, coops, and
poultry stock. Europeans descendents continued to be the exclusive landowners in East
Palo Alto when Runnymede’s long poultry tracks were later converted for floricultural
production. (Michelson and Solomonson, 1997)

The fact that East Palo Alto’s agrarian colony was exclusively white despite the
number of Mexicans and Asians in the state and region, particularly people of Chinese
and Japanese ancestry, reflected the racialized spatial and residential exclusions
prominent in developing cities and towns in the western U.S. In the “yellow peril” era,
immigrants of Asian ancestry who remained in California faced organized boycotts,
discrimination, and social exclusion.

In fact, non-white immigrants to the U.S. were not allowed to purchase land in
California, and therefore, by state law they would not have had the opportunity to buy
into the Weeks’ cooperative. Within the U.S., state perpetrated and sanctioned violence,
including Native American genocide and containment, were constitutive of racialization
and disciplining processes that became legal doctrine. Historian Eric Foner pointed out
that "where the social order was least stratified-as in the frontier states [like] California ...
legal discrimination was most severe" (quoted in Brooks 2009: 12). Although vigilante
violence remained a threat to “non-whites” in California, particularly for Mexicans and
Chinese in the early decades of the 1900s, California’s racial disciplining took shape
through juridical and statutory means and specifically through the legal regulation of
where one lived and who could make claim to one’s home or land ownership.
Creating the Landless Foreigner

Anti-Asian sentiment by white workers in California had already grown to hysterical proportions following the Gold Rush and resulted in The Chinese Exclusion Act of 1882. California had entered the union as a free state, espousing the tenets of “free labor” undergirding industrial capitalism’s expansion. Growing anti-Chinese campaigns resulted from competition between workers in the mining, then factory-based, railroad, and port economies. Where Chinese workers previously had labored alongside European and European American miners, the decline in mining signaled a decline in prospects for upward class mobility for whites who had little access to land for small farming. (Ibid.) For European immigrants in California in the late 19th and early 20th century becoming “white” was conjoined to maintaining the foreignness of “non-white” Asian immigrants. Whiteness as construct amounted to a spatialized political voice figuratively and literally.

San Francisco passed one of the country’s first racial residential zoning ordinances against Chinese mobility in 1890 in the wake of the Chinese Exclusion Act (Ibid: 24). In later decades before and during WWI, racial bias in zoning became a common practice. Zoning itself was a policy in urban planning largely new to the 20th century. The 1917 United States Supreme Court decision, Buchanan v. Warley, declared zoning restrictions by race unconstitutional, but the decision only addressed zoning. Instead, racial discrimination in private agreements became a norm, influencing the regional demographics of the Bay area, including the growing towns south of San Francisco, such as Palo Alto, Menlo Park and the hamlet of East Palo Alto.
Although neighboring Palo Alto, to the west of East Palo Alto, never legislated racial exclusion, as several resident committees had threatened (see Chamber of Commerce proposal Palo Alto Times January 15, 1921), the small number of Asians and even smaller number of African Americans lived apart from whites in the early decades of the 20th century. Restrictive covenants prevailed. The covenants were private agreements between residents and realtors to exclude Jews, Catholics, Mexicans, Asians, and Black people from residing in white neighborhoods. The 1913 California Real Estate Law Book provided templates for realtors to copy: “No part of said premises shall be sold, leased, or rented, or suffered to be occupied by as tenants for hire or gratuitously, any persons not of the white or Caucasian race” (Lincoln 1913: 18, cited in Hernandez [2010]; see also Jensen [1969] and Dean [1947]).15 The logic of organizing space by race was reproducible.

U.S. expansionism to the Pacific Ridge, like European imperialism, had fomented and rested on nationalist sentiment aligned with a social-Darwinian discourse that legitimated colonial conquest and exploitation. It was in the wake of WWI and xenophobic foment that two chapters of the Ku Klux Klan formed in Palo Alto, involving hundreds of residents including a handful of members from Stanford University’s faculty. The Klan appealed to white nativist wartime and postwar sentiment in California, and followed the organization of white laborers opposing Asian migration to the state (Bowling, 2012). Stanford University reflected and spurred racialized land use; the university refused antidiscrimination measures for its private land leases in its development of Stanford Hills in Palo Alto (Lowe, 1989: 57). Beginning in this same

15 See also California real estate principles and practices, Schneider (1927).
interwar period, the entire nearby town of Menlo Park chose and adhered to a covenant template declaring that the only “nonwhite” residents permitted to reside in city boundaries were the whites’ domestic servants (Tajiri quoted in Robinson, 2012).

Racial hierarchy was also prominently asserted through property rights in the state’s Alien Land Law, which was first adopted in California in 1913 and revived with greater political support in the state in 1920. The state’s “Alien Land Law” ensured that remaining agricultural holdings in California would be reserved for whites. The law specifically prohibited “aliens ineligible for citizenship” from land purchases. The language thereby still permitted European immigrants to own property since the Naturalization Act of 1790 exclusively deemed white, free immigrants eligible for naturalization. In this way the land laws specifically targeted the growing number of Japanese, many of whom had arrived to California via Hawaii.

Japanese immigrants were viewed as a new source of exploitable labor by ascending white agribusiness following Chinese exclusion (Aoki, 1998). Unlike the wave of Chinese migration that followed the gold rush, Japanese women also immigrated to the U.S., which meant family formation. In time, some second and third generation Japanese American citizens by birthright purchased land individually and collectively for agricultural production. For this, Japanese Americans became increasingly perceived as competition to individual smaller farmers in a context of corporate-controlled monopoly agriculture. Thus, the 1920 version of the California law sought to close loopholes to ensure these marked groups among the foreign-born were not purchasing land through their US citizen children. (Ibid.)

As argued by Aoki (1998), the Alien Land Law contributed to a racist structural
framework that made possible and deemed rational the mass dispossession of Japanese immigrants and Japanese American citizens from the West Coast in WWII. While Executive Order 9066 was created in Washington, D.C., it was produced through, and accepted within, the dominant racial logic reflected in California’s land laws. These laws also structured a concept of citizenry that upheld whites’ property rights and whiteness as status in the polity. Just as Chinese laborers were pushed from the mines when gold became scant, and migration halted based on white labor demands, the land laws ensured that the Japanese would not be permitted to compete with white farmers.

Japanese immigrant floriculturists in East Palo Alto were largely tenant farmers when the U.S. armed forces removed them to the confinements of the Heart Mountain Detention Center in Wyoming in 1942 (Michelson and Solomonson, 1997). The majority of Japanese and Japanese Americans who did return from forced internment to East Palo Alto arrived home to a town on the cusp of dramatic change. They took little time to develop chrysanthemum production in East Palo Alto and served a national market. They accomplished this despite the fact that the California “Alien Land Law” was still in effect. Japanese American second generation families eventually purchased East Palo Alto plots, setting up greenhouses on Runnymede tracks using cooperative labor pools to support the individually owned flower nurseries (Michelson and Solomonson, 1997). The Japanese floriculturists became increasingly successful, until the mid 1950s.

The state’s Supreme Court reversed the Alien Land Law in 1952 on grounds that

16 Mexicans had been repatriated in the 1930s in part as a result of pressure to accommodate the great number of Great Plains migrants that came to California looking for work following the Dust Bowl. The Bracero program of 1942, Aoki (1998) reminds us, later provided a new labor pool of Mexicans to then replace the detained Japanese. Braceros were recruited ostensibly without prospect of union recognition (the NLRB didn’t extend to agricultural laborers), or right to land purchase. They were subsequently deported.
it conflicted with the Fourteenth Amendment. In response, in the mid 1950s the Sequoia Board of Trustees chose to accommodate the creation of a new high school in East Palo Alto by condemning twelve residences and occupying 20 acres of land parcels owned by Japanese and Japanese American growers. They chose this land rather than pursue a proposal for the use of uninhabited parcel owned by the largest landowner in East Palo Alto, the Kavanaugh family. Competition with Europe had become a growing challenge for the Japanese floriculturists, but the growers’ dislocation for the school had immediate and devastating consequence for the local industry. (Lowe, 1989:66)

The “Alien Land Law” of exclusion that had prohibited Asian immigrants from purchasing land, also cohered with the instituted race-based system of both de jure and de facto housing regulation and neighborhood appraisal in U.S. cities. It was in the postwar period following WWII that East Palo Alto, like much of the U.S., also experienced dramatic demographic shifts. East Palo Alto’s population grew exponentially in this period due to Black exodus from the south and inter-city migration from migrants’ first-stop destination Bay area cities, such as San Francisco, Oakland and Richmond. White authority was reinscribed during both the first and second periods of the Great Migration, in contrast to some gains in industrial union integration in the war industries. Massive social dislocation led to policies that shaped land values based on white demands and were carried out via state-licensed realtors, local and federal underwriting guidelines, and exclusionary state subsidies.

_A National Use for the Home: Federal Interventions in Housing_
Whereas East Palo Alto’s development trajectory was directly tied to its local and state political context, it was the federal intervention in the housing market that led to dramatic change in urban and suburban landscapes across the country following the social upheavals of wartime and postwar migrations, and the interwar Great Depression of the 1930s. The New Deal form of federalism, and its local implementation, further configured housing prospects of Black migrants, including those who came to northern California and eventually to East Palo Alto. The New Deal era housing policies followed other examples of federal government intervention in housing, such as in housing development for wartime security in WWI. It was following the Depression, however, that the federal government created a racialized mapping of financial risk in housing that would influence investment strategies then and now at the national scale. An understanding of federal intervention in housing in the first half of the 20th century provides an important backdrop to the post WWII trajectory of East Palo Alto’s urbanization and tenant-led campaign for cityhood by the century’s end.

Throughout the U.S. before the 1930s, concerns over housing siting, density, and conditions were considered and regulated by localities, the latter specifically in relationship to urban social reform movements as well as racialized exclusive covenants. A national market of housing finance took form by WWI that would contribute to the Great Depression, spur massive social protest including the form of eviction blockades, and, ultimately, New Deal housing subsidies and regulation. High labor costs in the construction industry, increased costs of timber, and the de-mechanized nature of the building industry during WWI led to higher housing costs disproportionate to urban
manufacturing wages. Demand for urban housing had rescaled the origins and structuring of home loans from the local to the national market. The mortgage industry ensued.

Housing became a speculative venture during the Great War, reaching far beyond the local bank-borrower. The home loan market shifted from cooperative depositor-based mutual associations known as local “Banking & Loans” to larger national commercial lenders, including large banks and insurance companies. Increased petty capitalist investment in mortgage bonds and the creation of widespread household debt through mortgages soared before and after WWI. In 1913, mortgage interest payments became a write-off in U.S. income tax law, further incentivizing homeownership and household debt (Immergluck, 2010; 2009; 2009a; Radford, 1996).

During WWI, the federal government responded directly to the crisis of housing demand due to its wartime labor implications. Securing the homeland implied securing “home” for the war-industry workers. In 1914 the American Federation of Labor passed a resolution during its national convention advocating for “the passage of laws that will bring about a system of Government loans of money for municipal and private ownership of sanitary housing” (quoted in Radford, 1996: 36). But it wasn’t until the heightened labor turnovers in the defense industry, particularly at shipbuilding centers, that the Labor Department created the United States Housing Corporation (USHC), as well as the Emergency Fleet Corporation (EFC) of the U.S. Shipping Board in 1918. The prompt undertaking of production resulted in over 15,000 units of family housing construction for defense workers, including just under 500 in the Bay Area (Ibid:16).

The EFC and USHC are significant as federal precedent for intervention in meeting housing demand. Frederick Law Olmsted (1919; 1919a) directed the Town
Planning Commission for the USHC and wrote of workers’ exhaustion and frustration from housing conditions, explaining: “No urge of patriotism or high wages could compensate for the overloaded accommodations for individual and family life” (1919:28). Although labor largely considered the response tardy and inadequate, the federal government intervened in housing directly through these programs to the benefit of highly skilled and necessary workers, nearly all white, and also established some limited federal rent control laws until they were found unconstitutional in 1924 (Radford, 1996).

The federal government had a high stake in labor productivity for the war mobilization; for these wartime years the government attempted to regulate labor stability and efficiency in part through the housing question. The real estate industry unsurprisingly held a strong interest in limiting direct federal subsidies and rent control to home occupants. The housing that the federal government controlled and produced was turned over to the private market at the end of the war, thus ensuring federal rent ceilings would not diminish profit opportunities in the private market. The pressure on housing therefore continued following WWI, amidst continued demand that fueled the growth of the mortgage industry. Balloon payment requirements in individual mortgages helped impel what would become the Depression’s foreclosure crisis.

The federal government responded to the mass protest movements of the 1930s with the New Deal, which in the realm of housing effectively bolstered the private market. The response ultimately involved the development of federal public housing contingent on urban renewal. Public housing planners refused the model of federal housing production for specialized workers as was done, albeit temporarily, in WWI. The
federal plans also eschewed the experimental models of mixed income public housing and middle class limited equity coops developed early on by the Public Works Administration. Instead federal public housing subsidies became available only for the very poor, and were, therefore, noncompetitive with the private real estate market. The federal response also refused sustained rent control to temper rent gauging. Instead, the primary federal response to the Depression was to rationalize the private homebuilding and real estate industry’s mortgage practices at the national level.

Franklin Delano Roosevelt’s New Deal government rescued Hoover’s flagship ideology of individual homeownership from the catastrophe of the Great Depression’s foreclosure crisis. FDR’s reforms ultimately demonstrated an insistence on homeownership as a core national value, debt through mortgage as an acceptable and manageable wage supplement, and the promotion of the mortgage market as a viable, profitable industry for those lenders reaching beyond their local depositor market. Federalism in housing involved a slate of scaled compromises, ensuring state and local authority over public housing sitings that would ensure alignment with existing racial segregation patterns. Housing creation of all kinds, in turn, was a boom for the building trades, an immediate jobs-creator spurred by the federal subsidies.

One of the prominently studied applications that came out of the federal response was the Home Owners’ Loan Corporation (HOLC) security mapping, publicized by urban historian Kenneth Jackson (1980; 1985) who came across the maps during his research on suburbanization. HOLC was a much-lauded New Deal federal agency created in 1933 to restructure existing mortgages to avoid foreclosures. HOLC provided direct federal loans to rescue million borrowers that allowed them to avoid foreclosure (Colton,
2002: 2). The agency conducted the massive City Survey Program. HOLC field agents, usually coming from the private realtor and building industry, produced a coded A, B, C, D ranking system of urban land values differentiated and ranked by race for each city. The Residential Security Maps reproduced and systematized the racial homogenization of urban space, neighborhood by neighborhood.

Indeed, within the first three decades of the 20th century, spatial residential segregation by race had become a central standard of the realtor and homebuilding industries at multiple scales. As was noted in the cases of Palo Alto and Menlo Park, restrictive covenants specifically targeting Asians, Mexicans, Blacks, Jews and Catholics were applied at both the neighborhood level and in individual purchase contracts. What made HOLC’s efforts stand apart from the locally distributed materials of the California Association of Real Estate Boards, or even the widely distributed guidelines of racial exclusion promoted by the National Association of Real Estate Boards (NAREB), is that the HOLC Residential Security Maps were produced to serve the national government’s new vested interest in the criteria of local property valuation. The federal government’s interest in the housing market had expanded with the New Deal: the stakeholders now included the U.S. Treasury.

FDR’s New Deal policies had set into action federal mortgage programs that assumed the risk of private lenders. The state’s differentiation of property valuation by race occurred as the federal government guaranteed the private and burgeoning mortgage industry. When debt means gambling on the prospects of return, standards for differentiated risk must be laid. Local and state-based practices of racialized property

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For further reading on enduring implications of the formalization of risk-mapping see Oliver and Shapiro (2006).
valuation became embedded in federal underwriting guidelines as a feature of risk management. In heuristic fashion, the state deemed “non-white” households as risk in order to lift “white” as secure. The two-market system cojoined land and housing valorization of some to devalorization of others by race. Property valuation by the state through race contrasts the Chicago School’s view of an evolutionary, or natural schema, to class, racial and ethnic settlement patterns in industrial cities. The HOLC maps depicted a salient constructed racial hierarchy already operationalized within carefully worded restrictive covenants.

The Federal Housing Administration (FHA) followed HOLC in 1934 as a vehicle to directly insure private mortgages, guaranteeing low risk to private lenders. The 1935 Federal Housing Administration’s underwriting manual pointedly suggested that private deed restrictions do the work of regulating race in residential settlement:

Protection against adverse influences is obtained by the existence and enforcement of proper zoning regulations and appropriate deed restrictions… Important among adverse influences are the following: infiltration of inharmonious racial or nationality groups; the presence of smoke, odors, fog, etc. (FHA Underwriting Manual, 1935: section 309 and section 310 in T-RACES).

White FHA underwriting developers perhaps promulgated language informed by their own property interests. The language casted anyone deemed “nonwhite” as interloper. 18

In suit, FDR’s administration created Fannie Mae in 1938 to launch a government-backed secondary mortgage market to facilitate the circulation of mortgages.

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18 Of course, the FHA could have done the opposite: the federal government could have included anti-discrimination measures in its underwriting manual that made discrimination unlawful, specifically in the case of federally insured mortgages. In structural terms, Black migrant settlement in the post-war period was shaped by job opportunity as well as by racialized residential property relations, including spatial marginalization, resilience and rebellion.
The purpose of Fannie Mae was to assist housing lenders by buying (and reselling) their FHA-insured mortgages. By purchasing and selling the mortgages of private lenders, Fannie Mae provided more funds to private banks to make more home loans. The federal government became the patron of the national housing market. It was within this national housing landscape that Black migrants arrived to California from both rural and urban regions of the U.S. South and from California’s nearby East Bay, especially in the post WWII era.

Black Migration & Agri-suburbia Transformation

The Second Great Migration between 1940-1970 involved 5 million Black migrants from the rural south to northern and western cities (Massey and Denton 1993). During and after WWII Black migrants moved in large numbers to Northern California from Texas, Oklahoma, Louisiana and other southern states for war era industrial jobs such as those in the ports of San Francisco and Oakland. Roosevelt had outlawed racial discrimination in war industrial plants, giving new opportunity to Black workers in factory positions. In addition to prospects of job opportunity, many left the south in search of relief from Jim Crow. The Black migration to California in this period led to the transformation of the agrarian regions in the South Bay to rural suburbia, edge cities, and metropolises (Ruffin II, 2012).

Until the 1940s, majority Black cities were uncommon in the West (Ibid). When the federal Home Owners’ Loan Corporation (HOLC) conducted its confidential City Survey Program of 239 major cities across the U.S. between 1935-1940, Blacks accounted for less than 2% of the populations in the major cities of San Francisco, San
Jose, Oakland and Berkley in the Bay Area (U.S. Census, 1940). Between 1940-1970 Black migration transformed the demographics of these cities, and in some cases suburbia. In the same period, East Palo Alto went from a small community hamlet of about 2,000 in 1940 to a growing suburb of 8,000 in 1950 and 20,250 in 1960, a population increase of over 150% in the latter decade (U.S. Census).

The nation-wide suburban large-scale development that followed WWII was made possible through direct public subsidies backed by FHA and VA mortgage insurance through the low interest zero down payment provisions of the Servicemen's Readjustment Act of 1944 (known as the G.I. Bill). Returning white veterans, in particular, benefitted directly from the federal support. Between 1946 and 1960 the federal government subsidized low interest rates and insured 350,000 new homes in northern California, less than 100 of which went to Blacks (Troy Duster quoted in Loewen, 2005: 128). Realtors and developers promoted homeownership as an extension of U.S. patriotism and war economy, an analogue of the American Dream, and a bedrock and product of the “free market” system (Freund, 2010). Yet, since the New Deal, the private housing market was anything but free of direct state financing and explicit U.S. Treasury guarantees. The racially exclusive American Dream was financed heavily and selectively by the state.

The G.I. Bill helped transform the South Bay region’s housing landscape and broader economy. This was especially true in the vicinity of East Palo Alto. Blue-collar white workers received college opportunity, which served as training for expanding the war industry technologies, including that of semi-conductors. In 1947, Stanford University received a record number of students in the hard sciences due to the popularity
of the G.I. Bill. Silicon Valley visibly emerged in this period due in part to a renewal of private “adventure capital,” now known as “venture capital.” By the early 1960s venture capital involved institutions taking risks on start-up enterprises exploring untested technologies. Technological advances led to increased manufacturing jobs located, at first, in the U.S. In the area of production, Latino and African American women began to take over electronics related assembly-line work in the Valley. In 1964 Romic Chemicals opened an industrial waste facility in East Palo Alto, by then a majority African-American unincorporated town, to handle toxic chemicals used in the semi conductor and other electronics production process.

Joe Eichler, a merchant developer in California, was the exception to racial residential exclusion in suburbia that proved the rule. Eichler publicly declared he would sell to Black buyers. His position stood in direct opposition to the East Coast developer Leavitt, who said via press conference that he would not sell his FHA subsidized suburban housing division properties to Blacks (Brodkin, 1998). Yet, unlike Leavittowns, most of Eichler’s modernist homes were not meant for the working class, but for the rising white-collar workers, including those who made their homes in the emergent Silicon Valley. These homes remained out of reach for all but a small number of Blacks who did not need mortgages. While Eichler refrained from advertising to African Americans specifically, he stood by his word, offering to pay white neighbors to move out if they did not want to live near African-American home buyers (Eichler, 1982).

Eichler’s example did not initiate an integrationist movement among other merchant developers or purchasers. Still open housing gained traction as an issue of concern for white liberals in California’s Central Valley, including Palo Alto, where a
group of Eichler-inspired residents formed the Palo Alto Committee for Open Housing. In 1958, the organization of white liberals listed housing available and published letters in the *Palo Alto Times* encouraging non-discrimination in housing (Lowe, 1989:56). However, by this time much of the interest by African Americans in the region’s housing stock focused on the available housing in the far more affordable town of East Palo Alto.

Blockbusting was spurred by a deliberate attempt by Blacks in the region to resolve the “housing problem.” Many availed themselves of the chance to live outside the overcrowded urban ghettos of Oakland and San Francisco. The more affordable housing stock of East Palo Alto included “post-revival” bungalow and suburban track housing with spacious lawns. African Americans in the region of East Palo Alto were virtually exclusively segregated to just a few blocks in the area of Ramona Street in Palo Alto, and to a small neighborhood of Redwood City. East Palo Alto was selected as a potential site for African Americans to purchase homes by a precursor organizations of the South Mateo County National Association for the Advancement of Colored People (NAACP) and the Council for Civic Unity of Redwood City (Lowe, 1989:49). Several African-American families used white stand-ins through the efforts of this interracial organization to acquire their homes in East Palo Alto (Ibid).

Blockbusting eventually changed the face of East Palo Alto through racialized panic spurred by realtors. This was recounted in Stanford University’s Committee on the Black Performing Arts oral history project and documentary film, *Dreams of the City*; the archives include 80 hours of interviews with some of the East Palo Alto’s oldest Black and Latino founders. African-American resident Barbara Mouton explained the relationship between redlining and blockbusting:
We had a realtor who showed us all around Menlo Park and Palo Alto and there were several places we really liked. Next day, she came back very tearful and she said she was instructed that she could not show us houses in any place but East Palo Alto. (*Dreams of a City*, [1988] 1996)

It was also noted in other accounts by Black purchasers that realtors largely collaborated in determining where Blacks would settle for the realtors’ own tremendous profits (Ibid).

Ed Becks was an African-American veteran who came to California in 1942 after serving in Germany. He explained that he looked to the suburbs for better housing in the mid-1950s, which is how he landed in East Palo Alto: “They [realtors] brought busloads of Black people from San Francisco and drove up and down the streets, saying these are houses that you could buy, but also as a way of threatening the white people who were already there” (Ibid; see also Becks in U.S. Commission for Civil Rights, 1967). Houses owned by whites were sold in the late 1950s to realtors for 8K who then sold the homes to Blacks for an exorbitant 12K, explained Becks. Realtors would go house to house convincing white homeowners that their property values would further plummet if they did not sell. This in turn back-fired at times for realtors’ profiteering. In the South Bay, for example, after realtors spurred panic white homeowners often became their own brokers by competing to sell their homes directly to Black buyers at lower prices (Ruffin, u.p. dissertation 2007: 276)

East Palo Alto was enticing for its climate, Bay watershed beauty, comparatively affordable housing, and access to jobs available outside the larger shipping and production centers of San Francisco, Oakland, and Richmond. Adjacent to the Bayshore 101, and at the doorstep of burgeoning Silicon Valley, East Palo Alto for one provided entry to domestic jobs servicing nearby towns of affluent whites. East Palo Alto Blacks
also gained some access to industrial positions such as the Ford Plant that opened in 1955 in the South Bay town of Milipitas for those residents with their own or shared transportation (Ruffin, 2014). By the early 1960s electronics processing also provided industrial jobs within and surrounding East Palo Alto.

Not everyone moved to East Palo Alto to purchase housing, however. Absentee white landlords maintained properties that were available to newcomers as rental units. These landlords also maintained political power in East Palo Alto despite shifting residential demographics, and they used their power to thwart Black residents’ incorporation attempts. The dominant political rhetoric in California was steeped in the prerogatives of property owners as exemplified by Proposition 14, discussed in the next section. Proposition 14 was a racially coded referendum for racial exclusion in rental housing, specifically.

The Racist Design of “Fair” Housing

In the 1960s civil rights era local organizing throughout California focused on the questions of fair employment and segregation in housing and education. From New York, Baltimore, St. Louis, to Los Angeles organizing among public housing as well as private market renters put working class housing concerns back on the national agenda for the first time since the end of WWII and with militancy reminiscent of the organizing thrust of the 1930s. Much of the concerns were expressed in terms of discrimination and segregation as contributing factors of slum conditions; local efforts gravitated towards a broader federal civil rights policy change for open housing.

Housing was a touchstone civil rights issue in California and led to several
statewide initiatives.\textsuperscript{19} These California-based measures in housing helped to pave the way to federal civil rights legislation in housing in 1968. A decade after the U.S. Supreme Court decision \textit{Shelley v. Kramer} outlawed restrictive covenants in 1948, the Unruh Civil Rights Act, named after then-California state assembly member Jesse Unruh, prohibited discrimination based on race or disability by businesses. Moreover, in 1963, after heavy organizing by groups such as the NAACP, and in the wake of the Unruh fair employment gains, as well as an even earlier state school desegregation ruling, the California legislature passed the California Fair Housing Act, known as the Rumford Act (“Fair Employment and Housing Act [Rumford Act],” Gov. Code § 12955, et seq.).

The Rumford Act, supported by the governor, sought to uphold the Fourteenth Amendment and end discrimination in the sale and rental of housing. Republicans in the state legislature ensured that the vast number of private housing units would remain excluded from the bill, however. The Rumford Act’s groundbreaking antidiscrimination measures instead covered multifamily housing of five or more units and public housing, only.

Even these incremental victories came with a backlash, however. For one, California’s restrictive covenants, redlining, and blockbusting practices continued. The Rumford legislation also rallied realtors to respond to the new state antidiscrimination mandate by organizing the 1964 campaign for Proposition 14.\textsuperscript{20} The state proposition would presumably take measure of popular sentiment around civil rights interventions in

\textsuperscript{19} California propositions to curtail the state’s own civil rights gains may have reflected resistance to a changing electoral schemata. This is an area for further inquiry and investigation. This is essentially an empirical question as to whether and how white power was harnessed through proposition campaigns to bypass decisions of their elected leaders who were voted into office through changing racial urban district boundaries.

\textsuperscript{20} Note: Archive of regional anti-Prop 14 campaign materials at Graduate Theological Seminary, Berkeley California.
housing in an area of the country viewed as far more “tolerant” of antidiscrimination change than the Jim Crow south. For this reason, Californians’ vote on Proposition 14 came to be seen as a litmus test for the national sentiment for fair housing.

The referendum asserted a right of property owners to exclude an individual for any reason:

Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses. (Art. I, § 26, of the California Constitution, 1965)

Rather than explicitly tie the referendum language to race restrictions, the wording carefully framed the issue to say that the consumer housing market could not be regulated by state intervention, despite the fact that bank underwriting manuals certainly did so based on state-sanctioned racialized risk taking. Instead, the language focused on the individual property owner, much like the work of restrictive covenants. It was a “right” of the property owner to sell or rent at the owner’s discretion. The language obfuscated the intent. On the one hand, such language might have been written in oppositional response to municipal-backed restrictive covenants; on the other hand, the right to not discriminate included the right to discriminate. Yet, there was no right to not be discriminated against on the basis of race. The referendum was a carefully worded rejoinder to the state’s mandate that one must not discriminate.

Proposition 14 was named “California Fair Housing Initiative,” in cooptation of civil rights language. The rhetoric deployed in support of the bill re-framed the issue as fairness to property owners. Casting the “American Dream” as property rights,
proponents argued that the individual interests of the current property owner trump the rights of any individual to purchase or rent. The owner, not just the consumer, could invoke “choice” as part of the free market. Moreover, rather than circulate housing exclusion as an issue of race, backers of Proposition 14 articulated the issue as a question of a property owner’s right to use one’s own moral judgment in determining who deserved a home, and where.

The campaign rhetoric and images of this notion of “morality” focused on the right to choose someone based on virtuous behavior, a trope for the racialized “culture of poverty” discourse that would gain traction following Moynihan’s (in)famous report, “The Negro Family: The Case for National Action” (March, 1965). Supporters of California’s Proposition 14 used images that depicted Blacks as impoverished and that connoted behaviors of family dysfunction, as criminal and pathological compared to depictions of middle-class righteousness of white suburban families (Theoharis, 2006: 48). Since, according to Proposition 14, it was the individual property owner’s decision to decide whether the consumer met the owner’s standards of moral virtue, the justification for housing exclusion was reframed from an explicit emphasis on race to an explicit emphasis on character. Such merit by deserving status in this example was a harbinger to contemporary neoliberal discourse of meritocracy that masks the social relations of race and racism. Racial design, however implicit, has intended and real consequences of reproducing racial hierarchy.

Proposition 14 won. There were nearly 500,000 more signatures collected than necessary for the initial petition to allow for the Proposition 14 referendum, portending an uphill battle for the Rumford defenders. Organizers against Proposition 14 turned to a
strategy that relied on church networks, CORE, and other civil rights groups, national press, and voter mobilization (Ibid). Mid-Peninsula Citizens against Proposition 14, reported in the left-leaning Black newspaper, The Crisis, that NAACP members of the Santa Clara and San Mateo region responded with a drive that registered 1,000 new voters (1964). Despite the coalescence of Black protest movement organizing against Proposition 14, and national attention, the measure passed two to one; 75% of all white voters supported it (Theoharis 2006).

The federal government was quick to take notice of the Rumford undercut. U.S. Attorney General Nicholas Katzenbach recommended to President Johnson to pursue federal legislation around housing, as many were linking Proposition 14 to the Watts rebellion in Los Angeles in 1965. “The housing issue, as indicated by the vote on Proposition 14 in California last year, may well be the most controversial and explosive of all civil rights issues” (quoted in Pritchett, 2010: 287). California lost at least $22 million in federal redevelopment funding immediately following Proposition 14’s passage due to noncompliance with federal antidiscrimination provisions included in urban public infrastructure programs, ironically to the detriment of urban areas and of immediate consequence to Black communities (Ibid).

In 1966 the California State Supreme Court ruled Proposition 14 as unconstitutional, and in 1967 the U.S. Supreme Court affirmed the decision citing that the proposition undermined the Fourteenth Amendment. The latter decision created a national precedent against state enactment of legislation that would circumvent or undermine federal anti-discrimination law. Local authority could not allow discrimination where federal legislation prohibited such practices.
Residents of East Palo Alto had little political voice compared with neighboring towns. Unincorporated East Palo Alto relied on the county, San Mateo, for its infrastructure support. Miriam Turner was a white woman who was initially attracted to East Palo Alto for its affordable housing stock and ample yards. Turner worked with white and Black residents alike to stop panic buying and eventually spearheaded an interracial alliance that brought residents together in an effort to take control of their community through incorporation in 1958 (Dreams of A City 1996). The incorporation attempt called it the “City of Ravenswood,” of approximately 12 sq. miles, harkening back to its original name. Large property owners led the opposition to incorporation, fearing higher taxes. At that time, petitioners had to represent a proportion of propertied-residents, thus tying formal political participation in cityhood to land holdings. (Rigenhagen, 1993)

The consequences of failing to incorporate would be devastating for the future tax base of East Palo Alto, including a total loss of 10 of its 12.5 sq. miles to annexation before eventual incorporation 25 years later. Menlo Park took advantage of East Palo Alto’s lack of political status, gaining 25% of the East Palo Alto’s land area, including an entire industrial park, through annexation, into the 1960s. By the end of the decade, Leslie Salt, South Pacific Railroad, Hiller Aircraft, Ideal Cement, and the Bohannon Industrial Park, which included Johnson and Johnson, Sierra Electronics, Upjohn and Zenith, all transferred to Menlo Park out of East Palo Alto’s unincorporated district,

Moreover, East Palo Alto’s small business district had been devastated in the mid-1950s. The business district grew as a product of the town’s status as the “other side” of the tracks of tony Palo Alto. This was due in part to the alcohol prohibitions of Stanford University and its surrounding no-liquor zones. Rowdiness would become exported from Palo Alto to East Palo Alto to maintain the illusion of superior moral conduct in the university town, while residents and students went to booze in the west side section of East Palo Alto that had gained the name Whiskey Gulch during Prohibition. In 1956 the four-lane expansion of the Bayshore Highway cut through Whiskey Gulch. The urban renewal project cleared the business community and what would be a tax base for an incorporated East Palo Alto (Palo Alto Times, January 11, 1956; Sedway and Cooke, 1970). The Bayshore Freeway appropriation of what had been downtown East Palo Alto underscored the town’s lack of voice in decision making in their city and within the San Mateo County Supervisors.

“We are Nairobi”: Black Power to City Power

In East Palo Alto, African Americans had gained access to comparatively quality housing. In an ideological and tactical turn, many Black activists in East Palo Alto by the late 1960s shifted their focus from the issue of blockbusting and fair housing to the
questions of who controlled the land as well as the decision making of local institutions. Indeed, by the late 1960s, East Palo Alto had become a nationally recognized site of Black community organization, attracting African-American residents through not only low cost housing opportunity, but also through the nationally acclaimed self-organization of its own educational system, which included the founding of its own university.

East Palo Alto’s model community institutions stood as counter to the racist and misogynist logic of the “culture of poverty” rhetoric voiced by the Proposition 14 campaign that attempted to undermine fair rental housing (see description, Chapter 4). Still, East Palo Alto was viewed as a ghetto suburb within a regional politics dominated by white affluence. East Palo Alto community institutions were shaped by the contradictions of the city’s Black majority status yet lack of formal municipal governing authority. East Palo Alto residents were propelled to assert community control and develop their own institutions as pragmatic, ideological, and tactical endeavors undergirded by a politics of self-determination.

In the early 1960s the East Palo Alto Committee of the Poor organized through a civil rights framework primarily against segregation and specifically around the intersecting issues of education, police repression, and jobs. Regional civil rights organizations such NAACP and CORE chapters led protests resulting in important local victories, especially an early victory that involved the hiring of African Americans in East Palo Alto supermarket chains (San Jose Mercury News, 1963). The thrust of East Palo Alto local civil rights organizing largely focused on educational opportunity, however, within two seemingly divergent arenas of organizing: school integration and alternative and autonomous institution building.
Mothers for Equal Education involved approximately 250 women in East Palo Alto in the mid-1960s largely concerned with regional educational equity in light of the increasingly Black public school district in East Palo Alto. Dissatisfied with racialized low expectations in East Palo Alto public schools, compared with the nearby well-resourced and predominantly white districts, Black activists linked with white families in a “sneak out” effort. A hundred Black students resided with white families and attended their schools (interview 2012).

At a pivotal moment in the education organizing, the Student Nonviolent Coordinating Committee (SNCC) leader Stokely Charmichael came to East Palo Alto to discuss the local activists’ efforts. Charmichael would soon become an honorary prime minister of the Black Panther Party. He was recalled for his strong and growing critique of integrationist strategies, and for greatly influencing the East Palo Alto activists’ next course of action, saying at the meeting, “I don’t understand why you would be working this hard to send your children’s minds to be educated by people who have oppressed you for four hundred years” (quoted in Biondi 2012: 221). This political intervention coincided with the growing burden carried by Black students in the “sneak out” program who were exasperated by harassment, violence, and extreme alienation in the white communities. Indeed, the relentless abuse and taunting in the white schools ultimately compelled the leaders to reconsider their effort (Slater, 1971).

East Palo Alto’s organizers ultimately helped shaped, and were shaped by, the principles of self-reliance espoused by the Bay Area Black Panther Party. East Palo Alto became the seat of the San Mateo County Black Action Coalition where future Black Panthers Huey Newton and Bobby Seale received training out of East Palo Alto’s St.
National Black Action Conferences were held in East Palo Alto for three consecutive years in 1967, 1968, and 1969 using an elementary school gymnasium. Later, in the early 1970s, militancy by students and residents grew in East Palo Alto, in part around local organizing momentum for the desegregation of Ravenswood High School. East Palo Alto also gained further national attention as a seat of militant mobilization and protest against the jailing of Black Panther leader Angela Davis held at the time in next-door Palo Alto (Aptheker, 1999: 96).

The agenda of community-service and community-control dominated the East Palo Alto organizing influenced by the Black Panthers. Gertrude Wilks, the central leader of Mothers for Equal Education had come to the Bay area from Louisiana where she had been raised in a sharecropper family (Rickford, 2009). Wilks turned from leading the “sneak outs” to develop model schools in East Palo Alto centered on Black pride through community-controlled education. She began Nairobi Day Schools in 1966, which by 1968 included an accredited private elementary school program and then a high school serving 80 students. The first principal of the Nairobi High School was George Mason Murray. Murray served as minister of education in the Black Panthers and had been fired from the English department at San Francisco State College, an act that incited a five month student strike led by the Black Student Union and Third World Liberation Front (San Francisco Strike Daily, 1968; Biondi, 2012: 222).

