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Taking back vacant property

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ABSTRACT

“Taking back” has long been a rallying call of urban social movements asserting land rights. This call often involves seeking to ward off dispossession by taking possession. Scholars rethinking property beyond the normative “ownership model” have explored the seeming paradoxicality of resisting dispossession through legal forms of possession that reproduce deprivation. In this paper, I consider the possibilities for taking back the concept of possession itself by examining claims to “vacant” property in Philadelphia. I put taking back through a citywide “land bank” in conversation with the taking over of a poor people’s movement that occupies government-owned properties as a means of survival and political mobilization. I argue that outside or on the edge of legal recognition, the effort to take back property functions not as an end in itself, but rather as an explicitly political taking on of the notion of possessive ownership.

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Abandoned lots and buildings are a ubiquitous feature of post-industrial U.S. cities, markers of the 2008 mortgage foreclosure crisis, and perennial sources of social, political, economic and environmental concern for policymakers, researchers, and residents alike. In the context of uneven city management and unimpeded speculative real estate investment, these “vacant” properties become sites where differing visions of urban futures are enacted and contested.¹ In Philadelphia, where more than 40,000 lots and buildings have been deemed vacant by the city, a coalition of nearly 60 community-based groups came together in 2011 to form the “Campaign to Take Back Vacant Land.” They were frustrated by the city’s “broken” vacant land system, involving 17 different agencies (Econsult, 2010), and alarmed by the rapid sale of “vacant” properties in their neighborhoods amid the city’s first population growth in six decades. While Campaign members represented a variety of interests, including green space advocates, faith groups, affordable housing developers, labor activists, and community organizers, they united around a shared concern about the “vacant land crisis in Philadelphia” and the racialized displacement related to the redevelopment of this land (CTBVL, 2011). Documenting the socio-economic costs associated with property speculation and abandonment, the need for affordable housing and green space in neighborhoods where the vacant property is concentrated, and the lack of resident involvement in decision-making related to the future of these spaces, Campaign members made a case to the city for why there should be “community control” of this land. “Taking back” in this context was thus oriented toward a vision of what the group referred to as “development without displacement,”² where

investment and improvement respond to and benefit existing as well as new residents, and outcomes are framed in socio-environmental as well as economic terms. As put in the 2011 Campaign report: “[W]e need control over our land, to keep the rug from being yanked out from under innovative [existing] residents” (CTBVL, 2011, p. 4).

The primary mechanism by which the Campaign sought this control was by advocating for the formation of a land bank – a municipal entity created to streamline the city’s process of acquiring and dispensing of vacant properties. Initially emerging in the early 1970s as a means of managing urban “blight” and consolidating properties for future large-scale development, in the wake of the 2008 mortgage foreclosure crisis land banks have served as a “key tool” for urban planners as municipalities across the United States have sought to convert vacant and foreclosed properties from “liabilities” into “assets” through “productive use” (Frank Alexander, 2015). In Philadelphia, Campaign members hoped that a land bank would make the city’s land transfer process more accountable, resistant to speculative real estate practices, and attuned to community priorities. They also expected that a land bank would assist already existing community projects on properties deemed by the city to be vacant, but for which the hurdles of tangled title, absent owners, or liens prevented the “security” of legal ownership. In January 2014, after years of advocacy by the Campaign as well as other community development advocates,³ the Land Bank bill was signed into law, making Philadelphia the largest city in the United States with such an entity. Despite initial high hopes, after six years in operation, the Bank has had a limited impact on land distribution. Only a fraction of existing city-owned properties have been transferred into the Bank, and even fewer have been sold or transferred for community use. Disappointed and frustrated by the seeming ineffectiveness of the Bank, some Coalition members have begun to question the transformative potential of legislative and legal means of taking back property.