The Black-centered movement that was rooted in pride, self-determination, and autonomy also led to a referendum to change the name of East Palo Alto to Nairobi in 1968. The name change idea sparked a campaign that grew out of a planning meeting for

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21 See also Ralph J. Bunche Orals History Collection, Wilks Interview Transcript Box RJB 461, p. 95
an application to the federal Model City program (Rickford u.p. dissertation, 2009: 139; San Mateo County, 1968). According to one analysis, the higher voting age of 21 was the main factor that led to its marginal defeat; if 18 had been the voting age, East Palo Alto would indeed be known today as Nairobi (Wildflowers, 2013).

Strongly influenced by the grassroots organizing espoused by SNCC, Stanford student Robert Hoover established a separate endeavor, Nairobi College, in East Palo Alto in 1969 (Biondi, 2012: 222). Hoover was a member of an activist cadre of families in East Palo Alto who called themselves the “Floating Crap Gang” meeting in each other’s homes to mediate street gang issues (Rickford u.p. dissertation, 2009: 138). He assembled a multiracial coordinating group to launch Nairobi College after first helping to establish Nairobi Day school and after serving as a college readiness program director at the College of San Mateo near San Francisco, from which he had been fired for his political militancy (Ibid.: 274-277).

Although Nairobi College leveraged Stanford University library access for its students, its designated campus was East Palo Alto. “We think that our primary job is to train leaders for the Black community,” explained Hoover in an interview for Ebony Magazine (Slater, 1971:89). Nairobi College was a two-year college that had an enrollment of 300 students in 1971. The college served as a national laboratory and training ground in democratic control, and was considered a living example of student decision making over hiring and curriculum within a climate of protest and crisis. Nairobi College gained national attention as campus activism nationwide demanded Black inclusion and protested the Vietnam War (Egerton, 1972).

While alternative educational institutions in other cities came and left, Nairobi
College outlasted most, with a ten year run. One explanation for its comparative success, and its downfall, lies in its reliance on outside funding. The college was based on radical democracy and Black self-determination, but was imbued with the contradictions of support from private capital as well as federal grants (Rickford u.p. dissertation 2009: 274-277).

As part of the community thrust for autonomy and control, Black activists from East Palo Alto also demanded voice in the white dominated regional polity. In 1967, the county responded to residents’ demands for representation by creating an advisory committee, the East Palo Alto Municipal Council. Each representative on the committee was elected by vote and the county board generally followed the Council’s recommendations (Rigenhagen, 1993; East Palo Alto Municipal Council, 1973).

In his 1969 address to a western regional government conference, Herbert Rhodes, elected Chairperson of the East Palo Alto Municipal Council (EPMC), promoted the council as a vehicle of participatory democracy but warned against the potential containment of the political involvement of East Palo Alto residents. “As I see it participatory democracy must not serve to limit the horizons for the fields of action for the citizens it is supposed to serve. A political ghetto is no more acceptable than a physical or a social ghetto…” (1969:6). Rhodes suggested in this statement that the EPMC should not bureaucratize and co-opt political organizing through the council structure, but rather help catalyze grassroots political participation from local to the regional and larger scales.

Rhodes’ statements acknowledged the role of East Palo Alto as a political project within larger regional and national politics. What was considered an “experiment” for the
board in minority self-rule, albeit advisory, eventually spurred greater interest in incorporation. As Ed Becks, one of the first Black migrants to East Palo Alto and a mainstay leader in the movement for incorporation, explained, “People have to govern themselves. No matter how poorly they do it, no matter how brilliantly they do it, self-governance has to ultimately be achieved” (Dreams of a City, 1996). An independent group, the East Palo Alto Citizen’s Committee launched incorporation planning in 1979. The quest for incorporation went hand in hand with the drive for controlling East Palo Alto’s land use, and for regulating increasing rents.

It wouldn’t be until 1983 that East Palo Alto would win the vote for incorporation through the political organization of Black and Latino activists and tenants. In the years following white flight from East Palo Alto, Black residents organized to transform the town from a product of redlining and blockbusting, or containment, to a place for making, claiming and controlling their “right to place,” (Samara, 2014) despite tremendous obstacles presented by the city’s weak economic foundation. The eventual “movement” for cityhood leveraged the sustained organizing that grew from the early 1960s work such as the work of white and Black residents who marched together against “ghettoization” and for open housing in East Palo Alto in 1963. Several of these same leaders were among those who inserted their voices in county politics and planned for incorporation within a coalition of Black and Latino leadership in the decades that followed.

Rent Control Goes Local

In cities throughout the U.S. tenants had mobilized around antidiscrimination
actions, disinvestment in public housing in the 1970s, and dislocation by urban renewal as “negro removal.” A wave of tenant organizing in California was set in motion in response to worsening economic conditions and a political opportunity created by a referendum supported by a faction of developers. Rent control became a tool of local housing security during a time of rising national job insecurity. Notably, rent control in California followed in the footsteps of examples in New York City. Moreover, Nixon’s Cost of Living Council at the federal level opened up the possibility of rent control at the local level. Nixon temporarily established federal rent control and froze wages for 90 days beginning in the summer of 1971 in an attempt to curb inflation.22

Renters faced a tightening housing market in the 1970s and increasing nominal rents due to inflation partly based on the energy crisis. Pressure on renters was also directly due to a decrease in multifamily housing production and an exponential increase in numbers of condominium conversion. Between 1970-1980 in East Palo Alto, and across the region, the vacancy rate decreased during this time despite a modest increase of construction, mostly condominiums (Community Plan, 1981). Consistent with the decade’s trend of condominium conversion across the country, 5% of East Palo Alto’s rental units were repurposed as condominiums during the early 1970s (Day and Fogel, 1981, Urban Law Annual Vol. 21:3:p. 4). In the 1970s alone, the number of condominiums across the country grew from 85,000 in 1970 to 723,000 in 1979, more than half of which came into being through conversion of rental units (Ibid.:3,11 n. 29).

After a decade of rising condominium conversions, jurisdictions across the U.S.

began to regulate condominium registration. This regulation set a precedent and window for local authority to review and regulate housing affordability. For example, in San Mateo County, approved condominium developments required a 20% set-aside agreement with affordability measures for low and moderate-income housing ownership.

Yet, these set asides generally reflected the politics of racial and class containment: set asides applied to the unincorporated areas of the county only. Ultimately, even these set asides were made available at market rate and the moderately affordable rental units were permanently lost because lower income residents could not afford to purchase at the mortgage terms of that period at 15.5% (interest rate on April 20, 1981) (Community Plan, 1981: 3-11). By 1980 San Mateo County enacted a temporary moratorium against condominium conversion in unincorporated areas of the county only due to the tightening housing demand on rental housing. Although the vacancy rate in East Palo Alto (4.4% in 1980) was higher than the county’s average (1.3% in 1980), the incorporated areas of the county, such as the affluent and overwhelmingly white city of Menlo Park, did not seek affordability provisions or a moratorium on condominium conversion (East Palo Alto Community Plan, 1981: 3-1). Renter households would simply need to look elsewhere, namely East Palo Alto.

| Table 3.2: East Palo Alto Housing Costs and Median Income, 1970 and 1979, Source: San Mateo County Planning and Development Division, Community Plan, 1981 |
|---------------------------------|---------|---------|
| Median Home Value               | 1970    | 1979    |
| $18,000                         | $46,000 |
| Median Rent                     | $147    | $280    |
| Median Income                   | $9,401  | $17,623 |

Table 3.2 demonstrates the challenge of income and home ownership in East Palo Alto during this period. Based on affordability guidelines, the gross median income was insufficient for those households to purchase at the
median home price assuming purchase price at no more than 2.5 times one’s annual income (Ibid.: 3-11). Yet, the median rent compared to median income did reflect affordability at one-fifth the median income, assuming one-third of monthly income affordability measure. Rental rates were increasing dramatically and by approximately 41.5% in just one year between 1978-1979 (Ibid: 3-12).

The East Palo Alto Community Plan of 1981 underscored the housing crisis for the unincorporated town. Although several recommendations were made calling for rehabilitation subsidies for homeowners, and an anti-speculation real estate transfer tax, rent control was discouraged citing widely publicized assumptions that rent regulations reduce quantity and quality of housing.23

In departure from past mandates resulting in wartime freezes, New Deal federalism and the civil rights national legislative victories, in the mid-1970s tenants organizing for rent regulation in California mobilized their local bases of power for policy change directed at the local level of the city. Statewide efforts had lost and despite examples of economic controls by Nixon, there was no traction for an ongoing national rent control policy. In fact, a 1976 California state legislative proposal (AB788) would have pre-empted localities from initiating rent-control if it had not been vetoed by Jerry Brown, purportedly based on direct push-back from the state AFL-CIO president at the

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23 For a summary of major research findings from studies for and against rent control conducted in the 1970s and 1980s, see Appelbaum, Dolny, Dreier, and Gilderbloom (1991; 1992) “Scapegoating Rent Control, Masking the Causes of Homelessness,” Briefing Paper. Economic Policy Institute. Washington, D.C. A primary reason against rent control cited in the East Palo Alto Community Plan (1981) was landlord disincentive to keep up maintenance based on the rental price controls. However, numerous studies have demonstrated that there was no correlation between rent control and deterioration as concluded by Applebaum, et. al. (1991; 1992) review of the literature. In fact, neighborhoods and cities with rent controlled units were less likely to have deferred maintenance due to stronger municipal or state monitoring and enforcement provisions for the services for those units (Applebaum and Gilderbloom, 1988: 134-140; Gilderbloom and Markham, 1996).
time, Jack Henning (Dreier, 1997:17). A similar but more moderate proposal had become policy in New York State where the Urstadt law in 1971 prohibited municipalities from adapting new rent regulation more stringent than existing regulation in that state. The defeat in California of the more restrictive measure, however, gave new confidence to emergent tenant organizing efforts around the prospect for local initiatives. Subsequent to the governor’s greenlight to pursue local rent control initiatives, tenants leveraged the state referendum Proposition 13 passed in 1978 to demand rent control. The right-wing developer-backed Proposition 13 provided a new opening.

Proposition 13 was a change in the California constitution to provide tax relief to property owners. Considered nearly forty years later as a major obstacle to California’s economic stability, Proposition 13 set out to reduce property taxes by assessing property values at the 1975 value, with the maximum increase in value not to exceed 2% per year. The tax reduction benefitted existing homeowners as the property tax would be reassessed only upon resale. In a sense, Proposition 13 was “tax control” for property owners. The loophole of decontrol, or reassessment of the property taxes, was built into resale, or vacancy. This decontrol provision was a harbinger of state restrictions on rent control decades later.

The freeze on property taxes was sold to Californians as not only a means to keep people in their homes, especially seniors on fixed incomes, but also as a way to reduce landlord costs, and thus abate rents. At first, the campaign to convince tenants that rent hikes were about tax burdens was effective. Proposition 13’s leader, Howard Jarvis, chief executive of the Apartment Association of Los Angeles County, had orchestrated a media campaign to that effect (Dreier, 1997: 17). However, when property owners began to reap
the impact of the tax reduction benefits, there were no signs that they would share the benefits with their tenants. Increasing economic burdens, rising expectations, false promises, the political affirmation of local rental regulation initiative, and a radical vision by the City of Berkeley for tenant rent relief helped thrust tenants in more than a dozen other California cities into responsive action.

At that time, Berkeley renters were the most organized in the state (Ibid). The city first attempted to implement tight rent control in 1972, which was struck down on procedural grounds in a California Supreme Court decision in 1976. By 1978, Proposition 13 altered the landscape, however. Framed as an issue of housing affordability, Proposition 13 created a political opportunity organized tenants seized. In 1978, Berkeley’s successful ordinance, Measure J, deemed that 80% of the Proposition 13 tax relief would go directly to tenants. In suit, by 1985, 14 California cities used the justification of Proposition 13 to win some form of local policy for rent control, in addition to the 100 California cities that won mobile home rent control policies.

The call for rent control by East Palo Alto residents created both bridge and boundary between Latino activists and established African-American leaders, some of the latter of whom were homeowners and viewed renter questions as an increasingly otherized, Hispanic issue (personal communication, January 7, 2013). The East Palo Alto incorporation effort that finally led to cityhood in 1983 created both coalition and controversy among established activists in East Palo Alto. The incorporation “movement” involved a Black and Latino coalition of activists whose local political expertise and leadership had grown from their organizing experience over the preceding decades.
Education organizing had already included examples of Black and Latino coalition-building throughout the region, including the establishment of Nairobi College as at first a multiracial endeavor, and its spin-off sister project, the Hispanic-based \textit{Venceremos} College in nearby Redwood City. But it was not until the late 1970s that the Latino population grew in East Palo Alto with increasing visibility, from 5\% in 1978 to 14\% in 1980 (Rigenhagen, 1993; 24-25). As several commentators on the East Palo Alto’s incorporation efforts observed, the African-American and Latino composition of the organizing work for cityhood ultimately contributed a “unifying” identity within the increasingly diverse working class (Batchelder, 1994). Yet the call for incorporation, which would involve municipal service authority and include formal representation of East Palo Alto in the regional political structure, did not receive the support of all of those who had earlier organized around community control.

An era of demographic change was punctuated by the ongoing segregation dilemmas of Ravenswood High School, long a focal point of organizing in East Palo Alto. The 1976 closing of Ravenswood High was in retrospect considered by many activists there a loss of a pillar social and geographic institution for East Palo Alto’s diverse majority-minority community formation, as well as a specific loss of an African-American cultural institution (Lowe, 1989; \textit{Dreams of A City}, [1988] 1996; Moraga, 2002).\textsuperscript{24} The confluence and complexity of the loss of Ravenswood High School,

\textsuperscript{24} The closing resulted from a series of desegregation agreements reached beginning in 1971. Many Japanese, Filipino, and Samoan students were the first who voluntarily left East Palo Alto’s Ravenswood High School as part of the first agreement, an opt-out transfer plan. That same year, an opt-in transfer effort led to the bussing of volunteer white students from surrounding white districts to East Palo Alto. The inter-district integration experiment was short lived, and the loss of white student volunteer enrollment finally led to the closing of Ravenswood in 1976, more than two decades after Brown v. Board of Education. The majority African-American Ravenswood student population merged with an existing school outside East Palo Alto that had largely served the Hispanic student population of east Menlo Park.
changing demographics, the repression of the Black Freedom Movement, ideological splits, and the 1970s recession further added challenges to the organizing among established activist leaders in East Palo Alto.

Notably, the cityhood coalition faced strong opposition from the Nairobi Day School founder Gertrude Wilks who became an influential and outspoken voice against incorporation. The axis against incorporation was framed along homeowner and landlord interests versus tenant “newcomers.” Wilks formed the United Homeowners of East Palo Alto to protest incorporation. She argued that property owners would bare the burden of resourcing the new city given an insufficient commercial tax base in East Palo Alto. Alongside Wilks, absentee landlords were among the strongest opponents of the incorporation effort. This was unsurprising given that the incorporation movement raised “rent control” as a central tenet of its platform. The organization United Homeowners of EPA also firmly opposed rent control (Kenrick, 1996).  

The opposition was organized. Tri-County Apartment Owners Association raised $150,000 for anti-incorporation opposition by implementing an apartment tax on its entire membership (Batchelder, 1994: 36). Whereas the San Mateo Board of Supervisors stated they would call for the needed referendum vote, the incorporation advocates had to present sufficient petitions to meet the requirements of the Local Agency Formation Commission (LAFCO): petitioners representing 25% of registered voters, or 25% of the landholders representing 25% of the assessed valuation of the land.

The Woodland Association of Residential Property Owners formed among residents of the Westside bordered by the Bayshore expressway in East Palo Alto. This

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25 For extensive media excerpts and primary source analysis, see San Mercury News and Palo Alto Tribune and Calisphere collection.
was an area with the greatest number of rental units. This association of landlords supported East Palo Alto’s annexation to Menlo Park and also organized against incorporation. A 1981 consultant report to LAFCO on the issue of incorporation considered the options of incorporation versus annexation to Menlo Park, or the status quo. The report concluded that incorporation would bring no significant burden to the new city, which the report claimed would “break-even” from its separation from most county services (Macdonald, 1981).

The campaign claimed that the consultants’ report showed that the opposition to incorporation was political rather than based on the city’s financial forecast. Support for incorporation had grown from an amalgamation of issues: the burdens of multiple service fees based on special San Mateo County districts, a quest for majority-minority control over local development decisions, and the recognition of the potential of local government to allow for policy changes such as rent control. By all accounts, rent control was the signature banner of the incorporation campaign (Batchelder, 1994). One EPA tenant explained that the issue of rent control galvanized him into support for the incorporation campaign based on a simple phone call:

The woman asked, ‘Did you know that should the vote for incorporation pass, the first decision of the newly empowered city council will be to freeze rent and initiate the process to rent control?’ In one split nano-second I became a convert to incorporation. Mind you, I knew nothing about rent control except for the fact that it was something that happened in NYC. (personal communication, June 8, 2012)

The tenant described himself as a “victimized renter” at the time, and said he would not have supported incorporation due to the tax-base insufficiencies if not for the rent control component.
The tax-based insufficiencies would become of increased concern as federal disinvestment from cities persisted nationwide. Moreover, given the property tax restrictions of Proposition 13, in the early 1990s California’s state legislature would mandate property-tax revenue to provide a revenue stream directly to the state that would prevent collection by municipalities. Localities became increasingly reliant on entrepreneurial land use to collect retail sales tax (Wassmer, 2002). East Palo Alto’s resounding pro-tenant incorporation efforts offered significant if limited protections for individual renters, but importantly for the future of the city’s rental housing stock. The significance would become ever more apparent and urgent in the context of increasing and concurrent devolution (see Emmeus Davis, 2006), privatization, and fiscalization of land use.

As promised throughout the cityhood campaign, the first East Palo Alto City Council adopted the Rent Stabilization and Eviction for Good Cause Ordinance (Ordinance No. 17-83) as its first act of cityhood. The city’s ordinance was premised on discouraging speculation in housing. The order’s purpose stated this effect:

> to protect residential tenants in the City from unreasonable rent increases by discouraging speculation in rental property and stabilizing rent increases; to protect tenants from arbitrary, discriminatory or retaliatory evictions; and at the same time to assure landlords both a fair return and rental income sufficient to cover costs of maintenance and operating expenses as well as the costs of capital improvements to their rental properties. (Ord. No. 17-83:3.)

“Just-cause” eviction provisions were important measures for local renters at the time of the legislation, but would become especially important ten years later when the state law Costa-Hawkins Act would all but gut local rent control.
In California the strongest local measures, 14 in all, including the East Palo Alto ordinance of 1983, were undercut by the 1995 state vacancy decontrol-recontrol provision that is the main thrust of the still existing state-wide Costa-Hawkins Rental Housing Act ("Costa-Hawkins," California Civil Code §§1954.50 et seq.) that went into effect in 1999. Costa-Hawkins created a landlord tool to unravel some of the strongest provisions of municipal rental protections: vacancy decontrol. Local ordinances with just cause provisions like East Palo Alto became ever more significant to maintain the right to stay put (with the exception of owner move in, conversion, or demolition), and prevent sudden rent increases. That is, if you were fortunate enough to already have secured a rent-regulated place to live at a rent you could afford, your unit would remain affordable absent wage loss.

East Palo Alto had established its ordinance before Costa-Hawkins. It was as an active rather than passive measure in a design for affordability that required landlords to register rents and respond to tenants’ petitions for repairs. Unlike wartime rent freezes, such second phase post-war rent stabilization programs (commonly referred to as rent control in California) did not freeze rents, however. In East Palo Alto’s example, rent increases are tied to the Consumer Price Index increases.

Even before Costa-Hawkins, in the first decade of East Palo Alto’s rent control implementation, rents across regulated units increased by a cumulative total of 39.4% between 1984-1994 (Kazak, 1995). During this same period, in the first ten years of rent stabilization in East Palo Alto, tenant turn-over decreased and the rental housing stock

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26 Costa Hawkins paralleled the state’s Proposition 13 tax control-decontrol provisions, and New York’s similar but more restrictive 1993 vacancy decontrol provisions for means-tested (renter income), condominium rentals, and co-op rentals.
increased. U.S. Census shows that compared to East Palo Alto’s tenants in 1980, East Palo Alto’s tenants in 1990 had remained longer in their units (15% compared to 23% had lived in their apartments more than five years in those years, respectively) (Kazak, 1995; 1999; U.S. Census). Also, there was a 14% increase in rental units available by 1990 compared with 1980, mostly due to owner conversion to rental (Ibid.). In effect, in its first ten years the East Palo Alto rent ordinance defied landlord predictions that the ordinance would cause a disincentive to rent, and that landlords would be unable to receive fair returns. At the same time, East Palo Alto was able to show that sustained tenure for renters had increased, and that projected pressures of gentrification—thought to be just around the corner, could be potentially abated.

What came just around the corner, however, was decontrol through Costa Hawkins. Landlords could re-set rents to market rate with every vacancy and subsequent new renter. Yet, in East Palo Alto where rent control exists, the subsequent rents for that unit are then *re-controlled*, and can again increase only up to the maximum allowable rent tied to the Consumer Price Index. In this way, Costa Hawkins undercuts local rent control’s potential to reduce real rents throughout the city or if brought to regional scale. Moreover, new construction by state mandate is exempted from local rent control ordinances. Further, as more units were decontrolled, the market rent ceiling became the baseline-regulated rent. In other words, the regulated ceiling rent becomes the floor. Vacancy decontrol in a housing market positioned for gentrification can discourage tenant unity and encourage landlords to push people out.

Only when ‘no one leaves’ does rent control over time, on the other hand, result in potential income redistribution and affordability impact for renters. Likewise, only
sustained rent control to scale could reduce real rents through a prevailing affordable rent in a jurisdiction. Renter households between 1980-2010 experienced an increase in percent of income spent on rent indicating affordability burdens in East Palo Alto and the region. One explanation of this is that despite rent control, and notwithstanding California’s decontrol provisions, renters were poorer than in years past given that middle class renters with means had aspired and realized home ownership in part due to predatory lending (Joint Center for Housing Studies, 2011; Wyly and Ponder, et. al., 2012; Schafran and Wegmann, 2012). Even with the rent burden in East Palo Alto, average rent in East Palo Alto remained much lower than in San Mateo County, which for a family-sized 4 bedroom unit was nearly twice East Palo Alto’s median rent in 2013 (Rockefeller Harris and Cespedes, 2015:4).

Table 3.3: East Palo Alto Selected Profile 1980-2010, ACS U.S. Census

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<tbody>
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<td>6.2%</td>
</tr>
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<td>60.3%</td>
<td>42.9%</td>
<td>22.5%</td>
<td>15.8%</td>
</tr>
<tr>
<td>Latino / Hispanic27</td>
<td>14%</td>
<td>36.4%</td>
<td>58.5%</td>
<td>64.5%</td>
</tr>
<tr>
<td>Asian</td>
<td>5.3%</td>
<td>9.2%</td>
<td>2.2%</td>
<td>3.6%</td>
</tr>
<tr>
<td>Other Race</td>
<td>8%</td>
<td>15.1%</td>
<td>42.3%</td>
<td>9.8%</td>
</tr>
<tr>
<td>Total Population</td>
<td>18,191</td>
<td>23,451</td>
<td>29,506</td>
<td>28,155</td>
</tr>
<tr>
<td>Owner-occupied units</td>
<td>45%</td>
<td>44.6%</td>
<td>43.5%</td>
<td>42.8%</td>
</tr>
<tr>
<td>Renter-occupied units</td>
<td>55%</td>
<td>55.4%</td>
<td>56.5%</td>
<td>57.2%</td>
</tr>
<tr>
<td>Median Gross Rent (2010 inflation adjusted dollars)</td>
<td>$778</td>
<td>$948</td>
<td>$1,081</td>
<td>$1,154</td>
</tr>
<tr>
<td>Gross Rent as 35% or more of household income (see footnote for 2010 exception)</td>
<td>38%</td>
<td>40.8%</td>
<td>44.1%</td>
<td>61% (as 30% or more of household income)</td>
</tr>
</tbody>
</table>

27 With the exception of this category, Latino-Hispanic, all other categories by race reported for those who self identified as non-Spanish or non-Hispanic origin, alone, for 1980-2010.
As shown in Figure 3.3 East Palo Alto remains a renter majority city. In 1970, just 39.3% of East Palo Alto’s housing units were owner-occupied (San Mateo County, 1981). Ten years later, ownership rates peaked at 45% owner occupancy in 1980; owner tenure status has remained nearly the same for thirty years. So too has average median income, $52K in 2010 in East Palo Alto compared with $86K in all of San Mateo County (ACS, 2010). The greatest change to East Palo Alto has been in rent burden, population (up 72%) and race and ethnic composition. At the time of corporate landlord investment in the early 2000s, Latinos represented the same proportion of residents that Black residents represented at the time of incorporation. Whereas most subprime lending as well as public subsidies including Section 8 and public housing were unavailable to many immigrants based on noneligible citizen status, rent regulated housing provided an option for affordability. Meanwhile, many more Black residents left the city in the 1990s due to increased crime, and the greater competition for quality affordable housing in the city. Despite this, political control remained largely based on African-American representation.

In 2008, Latinos for the first time gained a majority of East Palo Alto City Council seats. Between 1988-2002, during a period of greatest increase in Latino population, there were no Latinos represented on the council, which was held by majority representation.

| Gross Rent as 50% or more of household income on rent | n/a | n/a | 23.8% | 35.4% |

28 n/a = not available for this Decennial year. ACS 2010 (5-Year Estimates) provided for 2010. In this case, ACS only reports rent as percentage of household income for percentages 30% or more and 50% or more of household income provided. For ACS 2010 61.6% of East Palo Alto renters spent 30% or more of household income on rent.
or all Black representatives in those years. In 2010, however and at the time of this writing, the city council remained majority Black. The living legacy of the city as a seat of Black political power in Silicon Valley outlives the changing residential ethnic composition of the city.

Chapter Conclusion

Despite notions of California’s progressive liberalism, the state’s historical development followed a path-dependent and state-induced racial valorization of land and housing. The early history of the state reflects a white settler regime of occupation and monopoly land holdings. Yet despite these property arrangements, racialized through the state’s Alien Land Law and restrictive covenants, redlining, and legislative attempts, East Palo Alto demonstrates an oppositional story that at times blurred periphery and center. In the development of Silicon Valley, early small farmers attempted to create their own version of utopia. Japanese horticulturalists dominated a segment of worldtrade, Blacks created community control projects where white flight created space, and Latinos found affordability in a sea of skyrocketing rents, predatory lending, and state abandonment.

Throughout this narrative, state policy regulated the racialized poor, and their discontent, while also protecting privileges of white (majority) homeowners through tax incentives and direct property subsidies. Although rent regulation was legislated in East Palo Alto to mitigate and even prevent gentrification, Costa-Hawkins allowed for steadily increasing rent and rent burdens. This gaping loop-hole that allowed landlords to establish market rents as a base rent for regulation with every turnover of a unit signaled
new opportunity for real estate investors with capital backing.
Chapter Introduction

East Palo Alto was well known by real estate investors, developers, and lenders for its Rent Stabilization Ordinance (RSO), which at the time of Page Mill’s buy-up limited rent increases to a rate equivalent to the Bay Area’s overall rate of inflation. As detailed in the previous chapter, the ordinance arose as part and parcel to the campaign for cityhood just 30 years earlier. Rent control was enacted as a tool to prevent the further exploitation of racial containment, or historical lack of mobility in the region for people of color, and for Blacks in particular, on the one hand, and to protect city residents from displacement due to potential gentrification, and racial and class displacement, on the other hand.

This form of rental restriction in practice curtailed market rents by providing a reduced rent ceiling. Perceived instead as “floor,” rental restrictions indicate the possibility of a “rent gap” or profits if potential underlying land value could become realized (Smith, 1979). Landlords took advantage of this gap through the vacancy decontrol window during tenant turn.

Figure 4.1 Westside of East Palo Alto (Existing Conditions Report, February 2014: 1-7)
over, which conflicted with East Palo Alto’s own restrictions once Costa Hawkins went into full effect in California in 1999.

Whereas the City of East Palo Alto was produced through defiant responses to opportunity disparity in housing for Blacks, Latinos, Japanese and Chinese in the region, corporate landlordism in this instance demonstrates a shape-shifting in racial capital innovation with political consequence. For East Palo Alto’s majority minority Black and Latino city leadership, rent control policy not only had allowed the city to remain a bastion of affordability in the region, but it was politically expedient. Affordability and security of tenure were and remain necessary measures to hold back Silicon Valley hyper-gentrification and thereby sustain majority minority political representation in the city and voice in regional politics. The classed and racial project of gentrification and the potential scale of displacement in East Palo Alto remains a political threat to the very founders of the city, and to the potential for majority minority political control there in the future.

Between 2006-2008 a large corporate landlord, Page Mill II, L.P., a Delaware liability company, accrued a relatively huge proportion of concentrated properties in one single and narrow corridor of East Palo Alto. (See Figure 4.1.) Altogether, the Page Mill II fund’s $270 million purchase represented about half of the city’s entire squat single-family bungalow, duplex, and multifamily midrise rental stock (American Community Survey, 2007). The portfolio comprised 114 land parcels and 185 small to mid size buildings, including 1,818 residential rental units of which approximately 1,600 were subject to the city’s rent control (Stockbridge Capital Group, 2009).

This chapter asks the question: “How were tenants impacted and mobilized by
this corporate landlord?” This chapter provides an overview of key organizing entities, the impact of the organizing model on tenants, and the way in which this landlord’s monopoly purchase directly threatened East Palo Alto’s rent control ordinance and renter security. Subsequent Chapters 5 and 6 analyze the portfolio capital stakeholders, including capital interdependencies, and the points of vulnerability that tenants and the City of East Palo Alto leveraged through their oppositional action.

**Organizing in East Palo Alto**

In 2007, tenant organizing in East Palo Alto was catalyzed specifically around Page Mill rent increases, rather than out of an existing organized group of tenants. The various entities involved in the Page Mill organizing exemplify some of the differences in approaches to social action within and outside the non-profit organizational terrain. The groups, unaffiliated with one another except through bridge leaders who participated in multiple organizations, provided support to tenants in East Palo Alto, and exemplify the types of approaches involved in many urban non-profit and activist sectors of this period along the differentiated lines of generation, class, race, and approach. The entities involved in the tenant actions against Page Mill ranged from a latent tenant advocacy organization that had maintained some infrastructure even through times of abeyance, as well as ongoing youth organizing, church congregation organizing, legal services, and a small group of tenants who were affiliated with Stanford University.

Before the Page Mill buy-up, there was no active tenant organization in East Palo Alto, save for East Palo Alto’s small network of activists loosely involved with East Palo
Alto Council of Tenants (EPACT) who usually met monthly, but sometimes weekly during intense activity, and often in the recreation center of a local mobile home park (interview, 2012). The all-volunteer EPACT typically sprang into action around specific issues led by their president, a vocal civic leader of housing justice who also sat on the Rent Stabilization Board for more than a decade. EPACT largely involved the established generation of EPA activists, several of whom had entered into formal local political office and had been involved in community control, urban agriculture, and incorporation efforts. The EPACT work was based on a community advocacy model rather than a tenant union or council form. EPACT as an education and outreach-based group lent its name to local referenda measures for defending rent control in EPA, galvanized tenants and city officials against egregious landlords, and at times held workshops and published communiqués to educate tenants on their rights and available legal services.

A lead organization in the Page Mill campaign was Youth United for Community Action (YUCA). YUCA is a youth-led organizing initiative operating from an unassuming ranch house in East Palo Alto’s working class east side. Although focusing on East Palo Alto, YUCA was and is buoyed by its network with a broader Peninsula and Bay area activist community. YUCA had a handful of paid organizers on staff, 650 youth members in their teens and twenties (a remarkable number given the small size of East Palo Alto), and ran a dedicated leadership and organizing program with core youth leaders. They also had a significant local victory under their belt at the time Page Mill became a known adversary: the 2007 shutting down of Romic chemical plant. This was the plant, that since the 1950s, had made East Palo Alto the dumpster of Silicon Valley
toxins. An intergenerational effort bringing together YUCA youth and adult environmental justice leaders from East Palo Alto and the region led the shut down. The ten-year battle honed YUCA leadership’s organizing skills, energized its youth-development, activated allies including City Council members, and helped to shape its mission as a base-building group in East Palo Alto.

The Romic campaign led to questions of community development, which helped to focus YUCA demands around who controlled the Romic land and its use. “We began to ask what could be reimagined for that space, by and for the community,” explained one organizer who had first been involved in YUCA in her early 20s and remained as a paid organizer into her 30s (interview, 2012). She put the Page Mill campaign in the context of a longer legacy of activism, “This community hasn’t been afraid of corporate bullies. EPA was a city that grew out of self-determination; people had passion, history, drive” (personal interview, 2012). YUCA organizers saw the Page Mill fight as an extension of their fight against Romic, also an “outsider” entity, and that their role in part was to bring the longer organizing history of East Palo Alto’s community control movement to the tenants, many of whom were the families of the young people who participated in YUCA’s programs. As another YUCA organizer said, “We didn’t shut down Romic to clean up EPA for wealthy white people to then move in and gentrify us out of our homes” (interview, 2012). She added, “We don’t want to be just about slowing the tide of gentrification.” Shutting down and cleaning up Romic was not only about

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worker and environmental health and safety; it was about re-envisioning land use, and asserting community democratic control over East Palo Alto.

Throughout the Page Mill campaign youth leaders gathered in the house-converted organizing hub for check-ins, tenant clinics, workshops, planning for action research, marches, rallies, petition drives, and for a meeting with the portfolio lenders, which they hosted. For YUCA, organizing necessitates leadership by people most affected by the issue. This was the case from paid staff to youth members. The director of YUCA was also a tenant of the Page Mill properties, “It’s a small community in EPA, so it’s a different fight for change, when every fight is a scale that impacts the city in a concrete way.” Another organizer referring to the Romic campaign put it this way, “Our work was not about connecting theory to groundwork, but the other way around” (Domingo and Nguyen, 2009:n.p.) They experienced directly the problems and sought to develop critical consciousness and experiences of action and change around an intersectional understanding of oppression and power.

This organizer emphasized that YUCA pursues strategy that demands personal change as well as change of root-causes: “There’s no turning back. We deal with contradictions of the personal and the political.” This definition of power speaks to their engagement with the personal: “Power for us is power from within, to ignite something positive to think clearly, develop voice, and become a leader by realizing the opportunity to advance yourself by advancing others along with you.” Power “within,” is described here as self-development motivated by social change, a component of critical youth-leadership development, and one in which, as Gaventa (2006) notes, “refers to gaining
the sense of self-identity, confidence and awareness that is a precondition of action” (p. 24). Importantly, one’s own voice is contingent upon the development of others, “along with you,” YUCA’s organizer had explained.

Identifying individual problems as intersectional, and social issues at the axis of race, class, gender and seeing oneself as an agent in creating change through the mutual reinforcement of agency of others not only engages in the “sociological imagination,” but a critical sociological imagination and praxis. Importantly, power, a relational concept, whether as a concept of fluid, circular, or material resource, is rooted not only in capacity but in actualization, which to be strategic and expansive must be undergirded by purpose (intent), and effect. In the Romic campaign, YUCA’s organizers had already demonstrated not only potential but actual power through disruptive tactics blocking Romic’s ability to renew its permit, and in so, doing had continued developing individual and collective voice and capacity among their members.

Finding and asserting voice for youth activists and leaders in East Palo Alto was operationalized by YUCA in part through participatory action research (PAR). YUCA involved youth leaders in Page Mill by asking them to engage first-hand with the issues by designing their own research project about themselves and where they lived. They knocked on doors, participated in conversations, documented conditions, and asked tenants to join ongoing actions against Page Mill. Young people, who most often are alienated from decision-making about their lives, were themselves experiencing the household stress of families under threat of eviction. YUCA as an organizing project

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31 I distinguish different conceptualizations of power in organizing in departure from the 1990s throwback term, “empowerment,” see the works of Piven & Cloward (1977), Wrong (1979), Jenkins (2002), and Gaventa (2006).
provided not only access to decision-makers, but also was a vehicle for group mutual support. PAR itself provided a technology for having otherwise difficult conversations within their families about their living conditions and the consequences of those conditions on their relationships and future. Youth leaders produced their report specifically on Page Mill, and later, three short films on local organizing highlighting the Romic campaign and urban farming and land use in East Palo Alto. The youth members hold regular tours of the former toxic Romic site pointing out redevelopment plans. They are the experts on their own lives and their community.

Another well-established organizing outfit in the region at the time was Peninsula Interfaith Action, known as PIA.\textsuperscript{32} Although in leadership transition during the time of Page Mill’s initial rent increases, PIA later joined in the tenant organizing work. Several of their members, congregants of four different East Palo Alto member churches, were also Page Mill tenants. One volunteer leader was forced out of her Page Mill apartment and the congregation rallied around her to raise the issue of tenant rights in their church (personal communication, June 5, 2012). PIA’s lead organizer said fundamentally their work for affordable housing has been part of “…trying to confront a politics in the Valley that bends over backwards for its affluent constituency to the total disregard of the working class” (Ibid.). PIA’s strategy was based on holding public officials accountable to the working class.

PIA is part of the People Improving Communities Organization (PICO) faith based-organizing network that became established in California in the 1970s, first out of

\textsuperscript{32} The PICO affiliates San Francisco Organizing Project and the Peninsula Interfaith Action merged in 2014 to form the SFOP/PIA Bay Area organizing outfit.
Oakland by Alinskyist John Bauman who was trained by Tom Gaudette.\textsuperscript{33} At that time in East Palo Alto, the Black Power movement and community control movement, and later the rent control and incorporation movement, were highly distinguished in ideology, strategy and tactics from the systematic and at times pragmatist “organizing” of the Alinsky-based formations.\textsuperscript{34} PICO espoused local organizational development around neighborhood and municipal issues, usually detached from ideology and movements. For example, the PICO organizers’ first principle of strategy “Small is beautiful” privileges immediate and winnable issues of “self-interest,”\textsuperscript{35} which while holding those in power to task, may avoid questioning of the underlying power structure itself.

In the PICO case, the faith-based network developed and deployed a model that identified congregations, and subsequently congregant leaders to surface issues for collective action. In East Palo Alto, PIA action included pressuring the city council for a fully-equipped grocery store, affordable housing, policing, and the regulation of secondary dwelling units. “Congregations choose issues, anything from education reform to speed bumps,” explained the PIA organizer. A volunteer leader in the PIA youth branch attested that PIA created change by improving sidewalks, a safety issue for seniors, and taking part in city beautification efforts (personal communication, June 5, 2012).

PIA also had established the organization’s leadership in advocating for housing

\textsuperscript{33} For an accounting of PICO’s formation and their shift from neighborhood to congregational approach, see the compilation by Aaron Shutz and Mike Miller (2014).
\textsuperscript{34} In her unpublished thesis Lily Batchelder (1994) argued that though the Alinsky tradition dominated the field of community organizing at the time of East Palo Alto’s incorporation movement, activists in East Palo Alto drew from their own distinct legacy, tradition, and theory of change. See Batchelder (1994) “The Incorporation Movement of East Palo Alto: Renegotiating the Boundaries of Community Organizing Theory.” Unpublished thesis, Stanford University.
\textsuperscript{35} Aaron Shutz and Mike Miller (2014).
affordability in Silicon Valley, and in 2002 won the creation of a housing trust fund in San Mateo County. In their fight against gentrification in East Palo Alto, however, PIA’s lead organizer explained that the issues of inequity demanded a new guiding perspective. She explained that gentrification structured by race and economy demanded deeper understanding. “One thing we realized is that what PIA hasn’t done a very good job of is understanding how racial inequity is produced and created here and the impacts of that and asking ourselves what’s at the heart of that,” she explained (Ibid.). Traditional demands by PICO for access to resources or decision-makers could not address the dimensions of why and how inequity existed in the first place.

Another effort involved singular voices of more privileged tenants who had also experienced the dramatic effects of Page Mill rent increases. This group, EPA Fair Rent Coalition, was an informal effort without non-profit status. The group was primarily led by a small group of white men who were self-directed and created an online campaign hub that produced and compiled media articles, their own analysis of vacancies, and resources on tenant rights. The coalition also included YUCA and EPACT.

The driving impetus by EPA Fair Rent Coalition was transparency and justice. They sought to understand as fully as possible the agenda behind the Page Mill investment, and disclose these plans along with data on displacement, in order to incur “damage,” on the investors as described by one tenant activist, a Stanford PhD candidate at the time who led media outreach (interview, 2012). Armed with stats and capacity for communications, the group aimed to strike at Page Mill for what they considered to be the sinister and illegal gutting of rent control. “In science, if you lie, you get caught,” explained the tenant who took on the role of communications director (interview, 2012).
His approach to Page Mill was based on a premise that facts speak volumes, and public information was key for enhancing democracy and accountability.

This particular activist also believed “organizing is a science” (interview, 2012). His work on the Page Mill campaign demonstrated to him a need for what he described as a “parachuting” traveling and organizing training consultancy that could arrive at places such as East Palo Alto with honed methodology to arm organizers with expertise and capacity to impact media and carry out strategy. Unaffiliated with organizing networks, the tenant had a short-term aim that he believed required short-term capacity support: to halt the rent increases and evictions.

Carefully developed press releases and cultivated media contacts by the Fair Rent Coalition led to an onslaught of media articles covering Page Mill and tenant actions. This also led to responses from Page Mill, including ridicule in the San Francisco Chronicle by a reputational management representative that called this particular student activist a “one-man action hero” (Abraham, 2009; Hogarth, 2009). The post was seen by that tenant as an age-old tactic to single out one individual, weaken his credibility, and fan flames of distrust among the East Palo Alto tenants (interview, 2012).

Unlike YUCA, PIA, or EPACT, many of the Stanford-affiliated tenants who were initiators of the Fair Rent Coalition did not have a long-term stake in East Palo Alto. (They have all since moved.) Finding themselves as tenants in a crisis of what they considered to be illegal rent increases, however, they acted with urgency. They were named plaintiffs in a class-action against Page Mill. One tenant who was a start up software developer, in considerable debt and in need of affordable housing (Superior Court of California Count of Santa Clara, 2008), lent his time and skills to analyze the
rent stabilization ordinance and help draft new city legislation. By the time Page Mill was facing foreclosure, however, the most visible tenant activist of this group, the communications director, was entangled in a controversy that at times distanced him from the other organizers.

Tenants Together, based in San Francisco, had just launched when East Palo Alto tenants rallied into action. There had been no statewide tenant advocacy network in California, and Dean Preston, previously an attorney for the San Francisco Tenderloin Housing Clinic, envisioned a tenants’ movement at a political scale that could counter Costa Hawkins and the Ellis Act.

The creation of the statewide organization was timely in ways that many had not anticipated: the national housing crisis was just about to “hit the fan.” The landscape was changing. Homeowners were becoming bank tenants and renters. Renters in foreclosed properties were threatened by eviction. Greater demand for rental housing would soon spur even higher rents causing a renter crisis. Moreover, the statewide proposal to phase out local rent control, Proposition 98, would test the state’s appetite for tenant protections. At the local level, East Palo Alto provided the nascent Tenants Together an opportunity to support a local fight aligned with their state-wide tenant rights goals. Tenants Together had just opened shop when the City of East Palo Alto declared a city-wide moratorium on rent increases.

YUCA and PIA were at the time the organizations most closely aligned with organizing principles: alter power relationships between people and institutions, sustain and expand capacity for people most affected by the issues, and win demands through collective direct action and other tactics led by people most affected by the issue. Tenants
Together’s approach aligned with organizing and employed staff organizers who worked directly with local groups such as those in East Palo Alto. Although Tenants Together involves organizational members, not all of these groups are membership base-building groups. In this way, Tenants Together’s approach, at the time, could be cast as an organization with a network of local and state-based organizations working simultaneously to build advocacy and organizing infrastructure for local and statewide wins.

The Fair Rent Coalition worked closely with Tenants Together. Those in voluntary roles of staffing the local coalition were also Page Mill tenants and at times called themselves organizers. Yet in retrospect, the work of the coalition was ad-hoc, or limited to the current campaign, and in addition to the organizing by YUCA and PIA of tenants to participate in their organizations, primarily involved advocacy tactics; this included expert testimony and drafting proposed policies by the voluntary “organizers” of the coalition. They were tenants and spoke on behalf of tenants but without a dedicated method for identifying and developing leaders. Nor were they accountable to a larger group of tenants, and did not necessarily claim responsibility for the outcomes of their efforts.36

Theories of change inform and link strategy, tactics, methods and organizational form. Theories also develop through lived experience of oppression. Discontent varies in degree but also in quality. Not everyone’s anger is the same.37 YUCA was a group that was anchored in a membership base of people in and of East Palo Alto who had

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36 Taking responsibility for outcomes is part of what distinguishes a leader from an activist. See Han (2014).
37 Thank you to my friend Pancho Arguelles for this conversation.
experienced their coming of age in a place of housing and safety insecurity. A tenet of YUCA’s work had followed in the tradition of Septima Clark and Paulo Freire who taught that oppressed people know the answers to their own problems. The Fair Rent Coalition, of which YUCA was a member, in contrast, involved some activists who based on their own education and drive privileged the expertise of hard facts and the ethos of fairness over struggle.

_Tenants Speak_

“We’re Poor People”

Just as the holidays drew near, in November and December 2007, 1,160 rent controlled units across the Page Mill’s holdings in East Palo Alto received rent increase notices. Page Mill attempted to justify the increases to the East Palo Alto Rent Stabilization Board saying that by combining legal increases that landlords had not taken in the past, they attained the maximum allowable rent ceiling. Page Mill, represented by the Woodland Park Management Co., claimed these cumulative increases were allowed but not taken for previous years. They planned to cash-in on what they considered to be “banked” rents, a practice the rent board would later restrict in response to the Page Mill attempt.

Tenants, some threatened by eviction, spurred into action. The standard response to contest rent grievances for tenants had been to petition before the rent board. In late 2007, Stanford Legal Clinic and Community Legal Services took on over 150 such petitions by tenants against the rent hikes. Even while petitions were being processed,
tenants were moving (personal communication, January 9, 2014). Many of the petitioners were first galvanized in door knocking by YUCA youth leaders and volunteers from EPACT.

Rent hikes across the portfolio were the first signal of Page Mill’s plans to undermine rent control and reconfigure East Palo Alto. According to one rent board administrator, “The city council saw the issue as a low-income people of color issue, and they knew they had to act… and they lived in fear of the Brown Act” (personal communication, May 31, 2012). A Brown Act violation involves elected officials deliberating outside open forums. The longer the period awaiting results from the individual petitions, the greater the possibility that elected officials might deliberate on their response outside of a public forum and contend with accusations of violating the Act. The city council brought the issue to the fore with an emergency public hearing to vote on a moratorium on rent increases to halt Page Mill action. It was one of city council’s very first items of business in the New Year.

Although intended as a temporary stay during the review period of the petitions, the effect of the moratorium proposal was to consolidate the individual complaints to demonstrate the collective scale of the evictions and rent hikes, and force an affirmative reading of the local rent control ordinance in favor of the tenants. The hearing brought out approximately 400 tenants who packed the hall and the hallways (personal communication, June 5, 2012). This was an overwhelming turn out for a small city of approximately 29,000 residents, and represented approximately a third of the units affected.
The mayor and city council’s very act to draft legislation and schedule a public forum to freeze rents already indicated the stance and position of the city. Only one city council member with a history of censure by colleagues (he had been accused of slurs and disruptive action) positioned himself as skeptical of the moratorium against Page Mill. The council members shot down this council member’s move to contest the ability of another council member who was also a Page Mill tenant to participate in the vote based on alleged conflict of interest (Special City Council Meeting, January 3, 2008).  

The attorney for the city made clear there was only one provision that allowed for a rent increase for existing tenants, the Consumer Price Index, at the time set at 3.2%:  

The purpose of the ordinance, in place since 1983, is to stabilize rent, to prevent precisely the situation that you face tonight, which are rents going up to 47 percent in some instances. It has worked fairly well for its entire history, until now, and the reason it's worked so well is one very clear provision of the ordinance that's codified in the East Palo Alto Municipal Code… ‘Once each year all landlords shall be permitted to charge rents in excess of that which they were lawfully charging the previous year, based upon 100 percent of the change in the Consumer Price Index’” (emphasis added, Special City Council Meeting, January 3, 2008)

Described as the “crux of the ordinance,” landlords tying rent to the CPI could add only the CPI determined increase, plus a proportion of the fee for rent registration paid to the city to the base rent of what had been paid the previous year, even if that rent was under the increase permitted for the previous year. An attorney for Community Legal Services

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38 In fact, the same council member requested an opinion by the City attorney regarding whether there would be a conflict given the possible effect of a moratorium vote on the council member’s economic circumstances in violation of the Fair Political Practices Commission. The City attorney determined the economic effect of rent increase or freeze would fall below the Commission’s threshold and gave the opinion the council hearing could proceed with the council member’s participation and vote (Desouza and Associates transcribed the City of East Palo Alto, Special City Council Meeting, January 3, 2008).
echoed this argument, adding that individual petitions were burdensome for the city and community’s resources, given the number of individuals affected, and that the matter ultimately would be decided in the court’s interpretation of the law. In counter, David Taran himself, along with what a tenant described as an “army of lawyers” also attended the hearing and presented their case that they were in their rights to raise the rents.

A white man surrounded by a legion of attorneys, Taran stood in contrast to the standing-room only crowd of majority Latino, Black and Pacific Islander tenants who provided testimony one by one of previous homelessness, daily decisions based on hunger, prescriptions, or rent, single parenthood, and double and triple work shifts. He also stood in contrast to the council make-up, which included at the hearing three Black representatives and one Latino; the latter of whom was the current renter, but not leaseholder in a Page Mill unit.39

Taran attempted to present himself as the most reasonable person in the room. He asked the city to “Work together in a calm and rational way to address this…” saying “This is a mistake to adopt this tonight.” He invited individual tenants to speak to the Page Mill management company directly to work out any difficulty. Notably, he had not demonstrated the courtesy of explanation or negotiation when his management company presented eviction notices, or unlawful detainers. In his statements, Taran ostensibly suggested that the proceedings were irrational, the tenants emotionally blinded, and the city lacking political sophistication. He admonished the city for keeping itself down:

We do not think that East Palo Alto should be a community that's disadvantaged or looked down on by other communities. We want to bring East Palo Alto to a standing where it should be, and that's the reason that we're doing this. We're

39 Another council member at the time, also African-American, was absent.
improving the standards for our tenants, we want to improve their living 
standards, the community. (Special City Council Meeting, January 3, 2008)

In the discourse of settlers, in this statement the general partner of the portfolio implied 
that East Palo Alto elected officials and residents could not know their own interest and 
that Page Mill knew what was best for improving their community. The representatives 
for Page Mill, including Taran and attorneys, spoke early on in the hearing, allowing for 
tenants to respond directly to their statements.

Tenants repeatedly made statements at the hearing that appealed to city council as 
not only their representatives but as subject of the investor’s plans. Echoing other tenants’ 
statements such as “fight back,” and, “do not be intimidated,” one speaker framed Page 
Mill as not only the tenants’ adversary, but as city council’s adversary:

They question our intelligence; they question your ability to govern. Don't think 
they're not going to go back to their boardroom and laugh at you tomorrow about 
Stand up for our community, because when those people leave and the rest of us 
leave, when the face of East Palo Alto changes, so does the face of the city 
council, and they're going to run some numbers up against you, and it's going to 
be owned by the developers (Special City Council Meeting, January 3, 2008).

This tenant appealed to the city council’s very composition, which he claimed would 
gentrify along with the city. Several other tenants speaking at the hearing referred to Page 
Mill as an “outside corporation,” underscoring to the city council that “None of those 
people live here in East Palo Alto,” and reminding them of the class and race divisions of 
their city while distinguishing themselves from the rest of Silicon Valley: “Things are 
being allowed to happen… stop it… We're poor people. We're not Palo Altans, we're East 
Palo Altans.” Referring to “corporations coming in to buy up” East Palo Alto, another
tenant observed, “It's the first step in displacing people of color, low-income people of color in this community.” Another resident boldly claimed, “East Palo Alto belongs to us, the poor people.” Tenants were unapologetic; no one paid lip service to the landlord’s “right to fair returns” or need to profit off their investment, except as a way to explain an exploitative system.

Tenants overwhelmingly presented testimonies of personal hardship. At the same time, testimonies questioned the myth of rent control as an income program that replaced work or allowed for low-income tenants to live in leisure. Tenants also both critiqued and drew upon the narrative of renting as a holding, a temporary position before homeownership. Homeownership, the goal, asserted some tenants, was unattainable given the proportion of their earnings spent on rent. Tenant after tenant demonstrated that they worked maximum hours and could barely afford the prior rents, even if still below Silicon Valley full market rates, let alone accrue savings. “How the heck are you going to save anything or have anything if you’re going to take 90 percent of your earnings just to pay for where you live?” remarked one tenant. Another renter expressed his disillusionment and stress with the rent burden, “You're supposed to be able to save money living in an apartment, not be broke every paycheck, worrying about the next bill. Man, I cannot make it.”

The testimonies spoke of the psycho-social stress of economic insecurity: “This has got me kind of nervous, because I ain’t never been in this position before… this rent increase have really taken a load on my mind.” A senior, she remarked how living alone would not be feasible with the more than $100 increase she received from Page Mill. She noted that other apartments had young workers quadrupled up in the same size one
bedroom to share the rent burden, but she was one person.\textsuperscript{40} Another speaker attested to the struggle for seniors who, in particular, had raised their families in East Palo Alto, even through the worst of times and were now threatened by displacement. The testimony is significant to quote at length because despite many residents’ determination to remain in East Palo Alto during periods of disinvestment, a lack of affordable housing would make staying during times of so-called investment impossible:

Many of your citizens are simply going to take that notice and leave, rather than try to fight, because they don't have the wherewithal. My one neighbor couldn't come out because of the weather and there was a hazard that's right outside her door, but like it's been the last three or four months that if she buys her medicine and pays her rent, she has nothing left for food. So we get together, take her a brown bag. But if she has this increase, she's not going to be able to buy food nor medicine. Then what? You know, I'm really worried about her, because she's on the verge of a breakdown or suicide…She worked here all her life, raised her kids, outlived her kids, and now this happens (Special City Council Meeting, January 3, 2008).

The rent increases were prohibitive for seniors fixed-income households, especially. Unlike rent stabilization and rent control laws in New York State, East Palo Alto’s Rent Stabilization Ordinance (RSO) did not freeze or cap rents specifically for seniors.

The moratorium did not pass that first council hearing despite compelling testimony, support by the city council staff, and a simple majority. The same council member who raised procedural issues and acted disgruntled throughout the hearing abstained. Another council member was absent. One organizer later explained that the activists expected the moratorium would be delayed requiring several additional readings.

\textsuperscript{40} Compared to 13\% of San Mateo County renters, 42\% of renters on East Palo Alto’s west side reported overcrowded or extremely overcrowded living conditions. See American Community Survey 2011 (City of East Palo Alto, 2013: 7-4).
before a final vote (personal communication, May 31, 2012). Instead, however, in a surprising move the city council voted on the ordinance the following week during a regular session, again packed with tenants. The vote was unanimous 5-0 in favor of a six-month moratorium on any rent increase in the City of East Palo Alto.

Doubly Disappeared

Among those who didn’t speak at the hearing were those tenants who already moved out. One tenant at the initial moratorium hearing opened up his testimony by bringing attention to the displaced: “But I want to tell you about the people that just moved out, because the rent is too high for next month. They have probably about 40 people move out. I've seen at least six move out from my apartment complex, you know, and the increase is way too much” (Special City Council Meeting, January 3, 2008). In most cases, tenants moved out after receiving the rent increases and “pay or quit” notices before eviction proceedings were underway.

One young resident who moved out later explained that as a result of Page Mill rent increases, her home was no longer where she lived. Youth organizers from the organization Youth United for Community Action (YUCA) interviewed her as part of their participatory action research project they carried out to create a space for the voices of people whose ability to remain in East Palo Alto was threatened. Many of the YUCA youth leaders were also residents of the Page Mill Woodland Park housing. The young former resident explained:

There are five people in total that live with me: my mom, my dad, my sister, my little brother, and me... Now I live in Redwood City because my dad couldn’t pay the rent increases by Page Mill Properties. My dad tried to fight the increases but they would treat him without respect. His dignity was worth more than that to
him.

Where I live now is great and everything, but it’s not my house. It will never be the same as the other one because I was like a star up in the sky and now I am a star falling... It’s as if something inside of me was missing. But even though I live there, I still go to East Palo Alto Charter School. I choose to go there and make the hour and a half journey. East Palo Alto is my home, and where I wanna be. *(Homeless Now, 2008:3)*

Although the rent increases may have made the situation impossible for her family to remain in East Palo Alto, she attributed the impetus for the family’s move to the threatened loss of her father’s dignity. In this daughter’s view, in forced displacement her father risked losing both dignity and home.

While this family was affected by involuntary displacement, another family would also lose the opportunity of an affordable rental with this unit’s decontrol. Marcuse (1985) distinguishes direct displacement and exclusionary displacement to note this difference and effect. The first refers to moving from one’s home for physical or economic reasons, the second the inability of the displaced to move to a new home due to the gentrification of previously affordable areas, and the inability of another low or moderately income household to move into the unit from which that household was displaced for that same reason. In this way, displacement begets displacement by narrowing housing options, creating a chain of serial displacement and fragmentation.

For some, standing up to fight was necessary to retain dignity, regardless of moving multiple times, as put by one tenant, “I want my daughter to know that the world is not easy, and it's not going to be -- it's going to be difficult for her to keep moving, but I want to be an encouragement to her to let her know that with hard work and perseverance, you can keep going, and come together as a community and speak out…”
(Special City Council Meeting, January 3, 2008). This tenant suggests a stance of community creation through the act of speaking out and being active, but also recognized that moving was a reality her daughter faced.

During the years 2007 and 2008, Page Mill ultimately put into effect 170 evictions, the number documented in San Mateo County Sheriff and Superior Court records (Fair Rent Coalition, 2009). The Fair Rent Coalition calculated that more than 300 units, or an estimated total of 1,500 people, were pushed out of their homes within the first two years of Page Mill ownership (personal communication, June 5, 2012). While some tenants fought eviction in court, Page Mill continued to serve notices that without tenant response resulted in default vacancy wins for Page Mill.

The larger number of displaced households was due to the number of people who moved from their Page Mill units before evictions were set in motion. Far more initial notices to “pay or quit” were sent that precipitated the unlawful detainers, the notice of eviction. Notices to “pay or quit” require tenant corrective action to landlords within three days, and subsequent unlawful detainers require tenant response to the court within five days, counting weekends and holidays, according to the rental ordinance and state regulations.

One rent board member at the time estimated that nearly 90% of the evictions were the result of tenants who did not respond within the required period (personal communication, January 7, 2014). State law mandates the quick response by tenants, and any hesitancy by some tenants to appear before court, which includes routine pre-trial conference before eviction proceedings, would result in a default judgment. Without tenant response to an unlawful detainer, the landlord can take a default judgment for
eviction. In East Palo Alto, the sheriff most often makes evictions with notice to vacate on Tuesdays, which can mean a turn around of 5-9 days from the unlawful detainer response. (Lamont, 2012)

Several tenants claimed that Page Mill refused to receive their rent checks, a common practice for landlords who then claim non-payment (Bernstein-Wax, 2010). Other tenants continued to send in the base-rent for the terms of their lease before Page Mill rent hikes. One tenant claimed that she received an eviction notice before she could move out voluntarily because she was wheel-chair bound and could not pack on her own before moving into a homeless shelter (Ibid.).

Individual Responsibility and Regulatory Thickets

The regulation of the rent stabilization ordinance required tenants to be self-assertive in their housing claims. Here Foucault’s (1994) concept of governmentality, the regulation of people’s behavior, or the “conduct of conduct,” aligns with the shift in scale and target of state intervention. According to neoliberal discourse, the aim of the state is to deregulate. Yet, rather than deregulation, there is a shift in regulation; the target of regulation is aimed at people rather than corporations.

In the case of East Palo Alto, rent control was a regulation reflecting municipal authority and the devolution or localization of state power, so that the city or locality became the place of contestation. Still, the assertion of individual responsibility was part and parcel of the East Palo Alto original RSO, and required an informed tenant citizenry. Tenants were the target of regulation around occupancy behavior and in the form of
appeals to landlords, who were in turn regulated by rent registration, increase caps, and just cause eviction.

The expedited and multi-tiered process for evictions can be confusing for already stressed and stretched tenants, educated or not on their rights, as described. The petitions were the prescribed next steps for tenants to challenge a rent increase or unlawful detainer. At a hearing for the tenant petitioners against rent increases, Community Legal Services representatives explained the difficulty of access to the petition process:

Even with the help of volunteers, the [petition] process is extremely time-consuming and onerous, requiring:
1. Scheduling a time for the tenant to meet with a volunteer;
2. Arranging for translation services if necessary;
3. Gathering the necessary documentation;
4. Explaining the law and process;
5. Preparing the petition;
6. Preparing the documentation of the waiver;
7. Obtaining, if necessary, a check or money order for the filing fee;
8. Physically filing the petition papers with requisite copies.

(City of East Palo Alto Rent Stabilization Board, 2008)

For these tenants, many of whom work multiple jobs to pay the existing rent, the process is a logistical impossibility. For others, it is intimidating. Still others are concerned about retaliation from their landlord and/or building manager (Ibid.).

In addition to the steps above, petitioners were required to be present at the hearing. In this case, the hearing had to be delayed on at least one earlier occasion due to the unavailability of working tenants. Page Mill seemingly counted on these delays and lack of access by tenants to legal services. In effect, Page Mill would “win by default” explained a legal service provider (CalPERS Board of Administration Investment Committee Open Session, 2008). In drawn-out petitioner cases and litigation, Page Mill also has the upper-hand in creating conditions that pushed tenants out, and the resulting
vacancies positioned the properties for market rate rents, and, or, redevelopment. The lawyers for the petitioners explained the obstacles to the process and timeliness of judgment for all tenants as an argument for full disclosure of all Page Mill rent rolls, even for those units that did not include named petitioners.

The Fourth Shift

Landlords often use the tiring out tactic when they do not have a legitimate claim against the tenants. Instead they try to frustrate and overwhelm tenants while also potentially tapping into tenants’ fear of exposure in front of the state bureaucracy, if not deploying direct harassment and intimidation. Relentless notices to tenants all required immediate tenants’ responses to prevent eviction. In East Palo Alto, many tenants had been poor or low-income all their lives and were familiar with state bureaucracies. Mothers in particular carried multiple burdens that included not only the material rent increases, and deferred maintenance, but also the neo-regulatory environment of behavior surveillance and self-advocacy.

When one single mom moved into her apartment just before the Page Mill purchase, she had already experienced serial displacements. She had been living with her three children, including one teen and two elementary school students in a converted garage on the east side of town until she was told the property had been sold and she had to leave. Her furthest dislocation though had been almost ten years before when she and her son left Michoacán, Mexico. In East Palo Alto, she found work in a night job for an office cleaning company. Just after Page Mill increased her rent, her hours were cut. The economy was tanking. The rent increase, 20%, twice in one year, was far above the 3.2% increase allowed as set by the Consumer Price Index established by the East Palo Alto
Rent Stabilization Ordinance at the time. Sara recalled, “I didn’t have a place [to go], then thanks to God, I found more work [in houses]… It takes a lot of patience here [EPA rent administration]. I don’t know how many times I’ve been at the [legal] offices. The owners gave us notices thinking we’d leave” (interview, 2013). Working the bureaucracy is what could be called the fourth shift for this working mom. With several jobs, kids to care for at home, and unpaid work to supplement their education, she also had spent countless and tedious hours at legal clinics and at the rent administration, filing appeals to stay in the home that she worked so hard to afford.

Another mother explained the burden of time for anyone trying to work and enter the bureaucracies of the poor. The social worker at her child’s school had told her that she needed to spend more time with her children. Instead she found herself spending more and more time fighting Page Mill. Meanwhile, she was trying not to let her children know of the rent increase and the stress. But she suspected they understood what was happening (Homeless Now, 2008). Another single mother with two children explained to the city council that tiring out tenants and furthering their marginalization was purposeful by Page Mill, not an unintentional consequence of the rent hikes:

I work every day, and I have to go to work tonight, so I can't stay too much longer, but I wanted to be here to voice my opinion. There's no help out there for you if you're in the middle and if you're in the midway, and you're working and you have kids and you're trying to, you know, survive, and then they throw this at you. They pulling you back. They want you to be up underneath the bridge with everybody else, you know, but I'm trying. (Special City Council Meeting, January 3, 2008)

This mother situated herself as doing better than the rest, “underneath the bridge,” yet echoed the prevailing sentiment of precarity and exhaustion.

Citizens’ protections, such as rent regulation, assume a notion of a liberal
citizenry comprised by free subjects with what Rose (2006) calls “responsibility, autonomy and choice.” In this case, the majority of tenants were largely immigrants who did not qualify for already limited and shrinking supply of public housing. They did, however, rely on state regulation to prevent full marketization of their rental housing. The site of family in the reproduction of the self-sufficiency mantra of neoliberalization raises fundamental questions of dignity and gendered burdens. Women as mothers in such a regime bear the responsibility for the reproduction of self-governing subjects who abide by cultural and institutional logics of law and order while also becoming masters of their own destinies, self-sufficient and supposedly free from the state.

In another petitioner’s case, a single mother who was given a Cease Notice by the Woodland Management Company feared eviction because security claimed “high level of traffic and activity...” that they said was consistent with drug activity. Page Mill later defended the action directly to its largest investor saying, “We have zero tolerance policy for drug activity on our properties” (Taran, 2009:8; see also Taran, 2009a). Crime, especially suspected drug-related activity, was used by Page Mill to justify evictions.

*The Landlord’s Playbook*

Criminalization for Gentrification

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East Palo Alto’s formation as a city was followed by a period marked by dispossession over self-determination and community control. The roll-backs of the 1990s, including a final farewell to the Keynseian welfare state in 1994, coincided with the roll out of a state economy based in part on replacing its social welfare with investment in mass incarceration (see Gilmore, 2007). In the local context of Silicon Valley the decades of growing regional inequality and insecurity through abandonment and criminalization of East Palo Alto, ultimately, but not inevitably, produced the conditions for predatory speculation of this last regional bastion of rent controlled housing.

East Palo Alto in particular exemplified Wacquant’s (2008) concept of an urban space of “advanced insecurity” constituting at once abandonment, dispossession, exploitation, state sanctioned violence and street violence in which the most exploited and dispossessed members of the population become cast as the greatest threat in the expanding scope of public disorder. Moreover, in the circulating discourse of “isolation, disorganization, and danger” (August, 2014) state and private interests regularly deployed pathologizing language for the exclusion or elimination of poor people from place for reinvention of the place for profit. “Crime” could be a sufficient reason to embrace early signs of gentrification for many community members, notwithstanding that gentrification may result in the displacement (removal) of the community itself, and in turn reproduce and exacerbate the conditions of “advanced insecurity” elsewhere.

Just before Page Mill’s buy-up, a referendum measure was put forward to explicitly make “criminal activity” a reason to take away someone’s home. According to the proposed change in the municipal code, Measure E: City of East Palo Alto Drug and
Violence-Free Homes Act, “This Act will reduce drug dealing and criminal activity, enhance law enforcement, and give landlords the flexibility they need to prevent illegal activity while ensuring that they will not use evictions solely to achieve economic gain from higher rents” (http://www.smartvoter.org/2006/11/07/ca/sm/meas/E/). On the one hand, the act would allow landlords of regulated units greater flexibility to evict tenants deemed to be involved in criminal activity, and on the other hand, would delay landlords’ ability to subsequently raise rents through decontrol for one year.

Rosetti Realty sponsored the referendum ostensibly to test rent control. East Palo Alto’s largest landlord at the time, Rosetti was planning to sell his properties to Page Mill’s purchasing agents and looked to gut the city’s RSO to raise his asking price, according to the EPACT tenant advocate who described the act as “from any reason eviction to no reason eviction” (personal communication, May 30, 2012). A vote for Measure E would ultimately be a vote for apartment turnover for decontrol and market rents. The measure was slated for a voter-referendum alongside two other crime-related measures that would also potentially mobilize voters with interests in increased policing. One measure mandated greater funds for crime enforcement, the other for greater preventative social services along with increased policing.

In an editorial to East Palo Alto Today, the leader of EPACT wrote against Measure E saying the effort was “…subverting the very reason East Palo Alto struggled for incorporation in the first place more than twenty years ago, namely, for the sake of self-determination and the increase of rights, not their reduction” (EPACT, 2006: 23). Another letter to the editor also recalled the city’s founding legacy, “We will vote No on Measure E because we revere the vision of the incorporators of East Palo Alto. Boldly
they stated that only by conscious action to invest in economic and cultural diversity would families of modest means and families of color continue to have a home on the peninsula” (Cruz and Hyland, 2006: 23). The latter made explicit that the consequence of increased evictions premised on criminal activity would be race-based.

The East Palo Alto City Council and staff attorneys decried the measure’s deceptive language; state law would permit market rents through vacancy decontrol immediately following eviction. “Arguments against Measure E,” which accompanied the text of the act at the ballot box, warned, “Absantee Landlords are using this measure to increase the attractiveness of their rental property to other corporate buyers” (http://www.smartvoter.org/2006/11/07/ca/sm/meas/E/). The elected officials who signed the arguments against the measure were well aware of the acquisition of properties by Page Mill on the west side and urged tenants and other East Palo Alto voters to demonstrate their support of the current city ordinance for just cause eviction. Majority approval was required, and the measure failed with 69.7% of East Palo Alto voters voting against (Ibid).

As the tenants experienced in short-order, the Page Mill strategy also attempted to tap into the narrative of criminal behavior or pathology of the poor in order to justify harassment, rent increases and evictions of tenants within and outside the legal stipulations of the city’s existing rent regulations. An attorney for Page Mill described the tenants to one reporter as “…drug lords, gang leaders, gang members, drug users and other non-upstanding individuals,” explaining that Page Mill Properties inherited the existing tenants when we purchased the property, which at the time had the highest crime rate in East Palo Alto” (Bernstein-Wax, 2009).
Page Mill targeted their harassment on young males, according to one tenant activist, “There was a lot of intimidation of young males. They would be detained by Page Mill security, would wait for police… there’s a long history of distrust with East Palo Alto Police Department, and YUCA met with the police about harassment by the security” (interview 2012). Private security guards played a policing role by monitoring the tenants as well as the property. Another aspect of harassment for tenants was the new regulatory environment. Tenants protested the additional paperwork Page Mill required, including car registration for parking (there is no on street parking). This was not always available in the renter’s names among undocumented tenants, who in the context not of deportation, but of “deportability” (DeGenova, 2007) feared the paperwork requirements as proxy for demonstrating citizenship status (personal communication, June 5, 2012).

Page Mill presented the community as the beneficiaries of their war on blight and crime, despite the fact that Page Mill’s plans were predicated on the displacement of many of the tenants to reposition the properties for market rents, and of all of them for redevelopment. Page Mill’s general counsel did not mention these plans in another media placement of their good deeds: “In one instance a gang leader was living in a single family home in poor repair. The gang leader was eventually arrested but other members of the gang kept congregating by the home, so Page Mill bought the home and then had it demolished. Those are the kinds of steps we’re willing to make to improve the environment” (Apartment Management Magazine, 2008: 16). Real estate managers and investors were the audience for this magazine.

“Gangsters” like “thugs” are coded language reflecting racial subtleties of discourse, othering, and devalorization through the production, real and perceived, of
“advanced insecurity.” Indeed, race had been a risk-adjusting factor in the gentrification of East Palo Alto. One rent board member put it this way: “[The] sheer number of people of color, keep large numbers of affluent people from moving in” (personal communication, June 8, 2012). Since the blockbusting of the 1950s, race, along with class, had symbolically defined the boundaries of the city in contrast to their white and affluent neighbors. The discourse of diversity in new urbanism design ethos of gentrification echoes and re-signifies through inversion the racist notion of the “tipping point” long-asserted by the real estate industry (Reed, 1999). (The idea that a certain percentage of Black residents will make a neighborhood unappealing to whites, or devalue real estate.) Page Mill pitched to investors a vision of a new west side for East Palo Alto, one of social cleansing that erased the “gangsters” by evicting their families.

Legal Barrage

“Tiring out” was a Page Mill tactic targeting tenants as well as the City of East Palo Alto, which would soon become barraged with technical challenges and lawsuits. In two letters to the city, the fund’s attorneys sent a list of legal arguments for why the moratorium was inadvisable, and then how the moratorium would violate various other local and state law (Thompson, 2007; Griffith, 2008). In particular, Page Mill claimed that the City violated its own RSO by allowing the city council to interfere with what was a voter-mandated legislation that Page Mill argued could only be amended by the voters. The Page Mill attorneys further argued that in effect, the city violated local and state law by not allowing for even CPI increases during the six month period of moratorium, or
vacancy decontrol, a matter pertinent for adjusting any newly vacant apartment to market rate as allowed by Costa-Hawkins following evictions or tenant departure.\(^{42}\)

Page Mill put the responsibility for the initial rent increases to which the moratorium responded on the city, specifically the city council. In a letter to the mayor, Page Mill’s development director explained the rent increases as a response to the city’s prior ordinance on the Ellis Act to de-incentivize demolition and shore up just cause eviction provisions:

…we have felt like we were in a race with the City. We can only react to the issues and agendas that the City and the Council put forth and we must also complete our analysis of these issues within the time frames that the City sets. Recently the City adopted the ordinance for the Ellis Act and is in the process of adopting a new Density Bonus Ordinance. These ordinances will have a major impact on the land values of our properties and will also shape what could be the potential highest and best uses in the future. In addition, the Rent Stabilization Board took on the "banking" issue, which could have an immediate and extreme financial impact on us. I am concerned that the City's recent policy actions and their implications will make our residents the unintended "losers" in all of this (Thompson, 2007: 2-3).

The ordinance concerning the” Ellis Act” involved a city action three months prior to the rent increases. The ordinance clarified landlord responsibilities in the event the landlord withdrew a rental unit from rental availability in order to demolish or convert a structure. The ordinance called for increased notice, increased relocation payment, and more careful review for approval from the city. Although the statewide Ellis Act facilitates the

\(^{42}\) As the director of Berkeley’s Rent Stabilization Administration later pointed out to the City of East Palo Alto, “the [Costa-Hawkins] requirement that a rent-controlled rent ceiling be replaced by a market rent upon a vacancy is not limited to those situations where the market rent is higher, but applies when the new rent is lower as well” (Berkeley Rent Stabilization Program Peer Review of City of East Palo Alto Rent Stabilization Program: September 11, 2008: 4). In other words, there was no “banking” un-charged rent to charge at a later time. Rent was based on what the landlords determined the market could bare, even if well-below what the market may bear in the future.
withdrawal of rental units from rent control in case of owner occupancy or demolition, the Act provides some municipal leeway for how to implement it. By September 2007, the city had decided to replicate the San Francisco’s stricter and court-tested local ordinance.

In a hasty correspondence to the City in anticipation of the rent freeze vote, the attorney for Page Mill similarly blamed the tenants’ burden on the city:

Page Mill is willing and ready to sit down with the City and tenant representatives to develop a workable solution but it cannot do so in the face of the City's repeated attempts to devalue its significant investments in this community. The City's proposed action tonight will ultimately fail in its purpose to protect the tenants because they will bare much of the burden of the City's disregard for the law. Moreover, the proposed action risks bankrupting the City by adding to its already substantial litigation expenses and inviting significant monetary judgments. (Griffith, 2008: 5)

The letter made clear that Page Mill would sue the city and maximize rents to further cover their legal expenses rather than negotiate terms for mitigating rent increases in the future. Neither the tenants nor the city were willing, however, to allow for any increase in any case above the letter of the rent control law.

In addition to petitions by tenants to the Rent Stabilization Board, which included six specific administrative proceedings of multiple petitioners, plus unlawful detainer hearings, Page Mill filed ten lawsuits against the City of East Palo Alto. The tenant petitions alone had taken a large toll on the city’s legal capacity, in addition to the landlord’s 41 separate appeal petitions each for a waiver on rent protections due to mostly “scheduled” (future) capital improvements, amounting to $11 million, which the city noted involved “seven bankers’ boxes” of paper work (City of East Palo Alto Office of the City Attorney, 2009:2). Notably, if Page Mill had won these cases, the rent
stabilization ordinance would be effectively gutted. The landlord fees associated with registering regulated rents would be reduced and there would be no funding source to administer the program for any remaining units. The city denied each Page Mill appeal.