In this article, I consider what it means to *take back* property in a context of liberal property laws, which are predicated on racialized *taking*, not simply as a foundational moment, but as an ongoing process. I suggest that the tension between taking and taking back, dispossession and possession, underlines not only the challenges and paradoxes involved in seeking social justice through the property, but also the continued reliance of “racial regimes of ownership” (Bhandar, 2018) on the notion of vacancy. After situating this tension in existing scholarship, I turn to two grounded examples in Philadelphia. First, I consider legalized taking back through the municipal land bank, which is premised on a more “progressive” conceptualization of property that seemingly recognizes its social value and possible redistributive function. In tracing the Philadelphia Land Bank’s relationship to legal takings more generally and practices of re-possession specifically, I complicate efforts to make liberal property regimes more social and accountable. I suggest that despite the Bank’s seeming recognition of broader forms of possession, this state-sanctioned taking (back) of vacant land perpetuates the “overlap between biopolitical (control over life) and geopolitical (control over space) governance” (Keenan, 2015, p. 6) in ways that maintain the uneven sociality and precarity that undergird an ownership model of property (Nicholas Blomley, 2020). Second, I consider the possibilities for *overtaking* property – taking back the concept of possession itself – by bringing together critical legal geographies with the politics of “survivability” related to housing precarity (Mitchell & Heynen, 2009). To do so, I put the legalized taking back of the Land Bank into conversation with the illegal *taking over* of

a poor people's movement whose members have been occupying city-owned properties for decades as a means of survival and political advocacy. Ultimately, I do not seek to resolve the paradoxicality of claims to possession in order to resist dispossession, but rather consider this paradoxicality to be critically productive, allowing for the emergence of multiple "modalities" of re-possession (Nicholas Blomley, 2004) as tactical interventions in and through the "precarious city" (Mara et al., 2017). I argue that outside or on the edge of legal recognition, the effort to collectively take back property functions not as an end in itself, but as a political tactic to challenge – or *take on* – the notion of possessive ownership, recognizing shared (and uneven) precarity as both a lived reality and an organizing principle.

Paradoxical possession

"Taking back" has long been a rallying call of urban social movements – often raised in response to the threat of displacement and dispossession related to foreclosure, eviction, and gentrification (Rameau, 2012; Ward, 1974). It is frequently framed as a collective claim, and one that implies prior possession or right to possession – often in opposition to state and market forces. In the midst speculative real estate practices, taking back vacant property tends to be raised as a "right to stay put" (Hartman et al., 1982). It is a demand not to be displaced by "revitalizing" development that frequently represents a threat to, rather than an opportunity for, existing residents. In part, this claim to vacant land derives from an acknowledgment of the sociality of property specifically (Singer, 2000), and urban surplus more generally, whereby the (non)use of vacant properties impacts nearby residents, whose activities – including the use and care for these spaces – in turn, influence the socio-economic value of these properties. It also stems from a recognition of "precarious property relations" (Nicholas Blomley, 2020, p. 36), illustrated by fears of displacement – even as this claim often involves seeking "secure" possession in the form of a legal title. The seeming paradoxicality of resisting dispossession through forms of possession that reproduce deprivation (specifically private property) has been identified by a number of scholars who explore the possibilities of rethinking property beyond the "ownership model" (Singer, 2000). This dominant model in the U.S. legal context holds that property is an exclusive and absolute right, and is constituted by a "possessive individualism," where an individual is considered "proprietor of his own person or capacities, owing nothing to society for them" (Macpherson, 1962, p. 3). In other words, subjectivity is grounded in property ownership, and the spatio-legal boundaries of this ownership are securely fixed.

Amid broader challenges to the "capitalocentrism" of economic discussions (Gibson-Graham, 2006), critical race, legal, and geography scholars have sought to disrupt the primacy of the ownership model by focusing on everyday performances and practices of property that are not aligned or captured within its legal discourses. Nicholas Blomley (2004), for example, argues that in practice property is "more differentially, politically, and empirically heterogeneous than the ownership model supposes" (xvi). He suggests that the recognition that space (and property) is socially produced and "socially productive" reveals that it can be "remade for different social ends" (7). Focusing on the "relational meshwork" of property thus highlights not only everyday and uneven

violence, but also “codependenc[ies]” (Blomley, 2020, p. 39), slippages, and potentialities that allow for the emergence of alternative and even counter- proprietary praxis.