The litigious CEO of Page Mill and General Partner for the fund also had amassed a small fortune of legal fees. This became apparent following the collapse of Page Mill in late 2009. In a memo from the court’s receiver, the receiver noted “counsel [on behalf of Page Mill, LLCs, or individual associated principals] generally asserted that they were owed substantial unpaid attorneys fees and costs” (Superior Court of San Mateo County, 2009: 4). Although Page Mill had warned the City of East Palo Alto two years earlier of the monetary costs of legal pursuits, Page Mill representatives had not heeded the warning on their own account.

Page Mill’s legal strategy against the city invoked procedural misconduct around rules and regulations governing rent control matters. For example, Page Mill sued the city for passing the rent increase moratorium by arguing that the moratorium required a public referendum. They also put the city to task in a separate lawsuit for retaining an empty seat on the Rent Stabilization Board that according to the RSO was to be filled by a landlord representative with holdings in East Palo Alto. In separate suit, Page Mill called for a review of new appointments to the board, which they deemed inadmissible based on the Rent Stabilization Board’s failure to give the proper number of days notice of the appointment hearing.

Several of Page Mill’s lawsuits against the City of East Palo Alto raised allegations of political misconduct. Alleged Brown Act violations involved lack of public notice or elected officials meeting privately without public forum. As put by one city
council member, “If we were meeting with more than three people, not just you and me discussing this, I could be accused of being in violation of the Brown Act” (personal communication, June 8, 2012). Holding meetings with several people to strategize, or consider draft legislation could be in violation of the Act. Although designed for increasing transparency, public participation and scrutiny of elected officials the Brown Act could also be invoked to stall action, or even nullify past action.

When the city did put forth a public referendum in favor of tightening rent control in East Palo Alto to a citywide vote, discussed further in Chapter 6, Page Mill attempted to stall and overwhelm the city with another procedural obstacle. Page Mill’s lawyers found what one advocate called an “arcane environmental doc” that required that the public resolution had to be vetted based on provisions of the Environmental Qualities Act that mandated an environmental impact statement (personal communication, January 7, 2013; San Mateo Superior Court Case, 2009). The fees alone for the city to put the rent control resolution on the ballot amounted to $50,000, paid to the county to hold the election (personal communication, June 5, 2012). As they stalled the resolution, Page Mill continued to evict tenants.

Tenants whom Page Mill claimed were not covered at all by the RSO filed a class action lawsuit against Page Mill and its subsidiaries. Class action litigation had become a strategic tool for civil rights claimants following a 1966 Supreme Court rule that allowed for unorganized individuals to be presented together as a group of claimants. Class action plays a particular role in a country where local justice, as de Tocqueville once noted, still reigns (see Lawrence Friedman in Powell and Steinberg, 2006:53). Litigation can allow for a particular issue to jump scale, from the local to the national. Local justice by lower
courts could hear claims by unorganized individuals on behalf of an entire class, often by consumers and workers, even if located across localities. In this case the named plaintiffs extended to those similarly situated Page Mill tenants, reaching by impact renters in the properties who were not actively organizing.

One of the most important aspects of the tool, strategic for organizing, involves the politics of recognition. The unorganized become a legal entity as a “class,” which provides a rendering of affected status for tenants regardless of their participation as named plaintiffs, petitioners, or participation in tenant collective action. Most importantly for organizing, the process of disclosure during the proceedings, regardless of outcome, would lead to the type of exposure Page Mill avoided and could be used potentially as a strategic lever for negotiation. Less important was the potential payout for winning class members, which in typical class actions tend to be symbolic for the plaintiffs, once divided. On the other hand, a mass award including legal fees paid by a losing defendant such as Page Mill could have punitive impact for the defendant, and in this case affect Page Mill’s ability, and that of subsequent large landlords, to exploit the “mom and pop” provision to raise rents in East Palo Alto.

The “mom and pop” provision of the RSO was established to exempt small (and usually local) landlords from the municipal rental restrictions. In the tenants’ class action the defendants included the parent entity Page Mill, but also 50 individual LLCs that Page Mill had established and that the Wachovia loan agreement recognized as assigned borrower entities (Wachovia Assignment of Leases and Rents, 2007). Although David Taran was signatory to all LLCs, they were separate conduits for the Page Mill parent entity created to take advantage of the exemption of small scale landlords with holdings
of four or less units from rent protection.

The tenants argued that Page Mill was the singular owner of all purchased units, and that the RSO should apply to all Page Mill owned properties regardless of unit numbers per structure. Two named plaintiffs involved tenants who had helped to form the Fair Rent Coalition. The lawsuit also included the declarations of fifteen tenants, including the same city council member of East Palo Alto who was a Page Mill tenant. Simply put, the tenants claimed that the multiple LLC configurations were a sham. They sought over-charge returns plus punitive damages of $500 per tenant, a symbolic but important demand that acknowledged the landlord’s intent to evade the law.

The tenants initially won a preliminary injunction against any rent increases during the period of litigation, and a notice that the plaintiffs would likely prevail. Substantial evidence had been submitted showing that “separate personalities do not in reality exist” thereby affirming that David Taran was the principal for all the LLCs, and furthermore affirming that the LLCs were conduits of a single entity, Page Mill (Superior Court of the State of California San Mateo County, 2009).

Taran participated in two separate depositions in the class action suit, which he requested be sealed from public record. At the time, Wells Fargo was reviewing whether to extend loan repayment options, and Page Mill was seeking additional investment. It was imperative to the general partner to keep confidential records, such as the “…balance sheets and income statements, loan agreements, organizational charts of defendants' corporate structure, LLC agreements, assignment agreements among Defendants' property management agreements and a description of an employee incentive program,” (San Mateo County Clerk of Superior Court, 2009). Taran was determined to keep these
documents sealed naming individual investors, and disclosing the status of financial accounts, including a CalPERS appraisal that could reveal the financial precarity of the portfolio. Before these depositions, a plaintiff from the case explained that the tenants had no idea of the extent or details of the CalPERS involvement or the scope of leverage (personal communication, June 5, 2012). It was in the process of discovery of the class action that tenants learned of the extent of CalPERS’s investment in Page Mill and the original Wachovia loan agreement.

Denying the City

In a city that incorporated in large part for rent control, Page Mill attempted to eliminate rent control by denying cityhood. If the City of East Palo Alto would not concede to Page Mill’s rent increases, Page Mill would leave East Palo Alto. Attorneys for the Woodland Park Management Company submitted a 30-page letter to the San Mateo County Local Agency Formation Commission (LAFCO) arguing to remove the Woodland Park neighborhood from the East Palo Alto sphere of influence. In other words, Page Mill sought to secede the west side. Their argument was premised on present and future governmental service inadequacies, largely in policing road and light services. They accused the city of prioritizing blight removal but then not allowing Page Mill to follow the city’s own recommendations.

Much of the letter attributed increased crime in the city as evidence of a lack of adequate law enforcement and crime prevention services. The letter alleged resistance, non-cooperation and inept service by the East Palo Alto Police Department in dealing with the landlord’s own security officers (Taran, Letter to Local Agency Formation...
Commission, 2009:9). On other occasions, however, such as in public testimony to CalPERS just a few months earlier (see Chapter 7), Page Mill representatives claimed that their management of the properties and partnership with the EPA PD resulted in reduced crime in the city (CalPERS Board of Administration Investment Committee, April 22, 2009:67). The Fair Rent Coalition made this point in a letter to LAFCO that cited Page Mill earlier statements (Fair Rent Coalition, September 12, 2009). Tenant advocates had produced their own analysis of crime statistics to the CalPERS Board demonstrating an increase in crime citywide and on the west side (CalPERS Board of Administration Investment Committee, 2009: 108). The Page Mill attempt to secede from East Palo Alto further exposed the City to scrutiny over policing, and if successful would have removed the properties from the city’s political boundaries and rent regulating authority. The land grab would become not only a denial of homes for those tenants facing displacement, but also a denial of cityhood. Ultimately, the head of Local Agency Formation Commission made clear that the Page Mill request was unusual, unsound, and would be denied, citing LAFCO’s mission to consolidate, not de-centralize services (LAFCO Municipal Service Review, October 15, 2009).

Despite maintaining cityhood for the west side, on other fronts, the city was unable to maintain its legal capacity to prevail against Page Mill in court on other fronts. The court overturned the rent freeze moratorium and exposed the city to technicalities and contradictions in its ordinance following Costa-Hawkins. The city settled with Page Mill in November 2008 by dismissing with prejudice its own litigation against the landlord that alleged tenants were being charged beyond maximum allowable on rent certificates, and more than once in one year. The city’s attorney sent a letter to Page
Mill’s general counsel rebuking Page Mill’s message to the media stating that the city’s withdrawal indicated admission or concession of the rent hikes:

…What the City concluded was it was not a productive use of resources to pursue this particular case since many of the tenants it hoped to help had already vacated the rental units or found a way to pay the increases. ‘Spin’ is one thing; outright misrepresentations are quite another (Armento, 2008: 1-2).

Nearly a year earlier the city had consulted for a review and revision of its Rent Stabilization Ordinance. Rather than fighting Page Mill in court around technical issues with an outdated ordinance, the city again took rent control to the ballot box.

Conclusion

Page Mill created an investment portfolio of land and housing from the Westside neighborhood of East Palo Alto at a time when city residents experienced both income and housing affordability pressures. Women, seniors, and immigrants were particularly impacted. Rather than voice their framework and demands around the specifics of the Rent Stabilization Ordinance, or housing code reforms, tenants instead expressed their right to stay put through the terms of class and race disparities. In a city that was created as a result of segregation, tenants asserted their self-determination to remain. Page Mill attempted rent increases and evictions in an effort to clear the portfolio for redevelopment, and, in the interim, market rents. The management company deployed typical tactics of deferred maintenance, criminalization of tenants, and refused rent payments in their attempt to displace residents.
This chapter demonstrates how tenants pushed the City of East Palo Alto into action, including a rent freeze. As a result, the city became an adversary and target of the landlord. The city faced a dozen lawsuits initiated by Page Mill including scrutiny over possible violations of the Brown Act. Moreover, the city contended with a petition presented by Page Mill before the San Mateo County Local Agency Formation Commission to secede the westside from the city itself.
Chapter 5. Building a Portfolio from East Palo Alto

Chapter Introduction

This chapter’s mapping and analysis of the Page Mill fund takes a step back from when Page Mill first besieged renters and the City of East Palo Alto with rent increases, harassment, evictions, and litigation. The bulk of this chapter takes a different analytic view by following the trail of capital transactions to outline the structure of the Page Mill portfolio through those actors who held capital claims in the investment. The relationship between the fund manager, lenders, and institutional investors helps to explain the structuring of speculation that the tenants and the city deciphered, and to which they attempted to respond.

The portfolio analysis raises multi-pronged questions that stem from the financialized and racialized production of real estate risk: How did Page Mill create a portfolio out of the Westside of East Palo Alto? What are the roles of different capital stakeholders in contemporary corporate landlordism? Relatedly, why would California Public Employees Retirement Services (CalPERS), the country’s largest public pension fund, invest in the dispossession of majority low-income immigrant and Black renters?

Bricks and Mortar or Capital Abstraction

As a single line on a pension fund’s investment ledger, the Page Mill portfolio item elides the contentious politics of placemaking and dispossession upon which the investors’ profit margins relied. The portfolio instead appears in the monolithic terms of
asset value and return on investment. Claims by other stakeholders, including tenants, are hidden from the ledger accounts. So too are the rulings and proclivities of lawmakers, administrators, commissioners, and regulators. Fees exchanged between lenders, purchasing agents, investors, brokers, assessors, servicers, derivative traders, and account managers are also concealed in the ledger’s bottom line.

Financial actors, above all, often appear as vague references in a national and global “housing market” reified into abstraction and marked by colossal losses or gains. These stakeholders are presumed the furthest in social distance from low and middle-income tenants who call regulated rental housing home. Piven and Cloward (1977) suggest financial actors are indeed often out of view to the tenants in the circumstances of every day life:

Tenants recognize the leaking ceilings and cold radiators, and they recognize the landlord. They do not recognize the banking, real estate and construction system. No small wonder, therefore, that when the poor rebel they rebel against the overseer of the poor, or the slumlord, or the middling merchant, not against the banks or the governing elites to whom the overseer, the slumlord, and the merchant also defer. In other words it is the daily experience of people that shapes their grievances, establishes the measure of their demands, and points out the targets of their anger. (p. 20-21)

Indeed, the most recognizable and immediate targets to tenants in large multifamily portfolios most often are those collecting the rent and appearing on behalf of the owner’s interests. Piven & Cloward’s observations explain that the poor use the power they have within the parameters of their daily interactions and opportunities for action (rent strikes, street disruption, housing court, etc.).

Despite the abstraction of financial structures, the role of capital actors in rental housing through and beyond rent collection is highly instructive to tenants threatened by
displacement and bearing the greatest costs of corporate landlord speculation. When taking measure of the relationships between capital actors, new possibilities for aggrieved tenants to identify targets may emerge. In fact, much of the description of the Page Mill fund outlined in this chapter reflects the investigation and analysis of tenant leaders who ultimately looked beyond the rent collector management company and pursued the Page Mill portfolio’s investors and lenders as primary targets. This chapter in particular is indebted to those tenants’ discoveries.

If new financial instruments have led to changing forms and scales of corporate landlordism since the time of Piven & Cloward’s account above, the daily experiences of the aggrieved in many ways, however, largely remain the same: rent increases, leaking ceilings and cold radiators. Yet changes since the 1970s also involve dramatic added and exacerbated pressures for low-income tenants in hot markets such as Silicon Valley driven by the digital economy, debt-fueled markets, and the stripping of rent protections hard won by the very tenant movements that were a focus of Piven & Cloward’s strategic endeavors. In this case, investment in the Page Mill high-risk monopoly real estate portfolio was made possible in part by labor’s own capital due to changes over the same period in CalPERS’ real estate strategy.

As detailed below, CalPERS, the largest investor in this particular portfolio, financed the East Palo Alto tenants’ displacement. In the thirty-year period before the 2007/2008 housing crash, CalPERS had moved the bulk of its real property investments into out-sourced and overleveraged funds such as Page Mill that sought higher gains by taking higher risks. The Page Mill portfolio’s investment structure exemplified the pension fund’s preferred role as limited partner, an investor and monitor with limited
control over the management of the portfolio. CalPERS investment in such portfolios contrasted the pension fund’s real estate investments of the past, which emphasized investors’ earning through stable if passive rental income and capital appreciation based on long-term holdings.

Such past real estate investments and prospects for returns in the period before the 1980s were fixed in the spatial and time constraints of capital circulation in the built environment (Harvey, 1978; Hagerman et. al. 2005; Krippner, 2005; Sassen, 2008; Fox Gotham, 2009; Weber, 2010). When CalPERS was first authorized by California state law to invest in real estate in 1953, equity and asset value were expected to result in stable if significant portfolio returns over decades, not months or a few years. In the web of increasing financial exchange, the typical real estate portfolio of the early 2000s, among those representing multifamily property and often properties in pool, instead became an investment and credit vehicle through which capital actors came to deploy various financial instruments to make sizeable profit in the short term. Corporate landlords, shorthand for large investors such as private equity firms and hedge funds, increased investment in residential real estate in part as an opportunity to rake in fees and place capital for quick, rather than long-term, investment returns.

This chapter follows the trail of the portfolio transactions and associated primary data such as the prospectus, loan agreement, independent auditors’ reports, CalPERS real estate unit reports, consultant evaluator reports, depositions, and account manager emails. Made visible, these statements call into question gentrification as a process of consumer-choice, or “natural,” or “free” market fluctuations as determinant of who wins and who loses in the gamble over speculative real estate investments. This chapter clarifies the
structure of the portfolio itself, which complicated the opportunities and obstacles confronted by the largely low-income immigrant and Black tenants in East Palo Alto who called the portfolio home.

**The Managing Stakeholder, Page Mill Properties II**

The Page Mill fund could not be assembled without the availability of investment capital and cheap credit in the context of the pre-2007 booming real estate industry. Yet the fund’s specific attraction to East Palo Alto rested squarely on the perceived potential to thwart municipal authority and, in effect, undermine rental affordability measures. The gamble took into account the specific conditions of a location of which the fund’s general partner, David Taran, was familiar.

A Bay Area developer, Taran had established himself as not only a financier in the investment world but as a local operator. In an interview for *Private Equity Real Estate*, Taran argued that local operators can be effective at establishing alternative asset funds: “[Operators] have a perspective that is more useful, in my mind, than someone with a Wall Street background who is just used to placing money…You're making money bets. You're making momentum bets. We're not making momentum bets. We're making real estate bets” (Lovell, 2005: 22). In this statement, Taran placed himself apart from traditional investors moving capital at the turn of the market, and safely out of site of local conditions.

Taran suggested a different expertise necessary for the risk involved in expanding private equity funds and their institutional and individual investment partners to move
into residential real estate. The rate of return for multifamily housing investment was a gamble beyond buying low and selling high, and market fluctuations. In this targeted portfolio Taran took into account state and local authority over rent control, housing codes, and zoning, in addition to an understanding of financial interfaces, placement fees, management fees, investor incentive fees, and the securities and derivatives market. Taran planned to amass properties into a single portfolio for high returns.

Taran had gained recognition by several large pension funds as a reputable general manager based on an earlier “opportunistic,” or high risk, commercial real estate fund that closed only a few years prior to the East Palo Alto purchases. In 2003, at the upsurge of the real estate bubble of that period, Taran and associates attracted $75 million of CalPERS investment for the first time. This first Page Mill portfolio was a private equity-backed fund that formed part of the larger private equity-backed firm DivcoWest, which by 2014 managed $2.5 billion of assets (www.divcowest.com). In addition to the CalPERS investment, this fund also attracted more than $100 million total investments by the California State Teachers' Retirement System and the Oregon Public Employees' Retirement Fund (Security and Exchange Commission, 2002). The fund raised a total of $290 million in equity with an anticipated fund total of nearly $700 million including debt for commercial real estate purchases in San Francisco, Boston, and other major U.S. cities. The fund established Page Mill and likewise Taran and his associates as players in the $3 trillion field of institutional pension investments.

By the time Taran approached CalPERS in 2006 for commitment for the real estate fund, “Page Mill II, Limited Partnership,” he was known as a serious equity fund

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43 Initial capital call memoranda use the fund name “Sunstar”. This name was subsequently changed to Page Mill II (Private Placement Memorandum, 2006).
manager in and beyond northern California. CalPERS overwhelmingly noted “pros” in its “Investment Opportunity Summary” recommending $100 million in commitment and citing Taran as “an established fund manager with successful track record with CalPERS” (Situs Strategic Advisors, 2006). Taran, at the heels of a career in both litigation and global manufacturing investments, touted a formidable claim of assembling approximately $2.1 billion in real estate assets largely based on his partnership with DivcoWest (http://www.pagemill.com).

The due diligence report developed by CalPERS consultants cited few risks for CalPERS investing in this Page Mill fund. Notably, a risk they did highlight pertained to a market awash with capital. They raised concern over “the huge quantity of capital looking for transactions” and the subsequent demand for efficient exchange (Situs Strategic Advisors, 2006:1-2). Property acquisition and placing capital required greater speed for greater yield. The due diligence evaluators concluded that the fund would need to streamline their transactions and widen their sources of “off-market” properties, or undisclosed listings of real estate prospects. In one respect Taran may have heeded this concern. The majority of the properties in East Palo Alto were not large enough to warrant “off list” premium sourcing but they were not necessarily on the market either. Like the straw buyers from the block-busting years of the 1950s, Page Mill agents contacted owners directly to make offers without revealing their intended plans (County of San Mateo Superior Court, 2007). This time, however, the purchasing agents were making offers that in some instances could not be beat and that would assume an influx of higher income, and possibly white residents.

When Page Mill’s real estate managers checked-off their final acquisition lists,
the fund had made 101 separate real estate transactions with local and absentee landlords capitalized by $114 million of committed equity from CalPERS and individual high net worth investors. The fund’s larger vision purportedly involved 140 property tracts within a $1.6 billion fund, according to disclosures by a Page Mill purchasing agent, a straw buyer (County of San Mateo Superior Court, 2007:19). The agent’s court statements were the result of legal action by Taran who accused the agent of acting on Page Mill “trade secrets” in order to obtain properties for the agent’s personal gains.

Page Mill’s purchasing agents were swift in their transactions. Several purchases involved East Palo Alto parcels above and beyond Silicon Valley’s standard prices including one parcel at $5 million and above per acre (Ibid). One city administrator, who was a council member at the time of the purchases, explained how he took notice of the buy-ups in 2007 based on the “super high” multifamily purchases that began to surface. He was particularly surprised by a purchase that involved a local landlord known to the city for her longtime disdain for rent control:

The owner said [to Page Mill agent] my price is $250K per unit take it or leave it. She gave them the number thinking they would just walk away, but they came back and said we’ll take it, and her jaw dropped. She said, ‘You’re kidding? You’re never going to get this rent back.’ The units were worth at most $130K. And boom she was gone (personal communication, June 8, 2012).

The seller was well aware that the net operating income required would need to significantly increase to support such a sale price. City officials, including those who had worked on the city’s original rent control campaign, became concerned with the plan behind the growing purchases. The administrator quoted above anticipated an attack on the city’s rental protections: “My understanding was that the business plan included an evisceration of the present tenant population that would be replaced by people with...
money, and ultimately a total evisceration of the rent control law” (Ibid.). It did not seem to any of the housing advocates paying close attention to the mounting property transactions that such investment could be otherwise viable.

A 2006 preliminary version of the portfolio prospectus anticipated 13-17% internal rate of return for the general partner and the limited partners (Situs Strategic Advisors, 2006). Taran and associates later augmented their projection to 30% or even double returns on investment for the portfolio (Page Mill Fund II, 2007: 31). On average, stocks yielded 12.17% returns over the preceding ten years between 1996-2006 (Damodaran, 2015). Page Mill projected steep profits for a fund that aimed to exit its partnership in five years, or before 2011 (Squar Milner Real Estate Services, GP, 2009). Page Mill anticipated another premium institutional investor would purchase the aggregated properties by that time (Situs Strategic Advisors, 2006).

Why would Page Mill expect such short term returns in the purchase of so many rent restricted properties and some at above market prices? Court disclosures reveal in the Page Mill prospectus that the business approach indeed translated to an aggressive strategy to undermine the city’s existing Rent Stabilization Ordinance and pursue evictions (Superior Court of the County of California, 2008). Yet as shown in the former and subsequent chapters, the fund’s profitability did not singularly rely on rental increases followed by sustained occupancy by market-rate tenants. Several housing advocates suspected from the beginning that the eviction of low-income tenants and rent

44 Although the original prospectus outlined the possibility of creating a REIT for public offering as exit strategy, CalPERS due diligence consultants remarked that the REIT was no longer a consideration by the time CalPERS committed to the fund, and instead the fund would seek a premium investor before the final loan payment became due (The Situs Companies, 2006)
increases formed part of an overarching strategy to deregulate the units in order to eventually demolish or convert the structures. Such an exit strategy of redevelopment assumed the investors, rather than the people who live in East Palo Alto, would determine the city’s future built landscape and composition. It assumed the dominance of the investors as primary actors over tenants, workers, and elected city officials.

Evidence presented to CalPERS in the Page Mill business plans demonstrates the intention for redevelopment. CalPERS summarized the goals of Page Mill II, LP in a fiduciary report detailing returns on investments in opportunistic funds. The report summarizes that the fund aimed to create value through a focus “on repositioning, re-development or conversion along with actual development of real estate assets” (CalPERS Supplemental Report, 2009). Ultimately, Page Mill planned to sell the portfolio with the opportunity for repurposing the underlying land. Redevelopment prospects, including the potential for commercial development and/or condominium conversions, drove the above-market purchases and future profitability. In one auditor’s report that questioned why Page Mill did not seek below market or at-market asking prices, Page Mill responded that the purchases were made below potential value (Squar Milnor Real Estate Services, 2008: 4).

All indicators suggest that the monopoly portfolio purchase relied on a profit model that measured current value based on future value. This calibrated profitability for the portfolio reflects what Levy (2014) calls a logic of future valuation compressed into the present, or a projected return on equity as if current value. Calculations of the present investment are future-driven.45 The loan went well above normal ratios because it wasn’t

45 In real estate financing this is commonly referred to as discounted cash flows.
based on the asset value of the portfolio; it was based on its future value. The rate of returns could not be deemed feasible, nor the investment model prudent, based on the net-operating income at the time of the purchase and debt servicing. As investor partners would invariably learn, the costs rose well above the income of the project along with an alarming higher ratio of risk, demanding a higher rate of profit, and higher pressure for rent increases through deregulation of municipal rent control.

The second version of the Page Mill II business plan targeted potential investors to partner in a sidecar access fund to supplement and ostensibly expand the Page Mill real estate portfolio. Sidecars, allowed under the terms of the Page Mill partnership agreement, typically distinguish a separate portfolio or portion of a portfolio that involves differentiated risk. Investments listed in this “access fund” included the same concentrated investments of the Page Mill II fund in East Palo Alto. The different placement memoranda, high-net worth investors and a significant credit line were, in practice, designated to the same portfolio (Page Mill Fund II, 2007: 25). The investors in this side-car fund included well-known venture capitalists and developers in the region. Nineteen investors eventually sued Taran in his attempt to abscond with their capital commitment to the sidecar fund, including, among others, 14 Crow Canyon Corp., Diablo Capital Venture Fund, Shane Albers, Paul Magliocco, and Vertical Venture Capital LLC.

The investors for this fund were accredited. In private equity and private real estate funds, prospective investors must demonstrate that they have significant funds to offset associated risks. Private funds are exempted from much of the U.S. 1940 Investment Company Act reporting (and review) that was promulgated following the 1929 crash. Under the Act’s Section 3(c)(1) and 3(c)(7) exemptions, hedge funds, private
equity, and private real estate funds do not need to register with the SEC if such a fund has less than 100 investors (or less than 500 under other provisions), does not widely advertise its fund (retains exclusivity) and qualifies all investors based on income tests. At the time of the Qualification Statement, the income tests were stipulated at $200,000/year or $300,000/year with spouse, or net worth test of $1 million individually or jointly with spouse. Institutional investors required $5 million in investable assets to qualify.

Page Mill cited the private fund exemption Section 3(c)(1) in its Subscription Agreement and Qualification Statement signed by CalPERS and individual investors, in which the investors also submit to the understanding that, “an investment in the Interest is highly speculative and may result in a complete loss of its investment” (Page Mill Properties II, L.P. Subscription Agreement, u.d.:3). The income test and financial literacy of the investors aims to ensure the investors can afford total loss.46

These funds are generally comprised of multiple limited partnerships that are short-term, and given the SEC exemption, are more likely to escape public scrutiny. Unlike stocks, private funds are not publically traded and the pitch by the general partner or brokers to recruit investors takes place in a performance of exclusivity under the cloak of “trade secrets,” often in off-site, rented hotel business rooms. One private equity real estate broker not associated with Page Mill explained a typical private equity real estate pitch: “It is about building relationships so that I can call on an investor, they will show

46 The Dodd-Frank Act of 2011 requires greater regulation of private funds, including investor adviser registration, and requirements for advisers to maintain records, if not report those records to the SEC. In certain cases of “systemic risk” to the entire financial system, the Dodd-Frank Act also would require disclosure of those records to the SEC. Many caveats restrict public access to those records, which for example, cannot be obtained from the SEC through an exemption from the Freedom of Information Act. See Coffee (2011).
for the general partner’s presentation, and they will pledge a commitment to the fund because timing and opportunity is right” (interview, April 2015). The solicited investor then pledges capital commitments for the slated opportunities.

When an investor provides equity, there is an expected pay-back. This is why debt burdens, further discussed below, do not always capture the predatory and speculative structuring of real estate investor portfolios: it is not only the lender or securities investor that expects repayment with interest, equity providers expect repayment too. Typically a fund makes due on its distribution of returns to the investors first, then to the investor manager in the form of tax-favorable carried interest. The waterfall of returns, as this period is described, incorporates rate hurdles to pay returns to investors before a return of initial capital followed by continued performance-based returns to the investors and manager. In addition to Page Mill’s 1.5% annual management fee, Page Mill is guaranteed half of all profits after initial 8% preferred return to limited partners, until the general manager receives at least 20% of distributions. Thereafter, based on this model, Page Mill would receive 20% of additional profits (Real Estate Alert, 2009:2).

Taran explicitly sold the venture to the access fund investment partners claiming Woodland Park was “poised for gentrification” (Bernstein-Wax, 2010). Paul Magliocco, a Page Mill investor associated with the angel investment firm Keiretsu Forum noted in a court declaration that "I personally would never have invested in the fund had I known about the scheme to evade the rent control laws… from a purely economic perspective, it rendered the investment far too risky. At least equally importantly, I find the scheme morally offensive" (Ibid). Despite such statements to the contrary, the established, sophisticated high-net investors were likely to have invested precisely because of the
potential for gentrification, the elimination of rent control and redevelopment as the very premise for returns.

Just before the housing crash, the west section of East Palo Alto would be a likely spot to promote gentrification within the tight Silicon Valley housing market. East Palo Alto’s Woodland Park neighborhood lies between Palo Alto and Bayside highway that leads north to San Francisco and south to San Jose. The neighborhood is contiguous with the even more affluent city of Menlo Park. Significantly, the Woodland Park area is a stone’s throw from the Four Seasons Hotel and office complex where Taran first made his pitch to the sidecar investors, a vast yet tucked away development project facing Palo Alto. According to the city’s own General Plan adopted in 1999, and the most current plan at the time of the Page Mill purchases, parts of the Woodland Park neighborhood adjacent to the University Circle hotel and office complex were slated for commercial rezoning (City of East Palo Alto, Cottland, Beland Associates, 1999: 24).

This rezoning did not actually happen, however, as Taran and associates could observe in 2006. The area outside University Circle retained zoning districts for medium to high-density residential housing throughout Woodland Park. This area was the home of low-income households. Indeed, Page Mill’s plans outlined in Taran’s pitch to the sidecar fund’s prospective investors called for residential redevelopment.

Ultimately, Taran’s “trade secrets” amounted to Page Mill’s intention to acquire monopoly ownership of all available land and property on the west side of East Palo Alto. Taran understood that the portfolio’s potential market value did not equal the sum of the future value of the total individual properties. Instead, the portfolio’s maximum profits depended on the concentrated purchase for redevelopment. Aggregation allowed for
scalable redevelopment of the entire neighborhood. Page Mill banked on tenant vacancy in order to reposition the properties for redevelopment. Tenant vacancy carried risks, however. Vacancy would mean constraint or opportunity contingent upon the ability for the investor to service debts without rental income, to leverage the properties for additional conversion funds, or to make a short-term sale. The tenants’ homes in aggregate became a vehicle to maximize financialization, or, the further commodification of the portfolio for greater exchange and associated fees. Amassed as a portfolio fund, the properties could become a single vehicle for various financial instruments tied to significant loans.

*The Lender Stakeholder, Wachovia*

The burdens on this portfolio suggest a different financial relationship from the landlord tenant primary interdependence around the need and demand for rent income to support debt servicing, management, and maintenance for long-term real estate investment. The debt-fueled mortgage-backed securities market allows for additional points of exchange for capital by multiplying opportunities for putting capital in motion. Leverage and the securitization of debt involve greatest potential gains in shortest amount of time, through short-term cash flow, fee collection, and more opportunity for exchange. In the short view, leverage, including leverage above purchase cost, creates cash flow from property investment that is otherwise fixed or illiquid until sale. A detailed view of the loan agreement provides a window into the way in which debt creates opportunity for greater profits, and fees, and also incentivizes eliminating rent control.
General Manager David Taran’s strategy, according to his attorney, was to “leverage the leveraged” (Bernstein-Wax, 2010). In August 2006, the Royal Bank of Scotland subsidiary Greenwich Capital provided a subscription line of credit to Page Mill for preliminary financing capacity, first at $90 million but subsequently reduced to $30 million (PMP II Fund Overview and Summary of Investments, 2007: 14). One year later, thanks to the CalPERS $100 million equity commitment, Page Mill Properties II, LP through a single purpose entity “Old York Financial Services LLC” became the guarantor of a $242,952,461.00 loan from Wachovia Bank (now Wells Fargo), $220.7 million of which was committed towards the portfolio’s $271 million purchase price (Wachovia Bank National Association, 2007). The $100 million commitment from CalPERS ultimately represented 86% of the equity in the fund (Stockbridge Capital Group, 2009).

David Taran, on the other hand, was required to commit no less than $10 million to the fund (Agreement of Limited Partnership between Page Mill Properties II, 2006: 21), of which he contributed less than $2 million by December 31, 2007 (Pricewatercoopers, LLC, 2008: 12). Through the separate sidecar alternative investment vehicle Page Mill Access Fund (est. 2007), Page Mill II also attracted an additional credit line from City National Bank of $30 million, of which $14.8 million was released. The sidecar fund brokered commitments of an additional $30 million from accredited high net worth individuals and pooled venture capital.

The structure of multifamily loans such as the large Wachovia loan is predicated on a market that circulates capital as credit. Commercial loans generally do not see incremental repayment in full over the lifespan of the loan, but instead are structured for regular monthly servicing followed by a large pay down or full repayment at the end of
its 3-10 year term. Such a short span would rarely if ever allow for payment of all interest and principal over its maturity. A looming repayment typically requires a sale, a new loan, or refinancing at the end of the original loan’s short term (Congressional Oversight Report on Commercial Real Estate Losses and the Risk to Financial Stability, 2010:8).

Debt begets new debt in such a structure. Typically, the income generated by rents provides for monthly servicing on a multifamily commercial loan’s interest, or on interest and principal. The property is the collateral for the debt and appreciation in property values can create favorable terms for the borrower on a new loan to repay the original, or for refinancing.

In this example, the loan agreement between Wachovia and Old York Financial LLC, established by Page Mill, was disbursed through a series of advances for Page Mill’s bulk property purchases in East Palo Alto. The loan amount was used for purposes beyond the acquisition. The debt of the original loan was permitted within cash flow calculations as reserves for this portfolio. The lender also provided stipulations for loan advances in the event of the need to pay for debt servicing. Under these terms, the loan itself could be used to pay for a limited number of servicing payments to avoid default (Wachovia Bank National Association, 2007).

This circulation of debt perpetuates a much larger pyramid scheme, in which tenants often have a debt burden of their own. The tenants, profiled in Chapter 5, were among the most susceptible to debt schemes as low-income workers in need of wage supplements. Indeed, across the country, higher income renters began purchasing housing in the 1970s and again in the 1990s through first time homeowner programs initiated in the later period by Bush and Clinton administrations and the subprime market. Notably,
very low income renters and undocumented workers could not afford or qualify for these programs and remained renters. At the same time, rent increases during the 1990s led to an affordability crisis for those tenants (Hockett, McElwee, et. al., 2005).

Among low-income renters, even regulated rents could also be prohibitive without an economy of credit that includes debt as wage supplement in the various forms of payday loans, student loans, and individual credit cards. In California, according to the California Department of Corporations, the payday loan industry reached nearly $3 billion by 2007, often involving compounded interest rates in the triple digits (de Sa, 2011). Tenants’ contribution of rental income to the cash flow of the portfolio was ostensibly, if partially, debt-based just as the service to the original mortgage may come from a credit subscription line or the original mortgage itself. In this formulation, higher leverage was also predicated on high(er) rents, which in all likelihood would involve increasing debt burden for tenants as well, regardless of underlying property value. As noted below, real estate losses for the institutional investor, CalPERS, were exacerbated by additional leverage CalPERS took on and was mandated to repay. Meanwhile, debt taken on by municipal governments supplemented the municipalities’ stretched operational budgets, and local governments’ obligatory contribution payments to CalPERS for workers’ retirement security.47

Page Mill private placement memoranda, the Wachovia loan agreement, and CalPERS’ internal reports all demonstrate excessive risk and over-leverage for the portfolio fund. High concentration of debt in the portfolio meant that more rental income

47 Three California municipalities, Vallejo, Stockton, and San Bernardino, filed for bankruptcy by 2015, each citing high pension costs for municipal budget woes.
would be used for debt servicing, at the cost of operating expenses and overall portfolio stability during the servicing period before property resale. Greater debt also meant greater exposure with potential asset devaluation. At the time of the Wachovia loan in 2007 two primary calculations typically gauged risk for underwriting in the commercial market and helped to establish the terms for the maximum available loan: the Loan to Value (LTV) and debt service coverage ratios. A third ratio, the debt yield, gained import following the housing downturn but was also used in Wachovia’s underwriting for this loan. A closer look at the underwriting for the Wachovia loan demonstrates the extent of the inflated debt provided for this portfolio.

Unlike residential loans that generally involve higher LTV ratios based on an expected long-term amortization span for loan repayment, i.e. 30 years, multifamily commercial loans generally have lower LTV ratios. The released Wachovia loan agreement with Page Mill does not include the terms of the promissory note such as debt servicing schedule, but some publically known elements of the note include the $50 million balloon repayment by the fund by August, 2009, and full repayment by 2011 (Taran, 2009). The loan therefore required a significant pay down two years from origination, and would come due in full within five years of origination.

The Wachovia loan agreement specified all initial and future borrowing base properties for this Page Mill fund. The loan stipulations prohibited the LTV ratio from exceeding 85%. Based on the borrowing properties exhibit, the portfolio was financed at an initial 82% LTV ratio reflecting the total Wachovia loan allocation to purchase price.

As put by Immergluck (2015), the higher LTV ratio is based on the idea that homeowners are less likely to view the property solely as an investment, and less likely to walk away if underwater (personal communication).
Yet, altogether all loans including subscription lines obtained for the portfolio amounted to $287.2 million, well over the portfolio’s total purchase price and appraised value. The total LTV for the portfolio as a statement of total debt versus purchase price, in lieu of appraisal value before sale, was approximately 106%. In this estimation, the portfolio was underwater at origination unless significant added-value redevelopment would take place with the additional credit.49 Such leverage determination above CalPERS’ own stated limit of 75% LTV was allowed for in the partnership agreement “[…if] appropriate for strategic or other appropriate business reasons” as determined by the General Partner David Taran, and approved by the Limited Partnership (Page Mill Properties II, LP, 2006: 47).

A second measurement of risk in this portfolio’s underwriting, the debt service coverage ratio50 (DSCR), also corresponded to a future-driven economy marked by present-day financialization, or opportunities to circulate capital. A DSCR value considers the annual net operating income and annual loan servicing, indicating cash-flow availability and thus the overall strength of the portfolio to support debt servicing through existing revenue sources. The Federal Reserve found in the period between 2005-2007 “…lenders would base reported DSCRs on estimates of future rents, rather than on current or historical rental income” (Black et.al., 2012: 3). This was seemingly

49 In its private placement memorandum overview to individual investors dated several months prior to the Wachovia loan agreement, Page Mill deemed a Loan to Cost (not value) projection of 80% for the portfolio (Wachovia National Bank Association, 2007). Loan to Cost (LTC) includes operating expenses such as budgeted tenant improvements above purchase acquisition (Loan Agreement, 2007: 6). This ratio shows greater leverage than the Wachovia loan agreement’s stipulation of a maximum 75% LTC ratio for the borrowing properties.

50 See http://www.uhab.org/sites/default/files/banking_on_gentrification.pdf for a visual graphic of the definition of DSCR. The graphic depicts debt versus income and was developed by Stabilizing New York City, a coalition of 14 organizing, legal and advocacy organizations in New York City fighting predatory equity in that city (Banking on Gentrification: A Report from the Stabilizing NYC Coalition, June 18, 2016:3).
the case for this portfolio in which neither the LTV nor DSCR could be reconciled at regulated rents. The DSCR stipulated by-the Wachovia loan agreement projected a negative cash flow between .60-.80:1.00 for the first two years given purchase, management start-up and capital costs following the first loan advance, and 1.00:1.00 following year two (Wachovia National Bank Association, 2007). In the net operating income to total debt service ratio, only 60-80% of the annual debt servicing costs would be met in years one and two. Despite this upside down ratio, the Wachovia loan would be deemed rational in light of competitive low-interest commercial property lending rates and what appeared to be the ever-rising mortgage-backed securities markets at the time of origination. Yet with the existing debt including the subscription lines from City National Bank and Royal Bank of Scotland, the Wachovia loan could only be construed as unmitigated and excess risk.

Amplified risk on investment created greater pressure on increasing rents during the investment period. The lender was aware of the rent control protections that limited increases to rent income, and provided a brief summary description of the East Palo Alto

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51 A DSCR ratio less than 1.00 reflects insufficient annual cash flow to support debt servicing and extremely high risk of default. The bank may have allowed for such a low DSCR given the $100million equity commitment from CalPERS that preceded the loan. The calculation assumes an eventual increase in cash flow based on increase in rents and decrease or stabilization of operating expenses over time. Net operating income does not include as expense the debt servicing or capital expenditures, such as one-time improvements.

52 Another indicator, debt yield, also demonstrated high risk for this portfolio. Debt yield measures profitability for the lender in the case of borrower default. This ratio is especially relevant to such a large loan. The ratio estimates how much a lender can expect in returns over the course of holding the properties following default in that event. Wachovia provided stipulation for the portfolio of no less than 7% debt yield in the third year, and thereafter 8% (Ibid.: 15). This ratio estimates that the bank would receive 7-8% in returns if Page Mill defaulted after the second year. There was not specified debt yield for the first two years in the agreement. Although the loan agreement did not cite the projected net operating income for the borrowing properties the debt yield estimation allows for a backwards calculation. At a 7% debt yield, the minimum net operating income would be approximately $17 million for a $242.9 million loan. The portfolio, in these terms, would generate $17 million in revenue after expenses. The debt yield was insupportable even at such low terms.
Rent Stabilization Ordinance in the loan agreement. Although the Wachovia loan agreement required a listing of all properties that fall under the ordinance, only five properties were listed. It is unclear whether the remaining properties were later added to the agreement exhibit. Due diligence investigation by the lender and the borrower investors also required disclosure of all lease agreements for each property (Wachovia National Bank Association, 2007: 18-19). The lack of a complete list of the properties covered by the ordinance suggests blatant disregard of the existing rent regulations that covered the majority of the borrowing and future borrowing properties listed by the borrower. Any strategy of rent increases based on deregulation or increase to maximum legal rents, however, would be based on future rental income anticipated by the bank and borrower rather than the rental income at time of the loan and purchase. Although inconclusive, the incorrect number of properties may indicate the borrower’s future projection of how many fewer units would be covered by the RSO as calculation of future-based rent following deregulation rather than current rent.

Why would Wachovia provide such a high-risk and large loan in a city known for its rent regulation? Just as Page Mill’s portfolio of East Palo Alto rental stock was a speculative investment, so too was Wachovia’s loan to Page Mill’s speculative investment portfolio bolstered by an assumption of value appreciation, continued debt demand, and circulation based on low interest rates and corresponding robust securities and servicing market. The bank, like the investors, sought to amplify leverage to amplify profits. This was especially true for the securitization of loans; the larger the loan, the larger the fees and cash flow from securities. Wells Fargo, in this instance, however, ultimately became the greatest beneficiary in this high stakes gamble. As discussed in the
following chapter, this banking entity later purchased Wachovia debt for pennies on the dollar and with federal subsidy.

Wachovia’s specific interests can be viewed through its interrelated profits from increased leverage including interest payments and fees captured by money managers in the loan transaction. For example, the lender received incentive fees in the immediate closing of the loan. The borrower here purchased points upfront from Wachovia at $21,135,716.00 for an interest rate cap at 6.25% per annum over the period of the loan (Wachovia National Bank Association, 2007: 10). Application fees, appraisal fees and closing costs were also part of the loan structure at the borrower’s expense. In this case some fee costs were allocated as deferred financing fees, which became amortized over the life of the loan, thereby incorporating the fees into the loan amount bearing interest (Pricewatercoopers LLC, 2008: 17). The borrower also provided fees to sell or swap interest rate caps as derivatives contingent upon the loan covenants, with the aim to reduce the impact of increases of interest rates on long-term debt (Ibid.: 9).

Lenders further benefit from such related fees and anticipate fees accrued in the future exchange of servicing rights, which represents another separate market of exchange deploying the loan agreement. This market entails the selling and purchasing of contract rights for servicing mortgage payment collections from the borrower (Howley and Gittelsohn, 2013). Yet still the most compelling reason for Wachovia to issue a loan structured with such over-leverage was the ability for the bank to create paper: a primary driver of real estate lending is the ability to pool and securitize the loan. The security derivative takes the loan off the lender’s ledger.
The Opening of Securities for Liquidity

The circulation of debt grew by the early 1980s, when Freddie Mac first issued collateralized mortgage obligations, or CMOs, in which securities could be segmented to distribute and differentiate risk (Immergluck, 2009: 461). Lenders and investors had more incentive to securitize residential mortgages and commercial real estate loans as vehicles for investment in the secondary market. Wall Street was making massive profits through CMOs in a boom that just among government-sponsored, mortgage backed securities escalated in value from $200 million in 1980 to more than $4 trillion in 2007 (Sanchez, et. al., 2010: 105).

Commercial real estate securities followed residential mortgage backed securities and gained traction as a fix to the savings & loans crisis. The Resolution Trust Corporation was established in 1989 to take over the failed thrifts, nearly half of which were multi-family and commercial loans (Federal Deposit Insurance Corporation, 2005). The Resolution Trust Corporation liquidated the failed loans through securitization, eventually making gains for the U.S. Treasury and overwhelmingly realizing investor profit. These securitizations differed from traditional commercial-backed mortgage bonds because the securities were based on pooled loans and properties rather than on a single mortgage and property.

By the time the Resolution Trust Corporation liquidated the bulk of the distressed loans, the commercial mortgage backed securities (CMBS) had begun to play a rising role in financing new loans. In 2005 the FDIC reported on the self-propagation of the CMBS market in its review of the Resolution Trust Corporation’s securitization program. “Large commercial banks are now underwriting and originating commercial mortgage
loans specifically for securitization” (Ibid.: 420). New commercial loans were financed by securities through the pooling and selling of existing loans. The securities market in turn expanded through the availability of new loans to pool and sell, and put capital in motion where capital exchange was otherwise constrained by illiquidity. In 2007, the same year that Page Mill received its loan, multifamily portfolio purchases grew to $56 billion, “more than twice as much as any previous year” (Joint Center for Housing Studies, 2009:i).

Some of the same institutions underwriting residential and commercial mortgages also purchased mortgage-backed securities (Fannie Mae, 2014). By the late 1990s and early 2000s, the underwriting involved escalated risks or subprime lending. Between 2005-2007, Wachovia was the leading underwriter in the CBMS market with $81 billion of commercial mortgage-backed bonds according to data analysis by Bloomberg (Campbell, 2010). Just months before Wachovia issued the loan for the PMP II portfolio purchases, Wachovia had demonstrated the institution’s tremendous confidence in the market by leading the largest CBMS transaction in history. In that deal, Wachovia pooled $7.9 billion in loans to form a single security, involving half of the approximately $3 billion of financing for the Peter Cooper Stuyvesant Town purchase that later went underwater (Securities and Exchange Commission, Pooling and Servicing Agreement, March 1, 2007). CalPERS lost its total investment in that high-risk deal: $500 million.

In the immediate period following the Page Mill loan issuance, the near total shutdown of the CMBS market in the fall of 2007 would have made securitization of the Wachovia loan to Page Mill’s portfolio highly unlikely, however. Indeed, there were no certificate issuances for this loan disclosed through the Security and Exchange
Commission. Notwithstanding the collapse, all indications point to the likelihood of
Wachovia transferring the loan for securitization based on the bank’s surge in mortgage-
baked securities pools at that time. Wachovia agreements issued on the titles for different
property purchased in East Palo Alto stipulate Wachovia’s securitization rights for the
loan (Wachovia Bank National Association, 2007; Superior Court, 2008). Securitization
would have allowed for Wachovia to move the loan off its books while maintaining
servicing.

Securitization provides another example of financialization at the node between
lending and investment. Subprime loans created greater risk for investors, but also
heightened returns and the pace of moving capital, which in turn allowed for the
origination of new loans. Rating agencies assess and disburse risk in pooled loans and
account for the amount of risk by investor class attributed to different tranches, or cuts,
within the pools. The complexity of tranches further concentrates risk for those investors
in the lowest tranches (Benmelech, Efraim and Dlugosz, 2010: 164). However, even
those who invested in AAA rated superior tranches lost in the downturn. This was due in
part because much of the AAA rated superior tranches were the upper-rated tranches of what were
aggregated B-rated pooled loans. In this structured trick of mirrors, even institutions that
were restricted to investing in AAA debt obligations could invest in high-risk, B-rated
pools. The pooled commercial mortgage-backed securities were far more likely to be
purchased by premium institutional investors than commercial banks (Stanton and
Wallace, 2012). CalPERS was a leading institutional investor in these ultimately doomed
loans. Notably, in July 2009, CalPERS sued raters over highly graded ratings assigned to
poor performing structured investment vehicles.
Figure 5.1 demonstrates the sharp decline of CalPERS funds in mortgage back-
securities (including residential and commercial) paralleling the near collapse and re-
emergence of this market. CalPERS funded this particular portfolio at the height of its
investment in mortgage backed-securities of more than $18 billion. Investment in over-
leveraged real estate by CalPERS coincided with the pension fund’s rise in investment in
mortgage back-securities. By all appearances the underwriting for the Wachovia loan for
the Page Mill portfolio represented a high-risk loan given the over-leverage, rental
restrictions, building conditions as well as the short-term period of the loan (Black, Chu,
et. al., 2011). Notably, most multifamily loans involve the short-term balloon payment at
the 5, 7, 10 year terms that require refinancing (Joint Center of Housing Studies, 2009).

The CalPERS initial capital investment in Page Mill was but one small piece in a
much, much larger CalPERS international and domestic real estate investment portfolio
that was itself leveraged by the pension fund. In many instances, CalPERS’s own
“equity” investments were drawn from credit. The CalPERS credit-based investments in
turn allowed for invested funds to obtain financing for asset purchases and development.
In an overview of CalPERS losses following the housing downturn, the Wall Street
Journal reported that an average sixty percent of the money invested in residential real estate funds by CalPERS was borrowed (Corkery and Karmin, 2008). Likewise, up to fifty percent of CalPERS investments in commercial real estate was borrowed (Ibid.). The equity infusions that investors coveted from CalPERS in order to gain leverage were, in part, and sometimes in large part, also debt in appearance as investment capital.

The Billionaire Limited Partner, CalPERS

CalPERS is a significant institutional investor in the U.S. and world economy, representing the largest U.S. public sector pension with $299.4 billion of assets (CalPERS, 2014). The fund is commonly referred to as the “gorilla” in the field of institutional investors, holding a significant portion of the world’s largest 113 public sector funds that together represented $5.8 trillion of managed assets in 2013, or 39%, of the $14.9 trillion of managed assets held by the world’s 300 largest pension funds that year (Pension and Investments and Towers Watson, 2014). In the area of real estate, thirty years out from the inception year of its current real property portfolio in 1983, CalPERS had become the 12th largest single real estate investor, globally (CALPERS, Real Estate Strategic Plan, February 14, 2011).

CalPERS first grew as a result of low risk investments, investing in fixed bonds, and long-term real estate (1953), and finally, stocks (1967). The risks associated with overleveraged real estate investments stood in stark relief to the stable, long-term components of CalPERS mandate, and instead reflected increasing pressures and incentives for greater returns within a shorter period. The example of increasing risk
resurfaces a sizeable question on the mission and purpose of public pension institutions: Are public pension funds an investment vehicle for workers’ security or capital? Do institutional investment funds simply adhere to market structures, or shape market structures (and investment chances)? What are the consequences for workers in not just whether their investment fund realizes returns on investment but how those returns are produced? Does workers’ capital invest in the theft of workers’ capital?

Two periods of real estate demonstrate the increase of both leverage and risk in CalPERS’ real estate division. The early 1980s-2001 opened a period of external real estate management including money managers, consultants and placement agents. CalPERS’ current property portfolio’s inception year signifies the timing of the shift from comparatively stable long-term real estate investments. This period also saw the first shifting effects of Proposition 21. In 1984 this measure had allowed CalPERS to take on greater risks in investment. The greater latitude for investment allocation was sold to California legislators as a means to reap higher returns, and increase worker benefits (Malagna, 2013). The latter period 2002-2009 continued this trend but was marked by a decision to increase opportunistic funds and decrease oversight requirements. CalPERS peaked its investments in higher risk alternative, opportunistic real estate funds just before the housing crash in 2007, including at the beginning of the end of the boom in highly overleveraged funds such as Page Mill.

CalPERS real estate investments fall under core, specialized value-added, and opportunistic classes (a range of increasing risk). For example, CalPERS classified the vehicle for investment in East Palo Alto, Page Mill II, as an “opportunistic fund” of anticipated higher returns based on higher risk. CalPERS real estate opportunistic
endeavors generally follow the “J curve” effect, anticipating few or negligible returns early on given institutional fees and absolute returns of 13% or more after fees through their short life-cycles (CalPERS, 2006). Investors refer to these opportunity funds as private equity real estate funds (Anson, 2011). In the case of CalPERS, private equity funds are disaggregated from real estate funds by investment unit and are listed separately from real estate under alternative assets. Although the returns on investment for these alternative assets funds are made transparent, the returns on their individual portfolios are not. These funds may include a range of investments including real estate portfolios, securities, and corporate buyouts. Page Mill II’s Limited Partnership agreement described its own structure as a “venture capital operating company” (Agreement of Limited Partnership with Page Mill Properties II, L.P, 2006: 22).

Although CalPERS may assemble and manage a real estate portfolio in-house, since the 1990s external managers have overwhelmingly handled CalPERS's investments in alternative investment classes and real estate by forming limited partnerships for the investment of CalPERS funds. These funds were also critiqued for their colossal losses. Between 1998-2010 the $3.2 trillion global investment management firm, Black Rock Advisors, managed CalPERS’ core (non opportunistic) $1 billion multifamily portfolio investments. CalPERS notably lost its investment in Peter Cooper Village through its Black Rock partner in one of the largest real estate transactions in real estate history. In the same year, CalPERS lost $970 million through another partnership with adviser, Macfarlane Partners (Corkery, 2009). At a smaller scale, this was the case in the CalPERS investment in the private venture capital firm Page Mill that offered CalPERS a

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53 Chapter 5 discusses CalPERS classification of this particular portfolio in East Palo Alto as a venture capital fund and the implication of the asset class for CA transparency law.
limited partnership defined in a private placement agreement. The partnership limited CalPERS control over the assets within a more complex co-investment model and governance structure.

External management-induced fees accompanied outsourced investments. For example, for the Page Mill II portfolio, CalPERS and other limited partners did provide for multiple fees paid out to the general principal, David Taran, while also bearing the expenses for, but limited control over, the portfolio fund. In addition to the management fee, the general partner received property management fees, leasing fees, construction management fees, and redevelopment fees. In just over the first year of the project origination, the general principal accrued $7,137,000 in fees of which, at that time, $1,899,000 in management fees had been paid out by the partnership. (Squar Milner Real Estate Services, GP, 2008: 7).

In 2000, CalPERS’s 13-person board had begun to delegate more investment decisions directly to the staff who then became direct targets of placement agent lobbyists who receive commission from investors for brokering deals (cite). Increased scrutiny over this practice of external management fees and controversy over “pay to play” placement fees following losses led to public outcry and reviews of many of CalPERS’s funds managed by external firms. In the case of Page Mill II, the partnership agreement allowed for placement agent costs and fees, but there was no agent of record for the portfolio (Agreement of Limited Partnership with Page Mill Properties II, L.P., 2006: 31).

Michael McCook was the senior investment officer for the real estate division during the period of Page Mill II investment. Considered one of the “30 most influential
people in private equity real estate” by Private Equity Real Estate (November, 2006), McCook’s self-reported and nominal gifts from those who sought out his influence reads like a daybook marking dates and meetings with gifts received including meals, golf outings, wine, and cigars from partners including Macfarlane Partners, San Francisco, KR Capital Agra, India, AIG Hong Kong, Page Mill, DIVCO (of which David Taran was a co-founder and partner before Page Mill II), Apollo, CB Richard Ellis, Deutche Bank, Resmark, Hines Beijing and Shanghai, Capri Capital, Rreef, Nomura Real Estate Tokyo, and Consolidated Capital of Amsterdam (McCook, 2006; McCook, 2006a; McCook, 2006b). These self-reports make clear both the legal limits of gifts to McCook and the interpersonal, relational work of investment strategy.

McCook oversaw the shift in the real estate division to higher risk.54 Within its real estate assets classification the real estate unit defines opportunistic funds as an alternative asset: “An established investment program temporarily investing outside its benchmark or asset category based on current favorable market conditions” (CalPERS, 2013). CalPERS consultants deemed mezzanine debt, international real estate in Japan and Europe, and U.S. distressed properties or distressed sellers as opportunities of highest returns within this higher risk program. Ironically, in the realm of real estate, the highest amount of debt as indicated by high loan to value ratios, were often loaded onto the riskiest distressed properties.

For example, the loan-to-value percent for CalPERS entire real estate investments reported for the year 2000 was 9.4% LTV. This low-risk, stable LTV compares with the real estate portfolio’s escalated leverage of 64% LTV in 2008. In 2008 the average loan

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54 As previously noted, CalPERS separates real estate from other alternative investment funds.
to value rate of all opportunistic class funds was 70%. For that same year, CalPERS’
guaranteed and non-guaranteed debt for real estate was $24 billion, compared to $1.2
billion in the year 2000 (CalPERS Real Estate Unit Review, 2009).

Public pensions began to turn to opportunistic asset and alternative assets classes
as a way to recoup lost stock returns in index funds in the economic wake of the deflated
tech bubble in the spring of 2000, and the 9/11 terrorist attack the following year
(Williams Walsh, 2004). The outpouring of both equity and debt capital into the real
estate market following the downturn of stocks also meant lower yields from CalPERS
core-assets. CalPERS in 2004 sold $16 billion of core-assets and leveraged the remaining
portfolio to support what became a $30 billion investment in high-risk real estate
(CalPERS Real Estate Unit Review, 2009). Arguably, CalPERS also sought quick
returns after failing to reap the gains of 1990s stock boom. A former chief investment
officer for California’s Teachers Employee Retirement System (CalSTERS) stated in an
interview with Reuters, this failure, led by CalPERS, propelled Wall Street in the years to
come:

Had public pension funds locked in profits then [1990s], pension fund boards
years later would have thought twice about buying into opaque investments and
Wall Street may not have been so inventive... It would not have been necessary to
create these overly risky products with the intent to recover from what they
missed. (Christie, Henderson, Alban, 2009)

Instead, following initial investment in private equity in 1990, CalPERS led pension
funds into hedge fund and the higher risk opportunistic real estate investments beginning
in the early 2000s. Ironically given the strategy of private equity, CalPERS investment in
venture capital, particularly finance was seen as aligned with its “Double Bottom Line”
policy in 2000 to invest in socially responsible, non-polluting industries. See figure 5.2.
for CalPERS allocations by investment area.

![Figure 5.2. CalPERS Investment Areas by Allocation Percent, Annual Reports 2002-2012](image)

In 2002, CalPERS allocated its first investments in the newly created “real estate opportunistic fund.” CalPERS cited potential for returns well above the 13% benchmark and in the 20-30% range for this new opportunistic class. For example, one opportunity cited in an internal report on higher risk investments was to provide mezzanine bridge loans to commercial investors facing what CalPERS called conservative underwriting at the time. Among its first opportunistic domestic real estate funds in this new class was CalPERS’ investment in the first Page Mill Fund in 2002. At that time, CalPERS allocated a total of $500 million in opportunistic real estate investments. CalPERS identified funds for such investments in 2002 by leveraging core investments. In this structuring, stable real estate funds would be used as collateral for debt used as capital to invest in higher risk opportunities (Members of the Investment Committee, CALPERS, 2004).
By 2006 high-risk opportunity funds represented 15% of CalPERS’ total real estate portfolio, or $1.6 billion, and by 2010 represented 40% of the total real estate portfolio (CalPERS, 2006). As evidence of the loosening of monitoring at CalPERS, only opportunistic real estate investments over $200 million required CalPERS Investment Committee Board approval by the time the program was formalized in 2006 (Ibid.). In classes considered less risky, such as core property, CalPERS would allow up to $1.8 billion in a single deal without investment committee approval (Jacobius, 2009). In contrast, in the period before 2002, most of the CalPERS domestic real estate investment pertained to commercial office buildings for rent generating income with relatively little debt; any investment over $50 million had to be approved by the board (Robinson and Marois, 2010).

Another consideration for investment and risk managers in the CalPERS real estate unit was compensation tied to return on investment. When CalPERS’ potential beneficiaries profited in the short term from high-risk investment, so too did its senior investors. Performance incentives in the real estate unit were tied directly to gains in the real property asset classes. In the case of CalPERS senior investment manager Ted Eliopoulous, 20% of his performance based review score for compensation was based on non-core, opportunistic returns (CalPERS, 2009). Although this could also amount to losses in compensation, investment officers were rarely hurt by their gambles. Eliopoulous oversaw the real estate unit during the housing downturn and faced CalPERS’ record loss of 47.9% of its real estate asset value in the year 2008, but he was still awarded a $93,941 bonus that year (Pensions & Investments, 2010).
If core real estate had been long considered a stable assets class at the time David Taran presented to CalPERS Page Mill Properties II as an investment opportunity, non-core or “opportunistic” real estate was another matter. Although CalPERS’ real estate assets did not meet their benchmarks and suffered tremendous losses for core and non-core classes beginning in 2007, the opportunistic class lost most significantly. The consultants CalPERS hired to conduct a due diligence report in anticipation of a subscription agreement with Page Mill noted the vulnerabilities facing CalPERS with such an investment in non-core, opportunistic classes. They provided a rationale for their services, stating:

Long ago adjudicated as an Alternative Asset Class, real estate has only recently been more able to standardize and gain certain efficiencies, which have the capabilities of being quantified and duplicated. However, non-core investments add a more complex asset management and monitoring dimension. We have approached this assignment with this in mind. (Situs Strategic Advisors, 2006: 1)

Despite the consultant advisors’ claim that greater risk and complexity of risk and governance required increased monitoring, CalPERS real estate unit did quite the opposite in this period, even as “opportunistic” real estate funds and securities purchases went into free fall.

For example, three years after the fund initiation when the CalPERS real estate unit sought clarity on the Page Mill portfolio value, the fund’s general partner rebutted saying the CalPERS real estate unit held no authority to conduct an appraisal because the portfolio did not fall under the same scrutiny obligations of CalPERS “core” assets (Shore, 2009:1). The higher the risk, the less monitoring the real estate unit mandated, or in this case, was permitted to undertake in its role as limited partner.

CalPERS ultimately lost all equity in the Page Mill fund. In the structure of
venture capital funds or private equity real estate, limited partners such as CalPERS have little authority over the General Partner. Despite holding the largest share, CalPERS’ voice and control in the management and governance of this portfolio was circumscribed by their position as limited partner as described in the partners’ terms of agreement with David Taran.

The 1.68 million California public sector worker contributors to CalPERS, who are disproportionately people of color, contribute through their deferred compensation the investment capital that makes up the CalPERS pension fund. They assume future earnings from CalPERS investments by money managers tasked to invest their deferred wages. Ultimately, as fiduciaries of workers’ capital, “[t]he primary component of [public pension funds’] duty is to ensure the best long-term, risk-adjusted rate of return for the plan’s assets” (Silvers, Patterson and Mason, 2001: 203). Notwithstanding fiduciary responsibility to the workers, in a debt-sourced economy workers are at the bottom of the market pyramid scheme. The burdens of retirement payout and potential income security can be shifted from the employers to the workers and larger number of CA residents. In the case of California, the state guarantees CalPERS solvency, making all California residents the greatest stakeholders by number in its investment strategy.55 Much of the debt burden for over-leveraged investments fall onto municipalities who must take on their own debt to support contributions to CalPERS.

Although most pension funds first gained their wealth and garnered state and labor investment through long-term investment strategies and earnings, the financial

55 Pension funds, the world’s greatest single source of investment capital shape capital markets and exploit them (Fung, Hebb, Rogers, 2001), in this case premising homes as commodity and people as expendable.
crisis of the early 2000s exposed an economy predicated on other people’s money, risk, debt, and short-termism. Such high-risk was not induced by the capital innovation in debt-backed financialization alone. This portfolio must be understood along the lines of the preceding racial contours of urban, then suburban, disinvestment. This context intersects with state signals of weakening rental protections; a long-established reliance on workers to plan ahead for themselves for retirement by producing contributions to institutional investment capital during their productive years; plus a reliance on municipalities to supplement contributions to the fund by taking on their own municipal debt. As municipalities take on greater debt to pay for debt-backed pensions and the devolution of basic services, “Wall Street” private interests hold influence over local governments exchanging credit-worthiness for increased austerity and privatization (see Hackworth, 2007).

Chapter Conclusion

This portfolio description identified the primary capital stakeholders in the portfolio construction, the general partner, the lender, and the institutional investor. Beyond the speculation of property for short term gains, this portfolio overview demonstrated how the general partner leveraged labor’s capital via CalPERS for access to credit, which in turn potentially supported a securities market in which CalPERS was highly invested, and whose investments formed part of a larger market of exchange of debt, real property, bonds, and commodities.

Figure 5.3 summarizes the primary capital stakeholders of the portfolio fund detailed above in this chapter: the fund manager, limited partners, and lenders. The
arrows depicted in figure 5.3 indicate interdependencies and broad capital flows rather than a chronology or processes of the portfolio assemblage.\textsuperscript{56}

The Page Mill general manager, David Taran, established this particular “venture capital fund.” The general manager retained total management and control of the fund during the period of assembling and operating the portfolio. There were multiple transactions of exchange, initiated by the fund’s general manager.

The fund’s general manager relied on the properties’ rental income at minimum for immediate debt servicing; tenants in turn claimed residence. The manager sought investment in Page Mill by CalPERS and individual high-net worth investors, the latter of whom largely made commitments to the portfolio’s side-car fund, “Page Mill Access Fund.” In turn, initial capital commitment allowed the general partner to obtain greater leverage, including the largest note from Wells Fargo/Wachovia. Credit allowed for property acquisition and funds to reposition the properties for redevelopment.

\textsuperscript{56} The governance portfolio structure of the fund establishes the separate Page Mill Access and Page Mill Properties funds that become a single entity for borrowing purposes; leverage therefore became attributed to separate LLCs all controlled by the general manager (Stockbridge Capital, 2009).
The pension fund, the majority investor, for its part collected a portion of state workers’ wages, along with state employer contributions, in exchange for a promise of retirement income to member workers in the future. Satisfactory returns from such investments as the Page Mill portfolio would contribute to the CalPERS assets pool for pensioner payments and investment equity.

The capacity for capital exchange and fee collection throughout the period of the Page Mill portfolio, rather than as solely in the acquisition and disposition book-ends of the deal, the latter being when investment managers anticipated the greater waterfall of returns, was largely based on the ongoing influx of capitalization through new investors and leverage. In the time span of the holdings, lenders and the general fund manager interfaced with brokers in the intermediary markets of servicing, interest rate swaps, and, potentially for the lender, the creation and selling of securities. In the figure 5.4, another double arrow depicts potential interdependencies among the portfolio actors: the lenders and a larger pool of investors beyond those indicated in the figure, investment bankers and pension funds. The arrow line is depicted as broken because the interdependency is not between the specific investors and the lenders of this portfolio deal, but between lenders and investors in securities. The double arrow indicates the lending imperative for creating paper in the securities market, and vice versa. Lending originators have come to rely on this circulation of capital in the secondary market. Lenders also rely on deposits from consumers serviced by banks to guard the consumers’ interest-bearing wages, and who en-masse rely on consumer credit as wage supplements.

In the sketch of such a pyramid scheme, tenants, homeowners, workers and consumers are the base on which value extraction and the debt economy rests.
Ultimately, the scale and debt structure of the large, concentrated, and over-leveraged portfolio created greater impetus for Page Mill to suppress tenant collective action to defend and expand rent control. As investors’ contributions and debt amplified so too did the fund manager’s drive to eliminate rent control and create a portfolio attractive to prospective developers for amplified returns. Indeed, the general manager sought to secede the underlying land of the portfolio from the City of East Palo Alto in order to break away from the city’s rent ordinance.

Although Page Mill anticipated subverting rent regulations and increasing rent in the short term, the arrow between the fund manager and the tenants in this figure was breached: ostensibly, the general manager had no intention of retaining tenants’ rights to occupy their homes in exchange for rent, nor did the general manager plan on remaining the tenants’ landlord for long. Instead, unfolding events first discussed in Chapter 4 exposed the investment strategy’s intermediate objective: to wholly displace the tenant population.

Page Mill sought to both profit from and overhaul state protections established for renters. Undergirding this investment model was a racial organization of real estate risk extended from preceding California property regimes and broader U.S. housing and urban policy. The potential for return on investment ultimately relied on the historical and ongoing otherizing of Black and immigrant renters, devalued by race, income, and citizenry as part and parcel to re-valuing the land and housing for new, ostensibly white and higher income residents. Segregation as containment marked the boundaries and ratios of value, rent control abated gentrification but at the same time became a reason for speculation.
Chapter 6. Leveraging Points of Vulnerability

Chapter Introduction

This chapter extends the discussion of tenant action in East Palo Alto. Tenants deciphered the portfolio stakeholders outlined in Chapter 5 enabling them to create a crisis for investors. When informed tenants organize strategically, they can exploit vulnerabilities among targets and create new opportunities to actualize their collective tenant power. Although no singular approach prevailed as a “winning strategy,” for the Page Mill tenants and their advocates, together their efforts created a whirl of activity that ultimately propelled a crisis of profitability and control for the investors. As put by the lead organizer for the statewide tenant-organizing outfit, Tenants Together: “The Page Mill business plan didn’t allow for these kinds of delays by tenants. Tenants fought back…they would have gotten reinvestment funds if we hadn’t fought back” (personal communication, June 7, 2012). Reinvestment funds would have allowed for Page Mill to continue ownership over the portfolio and wait out the financial crisis to sell the portfolio to a premium investor for development. Without the reinvestment funds, Page Mill faced the crisis of foreclosure and total investment loss for all investors.

Through their own actions, tenants won time to remain, claim, and expand their rights as renters and as residents of East Palo Alto. In succession, tenants won a temporary moratorium on rent increases, and, significantly, a city moratorium on development. This chapter recounts why wielding the city’s power mattered to tenant
action, and in particular, how their actions resulted in new guidelines by the state’s two largest public pension funds, CalPERS and CalSTERS to prevent predatory equity investment. They also created a new opportunity through the crisis of foreclosure to affirm rent control, and ensure the city’s westside rent-controlled properties would not be demolished by redevelopment.

Tenant action also resulted in greater transparency concerning workers’ contributions to the Page Mill venture. Tenant action pulled back the curtain on the portfolio’s stakes and stakeholders to reveal Page Mill’s “trade secrets.” The trade secrets amounted to a prototypical example of what housing advocates have called “predatory equity,” as described in Chapter 5’s overview of the portfolio’s financial details and business model. These details shed light on the social actors and structures involved in large, overleveraged, private portfolio real estate funds and thus revealed the multiple points of vulnerability for the investor landlords. Although tenants may count traditional direct action such as the rent strike and eviction blockades as central bases of power, renters in the Page Mill portfolio calculated that the traditional tenant/landlord interdependency of rent exchange was not their most significant or sole leverage point for securing their demands. Instead, in this case, the investment structure offered opportunities for the tenants to exert political pressure and leverage other financial constraints on the fund by targeting the city and state.

This chapter asks, “What were the points of vulnerability within the corporate structure of this predatory equity scheme?” To answer this question, this chapter borrows extensively from Juravich’s (2007) strategic corporate research framework developed for union campaigns, and specifically from a U.S. perspective. Juravich argues that as
corporate structures change, so too must labor tactics. This analytic framework pays particular attention to relational, interdependent, secondary targets, or those actors who are leverage points or intermediaries who may disrupt or block the primary target (primary decision maker) as a result of governance or state oversight authorities. In the portfolio structure described here, the general manager, or principal, of the fund was not the sole or even primary target of the tenants. Tenants wielded leverage on the city, the public pension fund, and the state (and to a lesser extent, the lender). As in workplace campaigns involving immigrant workers in the service industry (see for example Fine, 2011; Gordon and Fine, 2010; Fine, 2005), tenants found in the case of this corporate portfolio structure that the state matters.

Renters organizing in East Palo Alto did not deploy Juravich’s specific framework, or develop a comprehensive strategic research strategy from the onset. Still, several activist tenant leaders did play the role of strategic corporate researchers in their quest for transparency and data, including the Stanford graduate students involved in the Fair Rent Coalition. Transparency caused reputational damage and threatened targets, but could not result in the desired outcomes without the people most affected by the threat to their housing organizing around collective demands. Juravich’s premise that the corporate structure should inform strategy is only as effective as the organizing work that allows tenants to leverage points of vulnerability in the corporate structure. Beyond rational choices based on strategic options that calculate opportunity and risks, effective organizing rooted in social movement vision is a highly oppositional process for realizing power based also on identity formation, solidarities, ideology, and consciousness (see in
the labor literature, for example Stepan-Norris and Zeitlin, 2003; Voss and Sherman, 2000; Fantasia, 1988).

The following sections extend Juravich’s framework to this tenant organizing campaign targeting the venture capital investors. This analysis centers tenants, workers, and voting constituents as those who attempted to act upon points of vulnerability through the secondary (city and state) and primary (investor) targets to meet their demands. At the level of the city, the investors were vulnerable to tenant political pressure vis a vis two primary areas of municipal authority. The first local authority limits rental income; the second power limits redevelopment potential. Limits on rent and restriction on development made property disposition, refinancing, and fresh equity less likely for the general partner whose overleveraged portfolio required new capital infusion or sale.

Another secondary leverage point for the City of East Palo Alto and tenants was through negotiations over litigation, discussed previously in Chapter 4. The city’s capacity and power to litigate or respond to litigation could increase the city’s negotiating power based on disclosure demands. For example, the city pressured the investor by demanding documentation of its business model. Through disclosure, the city and tenants first learned the extent of CalPERS’s investment and leverage amount by the primary lender.

After a discussion of these areas of power for the City of East Palo Alto, the second section of this chapter discusses the limited partner role of the public pension fund CalPERS. CalPERS exposed the fund to a point of vulnerability beyond municipal regulation. This is a pension fund that is at once a limited partner in this private portfolio
corporate structure and an arm of the state. CalPERS is led by public sector union leadership at the service of state and municipal workers, accountable to state legislature oversight, and guaranteed by California taxpayers.

Less impactful, but nonetheless forceful, were tenants’ and city demands on the lender target. The lender was a point of vulnerability for the investors even following the loan agreement; at the time when the investors’ balloon payment came due, the note holder could negotiate refinancing or proceed with foreclosure. The lender, or, in this case, debt purchaser, ultimately determined the control over the portfolio through its transfer to a new purchaser following foreclosure.

**Wielding the City**

That the City of East Palo Alto defended its rent control was an unexpected challenge for Page Mill. In fact, Page Mill’s general manager had highlighted in the fund’s prospectus their anticipated private-public partnership with the city that would allow them to usher in development plans and attract a premium purchaser.

The city used its authority to limit the portfolio’s net operating income, which the general partner relied upon for debt servicing in the short term, but more importantly as an added value of income potential for attracting a premium purchaser in the near future. This mattered for a business model that predicated its current debt threshold on future earnings, rather than present conditions (see Chapter 5).