In their book, *Dispossession: The Performative in the Political*, Butler and Athanasiou (2013) raise specific questions about whether “‘possession’ is the name of the countermovement” to dispossession. They acknowledge that rights-based claims to land often reify notions of the propertied, proper individual emerging from “colonial embedded epistemologies of sovereignty, territory, and property ownership” (28). However, they also suggest that these claims may work to “decolonize the apparatus of property and to unsettle the colonial conceit of property and propertied human subjectivity” (27). There is thus a paradoxicality in rights-based claims to possession in response to dispossession, whereby they both reinforce and potentially undermine liberal property regimes, and inspire appeals to both individualism and collectivism. Picking up these provocations related to the stakes of possession, or what Libby Porter (2014) refers to as “possessory politics,” Roy (2017) proposes one political potentiality in what she calls “dis/possessive collectivism.” Building on her prior work on the limits of “rights-speak,” especially in relation to “the American paradigm of propertied citizenship” (Roy, 2003, p. 465), Roy argues that a politics of dis/possessive collectivism challenges both the ownership model and the white normativity of liberal personhood that undergirds it. It is a collectivism, she suggests, that involves practices of “emplacement,” which are based on the cultivation of shared human life rather than suffering, and offer a means of countering the “placelessness of property” (Roy, 2017, p. A4). Shifting the politics of possession, Roy frames dispossession as a process of “racial banishment,” or the “permanently insecure possession of property and personhood” (A9). Similarly, Brenna Bhandar (2018) considers dis/possession through the lens of what she refers to as “racial regimes of ownership,” or the ways that property ownership and a racialized legal subject are co-constituted (200). She argues that alternative epistemologies of land tenure and collective subjectivity – including marronage, reparations movements, and indigenous traditions – offer means of thinking about “creat[ing] the conditions for turning away from property as we know it” (ibid.).

The paradoxes of proprietary possession are arguably clearest to those at socio-legal margins who often have a “distanced relationship to property” (Hong, 2006, p. 33) – disproportionately subjected to its precarity through eviction, dispossession, and foreclosure. An awareness of the contradictions and false promises of legalized property allows for the emergence of what Grace Hong refers to as “alternative imaginings of self and community” that involve different understandings of possession (ibid). In his work on land reform in South Africa, AJ van der Walt (2009, p. 23) submits that a project of theorizing property aimed at political transformation requires centering the perspectives of “those without property, those in the margins,” since they have few illusions about it. Thus, to explore the paradoxical spatial politics of re-possession – or “taking back” – requires considering the understandings and enactments of property “in the margins.” For this reason, I examine struggles over *vacant geographies*⁴ – or those spaces produced as empty by the state and market due to “improper” use and users. However, in order to understand the stakes of taking *back* vacant property, I first turn to situate these contestations within the broader context of legal taking in the United State, and the relation of this taking to private property rights as both threshold and guardian.

Taking possession

While the right to exclusive private property is often understood – at least on an ideological level – to be absolute in the United States, there are a number of limits to this right. The most explicit is *taking* whereby the state may use and appropriate private property on account of public use. This limit reflects the paradoxical nature of possessive individualism, relying on “the supremacy of the state over the individual” to secure private property (Macpherson, 1962, p. 256) and on social “cooperation” to maintain it (Rose, 1994, p. 37). Possessive individualism is then dependent on a kind of collectivism, represented in the state, and taking can, in some sense, operate as a form of collective re-possession. Eminent domain, for example, is considered to be “the highest and most exact idea of property remaining in the government” (Black, 1979, p. 470). Taking and checks to this taking under the Fifth Amendment – which restricts it to “public use” and affirms the rights of dispossessed owners to receive “just compensation” – make explicit the ongoing reliance of private property on both state power and “the public” (ibid.). The former secures the property and the latter legitimates it. Legal taking recognizes the sociality of property – as dependent on social obligation (Singer, 2000) – but it is an uneven sociality constituted by narrowly defined (white) proprietary citizenship, where an individualized owner contributes to the public good through “appropriate” or “proper” use (Rose, 1994).