One point of vulnerability for the investors included the just cause provisions that protected tenants from eviction. The just cause provisions in the city’s rent regulation
could impede income potential. No-cause eviction would facilitate tenancy succession and vacancy decontrol that would otherwise allow the landlord to raise rents to market rates. In this case the city blocked some rent increases and some, but not all, evictions. These efforts only partially deterred secondary displacements. Additional eviction protection, including increased remuneration for tenants facing the state Ellis Act (tenant evictions through property demolition), was passed proactively by the city during the Page Mill’s initial phase of the property acquisition. The intent of that initial shoring up of eviction protection was also to encumber property repurposing and development. These tenant protections were then immediately followed by Page Mill rent increases, which led to the city’s emergency moratorium on rent increases, and referendum on a new and stronger ordinance in suit.

Twenty years had passed since the original RSO’s passage in 1988. During the short ownership tenure by Page Mill, the City of East Palo Alto was pressed to tighten the ordinance to comply with state law. Once the Page Mill portfolio was defunct, the City remained in a hurry to issue the new ordinance ahead of the change in ownership of the portfolio properties. A clear message was intended to prospective bidders: the City of East Palo Alto would not allow a large landlord to steamroll the city and gut rent control. Any acquisitions of the portfolio properties would be made with full knowledge of the regulated base rents and incremental increases allowed.

Not only did the City take the bold stand freezing rent through the initial moratorium vote described in Chapter 4, they requested that the City of Berkeley Rent Stabilization Board review their RSO to ensure compliance with state law and maximize all due tenant protections. Their first attempt to hold a voter referendum to introduce
amendments to the ordinance and strengthen tenant protections was halted by Page Mill’s legal action. Page Mill cited a provision mandating an environmental impact statement to precede the referendum. Notwithstanding Page Mill’s attempts to sabotage the ordinance, on June 8, 2010 the new ordinance reached the electorate; 79% of East Palo Alto voters approved the revised and strengthened Rent Stabilization and Just Cause for Eviction Ordinance in the City of East Palo Alto.

The new ordinance accomplished several goals for the City of East Palo Alto. For one, the 2010 ordinance reasserted popular support for rent control in the city. It demonstrated that the city’s elected officials who had worked against Page Mill’s increases indeed had done so with the support of the vast majority of the city’s voting residents. Second, the new ordinance resolved important inconsistencies that were brought to the city’s attention by Berkeley’s review of the East Palo Alto’s Rent Stabilization Ordinance.\(^57\) The new version clarified language to comply with the state’s limitations on vacancy control that went into effect with the 1996 Costa-Hawkins law. Third, the new ordinance provided stronger protections and benefits for tenants while maintaining a landlord’s right to fair returns.

The ordinance reduced the amount of annual rent increases allowed from 100% of the Consumer Price Index to 80% of the CPI, a small additional savings for tenants that the city argued still allowed for fair return on rents. The ordinance also strengthened Just Cause Eviction and strengthened measures against retaliation and harassment of tenants. This new RSO included language that made explicit the ability for tenants to withhold

\(^57\) This review was paid for by the City of East Palo Alto at their request.
rent based on erroneous increases, habitability citations, or landlord failure to submit proper rent registration.

The new ordinance was followed in 2012 by the city’s marked disincentives for the redevelopment of multifamily properties by increasing city oversight and relocation supports required for displaced tenants. In 2014, the city also passed the Tenants Protection Act to address “the imbalance of market and bargaining power between landlords and tenants” (City of East Palo Alto Municipal Code Ordinance No. 374, May 6, 2014:1). The ordinance asserted and affirmed a tenant’s right to organize. The ordinance further clarified the prohibition of landlord harassment, including utility pass-throughs and cut-offs, lockouts of tenants, or discrimination of tenants with children, or student status. It also made landlord harassment in form of retaliation a criminal offense. Most notably, the ordinance put new prohibitions on demolition of multifamily units, and upped relocation provisions and oversight in the case of demolition. The city ensured that undocumented residents would receive the same protections as citizens by prohibiting inquiries into documentation status for relocation supports (Municipal Code Ordinance No. 374, May 6, 2014:1.).

A second authority held by the city involves rezoning and redevelopment. Rezoning for new development would require changes in the city’s general plan, and ensuing changes to water, sewer, and other infrastructure services to the portfolio’s consolidated geographic area. The investors relied on the city to demonstrate favorable conditions for reinvestment and development; this was also part and parcel to the business plan to attract a premium investor for development. Public-private partnerships
allow developers to work directly through the city to pursue redevelopment funds including bond financing for new city services.

Although such partnerships for mixed-use, commercial or residential development may promise the expansion of the city’s commercial tax base and employment opportunities, the city had refused partnership with Page Mill. Moreover, Page Mill argued that the City had stalled in working with the fund around basic infrastructure projects including lighting, and services such as the police (see Chapter 4). The city explicitly and strategically took time, or stalled, on development rezoning.

YUCA spearheaded a coalition, Transform and Build East Palo Alto, to mobilize and shape community input into the city’s general planning update that was slated to include the west side. The organizing and mobilization of residents was co-led with PIA organizers. YUCA along with PIA mobilized standing room town hall and city council hearings. For one, the city responded by freezing west side development and declaring a moratorium on any development for two years. Later, the city would extend the development ban until the completion of the Westside Area Plan.

At the same time as affordable housing remained urgent to the city, the prospects of creating additional affordable housing by new construction were diminishing. In 2012, the state halted state subsidy for affordable housing, dissolving the local redevelopment agency. In response, East Palo Alto established an ordinance for a tax “set aside” on market rate new constructions. The “set aside” would allow the city to develop a mere 118 below-market units by 2022 (City of East Palo Alto Ordinance No. 379, 2012). This paltry number in a six-year projection reflects the limitations of the city without state supports to redistribute resources or incentivize the production of affordable housing.
In the community input process for the Westside Area Plan, the City attempted to create a participatory process to tap into the organizing capacity that grew from tenant action around Page Mill. In 2015, residents marched under the banner of “Black Power, Brown Power, Poly Power” (Dreeman, 2015) to protest gentrification and to call attention to stakes of the plan for the city: the legacy of majority-minority power in a capital-rich Silicon Valley region dominated by white policy makers.

In 2015 the city released the plan that prevented the demolition or conversion of the rent-controlled units. The plan allows for new mixed-use development to surround the existing rent controlled multifamily units but maintains and protects those units. These are the very units of the Page Mill portfolio that were otherwise slated for repurposing. In this way, the tenants not only bought time through the city’s authority over development, in the general plan they also secured the potential of tenants to remain in the rent controlled units to benefit from the area’s redevelopment plans without fear of losing their homes due to rent increases or demolition evictions.

In addition to its own regulatory authority, the city also exerted political pressure on the institutional investor, CalPERS. East Palo Alto is a stakeholder in CalPERS as a contributor to public employee pensions. However, the city could not directly influence CalPERS by withholding pension contributions except, perhaps, under federal bankruptcy protections. (At the time of this writing such a possibility was under review in San Bernardino, CA.)

Targeting the Pension Fund Investor
Tenants Together worked with YUCA and the Fair Rent Coalition to target CalPERS. The groups researched the predatory equity deals in New York City, and learned from the work spearheaded by UHAB to target the NYC Comptroller. The comptroller there took initiative against “predatory equity” based on news that NYC teachers’ pensions had likewise been invested in similar overleveraged deals that undermined rent regulation there. That comptroller, who at the time was a contender for mayor, drafted a letter arguing against city public pension fund investment in predatory equity; at the time city pensions were invested in approximately 15,000 residential rental units (Office of the New York City Comptroller, 2008:1). Moreover, the comptroller created an “opt-out” policy for pension funds regarding predatory investment, increased pension fund engagement with unscrupulous housing managers and promotion of its Economically Targeted Investment (ETI) program for middle to low-income housing preservation (Ibid.:2). The Fair Rent Coalition tenant advocates in California shared the New York letter directly with CalPERS.

In the summer of 2008, Tenants Together hosted a meeting in their offices with a YUCA organizer, a tenant activist with the Fair Rent Coalition and several other Page Mill tenants to convey their concerns with CalPERS real estate unit personnel, including senior investment officer Ted Eliopolous. CalPERS had reason to meet with YUCA and Tenants Together, which were membership-based organizations. Tenants Together, although new as an entity, included long-time advocates who were aligned with unions and other state-wide advocacy groups that often worked in coalition involving state legislators in Sacramento. They called on CalPERS to withdraw from the portfolio.

A year after the initial rent increases and the City of East Palo Alto’s subsequent
ordinance to freeze rents, the city and SEIU released at the same time resolutions protesting CalPERS’ initial investment and calling for CalPERS action. The resolutions were passed to leverage political accountability vis a vis CalPERS. The director of the Western States SEIU Capital Stewardship Program had put tenant advocates in touch with CalPERS Board members, and communicated directly with CalPERS’ C.E.O. regarding their own concerns with the Page Mill investment, which the union considered predatory equity (Marguerite Young email to Anne Stousball, CalPERS CEO, December 12, 2008).

The City of East Palo Alto’s resolution framed the CalPERS investment in Page Mill as counter to CalPERS’ own principles (City of East Palo Alto, 2008). The resolution recalled the fact that just a few months prior to establishing the Page Mill fund, CalPERS had become signatory to the United Nations Principles for Responsible Investment (UN PRI). The UN PRI provides a normative framework for socially responsive governance, relying on principles of transparency and a self-reporting assessment by investors to disclose progress (Richardson, 2008). In 2006, just months prior to the Page Mill agreement, the PRI was unveiled at the New York Stock Exchange with a CalPERS’s Board member, representatives from other PRI signatories and UN Secretary General Kofi Annan (CalPERS, 2006; See Vorhees, 2015).

The resolution also referenced the CalPERS California Urban Real Estate Fund (CURE), an initiative by the pension fund that “implicitly,” according to the city resolution, “recognizes the value of promoting affordable housing” (City of East Palo Alto, 2008). The CURE program followed a number of CalPERS state-based development initiatives that responded to the L.A. riots in 1992. CalPERS first
established the Economically Targeted Investment initiative, a stimulus investment program that “includes job creation, development, and savings; business creation; increases or improvement in the stock of affordable housing; and improvement of the infrastructure” (CalPERS in Hebb, 2005: 10). The success of that program, in relationship to returns on investment led to the 1995 initiative, the California Urban Investment Partners, followed in 2000 by the California Urban Real Estate Fund (CURE) program, which the city referenced in the resolution.

Since 2000, the CalPERS’ CURE program invested in moderate, low income, and senior housing, and slated funding in the AFL-CIO Housing Trust for affordable housing, in addition to retail and other commercial in-fill developments (Hebb 2005). Non-profits that received CURE funds did not necessarily develop residential and commercial projects as an alternative to the speculative market. The program was designed for revitalization, and aimed to support minority entrepreneurs, but was also viewed as an effort in “pursuit of financial returns and gentrification” (Peterson, 2010).

once a neighborhood has begun to show early signs of revitalization potential, CalPERS is prepared to bring considerable investment dollars that enable early development to move to the next level (Hebb 2005: 20).

CalPERS distinguished “early development” as a period indicative of stalled gentrification that needed greater catalyst. Although investment in the CURE fund was designed as geographic-specific to target opportunities for under-invested communities, it is not clear if such investment benefitted the people living in those communities or to what extent. In any case, Page Mill was designated as an opportunistic fund (see Chapter 4). Notwithstanding its risk-ratio, as a California-based residential portfolio, it was subjected to a review under the CURE fund. Under pressure by tenants, the City of East
Palo Alto, and SEIU, CalPERS began their review of Page Mill’s portfolio with the 
CURE rationale. CalPERS hired external consultants in January 2008 for the CURE 
review, which they then extended into a fuller investigation by Stockbridge Capital (JC to 
DT, email “Cure Fund Program Assessment” Phase I, January 14, 2008).

The city’s point of reference to the CURE fund drew attention to the fact that 
Page Mill’s strategy of targeted urban in-fill and revitalization flew in the face of the 
affordability goals established by this well-known and growing CalPERS California 
investment program. A CalPERS Board member also referenced the CURE program for 
“underserved communities” when she stated to the CalPERS Investment Committee, “So 
this [Page Mill] is, you know, absolutely at odds with our general practice” (Mathur,
December 15, 2008). The city and SEIU deployed their resolutions to remind CalPERS 
and the public that East Palo Alto, as a place of investment, was the home of CalPERS 
workers and tax payers who contributed to and guaranteed the pension fund.

SEIU Local 521 represents 25,000 CalPERS plan members in the region, 
including city workers. Approached by Tenants Together, Local 521’s executive board 
passed a simultaneous resolution, which included language excerpted here that echoed 
tenants’ immediate demands:

Further resolved, that the SEIU L521 Executive Board expresses concern that 
CalPERS has invested the retirement funds of L521 members in a real estate 
investment that threatens to displace East Palo Alto residents including SEIU 
L521 members; 
and, be it FURTHER RESOLVED, that the SEIU L521 Executive Board calls on 
CalPERS to take an active role to ensure that Page Mill Properties rescinds rent 
increases in excess of 3.2%, ceases evictions of tenants who refuse to pay the 
disputed increases, and publicly discloses plans for its acquired properties in EPA. 
(December 14, 2008)

As the above excerpt demonstrates, in a feedback loop, Page Mill tenants who were
CalPERS plan members ostensibly invested in their own displacement. “It’s like I’m paying for these people to give me the boot,” explained an African American member of the local home care workers and a Page Mill tenant who attended a protest organized by YUCA. (Sheyner, 2009). Although tenant leaders were unclear of the total number of plan members who resided in the Page Mill units, City of East Palo Alto officials made it clear that city workers, including elected officials, were plan contributors. The Capital Stewardship Program Director for the Local explained that the resolution “was unanimously approved because of the imminent threat will make members homeless...” (communication to Andrew Blue, December 14, 2008). That same year, a Local 521 member became the retiree representative on the CalPERS Board, which administers the CalPERS pension fund.

In preparation for a CalPERS Investment Committee Board meeting where the East Palo Alto mayor and tenants would speak, the portfolio manager and senior investment officer for CalPERS Real Estate Unite apprised the board members of the events surrounding the fund. They gave notice to the board that the Stanford Legal Clinic had prepared a letter against predatory investment by the pension fund that they expected to be signed by California congressional leaders, including Anna G. Eshoo and Senators Boxer and Feinstein. (Eshoo later made a public statement of concern, but did not send the letter.) They also informed the board that they had confirmed through their contacts with SEIU that union members were Page Mill tenants. For some board members, the ostensible investment in their contributors’ displacement may have been the least of their mounting concerns, however.
Home of the Financial Crisis

“We know it's bad news today, very bad news.” This statement opened the CalPERS Investment Committee meeting in the last month of 2008 (CalPERS Board of Administration Investment Committee Open Session, December 15, 2008: 5). The bad news continued for five hours of open session. All eyes were on the national economic landscape. Not one commercial loan had been securitized for six months, more than half a million jobs in the U.S. had been lost in just the month prior, and earlier that month the S&P had plunged despite some fleeting signs of positive gains (Wei and Hilsenrath, 2008). CalPERS had just reported 103% losses in real estate assets for its previous fiscal year, based in part on over-leveraged housing investments, including debt CalPERS was obligated to pay-off in addition to losses from expected returns (Corkery, Carmen, Rundle and Lublin, 2008). Mortgage-backed securities were under scrutiny, with even greater losses predicted for the following quarter.

At the end of this open session the CalPERS investment committee members turned their attention from what they carefully constructed in their public comments as external events, outside of their control, to a very specific illustration of CalPERS’s own hand in the failing economy. CalPERS board members had very good reason to be concerned with Page Mill’s evictions of East Palo Alto residents via CalPERS funds.

Six of the thirteen member CalPERS Board were elected by the CalPERS membership and like other appointed board members played a political role as well as a fiduciary role in their positions. Board members represented CalPERS to state legislators, advocated for workers’ pension benefits, and, significantly, held full authority over investment allocations. In 1984 Proposition 21 had allowed the CalPERS Board this
authority and flexibility in investment allocation. As a result of Proposition 21, the CalPERS Board had become a stalwart leader in shareholder and investment activism. Many of the trustees were labor leaders with political interests. In the years following Proposition 21, labor leader board members ushered campaigns for divestment from tobacco and from developing countries with poor labor practices. Although Proposition 21 allowed board members flexibility, they also became personally liable for imprudent investments. This was the compromise the board received in Proposition 21.

When representatives from Tenants Together, the Fair Rent Coalition, the City of East Palo Alto, and Community Legal Services addressed the CalPERS Board Investment Committee, they were aware of the board’s investment oversight role. They exposed the board to the vulnerabilities of reputational damage for not only the investment fund, but for the board members as individual fiduciary agents. They also raised the questions of vulnerabilities of the fund manager, including the possibility of CalPERS divestment from the fund, or take-over of the fund. Remarkably at this time of national economic crisis, the East Palo Alto public officials and tenant advocates were the sole public commentators for that session. They had the full attention of the CalPERS board and attending media for this portion of the public agenda.

The newly elected mayor of East Palo Alto, the Page Mill tenant who was a council member during the moratorium debate a year earlier, read the city’s proposed resolution before the board. The mayor accused Page Mill of tenant harassment saying the investor landlords had “unleashed a frontal attack on the city government and on the tenants,” who he explained were “the working people… who do all the service work for the surrounding communities, who provide the labor pool” (CalPERS Board of
Administration Investment Committee Open Session, December 15, 2008). He underscored CalPERS accountability to his community: “We particularly find it ironic in the small community like ours, again where our employees are all CalPERS members, where we have many union members who are also members of CalPERS, again, as I mentioned that are mostly low income, moderate income…” The mayor himself was a CalPERS contributing member and Page Mill tenant. Ultimately, the mayor called on CalPERS to review its divestment policies and use this opportunity as a test case in exerting their investor power even if as a limited partner.

The director from Tenants Together pointed out in his testimony to the Board that the New York City Controller had established predatory-free guidelines in response to city pension fund investment in rent regulated housing there. Tenants Together organizers had been active in strategy discussions via conference calls with New York groups such as the Urban Homestead Assistance Board and participated in their predatory equity tracking and strategizing (personal interview, May 24, 2012). The Tenants Together director explained that New York City had set up the guidelines so that “funds weren't in this situation of finding themselves fueling this type of rent increase and displacement often of the very people for whom the pension funds are set up.” The Tenants Together speaker may have struck a nerve bringing up New York City funds as pro-active in their response to tenants there.

Board member George Diehr interrupted the public speaker to distance the fund from the Page Mill investment strategy:

…you know, your statement that PERS has invested public employee pension dollars in predatory landlord practices - I'll let the staff speak - but it makes it sound like we -- or that was our goal when we made the investment… you'll have to decide the language here… (December 15, 2008)
Diehr was addressing the tenants and advocates as much as the media in the room. His statement put the tenants on notice questioning their rhetoric, while denying CalPERS’s own responsibility with how their capital was ultimately invested.

Although the real estate portfolio manager at this time was not the same person at CalPERS who initiated the partnership with Page Mill, many of the investment committee members were the same people who oversaw the real estate investment policies that increased opportunistic investment, and had approved the Page Mill partnership at the fund’s inception. Subsequent court disclosures demonstrated that the Page Mill business plan was predicated on tenants’ displacement, and by the summer of 2009, Page Mill had prepared for a condominium conversion through a subdivision of more than 200 of the portfolio’s units (Department of Real Estate for the State of California, 2009). Still, notwithstanding the board members’ knowledge of these details, to deny intent, was an allusion to unintentional consequences. This is a common catch-all phrase for dispossession, premature death, and all related traumas that occur based on any policy where responsibility and accountability are denied.

The Stanford University graduate student who took on the role of communications coordinator for the Fair Rent Coalition also spoke. He explained before the board that he had done door knocking with organizers and youth leaders from YUCA to determine the vacancy rate of the portfolio. A Page Mill tenant himself, he had witnessed his neighbors leaving their homes. His census resulted in what he found to be a 24% vacancy rate, up from the 2% vacancy rate just before the portfolio purchases. Using his own extrapolations, he reported to the committee that an estimated 1500 individuals had been displaced based on these vacancies. In an email correspondence, the same
tenant later sent spreadsheets to the board members and CalPERS real estate unit staff of “verified” vacant unit numbers disaggregated by small versus large multi-families, which demonstrated 22-24% vacancy rate at the time (Fair Rent Coalition, 2009). Later, in 2013, the City of East Palo Alto concurred. They explained the 2010 Census city undercount as an anomaly due directly to displacements from Page Mill (City of East Palo Alto Existing Conditions Report, 2013: 7-1).

A second CalPERS investment committee member to speak expressed distress at these findings, and said that CalPERS was constrained by legal limitations as a limited partner in a com mingled fund (CalPERS Board of Administration Investment Committee Open Session, December 15, 2008). She also pointed out her concern that the reputational damage threatened to devalue the portfolio. There was no commitment by CalPERS to take action except to meet with the partner to share these concerns, and to have this example inform future investment decisions.

The director of Tenants Together did not allow the session to end on that statement. He re-asserted that CalPERS needed to consider greater proactive steps in this particular portfolio case, which he claimed could involve an investigation by the state’s Attorney General in unfair business practices (CalPERS Board of Administration Investment Committee Open Session, December 15, 2008). There was no precedent for a lawsuit against the CalPERS Board for imprudent investment since Proposition 21 had allowed for such action. Indeed, CalPERS Board members may not have been concerned at the personal level for monetary consequence given that they held insurance to cover liability. However, for appointed and elected members, implications of imprudence mattered for their continued board service. The Fair Rent Coalition would later ask for all
delegation authority documents for the board members, chief investment officers, and portfolio managers at the time of the initial agreement in preparation or warning of potential suit (Fair Rent Coalition, 2009b). The Tenants Together director also warned the Board of potential increased liability and fund impact for all investors; the longer they waited to act, the more tenants would be displaced. The fund would be responsible to ensure tenants’ right to return to units of similar rent and size for those who were illegally pushed out, a protection granted under East Palo Alto’s rental ordinance.

In the following month, the Fair Rent Coalition’s communication director escalated pressure on CalPERS. He wrote to CalPERS saying that he had been in contact with a reporter from The New York Times who was very interested in writing a story on CalPERS’ investment in the portfolio. He attended the next CalPERS Board meeting where he distributed handouts of the portfolio’s vacancy rate and rent increase figures. He bypassed the public information officers and corresponded directly with the portfolio investment manager, often providing accounts of personal incidents.

For example, this tenant treated CalPERS as landlord. He called CalPERS directly to allege harassment by an undercover security agent moonlighting for Page Mill who he learned was a lieutenant for the Palo Alto Police Department. The tenant activist took photos of the security agent and claimed that the agent was following him as response to his advocacy and communication with CalPERS (Fair Rent Coalition, 2009a). He sent urgent emails as well, in one stating, “the situation on the ground is changing hourly,” and requested that the portfolio manager call the head of the Palo Alto police department where the tenant had filed a complaint against the harassment (Fair Rent Coalition, 2009).
At the same time, tenant advocates attempted to understand the stakes of
CalPERS and their own vulnerabilities in the fund. In another email to the portfolio
manager, the same Fair Rent Coalition communications director speculated that CalPERS
was reluctant to exit the fund because CalPERS had acted as guarantor for the Wachovia
$242 million loan. He requested access to the prospectus and additional portfolio details
including:

e-mail and other written correspondence, investment offering papers list of
partners contractual agreements meeting minutes and phone logs… and all
information that is matter of public record regarding the debt financing used in
Page Mill Properties II LP, loan numbers, and amounts terms of repayment
guarantor obligations etc. (Fair Rent Coalition, 2009c)

CalPERS staff sent the request to legal counsel. They did not provide all of the
documents, and did not provide details on CalPERS’ role with the lender, Wells Fargo.
Tenant activists continued to speculate that CalPERS was bound to the Page Mill strategy
as not only an investor, but as a loan guarantor, which would double CalPERS’ losses. At
the same time, they believed that if this was the CalPERS role, then the limited partner
could assert greater leverage with the lender and assume authority and control over the
partnership. CalPERS was not the guarantor or signatory of the loan, however, a point
CalPERS did not readily address.

The general partner, CFO, and other managers for the fund also communicated
directly with the CalPERS real estate unit staff. Taran had requested a copy of the
transcript from the tenant advocates’ testimony, and in a response letter to CalPERS,
Taran defended the fund strategy: “To conclude that [our] effort is predatory is to doom
thousands of East Palo Altans to permanent garbage-strewn, gang-ridden slums where the
only investment capital comes from drug dealing and assorted criminal activities” (Taran,
Taran accepted the “possibility” of discomfort that tenants might feel as the investors acted as “agents of change” (Ibid). Again, Taran presented his mission as improving the lives of the tenants and the larger community, despite the fact that those he claimed would benefit from future improvements included those tenants being displaced from the rental units.

Calling the Pension Fund “Landlord”

Over the course of Page Mill’s ownership, the portfolio manager contended with emails from activists, journalists, CalPERS consultants, legal staff, information officers, internal real estate unit colleagues, and board members inquiring about Page Mill and CalPERS’s next steps. Tenants Together had contacted several CalPERS board members to continue to push the limited partner to take action and follow through on its authority to remove the general partner. YUCA youth leaders shared their participatory action research booklet with CalPERS officials and California congressional representatives, documenting the impact of the rent increases on their own families (Williams, 2009). This report, called “Homeless Now?” also included testimony from tenants who were YUCA members who had since left their Page Mill homes due to the rent increases (see Chapter 5). The report was published in English and Spanish and included photographs of unit conditions, attesting to deferred maintenance and lack of subsequent repairs by Page Mill. Again, Page Mill tenants called the pension fund as accountable to them, naming the pension fund a landlord party.

The CalPERS portfolio manager distinguished the communications director from the Fair Rent Coalition from other activists, including YUCA organizers, in part as an
effect of the incident around extortion allegations described in Chapter 5. The CalPERS portfolio manager warned an assistant to the board president that the communications director from the Fair Rent Coalition may be untrustworthy, saying “We should be very cautious about him as allegations of impropriety have been raised about him… while each of these groups/people are against Page Mill, they do not necessarily support one another’s cause” (CalPERS, 2009). Although the CalPERS officials may have sensed a lack of cohesion among the organizers, the engaged commitment by the multiple advocates, including the Fair Rent Coalition Stanford students, would remain consistent and continue to escalate with street action and advocacy to the state legislature over the next year.

Tenants Together approached several CalPERS Board members individually to further press their demands. When the tenant leaders came to understand that divestment was not an option that CalPERS would consider at the time, they shifted to the demand that CalPERS take over the portfolio. They demanded CalPERS take all possible action to remove the general manager by charging the manager with lawless conduct. After receiving an inquiry from a board member as to whether this was a viable option, the CalPERS portfolio manager reminded her again of the points made to the board regarding CalPERS need to negotiate with other limited partners:

[a] key element of the briefing memo is that CalPERS is not the only limited partner in the Page Mill fund. The presence of other limited partners is complicating factor that exposes CalPERS to legal risk should certain actions be taken such as removing and replacing the manager of the fund (CalPERS, 2009).

CalPERS heeded caution but continued to investigate the bases for taking over the fund.
CalPERS real estate unit managers were aware and wary of the impending $50 million paydown due that August. In a letter to Page Mill the portfolio manager expressed concern that CalPERS had provided $95 million of their $100 million commitment to the fund, yet, “We have seen nothing from you indicating how you intend to handle this debt payment” (CalPERS, 2009a). If CalPERS took over as general partner, they could find themselves in a position of liability, including for debt servicing. In fact, other partners who later refused capital calls on their commitment when cash was due were court-mandated to pay-up.

One of the key points of vulnerability for the fund was the growing tension between CalPERS and the fund manager due to tenant pressure and reputational damage. Page Mill’s plan, save for negotiating favorable refinancing terms with the lender or finding another premium investor or purchaser, was to request additional capital investment from CalPERS. This was ultimately denied. By that spring, CalPERS put plainly their frustration to Page Mill and said that the General Partner needed to mend the relationship with the tenants and the City of East Palo Alto:

We believe that the continued controversy surrounding the property is having an adverse effect on the value of the property and its prospects. You are correct that we at CalPERS are working overtime to protect CalPERS assets but we are particularly concerned about the performance and stability of the Partnership. Simply put it is unclear to us whether your implementation of the current investment strategy and operation of the project are effective or yielding appropriate results. (CalPERS, 2009b)

The CalPERS real estate unit saw the reputational damage as not only a public relations and political problem for the pension fund, but also a fiduciary issue resulting in the devalorization of the units.

The CalPERS consultants were well aware of the rental income losses and
recommended decontrol increases to Page Mill: “Given the large number of vacant units
(390+ a couple of weeks ago), it's critical that they meet current market rent levels
vacancies” (Otto. 2009). In this way, in the Stockbridge Consulting group’s email memo,
they concurred with market conversion. Rather than allowing for market rentals, the
vacancy levels instead led to rental income losses as few people sought to rent from the
disreputable landlord. Page Mill’s tactics also had led to strengthened city monitoring and
enforcement of the ordinance that reversed hundreds of rent increases for units still
occupied.

Moreover, because the Page Mill plan relied on repositioning the property for a
development purchaser, the portfolio relied on attracting another premium investor. Page
Mill had aggregated properties and land, but clearly the city demonstrated they were not a
willing partner to negotiate potential rezoning or other infrastructure adaptations to
support a developers’ vision if predicated on tenant displacement. Meanwhile, Page Mill
continued to target tenant activists.

Several tenants, including the communications director for the coalition received
a “Notice to Cease” letter from the management company. The rental management
company claimed harassment by tenants who they said prohibited regular business and
whose actions would thereby result in their eviction:

You are repeatedly making false accusations and malicious reports to
management staff which is nuisance and interferes with our ongoing business
operations and the ability of our staff to effectively perform their assigned job
duties. If you do not cease this behavior your tenancy will be terminated and
eviction proceedings will commence immediately upon subsequent violation.
(Page Mill Properties, 2009)

Tenants forwarded these notices to CalPERS. CalPERS received these concerns from
tenants, along with a slew of news articles on mismanagement and deferred maintenance, from the over-charging of fence repair and paint color consultation (alleged at $20,000 per month) by and to the management company, to inspections by health officials who gave citations for green and blue algae in the pools (www.pagemillwatch.com; CalPERS Global Real Estate Unit, 2009; Bernstein Wax, 2009). Local business journals and media outlets continued to prepare accounts of CalPERS evicting poor tenants in East Palo Alto via the Page Mill fund such as the article titled, “The pension fund evictions,” in the San Francisco Bay Guardian (Riddle, 2009).

Emails in preparation for the April 2009 Investment Board meeting reflected the tension of the financial crisis for the CalPERS real estate unit staff. The media trail following CalPERS exposed the impact of the crisis on the pension and the pension’s responsibility for its own real estate losses. Page Mill also presented at the CalPERS Investment Committee in an attempt to control their image making.

According to Chief Investment Officer Joe Diehr, the CalPERS Board had been briefed on the Page Mill matter several days before the meeting. At this particular meeting, Diehr introduced the public commentators invited by Page Mill as tenants of Page Mill. In fact none of the speakers on behalf of Page Mill identified themselves as tenants. Instead, they were current and former EPA residents either employed by Page Mill or partners of Page Mill who had been provided space free of rent to conduct community and police outreach activities. At least one of these activities was in part paid for by the East Palo Alto Police Department and Department of Justice as crime diversion activity akin to the “weed and seed” programs across the country.
One speaker attested that the comments were scripted. The speakers provided a testament to Page Mill’s work to repair relationships with the East Palo Alto community. One misidentified “tenant” was the associate director of an organization founded by Taran’s wife, Project Happiness. The program promotes emotional resilience through inspirational literature and training. He called for the tenant and city’s cooperation with Page Mill, rather than “confrontation” and gave an example of an impromptu kids’ holiday gathering he volunteered at on behalf of Page Mill for tenant families. The East Palo Alto Police Department organized the party with Page Mill (CalPERS Board of Administration Investment Committee Open Session, April 22, 2009: 57). Another speaker, an employee of the property management company said, “They’ve done a tremendous job at clearing up the city” (CalPERS Board Meeting Transcript, April, 22, 2009: 59). Using this word choice describing tenant change the speaker implied that displacement had positive effects. One after another, the speakers testified to Page Mill’s hand in clearing or cleaning up East Palo Alto as an act of corporate responsibility.

One speaker who was a co-founder of the foundation Until There’s A Cure, which was established to raise money for AIDS, pleaded with CalPERS to stay strong in the face of the tenants’ concerns:

I asked CalPERS to stay with your heart and with the vision. I honestly would never be associated with a company that was doing that Page Mill has been accused of. And I really believe in Page Mill and in David Taran and I think they’re brave. And it’s not an easy job. And it’s not an easy city. But they’re doing really good things. And please, please stay and be part of that vision. (April 11, 2009: 65)

The speaker suggested here an assumption that CalPERS might withdraw support for the fund, perhaps take control of the fund, or perhaps ultimately refuse reinvestment. Another
portion of the testimony from this speaker referenced that Page Mill had committed to housing twenty people through a local Shelter Network in the portfolio’s vacant units. Ironically, several other tenants who could not make payment due to Page Mill’s rent increases earlier had claimed they had no choice but to move into shelters (YUCA, interview 2012; Bernstein Wax April 21, 2010).

When a CalPERS Board Member asked the Page Mill general counsel to address the vacancy factor, the Board President interrupted, “I don’t think it’s proper to get into that discussion now, thank you,” to which the inquiring board member deferred. This data-point was considered confidential to the fund, as it could potentially damage the portfolio value revealing corresponding rental income losses. Page Mill was wary of CalPERS’s attempts to appraise the properties for that same reason.

Despite the generally hospitable and supportive reception by the board, the meeting was followed by curt email exchanges between the CalPERS real estate staff and the general partner on the financial status of the portfolio. Taran had asserted that the portfolio was considered an alternative, opportunistic asset, not core, and was therefore exempted from CalPERS mandates to appraise core assets (Taran, 2009b). CalPERS disagreed, “Your letter seems to imply that CalPERS monitoring of its investment by conducting an appraisal of the properties of the Partnership could somehow be violation of the partnership for the Partnership. Nothing could be further from the truth” (CalPERS, 2009d). Page Mill responded, “What we do have an issue with is any contention that Page Mill as the General Partner does not have the exclusive and sole right and responsibility to value the Fund’s assets” (Shore, 2009:1). He continued by way of warning, “We trust you do not want to do anything to violate the LP agreement nor do
anything that may be harmful to the investments in any way” (Ibid.:2). Page Mill stated that an appraisal of its asset value and cash flow losses would have adverse effects; such an appraisal would make reinvestment from an institutional investor, refinancing from Wachovia, or purchasing by a premium investor all the more unlikely.

Although CalPERS was not the manager of the fund, they had committed consultant resources to conduct a full review of the fund in an attempt to secure their investment, and as a direct result of tenant pressure. The appraisal review would prepare CalPERS to better advise Page Mill on investment strategy and would inform their own internal decision as to whether they would take action to reinvest or take action against the general partner, including his removal. The latter option was the main alternative to the present course that the real estate unit staff had planned to explore (CalPERS, 2009e). In addition to their own appraisal, the consultants also developed financial forecasts to present to Wachovia. The forecasts would be based on investment cash flows for baseline, optimistic and pessimistic scenarios (Otto, 2009a). After Wachovia’s agreement to open negotiation discussions with Page Mill, the general partner reported to CalPERS that he was “cautiously optimistic” that Wachovia would extend the $50 million pay down due date (Taran, 2009c: 2).

While the general partner presented himself as unfrazzled, CalPERS real estate staff team was in a scramble. A point of vulnerability for CalPERS was the California State Legislature and their oversight capacity. California State Assembly member Ira Ruskin had received messages of pressing concern from Tenants Together and Local 521 and called on CalPERS to attend a meeting in his office to discuss the investment. In an internal email thread to prepare the CalPERS “message box” for Ruskin, one real estate
I don’t see any advantage in bringing him up with us at this point because at the end of the day if Ruskin feels the tenants’ issues are valid he has no real recourse against the GP. Instead, he will want to know what CalPERS can do to rectify the situation (CalPERS, 2009e).

CalPERS repeated the same statement to tenants, the Board, and state officials that removing the GP was an option, but risky: “CalPERS has carefully evaluated this right, and may yet exercise it if necessary, but to date has refrained from doing so due to the potential liability which would come with such replacement and the risks of having to take over the operations of the partnership” (Stockbridge Capital Group, 2009:3-4).

Again, the looming debt repayment made such a replacement less likely and more risky. Although CalPERS could do something, a take over could amount to even greater losses, including anticipated legal expenses for the take-over.

That same spring, the CalPERS consultant from Stockbridge Capital sent a midnight email to Page Mill’s general counsel. He was alarmed of a new strategy implemented just after the CalPERS Board meeting in which Page Mill exploited the Ellis Act in an attempt to sell a portion of its portfolio for cash flow. While ostensibly the sale could provide funds for the debt repayment, the underlying asset value would be reduced by the loss of units in the portfolio. There would be no added value. Ultimately, the sale would provide cash flow for the management company and nothing more.

Furthermore, tenants would be evicted. The CalPERS consultant asked for an explanation:

…we will be quite interested in any strategy which you feel could add value. That said it seems a bit counter-intuitive to be incurring thousands of dollars of expenses to evict good long-term tenants when the portfolio is already suffering from high vacancy. Yet we do not want to jump to any conclusions or respond to
any inquiries we are receiving from others concerned about your actions until we hear the facts of and reasons for this strategy directly from you. We trust you can appreciate the pressures your actions and resultant publicity put on CalPERS. (Otto, 2009)

The eviction notices already had been given to residents in three properties without CalPERS foreknowledge. One of them was to the Stanford University PhD student who was the communications director for the Fair Rent Coalition. Although evictions was the strategy of Page Mill for decontrol, CalPERS was in particular alarmed by the sale of the properties and the persistent denials by Page Mill of tenant displacement despite vacancy rates and now the use of the Ellis Act in this latest action. The plan was to sell properties for individual home ownership, rather than as rentals, which allowed for the Ellis Act provision for evictions. This sale of the properties would decrease the equity of the portfolio thereby increasing its debt ratio and risk.

The Page Mill attorney rebuked the CalPERS consultant for raising tenant concern:

[we] cannot stress enough how difficult it is to have our business judgment second guessed by CalPERS every time a tenant or tenant advocate makes an inquiry to CalPERS… during these very challenging economic times it is more important than ever that the General Partner stays focused on the investments and is not questioned or interfered with whenever some dissident contacts CalPERS (Shore, 2009).

Clearly the general partner was distressed by the involvement of the pension fund in the business operations. Typically, limited partners advise fund operations only during established meeting reporting times and not during the course of operations. This is regardless of the fact that CalPERS had committed more equity to the fund than the general partner whose salary for operations and fund management came directly from the
The communications director for the Fair Rent Coalition and three other tenants attended the June Investment Committee Board meeting to present testimony of harassment by Page Mill. The communication director again requested the private placement memorandum, or business plan prospectus, from CalPERS. They were met with expressions of ongoing concern, but no commitments or additional questions from the Board. In response, the Fair Rent Coalition posted a “to-be-announced rent strike” warning on a blog that the CalPERS investment officers shared with “high priority” in an email thread (CalPERS, 2009f).

A rent strike would require and demonstrate tenant organization. A strike demonstrates renters’ power to withdraw from the interdependent landlord-tenant relationship. This could be enacted as a full-strike, or a strike on the rent increases only, with lesser effect. In the latter scenario, tenants could take the “rent freeze” attempt by the city into their own hands. Disruptive power by withdrawing, as noted by Piven (2006) is limited by three criteria, that the protesters’ contribution is crucial; there is something to be conceded; and there’s sufficient protection from repression.

Tenants would be ostensibly protected from retaliation for a rent strike as long as they escrowed, or showed demonstrated savings of their due rents. However, the tenants rent contributions were not necessarily “crucial”. Tenants Together’s director noted that in the case of Page Mill, a rent strike would not have led to Page Mill negotiation because Page Mill was no longer relying on the rental income. They could withstand the short-term losses from any rent withholdings if they could secure reinvestment funds or fresh equity for the balloon payment.
Page Mill’s largest vulnerability was the fund’s need for and access to reinvestment or purchaser capital. When Page Mill attempted an eleventh-hour capital call on CalPERS asking for $25 million in reinvestment funds to allow for the Wells Fargo pay down, CalPERS refused (Eliopoulos, 2010). Without the reinvestment or new financing terms, Page Mill defaulted on the payment. In a time span of just three years, the portfolio became a total loss to the investors. CalPERS’s Page Mill real estate unit team called for an urgent meeting to devise their message to present to the Investment Committee and the public (Schlenker, 2009).

Page Mill was in default. State Assembly Member Ira Ruskin’s office called CalPERS to inform them that the management company’s rental office had been abandoned (CalPERS, 2009f). In a message thread to CalPERS’ real estate unit, Ruskin’s staff person explained, “The tenants don’t know what to do if there is maintenance issue or an emergency. They are completely in the dark as to who owns the property” (Ibid.). There was no longer any security staffing the properties, and the tenants did not know to whom to pay their September rents.

Despite their abandonment of the properties, Page Mill still explored options to save the fund or mitigate losses. In one proposal, the investors considered reorganization by filing Chapter 11 bankruptcy. Due to the fact that 101 LLC entities had been created in the cross-collateralized debt structuring, the filing charge would cost approximately $100,000. Moreover, the attorneys required a $1.5 million retainer fee for anticipated
negotiation with Wachovia, and $30 million in fresh equity to demonstrate to Bankruptcy Court assurances of operation costs. (Binder & Malter, LLP, 2009). CalPERS again refused to seek or provide additional capital. Instead the lender pursued foreclosure and new bidders. The value of the property had fallen well below the $239 million loan; the portfolio was under water and CalPERS lost its total investment of $100 million.

Outlawing Predatory Investment

In the aftermath of the Page Mill default, public scrutiny by the media and state lawmakers of CalPERS increased. The “failing economy” was CalPERS’ preferred narrative to explain the losses. However legislators and others overseeing the pension fund also focused on their investment strategy: CalPERS itself had risked workers’ funds by displacing workers. The Wall Street Journal highlighted CalPERS risk taking, including $600 million losses in the predatory equity deals of Peter Cooper-Village and East Palo Alto’s Page Mill properties (Karmin, 2010; Heller, 2010). Moreover, state assembly members were urged by Tenants Together to push forward action to protect renters from predatory investments, explaining that CalPERS had taken little action beyond expressions of concern.

In 2010, State Assembly Member Tom Ammiano D-San Francisco introduced AB 2337 (Socially Responsible Investment Bill) to the Senate Public Employment & Retirement Committee. The bill would be the first in the nation outlawing predatory investment by public pension funds. The legislation called for criteria for state pension
funds to identify and refuse investments predicated on undermining rent protections and displacing tenants. Predatory investment practices were defined in the bill as follows:

‘Predatory investment practices’ means private real estate investments that rely on, or result in, the displacement of persons residing in rent-regulated housing, converting rent-regulated housing units to market rate units, or raising rents above regulated levels as determined by the appropriate governing authority, in order to generate profits to investors… (Ammiano, 2010; ftp://www.leginfo.ca.gov/).

Importantly, the bill states here that investors should neither enact business strategies that “rely on” nor “result in” displacement. The bill thereby asserts that investors should acquire properties with returns on investments and leverage based on current rents, not projected future rents.

The bill was a bold statement, but was also limited. Investment strategies could not rely on or result in decontrol intentionally, but those strategies that resulted in displacement by redeveloping, demolition, or creation of new housing could not be considered “predatory” by this bill. Instead, the proposed legislation would require support to displaced tenants. The tenant protections for demolition merely reiterated adherence to renter relocation benefits in accordance to local, state and federal laws.

An important new mandate of the legislation, however, would require regulatory policy promulgated by the pension funds to demonstrate how to implement the criteria and to demonstrate compliance. The proposed legislation mandated annual reporting by the funds to the legislature. This could allow for a level of scrutiny and transparency of portfolios in private equity funds that was unavailable. Notably, the bill would not cover publicly traded entities. Instead, only private funds such as private equity real estate funds that did not already report to the Security and Exchange Commission would be covered. (Ibid.)
A coalition of union affiliates supported the bill including the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, Asian Law Caucus (ALC), Service Employees International Union (SEIU), and the California Teachers Association (CTA). East Palo Alto tenants and a representative from SEIU provided testimony in support of the bill, and CalPERS officials, who also provided testimony, did not oppose or support it. Other supporters included the California Alliance for Retired Americans (CARA), the San Mateo County Board of Supervisors, The Rent Stabilization Board of the City of East Palo Alto, and a number of non-profit organizations including YUCA, and Tenants Together and the Fair Rent Coalition, which were co-sponsors.

Two New York City organizations also provided support for the bill, Tenants & Neighbors and the Urban Homestead Assistance Board. These two organizations had also led similar campaigns in New York City against New York pension investment in predatory equity. Unlike in California, the pension money did not result in organizing traction in New York City. An organizer from UHAB recalled, “We held a press conference, it was our lead, but the media didn’t seem to care about the retirement money…” (personal communication, May 20, 2012). Although NYC comptroller had produced guidelines against predatory equity, and the city had created a task force, there was less attention to the role of the pension funds in the large-scale deals there and more attention to the conditions of deferred maintenance and tenant harassment. Unlike CalPERS, New York City and New York State pension funds were not the largest in the nation, nor did the funds carry the veneer of socially responsible investments.
Although the legislation passed on the floor 43-30, it eventually died in committee. The chair of the CalPERS committee, Lou Correa, was to blame according to one tenant organizer, who said Sacramento was a tough place for tenant protections (personal communication, June 7, 2012). The opposition included landlords’ interests represented by various local and statewide apartment associations and the California Bankers’ Association. Moreover, CalPERS and CalSTERS were quick to enact their own internal adjustments to avoid legislated compliance.

Within months of the California state assembly bill’s introduction, CalPERS rushed to enact its own policy in response. CalSTERS followed suit, with language echoing the CalPERS investment policy and the bill. By April, 2010 both pensions funds had introduced multifamily investment policy revisions, which became incorporated into their investment policy for real estate. However, the pension funds’ internal policy changes did not have a public oversight provision requiring annual reporting as did the state legislation. Without such outside review and mandate the pension boards could change the policies. Nevertheless the language was clear: “CalPERS will not participate in private real estate investment strategies that rely on or result in eliminating rent-regulated multi-family housing units, converting such units to market rate units, or raising rents above regulated levels…” (CalPERS, 2010). The very recognition of rent regulation was a small victory for rent control advocates in the era of Costa Hawkins. Also, the replacement of rent-regulated units in the case of conversions went above what some local ordinances required. Identifying new units to become regulated would run counter to existing state law, however, which prohibits rent regulation of newly created or converted units vis a vis the Ellis Act (Review of the City of EPA Rent Stabilization
Ordinance, 2015:11). Although the funds’ changing internal policies aimed to steer pension funds from risky investments in rental housing, without the legislative mandate there would be no enforcement and reporting provision beyond self-monitoring for compliance.

**Winning Transparency**

Reporting its private equity funds’ strategies or even specific investment portfolios was a matter of “trade secrets” for those funds and CalPERS. Private funds were not obligated to report to the S.E.C. (see Chapter 5). Tenant leaders from the Fair Rent Coalition, including one of the original petitioners in the “mom and pop” exemption case, took the issue of CalPERS transparency to the courts. The First Amendment Coalition had already taken on CalPERS to release records of private placement agents, or brokers, in private equity funds (see Chapter 5). Following the multiple requests from media and the communications director of the Fair Rent Coalition, the director of the First Amendment Coalition officially submitted a Public Information Request to CalPERS for a copy of the private placement memorandum and partnership agreement for the Page Mill II fund. They were denied.

CalPERS cited various exemptions to justify their Public Records Act denial. For one, CalPERS stated that the “trade secrets” were exempted from public release due to the provision in the California statute exempting “private equity fund, venture fund, hedge fund, or absolute return fund” from most Public Records Act disclosures (Palenscia, 2008). While Page Mill II was indisputably a private venture capital fund
exempted from certain S.E.C. filings, CalPERS had listed the fund as a real estate investment. The First Amendment Coalition attempted to argue for records release by demonstrating that the private fund was not part of CalPERS’ alternative assets listing. Rather, Page Mill was an opportunistic fund listed separately within the real estate assets management program. Taran’s previous private-equity backed fund, DIVCO West, was also marked as a real estate asset. Blackstone, Apollo and other private equity funds that capitalize real estate portfolios among other ventures were listed under the separate “alternative assets investment management program.” These alternative assets funds are exempted from most specific Public Record Act disclosures under the Public Records Act. Despite CalPERS’ argument that Page Mill was a venture capital fund exempted by the Public Records Act, by listing Page Mill as an opportunistic real estate fund, the court found that Page Mill would be subject to the Public Records Act.

Notwithstanding this statute, the court also found that the “balancing test” applied. The public interest in the disclosure outweighed CalPERS interest in keeping it out of public record. The court’s final decision explained: “CalPERS’ arguments appear to ‘misstate that the public’s interest is as serving the privacy interests of a private contractor, rather than in serving the public’s interest in participating in local government’” (Superior Court of California San Francisco, 2010:5). The fact that the fund had already been foreclosed favored the arguments for transparency given that the investment strategy had failed and there was no active partnership to protect. CalPERS had already lost $100 million in the foreclosed fund.

58 For example, the author’s Public Records Act requests for documents held by CalPERS relating to B2R Finance, and multifamily investment by Blackstone Real Estate Fund II, were denied.
This was an unprecedented victory for the First Amendment Coalition whose work for open access at CalPERS included the significant but narrow release of placement agent fees and return on investments for its partnerships with venture capital, private equity, and hedge funds. As put by the First Amendment Coalition’s director, “Only by understanding how the investment was made can the public be confident that CalPERS has made sufficient changes to prevent this from happening again” (First Amendment Coalition, 2010:1). Although the nearly 2,000 pages of documents, and specifically the prospectus, were not available to the tenants during their organizing, the late release provided a window into how CalPERS’ shift to concentrated, over-leveraged, real estate investments led to not only financial losses for the pension fund, but to homelessness and chaos for tenants. The release of these documents reflects a vulnerability of a quasi-state entity, CalPERS, in partnering with predatory investors who rely on a cloak of “trade secrets” to profit from poverty and impoverishment.

**Targeting Wells Fargo**

The tenants pursued CalPERS through the state legislature and transparency case after foreclosure. They sought to ensure the pension fund would not repeat its predatory investments in California. Yet following foreclosure, the lender Wachovia, which became Wells Fargo, came to the fore as the primary target for the tenants.

At the time Wachovia was inundated with matters of insolvency, investment scandals, and mass-foreclosures across its assets. Wells Fargo had announced its take over of Wachovia in October, 2008, but the transition was not complete until 2011.
Notably, rather than breaking up the banks in the fallout of subprime lending, the federal government had aided these banks in their consolidation. Wells Fargo received nearly $50 billion in federal subsidy including $25 billion in TARP funds, and additional tax breaks leading up to the take-over (https://projects.propublica.org/bailout/list). Wells Fargo later returned $25 billion to the federal government by the end of 2009 (Ibid.). This was the context in which tenants and bank-tenants (foreclosed) across California attempted to hold Wells Fargo accountable for their irresponsible lending and profits based on risking people’s homes.

The shift in control of the portfolio created a window of opportunity for the organizers. Vulnerability for the lender and subsequent receiver involved the portfolio’s responsibility to the City of East Palo Alto whose officials were preparing to put a lien on Page Mill's buildings, saying the company failed to pay an annual $362,607 fee to the rent stabilization program. The penalties for the missed payment had now swelled to $1,087,821 (Tenants Together, 2014).

Although the fines were not punitive to the extent of forcing a crisis or negotiations with the original investors, the fines did provide opportunity for the city to negotiate with the Wells Fargo receiver preceding foreclosure. The city requested that the lender break-up the portfolio find a preservation purchaser, and asked to participate in the selection process of the purchaser.

In addition to the fines due, the city held potential consumer power as depositor and borrower with the lender. The broken arrows between the city to the lender in the diagram presented at the beginning of this chapter indicate this relationship as an unrealized point of vulnerability and risk for both the city and the lender. The city could
withdraw city funds from the banking institution, or prohibit business with the banking institution for city bonds. However, given the tightening credit market of this period it was far more likely that Wells Fargo would be in a position to leverage its lending capacity rather than the reverse. Moreover, the city’s budget was limited in comparison to much larger cities such as San Francisco where such withholdings could have impact. Similarly, a petition by tenants for city and residents of EPA to withdraw from Wells Fargo was initiated but went unrealized and held little potential impact if not developed as a state campaign to scale.

The City of East Palo Alto did negotiate with the bank’s receiver around fines in order to halt pending litigation. The receiver had decided in the interest of the portfolio to not pursue the more than 10 lawsuits by Page Mill against the city. The receiver had met with the mayor, city administrator and attorneys promising to maintain the units and be a “boring” landlord, in contrast to Page Mill.

The city and the tenants were concerned with who would ultimately purchase the portfolio. In the foreclosure proceedings, Wells Fargo was the only bidder at 50% purchase price (CalPERS, 2010). Wells Fargo received tax-relief for buying up Wachovia debt. In one respect, Wells Fargo was securing title to the properties using federal funds that ultimately, if partially, guaranteed gains for the bank.

The city advocated that Wells Fargo break up the portfolio to sell to multiple purchasers to avoid a monopoly purchase and repeat of the Page Mill investment strategy. Tenant organizers also called for a sale price justified by rents adhering to the RSO, a community benefits agreement between purchasers and the city that stipulated long term affordability commitments and purchases backed by minimized leverage (Tenants
Together, 2011:1-2). Wells Fargo pro-actively coopted the tenant frustration through a series of community meetings facilitated by Bridge Housing, a non-profit affordable housing developer commissioned by Wells Fargo. At this series of town halls, including one hosted by YUCA, tenants, and organizers demanded explicitly that Wells Fargo break up the portfolio, and assure purchase by landlords who would commit to long-term holdings, and follow the letter of the RSO.

Bridge Housing was a community development corporation that was well known in the Bay Area for affordable housing, as a trusted partner in their public relations towards the city and tenants. One YUCA organizer said this was considered a positive opening, and that tenant advocates and representatives from the city fully participated in the community-input process facilitated by Bridge Housing. Yet Wells Fargo shut down the recommendations and Bridge Housing would not publicly disclose the community-input report. By tenants’ accounts, the process in hindsight was a farce.

Ultimately, the mayor of East Palo Alto and a city council member were apprised of the Wells Fargo plans. Wells Fargo solicited their input on the sale of the portfolio to contending bidders including Apollo and Equity Residential, both of which were considered by tenant organizers from New York City to the Bay Area as “vulture capital” entities. The first, Apollo, was well known in New York City for predatory equity strategy premised on over-leverage and gutting rent regulation there. Equity Residential was headed by Sam Zell, considered the fiercest opponent to rent control in the state of California. The mayor who attended this meeting reported that he conveyed to the bank and the bidders: that the properties suffered from deferred maintenance; that the residents of East Palo Alto had voted every time in favor of rent control; that the city would
continue to protect the tenants. He reported that he made plain that he strongly opposed the sale to a single buyer (personal communication, June 8, 2012).

Organizers with PIA and YUCA began to mobilize. PIA had new staff capacity and along with YUCA targeted Wells Fargo in a series of actions that protested the likely purchase by Equity, a sponsor of the defeated anti-rent control Proposition 98. In one protest, YUCA commissioned a bus for tenants and youth leaders to protest in front of Wells Fargo’s San Francisco Headquarters, saying “Hells no Wells Fargo. Don’t sell to Zell,” referring to the Equity offer (Domingo, 2011). At another protest that began in East Palo Alto, YUCA mobilized tenants to march past the house of Facebook CEO Mark Zuckerberg, located a stone’s throw across the creek from the Woodland Park neighborhood, but light years in social distance from the low-income tenants (personal communication, June 7, 2012). Zuckerberg had just purchased a home only several hundred feet from East Palo Alto for $7 million. Protesters decried the potential sale to Equity. Parents pushed strollers and one council member rode his bike alongside as they marched to the Wells Fargo branch in Palo.

The foreclosure crisis was mounting and East Palo Alto tenants were not alone in seeking justice from the banks. More than a third of all East Palo Alto homeowners would experience foreclosure in the five years following 2008. Bay area activists first targeted their protests against the foreclosures in their action, “Showdown with Wells Fargo.” The showdown was a harbinger of the Occupy action to follow nearly six months later. It was one of the first national actions that would launch the formation of a New Bottom Line, conceived in part by the strategist around private equity, Steven Lerner, formerly with SEIU. The formation would eventually bring together Alinsky-based
national formations such as PICO and National People’s Action with the left-oriented alliance Right to the City. Tenants Together co-sponsored the San Francisco “showdown” and along with YUCA and PIA, protesters drew attention to the East Palo Alto multifamily foreclosure as part of the mobilization, which brought together more than a thousand marchers under the larger demand to break up the banks. YUCA had spearheaded a drive of more than 700 petitions to Wells Fargo against the offer to Equity to present at the shareholders’ meeting, which coincided with the protests.

Wells Fargo’s solicitous communication with the city and tenants changed course as pressure mounted nationally. The bank representatives stonewalled East Palo Alto community concerns in an about-face from their initiative for community-input. In fact, Wells Fargo missed the deadline to register their properties with the city’s Rent Stabilization Board, a point made by the Fair Rent Coalition in their letter to regulators in the Office of the Comptroller of the Currency (Matthew Freemont, September 22, 2011). Eventually, in December, 2011, Wells Fargo secured the sale to Equity Residential for $130 million, less than half of Page Mill’s acquisition price.

Tenants had forced a crisis for Page Mill and for a while, won time to further develop their organizing to freeze rents, increase tenant protections, and halt redevelopment. They had not, however, secured resident-control of their homes. Equity Residential would usher in a new period of strife. Tenants again faced unlawful detainers and displacement. Again, at least one organizing outfit, PIA, proposed a rent strike. However, without organizing capacity at the time, tenants relied on the city to fortify rental protections.
Although the political drive for tenants’ protections was a living legacy in East Palo Alto, the actual management of the city was another affair. East Palo Alto City Council fired its newly hired city manager in 2014 due to her close relationship and likely collusion with Equity Residential to audit the city’s Rent Stabilization Board. After the release of 3,000 pages of internal documents to Tenants Together, the city determined misconduct by their manager, who at one point had told rent program administrators to not assist tenants in filing petition forms and to no longer refer tenants to inspections for habitability (Lamont, 2014). The city also expelled a landlord representative from Equity Residential from the Rent Stabilization Board, and condemned the audit of the stabilization program.

In one respect, the actions by the city manager was a test of East Palo Alto’s own tenacious political commitment to the philosophy of the rent control ordinance. YUCA organized hundreds of residents to participate in ongoing planning sessions. In 2015 SFOP/PIA have proposed a county-wide rent control measure to the San Mateo County Board of Supervisors. Tenants Together has launched a rent control tool kit for California, which in 2016 was being adapted by the national Right to the City Alliance for localities nation-wide.

Chapter Conclusion

This chapter examined the points of vulnerability of the corporate landlord that the tenants along with the City of East Palo Alto leveraged to make their claims. As first demonstrated in Chapter 4, tenants pressured the city to use their authority to take
municipal action. The city responded with a rent moratorium, development moratorium, protection of Westside rental properties from redevelopment, and a referendum on rent control. City officials also participated actively with their residents and the tenant advocates by pressuring CalPERS to restructure the portfolio and protect renters.

The tenants, advocates, and City of East Palo Alto leveraged three areas of CalPERS authority and vulnerability pertaining to the Page Mill Fund. Tenants and the city called on CalPERS to withhold any remaining capital commitment and divest in the portfolio. Such withholding and withdrawal by CalPERS would create a crisis for the general partner that would hasten foreclosure. The second area of vulnerability for the primary investor was vis a vis CalPERS’ authority. The limited partnership agreement included the option for CalPERS to take control of the portfolio and dismiss the general partner. Lastly, the tenants organized the state legislature to act upon their authority to demand CalPERS divest from the fund and prohibit investment in future predatory equity deals.

CalPERS claimed that as a limited partner they could not divest workers’ capital from the fund or withhold capital committed. Individual high net worth venture capital investors did attempt to withhold capital commitment to the fund claiming that they were not aware of the partner’s intention to undermine rent control; however, these limited partners were then court-ordered to make due on their commitments. CalPERS could withhold its capital commitment but would also likely face litigation by the general manager for breach of contract. Despite providing the largest amount of equity to the fund, the limited partnership agreement stipulated that CalPERS held an advisement role
only. However, the governance agreements did allow for the limited partners to dismiss the general partner under certain circumstances of general partner imprudence.

Based on political pressure, CalPERS carried out an independent investigation, including an independent audit and appraisal of the properties to ascertain the viability of taking over the portfolio; CalPERS did so against the wishes of the general partner and the general partner’s claims that CalPERS violated its limited partnership authority. By making CalPERS the general principal partner of the portfolio, CalPERS would become the tenants’ primary target. CalPERS would then have authority to: halt litigation against the city; roll back rent increases; terminate displacement and guarantee a right of tenant return; invest new equity; manage maintenance, and transfer fund investment class from opportunistic to core investment. A prospective tenant demand to CalPERS then would be to eventually transfer ownership from CalPERS to an affordable housing developer or the tenants themselves. CalPERS ultimately chose not to take over the portfolio citing anticipated litigation expenses.

California legislature is responsible for appointing a portion of CalPERS Board members who oversee all investment allocations. The legislature may also act in the public interest to prohibit certain investments and may propose amendments to the California Constitution to reform pension policy. CalPERS must also disclose to the legislature investment contractual services, returns, and a wide-range of investment details for quarterly and annual reviews. However, unlike the California teachers’s pension fund, CalSTERS, the state legislature cannot leverage contributions to pressure CalPERS or raid the fund for budget needs. The CalPERS fund has exclusive authority
over the amount of member and employer contributions to the fund; the current member plans cannot be changed without change to the California constitution.

Tenants and SEIU pressured the state legislature to use its statutory power to limit CalPERS’ real estate investment. The legislature proposed an anti-speculation, anti-predatory-equity prohibition on CalPERS’ real estate investment through a bill that was the first prohibition on such investment for a public pension fund in the country. The bill passed several reviews before dying in committee after CalPERS and CalSTERS co-opted the policy by instituting their own anti-predatory equity guidelines, which did not include the bill’s reporting and enforcement provisions.

Through state public information guidelines a secondary, indirect, tenant tactic was to pressur CalPERS to disclose all details of the fund to the public. CalPERS had a direct interest in withholding this information in part to conceal its stake in the fund, and in part to not establish a precedent for other investment funds concerned with protecting trade secrets and exposing themselves to the public scrutiny. Tenants won full disclosure only after suit by the First Amendment Coalition and after the portfolio went into foreclosure.

Lastly, tenants attempted to target federal regulators to pressure Wells Fargo to break-up the portfolio and identify a preservation purchaser. The tenants cited the Community Reinvestment Act, but Wells Fargo was not investigated for this fund. An untapped point of vulnerability for the lender included the state Attorney General’s potential to investigate the portfolio and potential fiduciary imprudence by CalPERS’ investment committee board members. Another untapped area of leverage that would become part of the debate around foreclosure response in the state was the potential of
the Attorney General to deploy eminent domain to seize and purchase foreclosed properties. Such an option would have turned the foreclosure crisis into an opportunity to directly target the state with demands for renters’ security of home in East Palo Alto. Notwithstanding these roads not taken, renters did prevent the rent-controlled properties from being included in redevelopment plans that would otherwise decimate the rent control program, and the renter households, in their city.
Chapter 7. Conclusion

In multiple key moments in the history of how East Palo Alto became East Palo Alto, residents attempted to assert their control in ways that practiced and furthered the possibility of a right to the city through local, and democratic action. At the beginning of the last century, small farmers attempted to maximize a separatist socialized economy. Japanese horticulturalists subverted xenophobic exclusion laws through collectivized land holdings before and following World War II. Then, beginning in the late 1950s, Black workers claimed the city as their own, developed urban garden plots over the grids of past small farms, forged community-controlled schools and a university, and in large numbers came to own their homes. In the post civil rights era, a Black and Brown alliance organized in coalition and mobilized votes to create and take city power, asserting the political voice of people of color in a regional economy known for white affluence, dominance, and discrimination. They premised the Black-Brown alliance and incorporation campaign on the need for city power for rent control.

Yet from the very onset of the city’s incorporation, East Palo Alto struggled to maintain its activist legacy of forging the security of home and city for people of color. East Palo Alto had become a majority minority city in an era of federal abandonment of urban infrastructure, recession, regressive state tax reforms, deregulation, privatization, heightened drug trafficking, state disciplining of Black bodies by criminalization and incarceration, and an increase number of poor, immigrants arriving for refuge after U.S.-support of right wing military dictatorships and free trade dislocation. By the 2000s, a cash-strapped city government sought the promise of a certain kind of entrepreneurial
placemaking attractive to capital. The city promoted the fiscalization of its land for lack of other tax revenue, and rezoned parcels for commercial development.

At this same time, out of the federal and state racial housing policies that had mapped risk, exclusion, and containment, there emerged new opportunity for real estate speculation in the enduring tying of capital and race: predatory lending and securitization. What’s more, in 1995, the state signaled new opportunities for investment in residential multifamily real estate through the stripping of California rent control protections. In suit, the state’s largest public pension fund, California Public Employees’ Retirement System (CalPERS) took advantage of low interest rates and the urgency of placing capital to create portfolios of the very communities where the fund’s municipal and state contributors called home. The real estate opportunistic fund sought returns from gentrification, or extraction from “capital-poor” communities, and expanded the opportunistic real estate fund with the highest level of debt risk and the lowest level of CalPERS oversight. In so doing throughout the period leading up to the Great Recession, CalPERS borrowed off its fund of funds, invested debt as equity in the securities of borrowed funds, and in the portfolios of overleveraged homes, buildings and communities. As CalPERS brokered global finance to enter California, CalPERS continued to broker and invest California workers’ capital in world-wide markets.

Notwithstanding immense housing pressure, just before and in the midst of the housing crash of 2007/2008, East Palo Alto tenant leaders and city officials stood up to global capital actors to re-assert the city’s commitment to rent control and its future as a majority minority city. After having survived, or survived in fragments, the trauma of drug trafficking violence and organized abandonment, East Palo Alto city officials and
renters took a stand at the cross roads of capital and neoliberal governance, and the movements of the city’s founders. Renters and the city aligned against the remaking of their city by the public pension-backed corporate landlord Page Mill. Local organizers were at the heels of a victory having shut down the toxic Romic plant. The relatively new organization of youth and adults responsible for that victory, the Youth United for Community Action (YUCA), had grown out of broader Bay area left organizing network and the East Palo Alto radical tradition. They organized for and with an East Palo Alto of their own image: young, Latino, Black and Polynesian.

YUCA first catalyzed tenants to organize against the corporate landlord and demand action from the city. Page Mill had crystallized the class and racial dimensions of inequality that had produced a region in which East Palo Alto was now made vulnerable to gentrification and displacement after decades of abandonment. The pension fund’s investment exposed the mechanisms by which investors had created a portfolio out of their homes. Tenants questioned the role of the state, unions, and the city’s own inhabitants in financing their own displacement. The very question that had arisen from the Romic plant closure would become the question posed by organizers through the city’s participatory planning process that followed the Page Mill portfolio foreclosure: what did our collective action and demands make possible? What powers of the city did this organizing make clear?

Renters with their city won specific policy changes and organizing outcomes that amplified the renters’ and the city’s voice and protected renters in the face of this corporate landlord assault:
The East Palo Alto city council mandated a temporary rent freeze in an urgency order in response to the mobilization and testimony of hundreds of Page Mill tenants.

The Rent Stabilization Board activated as the ‘first line of defense’ and won eviction stops and rent increase reprieves.

Tenants exposed how this corporate landlord restructured its portfolio to create smaller LLCs in an attempt to bypass rent control obligations; tenants mobilized and won their preliminary class-action suit.

Residents voted for a referendum for stronger rent control and protections for just cause and against harassment.

The city defended its incorporation and city zone of influence in the face of Page Mill attempt to secede the Westside from East Palo Alto.

The city passed disincentives for landlords to invoke the Ellis Act.

New tenant leaders were elected to city’s Rent Stabilization Board.

The Rent Stabilization Board organized for the successful dismissal of an anti-tenant city manager.

The city passed a temporary rezoning moratorium and ultimately passed a residential preservation zoning to maintain Westside rental units.

A committee of the state committee initially passed state legislation against state public pension investment in predatory equity.

CalPERS and CalSTERS approved investment guidelines against predatory equity allocations based on proposed legislation.
• First Amendment Fund transparency win of full disclosure of CalPERS’ opportunistic investment in the Page Mill II real estate venture capital portfolio.

In addition, as shown herein and below, East Palo Alto tenant organizers forged new alignments with unions and the statewide tenant organizing outfit, Tenants Together.

This chapter distills several key findings and lessons from the dissertation to suggest forward moves of action and research for housing justice and secure futures. Absent movements of scale, and what Gilmore (2008) refers to as the “stretch” of question,\(^{59}\) demands for housing justice in the U.S. may only translate to the status quo policies upholding existing architecture of inequalities. Piven and Cloward (1968) warned decades ago of an over-emphasis on procedural, technocratic reforms, “Liberals and ‘good government’ groups, for their part, are satisfied with perennial reforms of the housing codes, to which political leaders acquiesce, knowing that cumbersome procedures of legal redress will do little except to satisfy the reformers.” (168). This conclusion heeds such caution and offers recommendations for housing justice from the perspective of “non-reformist reforms,” (Gorz, 1968; Gilmore in Loyd, 2013) or frameworks and policy changes that position tenants and movements to expand and embolden their demands by changing power relations, and stretching the questions of strategy.

In one respect even radical demands of non-reformist reforms may become reformist. The distinction however, is most useful in envisioning possibility, and how a

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\(^{59}\) Gilmore (2008) calls this stretch one of perspective and interface, from “Why… this development project?” to “What is development?” (37-28).
demand translates to implementation. The question for Gorz is whether a policy demand provides a means of democratic control of decision-making and, in this case, the housing itself by those most affected. The risk is as to whether the outcome, a purported win, re-concentrates and centralizes capital. For example, Gorz (1968) in his now canonical work *Strategy for Labor* gives the example of the French workers’ demand for 500,000 additional housing units (7). If these units were created through state subsidies to private corporations, or private landlords as in the more recent mechanism of Section 8 vouchers in the U.S., or developed on expropriated land that displaced existing workers, or developed with subpar quality, or for the poorest of the poor exclusively, etc., this reform would maintain the “neo-capitalist” structuring of a speculative economy. Although more than a million people would be housed (no small feat, Gorz!), the economy that produced the very poverty conditions that warrants an urgent need for workers’ housing would continue to operate, and even benefit from the state subsidies given to ameliorate the experience of impoverishment.

On the other hand, however, the realization of such a demand would in effect signify the radically simple idea of state intervention for the right to remain. Whether such a hypothetical reform creates the strategic framework for sequenced non-reformist reforms that alter the market and remove the housing permanently from speculation, or whether the housing returns to the speculative market is a question of ongoing, sustained struggle.

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60 Examples of questionable housing reforms abound from early 20th century slum clearance initiatives and early 21st century Hope VI projects, to state subsidized nonpermanent affordability scattered site programs designed to catalyze a neighborhood’s gentrification.
What are the non-reformist reforms for housing security in the era of increasing financialization? In order to arrive at this question of strategic reforms, this dissertation asks broadly in the preceding chapters, how through this case might we understand how financialization operates in the every day realm of rental housing? What are the nexuses between tenants, workers, finance actors, and the state? How have workers and renters become financial subjects? How are modes of risk, including race, produced and mobilized for financial speculation? What are the strategic leverage points of power for renters and the city to assert their demands and intervene in the structuring of speculation? Some of these relationships presented in the dissertation require an elaborated and honed research agenda for greater clarification and generalizability. The relationship of workers’ capital to gentrification, or the pension funding of displacement, is the salient work of this dissertation, and the starting point of the findings, lessons, and areas of non-reformist reforms considered in this conclusion.

*Dissertation Findings and Lessons for The Post-Crisis Crisis*

Financialization runs on workers who are tenants who are investors; align labor strategies with housing justice strategies.

This dissertation takes an expansive view of capital’s contradictions in an era of increasing financialization. The financialized terrain of residential real estate presents a strategic point of contradiction that exposes the relationship between capital’s organization of space and the dispossession of workers who produce and inhabit place. A central finding from this study is that workers’ capital has financed the serial
displacement of communities and workers, including the very people to whom pension fund managers and investors are under fiduciary obligation to serve by securing retirement futures. The case study demonstrates that the systemic risks of housing finance are socialized risks, not simply market investor risks; these risks are carried and experienced by residents, communities, and cities. In East Palo Alto, the returns stipulated by the debt leverage and expectations of renter returns from this portfolio resulted in the eviction of approximately 1,500 residents (See Chapter 4).

Institutional investment funds such as CalPERS do not simply adhere to market structures; large institutional investors shape market structures, and investment chances. Institutional investors such as CalPERS aggregate U.S. homes, single or multifamily, and create a bridge from the extraction of value from those homes to the global securities markets, in which pension funds such as CalPERS are also major investors. At the time of this writing, CalPERS had a target allocation of 20% investment in global debt securities. This involves the purchasing of securities or paper of the U.S. government, foreign governments, corporations, residential and commercial backed mortgages, student debt loans, credit cards, and other forms of direct loans (CalPERS, 2015: 52). The fundamental question of CalPERS’ investment model then is not only whether the investment fund realizes returns on investment despite or in proportion to great leverage, but how those returns are produced through the production and circulation of debt, and the extent to which returns fundamentally and irrevocably rely on dispossession. In the dissertation case example, CalPERS expected to profit off housing through the exploitation of the California workers, cities, and residents who produced the value of place. This was also done to the benefit of the portfolio principals and lenders who
accrued fees at multiple exchange points of capital circulation (see Chapter 5).

Notwithstanding the reputational risks of their eviction campaign and eventual portfolio losses, Page Mill’s executive stood to gain from even a failing portfolio. Page Mill’s general manager reaped investors’ fees and had accrued $7,137,000 in fees from the commingled investment fund (Squar Milner Real Estate Services, 2008: 7). The general principal was also well positioned to discount eventual real estate losses against federal taxes, benefit from potential carried interest tax credits for any returns, and had put comparatively little of his own “skin in the game” to lose. Despite taking comparatively less risk than the larger investors, Page Mill’s principal controlled the governance structure of the portfolio. Even so, there was opportunity for CalPERS to have a say in the portfolio management, and this did not go unnoticed by the tenant organizers.

An interrelated and key finding of this dissertation is that CalPERS proved to be a more strategic target than the corporate heads of the Page Mill portfolio fund. Despite statements to the contrary by the Page Mill principal and CalPERS, CalPERS real estate officers had a voice in the management of this portfolio, and ultimately made key decisions that ushered forward the portfolio’s foreclosure (see Chapter 6). CalPERS sought to close the portfolio at a loss rather than continue to deal with the relentless media, tenant, union and state legislator inquiries, and their evidence of deferred maintenance, and eviction. Despite the limited partnership structure of the limited liability company (LLC), and CalPERS’ standard reliance on external management, this case demonstrates that a large institutional investor such as CalPERS had opportunity to restructure this corporate portfolio and provide new equity to save the otherwise failing
fund. CalPERS established a third-party investigation by a consulting firm to examine the portfolio, and audited the fund when Page Mill executives in email after email cautioned against the optics of such an inquiry. CalPERS ultimately made a choice to lose its full investment rather than move to dissolve the governance structure and take-over the portfolio, or infuse new dollars.

Tenants recognized that a distinctive feature of the majority investor in this portfolio was the institutional investor’s affiliation with the state and with unions. Union trustees elected to CalPERS (see Chapter 6) are responsible for protecting labor’s capital by seeking greater investment profits, and via those investments, may also advocate for expanding union employment prospects in CA industries. However, the “triple bottom line” of investing in areas of environmental, social and worker protections while aiming to also increase returns for workers’ retirement security raises tension and contradictions. For one, this case study demonstrated the contradiction of the worker-, union-, city- and state-backed pension’s role in “developing” communities by accelerating displacement and gentrification for retirement returns.

Before “tripling” their concern, CalPERS had first established a “double bottom line” that considered social responsibility a tenet of investment returns. In 2000 when CalPERS released the “double bottom line” framework, real estate of all forms of speculation was still considered a neutral investment of moral value, and therefore socially responsible. This assessment, as Chapter 5 demonstrates, would ultimately be left to external managers who increasingly managed CalPERS’ real estate investment holdings, and received greater power to increase risks through opportunistic funds that involved the highest debt ratios and lowest likelihood of stable returns. External
managers had incentives of reaping fees paid out by investors before the period of investment returns would be realized. CalPERS managers also were incentivized through payoffs by placement agents, but also by the tie-in of their compensation bonuses to investment returns. Managers internal and external to CalPERS sought out greater leverage to create greater fees through greater exchange points of capital, and to improve the prospect of higher returns and bonuses for those returns.

An additional finding of this study demonstrates that labor support of tenant organizing added traction to tenant demands when targeting CalPERS. New alignments between labor and organizing against housing speculation are necessary to ensure workers’ control of both their own retirement futures and homes. In the Page Mill case, tenant organizers succeeded to align with SEIU local 521. The union local protested CalPERS’ funding of this portfolio, and ultimately supported state legislation to ban public sector pension funds from predatory investment in speculative real estate. As the CalPERS disclosure demonstrates, union leaders had direct lines of communication with CalPERS officials. Labor is a necessary coalitional partner with housing organizers and advocates seeking to affect investment priorities (for a New York City example and critique of the potential of labor to become incorporated into the urban gentrifying regime, see MacDonald [2011]).

In the Bay Area and Silicon Valley, where housing demand continues to outpace supply, there are signs of growing union and tenant organizing affinities against gentrification, even, at times, involving the building and trades unions known to support high-end development. For example, in 2015 the building trade unions agreed to support the San Francisco Jobs with Justice campaign to tighten Just Cause, and in turn housing
justice organizations allied with trade unions against nonunion development projects (personal communication, June, 25, 2016). Strategic housing and labor coalitional work gained momentum in part at a pragmatic and personal level involving the crossover of organizers years ago in the activist-oriented Bay Area. When the non-profit Tenderloin Housing Clinic became a union shop, a tenant staff organizer there became a political leader of the union local and in the political realm of the labor council (Ibid.). These cross-relationships helped to catalyze work with SEIU in particular around strategic anti-displacement efforts involving housing for teachers, and lower-income workers. At the rank and file level, tenant organizers have attended shop-steward meetings to conduct trainings around housing issues with union memberships.

In addition to exerting influence over city and state rent policy, development plans, pension funding, and individual landlord fights, unions can expand the conceptual framework of collective bargaining for strategic aims. In the area of pension funds, some unions have activated their members to hold their respective funds accountable to the needs of their contributors, including and beyond household futures. In the case of California, the same SEIU local 521 that worked with East Palo Alto tenants to stop CalPERS rent hikes and evictions formed a Retirement Security for All committee. The committee mobilizes members around pension reform changes and argues that changes to pension funds for current union workers should be negotiated through collective bargaining, not by the whim of the state legislature (personal communication, June 5, 2012; Pham, 2012). These committees can potentially activate union workers to hold accountable their union representatives who have seats on pension boards, such as

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61 For an overview of the rise and fall of unionized construction in residential market see Rabourn (2008).
CalPERS trustees. The committees can also serve as vehicles to develop rank and file union members for the pension questions of collective bargaining.

A more expansive view of collective bargaining takes into account what McAlevey calls the “whole worker” that affords the highest level of worker participation in the bargaining process (2012; 2016). Expansive collective bargaining sets forth demands addressing the context in which labor is reproduced, and labor’s capital expropriated, or the processes of financialization (see Bhatti and Lerner, 2016), such as in the case of worker and state-subsidized pension funding of evictions. Collective bargaining for the whole worker might include principles of investment dollars, and specific outcomes for socially controlled housing production. The bottom line for such retirement security committees cannot be a narrow vision of protecting wages and retirement payouts; it must be in ensuring pension investments secure rather than undermine stable and stronger economies, at the community, state, national and global scale.

Strategic union organizers have identified the intersection of housing and labor demands in past collective bargaining campaigns, such as when the Stamford Organizing Project at the same time mobilized workers to save public housing from demolition, won inclusionary zoning, and organized 4,500 workers into a union contract (Clawson, 2003; for a more recent update see Botein, 2007). More recently, for teachers in SEIU in the Bay Area, collective bargaining provided an opportunity to calculate housing as a component of rising costs of living in the workers’ contract demands (personal communication, June 25, 2016). Yet, as this dissertation shows, housing as a wage supplement is a limited view of the question of housing affordability, and by extension
limits the possibilities of collective bargaining. Unions and housing organizers may find strategic targets in private equity corporations themselves, such as Blackstone, as Bhatti and Lerner (2016) suggest. For one, they point out, as unions organize Blackstone workers, unions must bargain also to freeze the rents of properties across the Blackstone portfolios at rates affordable to those workers.

To aim big, and to aim strategically at the sources and structures of corporate finance, however, transparency matters. In order to look upwards at the funding sources, and identify the investors that control the corporations (that strip states of tax dollars, fight unionization and invest in tenant harassment, deferred maintenance and serial displacement), legislation must require corporate public reporting, beginning with state-financed investment portfolios. The Page Mill tenant organizing strategy to target CalPERS was due to investigative community lawyering and committed tenant leaders who traced the financial actors involved in the portfolio based on court disclosures that identified CalPERS role in the portfolio.

CalPERS’ largest disclosure surrounding Page Mill was court mandated, and became the central data source of this dissertation. The court had ruled against CalPERS because the fund did not identify the venture capital operating firm Page Mill as an alternative investment vehicle in their pension reporting (see Chapters 5 and 6). Instead, Page Mill was firmly listed by CalPERS as a real estate fund. Blackstone funds, on the other hand, are reported by CalPERS as alternative assets, and do not require portfolio-level specific reporting even when investment assets may be real estate such as Blackstone IV rental housing. CalPERS is exempted from public reporting of details of alternative assets. Although CalPERS vigorously fought the Page Mill disclosure in court
and described as a protected asset, the First Amendment Coalition’s lawsuit prevailed due to the fund’s original real estate classification.

Public pension funds can circumvent public information requests on the specific portfolios of private equity alternative assets investments. Moreover, private equity prospectus and memoranda of agreement are not reported to the Security and Exchange Commission (SEC). Efforts to identify investors, amounts, and agreement provisions prove challenging for strategic researchers seeking to find points of vulnerability without such data points. In other words, CalPERS can deny requests for specific Blackstone funds’ portfolio listings, and these would not be found by the parent corporation’s name in public databases (see Chapter 5).

In New York City, at the time of this writing, the city council recently introduced a legislation that would pressure landlords through transparency measures by mandating the city’s Housing Preservation Department (HPD) to create a public watch list of overleveraged landlords with high debt to income ratios. Tenants alleging harassment in those watch-list buildings would receive expedited action in housing court (Zimmer, 2016). HPD officials have reported to news outlets that creating such a list would be burdensome, saying debt ratios fluctuate, and that they did not necessarily have access to this data at this time.

Instead of relying on public transparency measures, over the last several years, tenant organizers such as those at California’s Tenants Together have looked for new ways to identify corporate investors. They do this through savvy strategic research and the investigative navigation of web-based individual rental property listings. For example, Tenants Together identified rental homes of Wall Street investor corporate
parent companies such as Blackstone by finding first individual properties and then the properties’ limited partner owners. Once researchers identified the subsidiary limited partners, they were able to identify the number of rental properties (such as 5,000 for Blackstone/Invitation Homes in the Bay Area) listed with these specific portfolio partners to begin outreach to those renters (Inglis n.d.). These listings were made possible through the publicly available county assessor-records aggregated through propertysharks.com or Property Radar.

Unmasking these relations is not enough. In the case of Tenants Together, identifying rental units owned by corporate landlords is a first step to tenant outreach and organizing. An advocacy platform that targets corporate landlords on behalf of those tenants without the tenants themselves in leadership positions will likely limit the strategic, sequenced possibilities of tenant and broader-based action.

*Race is a mode of risk that structures speculation; racial justice and housing justice are inextricably linked.*

This case study began with an historical overview of the federal and local dimensions that produced speculative housing regimes legitimated through race (Chapter 3). Race is a mode through which boundaries of place have been drawn and re-drawn for the purposes of segregation, containment, and gentrification. A finding of this case study’s historical tracing is that boundary making around and between people by race and class creates axes of difference mobilized for financialized risks and returns, or valorization by devalorization. Redlining, exclusionary zoning, restrictive covenants, Alien Land laws, Proposition 14 are all examples of how this was practiced through
government agencies including HOLC, state-sponsored realtors, and voter mandated policies.

This dissertation presented a regional and historical view of racial containment. The value of homes as commodities, grounded in places, has been historically linked to ideas of racial occupancy and settlement, involving in the U.S. stolen lands and stolen peoples. Moreover, home is the site of the most intimate sphere of social reproduction, including the reproduction of stratification at the level of household by age, gender roles, and in the reproduction of familial identity through race and ethnicity relational to the identities of other family units.

In the early 1980s, East Palo Alto’s city founders viewed the threat of gentrification as both consequence and cause of potential political fragmentation in their majority minority city. Two decades following cityhood, corporate landlord evictions made visible the gender, race, and class contours of an embattled and predominantly immigrant and Black renter population “fighting to stay put” (Chapter 4) after nearly 40 years of federal disinvestment. The renewed opportunity for capital there relied in part on the historicized racial differentiation of the city’s people in the regional context of white affluence, and the raced policies of organized abandonment and expropriation. Organizing with racial justice at the center requires a shift from demands for increasing “access” to affordable housing, to asking who is defining the value and risks of housing markets, and who is expanding and controlling those markets for whom, and by whom. Organizing with racial justice at the center involves leading by and for people of color.

Youth United for Community Action has demonstrated intersectional analysis and action that lifts queer, people of color, feminist, and eco-perspectives. YUCA youth
organizers mobilized through a racial justice and intergenerational strategy in their campaign to save renters’ homes in East Palo Alto. While the GI Bill was creating a university boom for largely white beneficiaries at Palo Alto’s Stanford University next door, and venture capital grew in innovation to back their technological products, East Palo Alto was becoming predominantly a toxic waste site for the chemicals used to manufacture Silicon Valley’s computers. YUCA elevated the question of race from this historical understanding of how East Palo Alto went from the Silicon Valley’s toxic dump where people of color were in effect considered disposable, to a place of value where people of color were in effect considered displaceable.

The California based Anti-Eviction Mapping Project is another forward strategy project that reflects a racial analysis of corporate real estate control; this group became especially active in the post-crisis renters’ crisis. The project uses spatial visualization to make clear not only where evictions are happening, but also the speculator investors behind these evictions. Working with Tenants Together the project identified Blackstone private equity and other corporate landlord properties in northern California to calculate the scale and sites of increased speculation in communities of color based on geographic concentration. Spatial visualization allows for the multi-layered view of demographic profiles within clusters of speculation. In their “Mapping Market Power” analysis, the Anti-Eviction Mapping Project teamed with Tenants Together to identify the single family rentals of Blackstone/Invitation Homes, Colony Financial (Colfin), and Waypoint that now form the large corporate rental portfolios of previously home owner-occupied housing in post-crisis crisis California (See www.antievictionmappingproject.net/wallstreet.html).
Other Bay and Peninsula area housing organizations such as Just Cause / Causa Justa also develop on-going analysis of demographic shifts and involve the people most affected by those shifts in regional strategy. For this group, foregrounding a racial justice analysis meant creating a dedicated space and platform, the Black Priorities Project, for development without displacement. Building a city where Black lives matter involves a re-centering from demands of access to affordable housing to demands of accountability for how the conditions of state violence and gentrification were produced through the racial disciplining of labor, removal of union jobs, boundary-making of segregation, and post-1960s disinvestment in urban infrastructure.

Labor not only has a vested interest in the structuring of housing speculation through financialization, but also the racial contours of that structuring. For those who posit that the central aim of labor is the decommodification of workers an analysis of racial capitalism is necessary in strategy to address the ways in which racial valorization acts as a mode in the commodification of bodies, land, and housing.

Unions have a direct stake in how gentrification works as racial political redistricting. Gentrification results in fragmentation of sustained relationships and political networks through displacement. Geographic shifts in union memberships, particularly in the service industry, may indicate foreclosure or opening in local political strategy.

For decades, people of color have disproportionately rented, and continue to do so (Joint Center for Housing Studies at Harvard University, 2016). The foreclosure crisis that robbed African-American households of wealth disproportionately resulted in a post-crisis crisis for renters that again, hit people of color the hardest (Ibid.; Henry, Reese and
Torres, 2013). This crisis of enduring crises for Black Americans in particular, and political fragmentation by gentrification, is partly why “Black Lives Matter” as cry and demand remains so broadly effective. The decentralized form of the BLM organizing defies this fragmentation and speaks to people directly within and across place, whether urban and suburban, where people find themselves all too often gentrified out, and, or segregated-in by race and class.

Organization in place still matters; targeting corporate landlords stretches local campaigns to greater scale for potentially greater impact and opens translocal strategy.

Within and outside the far-reaching call of movements are people organizing, disrupting, and changing local politics. Another finding of this dissertation is the continuing significance of urban politics in shaping speculative financial real estate regimes. Since the 1970s entrepreneurial cities have allowed for much of the transfer of public policy decisions to private interests, but this case presents the example of a city intervening for social interests within the incomplete processes of hyper-financialization. This dissertation demonstrates the attempts by the city to mitigate and even resist gentrification in the face of this large corporate landlord and the institutional investor (Chapter 6). City officials in East Palo Alto, including key rent board members, city council members, and planners responded to the high participation by renters in city meetings. The city targeted the corporate landlord directly and froze Page Mill rents. The Rent Stabilization Board ruled against evictions, and the City sued and counter-sued the litigious corporation around a myriad of issues, including the form in which it announced and held meetings. City officials leveraged capacities to support renters by proposing and
passing a new stronger rent control ordinance, protecting the properties from demolition or conversion in its land use planning, and investigated and fired a city manager and, more recently, removed a rent board member deemed anti-tenant.

City officials also went after CalPERS. The city council passed a unanimous resolution calling for CalPERS divestment from the portfolio fund. Officials representing the city appeared and spoke at CalPERS Board meetings, and to the media. The city also supported and pursued legislation against pension funding of predatory landlords, and city council members and the mayor discussed their expectations for a restructured portfolio with the lender.

Localities continue to test their capacities. The city of Richmond, CA put forth a plan to use eminent domain there to seize bank loans of foreclosed housing, and restructure the loans to be affordable to original home owner occupants or for potential conversion to affordable units. Although this plan did not materialize, the local government’s pursuit of this proposal was an immediate threat to investment capital, and even more so if ever brought to scale throughout California or across the U.S.\(^\text{62}\) There and elsewhere banks cited pension funds, or workers, as the losers in such deals due to pension investments in the securitization of many of these loans (Dewan, 2014).

In California, rent control ordinances reflect a popular demand for renter protections, if not an actual salve in light of the restrictions of Costa Hawkins. In November 2016, four new rent control initiatives were slated for localities in the Bay Area and Silicon Valley by local California referenda, including in Richmond,

\(^\text{62}\) A housing justice critique of the Richmond eminent domain plan was the city’s use of a profit-motivated firm that would generate fees for its mortgage restructuring services. This critique further demonstrated the need for state-funded REO transfer mechanism and social housing conversion.
Mountainview, San Mateo, and Burlingame (Inglis, 2016). New taxes were also proposed in East Palo Alto specifically for affordable housing revenue; also on the ballot were proposals to strengthen eviction controls in both East Palo Alto and Oakland.

Although movements gain traction through bold demands, a necessary stretch of question applies especially to the local policy reforms that can make a difference when brought to scale. Corporate landlords by sheer economy of scale would influence prevailing rents if entire portfolios were deemed rent controlled, regardless of rental unit size. Page Mill had attempted to use the “mom and pop” provision of exempting smaller multi-family holdings from East Palo Alto’s rent regulation and to obscure its single-entity principal. Page Mill attempted this by registering a network of LLCs as subsidiary owners of their otherwise rent regulated smaller holdings. Corporate landlords that seized the capital opportunity of investing in scattered site portfolios comprised of single family REOs were also exempted from local rent ordinances because these assets are single units. In California, due to the small landlord protections of Costa Hawkins, these single family homes cannot be covered by rent regulation, despite the portfolio’s overall asset value and the aggregate number of assets leveraged by a singular portfolio. Corporate landlords of multi-holdings, single family and greater, should not be exempted by Costa-Hawkins’ small landlord protections.

The elimination of Costa Hawkins is a labor and housing coalitional campaign that can be launched at the state level. First and foremost, Costa-Hawkins must be eliminated to end vacancy decontrol and to allow for statewide rent control provisions. Yet, a stretch of question challenges organizers to seek beyond the perpetual changing of housing legislation and finance regulation to questions of who controls the housing to be
legislated and the capital to be regulated? Massive federal spending remains necessary to produce new social housing, and to support the conversion of private REO housing to social housing.

*The foreclosure crisis was a missed opportunity for affordable housing conversion; notwithstanding city rent regulatory capacities in places such as California, the 2010 federal Dodd-Frank mortgage regulatory capacities, and municipal and state tools for bank owned to social housing conversion, new social housing production and maintenance requires massive federal investment.*

The housing crisis of 2007/2008 hit East Palo Alto in relentless waves. By the last quarter of 2008, East Palo Alto held the distinction of having the highest rate of foreclosures in San Mateo County (Federal Housing Finance Agency, 2008). The succession of single-family foreclosures further exacerbated the existing affordability crisis for many low-income renters. These renters compete with new renters in a narrowing market of supply further shaped by exploitative landlord speculators seeking higher rents for debt servicing and returns. By 2015, renter demands had outstripped rental supply across the country.

In East Palo Alto, the one period of anomaly of increased housing unit vacancy in this tightening market was during the period of the Page Mill portfolio evictions. Although evictions would create availability of a unit for rental, tenant organizing and media attention on the problematic landlord kept would-be tenants away (personal communication, January 7, 2014). The combination of Page Mill evictions and single-family foreclosures exacerbated the crisis for renters in this small city. The crisis further reflected a generalized crisis for renters throughout the country.
The present rentership society was catalyzed by a number of causes that resulted from both the housing crash, and demographic shifts. Between 2008-2014, more than 9.5 million foreclosed or distressed sale homes led to both increases in rental units and renter growth (Kusisto, 2015). Less than a third of these foreclosed and stress sale households are expected to become homeowners again, according to the National Association of Realtors (Ibid.). An early indicator of the shift of owner to renter was the tripling of single-family rentals from 2005-2010, compared with the first half of that ten year period; a neutral effect on vacancy rates for single-family units over the same period signifies the likelihood of foreclosed owners turned renters of those same foreclosed units (Joint Center for Housing Studies at Harvard University, 2012). The sheer number of foreclosures at first indicated that that the supply might offset the new demand. Yet rental vacancy rates have steadily decreased and by late 2016 were the lowest rate in 20 years (US Census, 2016). Despite foreclosures, rental supply options were circumvented by the recession due to empty foreclosed properties awaiting resale, a narrowing of credit opportunity for homeownership, and a decrease, or stalling, of both single family and multifamily new construction (Freddie Mac, 2012). Although younger people were more likely to remain in place with parents as a result of the failing economy than of the same age cohort in the previous decade, demographic shifts of immigrants, and increasing number of renters in all age groups between 30-70s as well as the number of foreclosed or distressed sale households contributed to the eventual renter demand upsurge.

Moreover, rental demand grew in this period as incomes fell. Between 2000-2010 U.S. household incomes fell by 7%, while rents rose by 12% (Woo, 2016). Rents outpaced inflation resulting by 2015 in the highest rental burden ever in the recording of
rental burdens, established in 1981 at more than 30% of household income (Schwartz, 2006), and in other measures of rent burdens recorded since 1960 (Woo, 2016). Rental burdens continue to hit the poorest the hardest. In the critical period of crisis and post-crisis, in the ten years between 2005-2015, more than half of all new rental growth was among households earning less than $25,000; a third of all U.S. renter households fall in this income bracket (Joint Center for Housing Studies at Harvard University, 2016:26).

The foreclosure crisis was a giant missed opportunity for the conversion of foreclosures to social housing. In this case example, the foreclosure of Page Mill properties represented opportunity for the city, tenants, and labor allies actively seeking renter protections. There was no viable strategy in place, however, for the city or a third-party organization to seize the bank loan and devise a community-control structure of the portfolio’s land and housing units. Instead, there were marginal victories that bought valuable time and secured the city’s existing rent control (see Chapter 6). These were nominal short-term wins: the receiver called off litigation against the city; and the city halted zoning changes and strengthened rent control and eviction protections. Still, Equity Residential, owned by the financier of anti-rent control referenda in California, Sam Zells, acquired the entire Page Mill portfolio. This occurred before the Richmond and earlier San Bernandino proposals of eminent domain use. Yet, even if a mechanism existed for eminent domain and a third-party transfer, funding for mitigating deferred maintenance alone would require significant sourcing. Funding and technical assistance for the conversion of the foreclosed Real Estate Owned (REO) private corporate portfolio to a social housing structure could have allowed the former Page Mill tenants to become controllers, if not owners, of their housing futures.
Housing control versus ownership is an important distinction for potential conversion of any REO housing to social housing. Indeed, the foreclosure crisis challenged the myth of ownership as a symbol of self-reliance or the actualization of the American dream. As detailed above, owners by the millions, including many small landlords, became renters, and an increasing number of stable paying renters, such as the remaining renters in the Page Mill properties, found themselves in unstable, foreclosed buildings. Foreclosed owners and renters alike became “bank tenants” paying rent as debt service, often at a leverage point beyond the asset value. The trope of the ownership society became subverted by the reality of the “renter nation” (see Samara, 2014) described above, or debt nation.

Ultimately, the findings of this dissertation beget questions of alternative housing models operating outside the speculative market. What does democratically controlled social housing look like? What are the models of limited equity, land trusts, and public financing that can help to envision the conversion of foreclosed or predatory landlord properties, single or multifamily, to an outcome of sustained social housing? How might we expand the pool of residential real estate that can be taken off the speculative market? How much federal funding is required for new social housing production? What are other sources of revenue for housing conversion, maintenance and production?

A lesson and impetus of the foreclosure crisis has been the need to bring homeowners and renters together to identify the current financialization processes that structure the economy, unmask the illusion of ownership, and invert the socialized effects of finance and debt risks to allow for conversion of any housing stock targeted by

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63 For an overview of existing models of limited-equity and land trust formations see (Emmeus Davis, 2006a; 2006b)
speculative portfolio structures. The foreclosure crisis has brought organizers to reevaluate ownership, and by extension landlordism of any form, as a tenet of housing security (see examples of alternative housing models, Baiocchi, et. al. 2016).

_A Research Agenda, Forward Moves_

_Develop and Echo a Framework of Housing Security_

In the aftermath of the foreclosure crisis, the Right to the City Alliance[^64] brought to its organizing membership the question, what is housing security? The group had put forth study papers on the concept of transformative demands, and “non-reformist reforms” recognizing the need to distinguish transitional and technical policy changes versus bold, provocative vision of possibilities in the midst of the foreclosure crisis (Brady and Romano, 2012). The need to reconsider the very framework of the alliance’s organizing campaigns and terms of housing justice grew out of what was revealed then as a crisis of crises. This was a crisis that was quickly spurring new opportunity for greater theft of wealth and equity from households across the U.S. to corporate investors, particularly and disproportionately impacting people of color. The historical, ongoing adaptation of capital and finance capital to innovate and prosper from crisis made evident the need to define fundamental tenets of alternative housing models.

Right to the City developed of a five-point framework for evaluating housing models around the following pillars: affordability (cost), tenure (sustained occupancy),

[^64]: The translocal U.S. network of membership-based organizing groups that formed in 2007 in response to gentrification and public housing demolition.
access (fair by opportunity and location), sustainability (environmentally sound, habitability), and control (democratic decision making by affected residents and occupants) (Samara, 2014). The framework rejects a right to fair or greater returns as the central measure of housing policy, and explicitly rejects speculation as a business model.

Future research around this framework might address the question of scale and further define equity measures for the hardest hit groups. Moreover, these umbrella pillars might spur a detailed research agenda to consider indices of housing security. In this direction, future research might consider the application of these pillars to existing housing demands, such as rent control. The strengthening and protection of rent control was a concrete win from the East Palo Alto tenant organizing against Page Mill. Yet, Costa Hawkins circumscribed this win. What might a rent-control future look like? Is rent control an aim to be obtained through the tool of state regulation, or renter-control of rent as maintenance to support alternative models such as land trusts, limited equity, or other collective resident control structures? On the one hand, each of these pillars could be discussed in relationship to city or state regulated rent control (see Figure 7-1). The Right to the City Alliance’s framework provides a vantage point to consider areas to strengthen state-based regulatory capacities.

Another research trajectory unexplored herein and that engages a framework of housing security would be to situate rent control within an evaluation of its transitional, non-reformist reform capacities relative to and interrelated with other demands. To what extent does rent control change market conditions by lowering the regional rent floor, or widening the rent gap, and at what scales? How might rent control, as a regulatory tool of the state, perpetuate endless “good government” advocacy on the loopholes, mechanisms
of implementation, and enforcement of landlords? In this way how might rent control and advocacy around regulatory details maintain or reinforce the power dynamics of status quo or accountability at a municipal, regional, or national scale? Does rent control merely remove regulated residential real estate from the speculative economy or can rent control potentially produce prevailing rent ceilings? (See Chapter 6) What must be anticipated, such as rent gap future speculation following the piecemeal stripping and weakening of politically vulnerable regulatory controls? These are questions to consider in future research from the vantage point of housing security, and reformist-reforms versus non-reformist reforms.

Table 7.1. Analysis of Tenants Together Rent Control Tool Kit (2016), and Berkeley and East Palo Alto rent control ordinances (2015) through the application of the RTTC housing security framework.

<table>
<thead>
<tr>
<th>Five Pillars</th>
<th><strong>Moderate (Typical, Existing)</strong></th>
<th><strong>Strong(er)</strong></th>
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<tbody>
<tr>
<td><strong>Affordability</strong></td>
<td>Locked increase measure can permit fluctuating affordability / profits. Ties base rent to what market can bear. Ties maximum rents to Consumer Price Index increase. Allows for individual landlord adjustments based on hardship claims.</td>
<td>Discretionary increases to established maximum allowable rent maintains affordability, caps profit. Ties base rent to Net Operating Income for fair return. Ties maximum rent increases to percentage of Consumer Price Index based on annual RB discretion to maintain or increase renter affordability (i.e., 1%-100% of total Consumer Price Index increase); Prohibits landlords’ rent banking; Strict individual landlord adjustment provisions; Rent freeze (no new annual increase) for seniors 60+; Emergency hardship grants to tenants for rent. Emergency hardship grants to landlords for capital repairs. Anti-speculation tax (tax on turn-over of the property within certain time period).</td>
</tr>
<tr>
<td><strong>Accessibility</strong></td>
<td>City, multifamily, aging stock Local scale; Excludes new construction; Limits neighborhoods impacted</td>
<td>County, state, national, varied new and older stock National scale; Includes new construction;</td>
</tr>
<tr>
<td>Long Term Stability</td>
<td>Decontrol</td>
<td>Control, Just Cause, Replacement and Relocation</td>
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<tr>
<td>No zoning restrictions (includes Single Resident Occupancy units [SROs], mobile home parks, garage rental conversions, single family rentals, at four or more rental properties of any unit size)</td>
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<tr>
<td>Vacancy and rehabilitation decontrols induce landlord harassment, unwarranted and costly (even if amortized) Major Capital Improvements (MCIs), and result in tenant turn over/displacement and permanent loss of affordable unit.</td>
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<tr>
<td>Just cause eviction; Vacancy control / Prohibitive vacancy decontrol; Conversion (to condo, single family) requires 1:1 rent control unit replacement and significant relocation payment; No rehabilitation decontrol; Punitive fees for overcharging.</td>
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<tr>
<th>Health &amp; Sustainability</th>
<th>Passive</th>
<th>Active</th>
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<tr>
<td>Renters must report code violations; passive if any inspections; no landlord rehabilitation inducements.</td>
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<tr>
<td>Rehabilitation subsidies available as grants and liens if landlord hardship or inaction; Housing inspection reports and maximum allowable rent rolls must be included in all bank appraisals and at underwriting review; Municipal liens placed on properties with code violations must be cleared for sale, acquisition; Third party transfers and social housing conversion in cases of continued deferred maintenance, liens; Landlords cannot raise rents to maximum allowable with open violations; rental write-offs; City administration pro-actively inspects, monitors, and enforces all provisions; criminal proceedings against landlords for certain code violations and harassment.</td>
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<tr>
<th>Community Control</th>
<th>Passive</th>
<th>Active</th>
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<tbody>
<tr>
<td>Rent Control Board dominated by appointments and representatives of real estate interests; Landlords put on record the base rent at time of purchase only; onus on tenants to petition erroneous rent increases or code violations; little oversight on building demolition or conversions or MCI approval.</td>
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<tr>
<td>Rent Control Board includes appointed and elected tenant union/organizational representatives, tenants, and landlord representatives; Tenant rights included in all lease agreements; Free representation for tenant petitions; Landlords file base rent and rent increase information with administration every year and with every vacancy; Revenue produced through registration fees plus real estate transfer tax, other tax, not only rental registration (re: resources and economy of scale); Major Capital Improvement (not code violation related) must be approved by majority of buildings’ tenants; Rent board review of demolition or conversion permits; Rent board can decrease rent increase percentage each year based on their own discretion to maintain affordability.</td>
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Rent control ordinances approved by popular referendum (California) to not allow for regulatory changes at the whim of city officials.

Research to Evaluate Real Estate Holdings

An essential research agenda going forward to extend this case study would include a housing security evaluation of CalPERS residential real estate investments originated over the last ten years of the crisis and “post-crisis” crisis. Such an analysis would seek to recalibrate systemic risk measures to account for housing security. For example, considering the Right to the City Alliance’s tenet of control, securitization of mortgage or rent would imply the further removal of control from those who occupy and live in and produce the value of places that have become financial portfolios.

Securitization developed by and for private interests, regardless of whether guaranteed by federal funds, invites global financial actors, and individual investors, to gamble on the risks of whether value can be extracted from the residents and producers of place for revenue payout in the case of rental securities or debt repayment in the case of mortgage backed securities.

A research agenda to clarify the relationship of public pension funds to financialization and gentrification would take stock of pension investment in Residential and Commercial Mortgage Backed (RMB & CMB) securities and single-family rental (SFR) securities, as well as in the funds that spawned the latest innovation of the latter. Single family rental securities, a market invention to finance the creation of large scale portfolios from single family homes turned rentals, was in development in 2011 when Fannie Mae announced its plan to transfer huge pools of single family REOs to private equity funds (Moody’s Investors Service, 2014). Between 2011 and 2014, investors
purchased more than 200,000 single-family homes at more than $20 billion (Perlberg and Gittelsohn, 2014). The securitization of these portfolios began in 2014 based on the pooling of not only mortgages, but also rental payments. The general principal of the investment fund thereby spreads the risk to securities holders and originating investors; lenders in turn receive new cash infusion from the creation of the securities bond to purchase new assets and establish new funds. The rental income, not the borrower’s income becomes the basis for the loan, and thus a driver for increasing rent (See for example, Olick, 2016; Beswick, Alexandri, et. al., 2016; Edelman, 2014; Bond-Graham, 2014).

Ultimately, many of these portfolios may become transferred again into Real Estate Investment Funds (REIT) structures that would allow for new debt access if brought to the scale for a public offering (Colomer, 2013). These developments also signify the renter as embedded financial subjects; individual renters who are 401k investors could become direct stockholders of their own homes, securing investment returns in part through their own, and their neighbors’ and fellow workers’ rents. Most concerning, the model is based on high rents to formulate the mortgage debt ratio. Analysts are skeptical of the loan to value ratios of these pools given that appraisals are not necessary in the valuing of the assets (Yalamanchili, 2016:17). New political actors in housing policy such as private equity mortgage issuers may intervene in financing anti-rent control campaigns if such proposed controls would cover these scattered site assets.

Researchers and organizers can find which rental properties became securitized as rental securities and mortgage backed securities using the same SEC inquiry methods to search trusts and pooling and service agreements that this study employed to find that the
largest loans of the Page Mill portfolio did not in fact become securitized (See Chapter 5). Tenants Together found 1,786 rental homes in the state that were included in a Blackstone securitization package (Inglis, u.d.). A closer look at the SEC findings can detail the purchasers of these securities, such as institutional investors like CalPERS. Through an expansive search and comparative study, strategic researchers can look at whether and how tenant affordability and maintenance conditions for securitized rental homes versus nonsecuritized rentals differ (Ibid.).

Examples of additional pension fund investments in rent regulated multifamily housing should be added to research agendas. One such investment was $250 million in 2012 by the Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF) at 8 Spruce Street in Manhattan. The exemplary 2016 case remains the largest purchase by Blackstone Group to-date: Stuyvesant Town and Peter Cooper Village. Forty-percent of this $5.3 billion dollar deal was backed by Canadian pension fund investments managed by the Quebec-based real estate firm Ivanhoe Cambridge. The city negotiations of the deal ensured 5,000 of the original 11,000 units that were (nearly all) rent stabilized in 2000, would remain stabilized or relatively affordable for 20 years from the 2015 purchase. These terms all but give up on long-term affordability for this massive real estate holding.

CalPERS presents a key subject for public pension fund research because it is the largest public pension fund in the U.S. and as such often sets policy precedents for other funds. Also, CalPERS abides by relatively stronger California public transparency provisions, and has a legacy of shareholder activism and social responsibility policy. For one, in 2010 CalPERS and CalSTERS in suit established a commitment to ban
investment in predatory real estate across its funds, a direct outcome of the East Palo Alto organizing efforts.

Another component of an elaborated research agenda would further clarify the terms and enforcement of this 2010 commitment. Since few prospectuses make explicit strategies to subvert existing rent control laws (illegally or otherwise), or demolish the housing stock, CalPERS must develop a standard measure of predatory-ability based on debt ratios, net operating income, and development fees, to determine whether investment returns rely on future rent increases and, or, displacement. This would be akin to the criteria of New York City council’s proposal of a “predatory equity” watch list.

A related area of strategic research would be to identify CalPERS and unions pension contributor households throughout the CalPERS California real estate portfolios. Unions in turn should use strategic research to identify the real estate holdings of corporate targets, identify union household members of those holdings, as well as identify pension investment dollars and pension contributors households linked to those holdings or securities of those holdings. Strategic researchers might take the lead of journalists following the money behind Blackstone real estate investment funds. Based on a review of annual pension reports, more than 30 local and state public pensions were found to have invested $3.2 billion in the single-family foreclosure to rental portfolios of Black Stone Real Estate Investments VII (Burns, 2015).

Research for Transfer and Conversion Programs
Moreover, additional research is needed to identify and evaluate transfer and funding mechanisms for converting large portfolios of private housing to social housing. Once a mechanism becomes established for municipalities, or the federal government, to seize corporate and bank-held housing via eminent domain of foreclosed assets, criminalization of predatory rental exploitation, or deferred maintenance, the housing should be converted to social housing. Research is needed to identify the number of potential corporate portfolios that should be targeted to remove from the speculative market, and the details of the remaining 72,783 (4Q 2015) Real Estate Owned (REO) properties (foreclosed properties) held by Fannie Mae and Freddie Mac that could be transferred from the Government Sponsored Enterprises (GSEs) for social housing conversion (Federal Housing Finance Administration, 2016:3).

The federal government transferred much of Fannie Mae REO’s most optimal bulk holdings directly to corporate bidders in monopoly sales. This additional transfer of wealth from the a quasi state entity to corporate interests, involving loans paid at below the dollar, accelerated the current terms of rental financialization, including through the invention of rental securities. An alternative response by the federal government to foreclosures would have secured a transfer and restructuring of the REO mortgages, and allowed for the conversion of the housing stock to community-controlled social housing.

Additional research is needed to identify areas to strengthen and reintroduce the National Tenant Protection and Private Rental Housing Conversion Act (HR 4727, 1987-1988) with federal funds (see for example Black Lives Matter 2016 reparations and redistribution platform). Research should look to existing and past models of third party transfer intermediaries, such as in the case of the Division of Alternative Management
(DAMP) and Housing Development Finance Corporation (HDFC) structures in New York City to understand the potentials and pitfalls of transfer structures, as well as the finance and governing structures of a variety of social housing forms. In the fall 2016 session, city council introduced a legislative seeks to expand the HPD third-party preservationist transfer programs for distressed buildings owned by predatory equity (overleveraged portfolio-based) landlords. Researchers can look to these models to consider economies of scale, and evaluate existing and envisioned programs through the tenets of housing security.

**Final Note**

This dissertation demonstrated one case through which financial actors attempted to displace the poor by using the municipal, state, and California public workers’ own capital. The case also demonstrated how the threat of this corporate landlord backed by the nation’s largest pension fund catalyzed intergenerational and Black, Brown, citizen, immigrant, and allied organizing from their buildings and unions to city hall to pension fund board meetings to the state assembly, and to the streets. This presence of people collectively organizing led to greater renter voice in the city as demonstrated by a popular referendum that strengthened rent control and eviction protections there. The city did not manage the renters’ discontent into hesitant consent or disappearence by displacement, but instead took action through the local referendum, city zoning policy, the rent board, legal suits, and before CalPERS and the state assembly.

The most well researched reports, pithy tweets, and Facebook posts echoing our despair are but a simulacrum of struggle. There is no strategic research on corporate
entities that can win fights against capital, only engaged struggle by people most affected by the historical development of today’s present can win the non-reformist reforms and dream the visions beyond them. When in a period in which little federal intervention to preserve affordability or convert bank holdings to social housing seems plausible, states, the city, and community control are the first lines of defense and strategy for housing affordability. A right to the city as call and as demand against gentrification in the U.S. at the urban intersection of people, land and housing is an outcome of and response to the cojoining of anti-racism and class struggle. By definition this call must be a practice of tactics and strategy congruent with the aims of collectivized, socially sustained futures envisioned and realized by the leadership of people whose very “right to place” has been historically targeted through extractive dispossession.
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