These legal logics behind taking are implicated in the foundation and maintenance of the settler colonial capitalist state and city (Hugill, 2017). Ongoing accumulation and control of land is not only central to the enduring “enrichment of settler constituencies” (Blatman-Thomas & Porter, 2019, p. 31), but also relies on the continued production of the “legal fiction” of “emptiness” (Porter, 2010, p. 57) based on the designation of “improper” land use and users. Cheryl Harris (1993) points out that U.S. courts found indigenous forms of possession to be excluded from the protections under the Fifth Amendment because they were “communal and inhered in the tribe rather than an individual” (1722n46), and therefore did not align with the possessive individualism undergirding the liberal democratic state. Without “true” or “proper” possession, demonstrated through narrowly defined proprietary “improvement” (e.g., “monocultural productivity”) (Harney & Moten, 2017, p. 85), indigenous claims could be “safely ignored” (Harris, 1993, p. 1722) and land rendered “vacant,” justifying expropriation (Locke, 1982/1690).

Thus, the classification of vacancy extends to those that rely on the land. The principle of *terra nullius*, as Bhandar (2018) argues, relies on a distinction between “the civilized and the noncivilized,” where property ownership is a marker of civilization and legal legibility (102). Similarly, utilitarian justifications for property rights rely on discourses of “improper” use to differentiate between colonizer and colonized, validating state management of land in the name of “improvement” and producing an “expectation” of how land *should* be used (Gidwani & Reddy, 2011) in line with racial capitalist ideologies of productivity. In her account of primitive accumulation, Silvia Federici (2004) underlines how the appropriation of common land has long been tied to the criminalization and exploitation of both forms of possession based in a subsistence and the “witches” involved in this socially reproductive work. Liberal proprietary citizenship, as Aileen Moreton-Robinson (2015) argues, is thus grounded in “patriarchal whiteness” (193), and the foundational ideologies of liberal property continue to play out in the ongoing production of vacancy on the basis of

“irrational” use (Gidwani & Reddy, 2011, p. 1631). Land and populations are rendered improper and thus deemed *vacant* – where the former is subject to appropriation and the latter, gendered and racialized, is found undeserving of rights to property (and thus citizenship).

While the uneven application and impacts of legal taking have a long history in the development of the U.S. liberal property regime, they were made explicit in cities through federal urban renewal programs relying on powers of eminent domain. Emerging from progressive reformism, these programs resulted in the displacement of hundreds of thousands of city residents across the country, the majority of them African American (Becher, 2014). In addition to losing their homes, African Americans were also “frequently excluded from the new ‘higher’ uses to which the land was put” – revealing “the public” in the public use purportedly served by these takings to be both racialized and classed (Fullilove, 2007, p. 6). While urban renewal officially ended in 1973 due in part to public outrage and organizing, policymakers have continually sought to “repackage” it (*ibid.*), opening up “new frontiers” in largely low-income communities of color and classifying newly vacated space “according to the rate of return for its ‘highest and best use’” (Smith, 1996; Harvey, 2008, p. 34).

These renewed efforts include targeted expropriation, or “spot condemnation,” to both “bank” land for future use and respond to private development interests. Between 1992 and 2007, for example, the Philadelphia Redevelopment Authority expropriated nearly one in every 100 privately owned properties across the city (Becher, 2014, p. 58). In studying these takings, Debbie Becher (2014) found that they are regular practice rather than the exception. Few provoke “official” resistance, she suggests, because these properties are deemed “vacant,” with “little to no value,” and located in “run-down neighborhoods” (65). In this context, city residents, she continues, are “unlikely to think the government is stealing” (*ibid.*). The application of vacancy thus allows for targeted and uneven expropriation in marginalized communities.

Recent land banking legislation in Pennsylvania is framed as “an update to redevelopment law, with new thinking and enhanced power” (Branton, 2016, p. 15). In Philadelphia, city officials needed, as one of them put it, “a legal way to amass [vacant] parcels,” but faced “concerns about eminent domain” – particularly given its association with “really antiquated” urban renewal programs. To elide these concerns, Philadelphia’s Land Bank does not have the powers of eminent domain and is governed by an independent eleven-member board, including three members from community organizations. However, it does have the capacity to take (back) vacant property through quiet title action at tax foreclosure sales, skirting the issue of just compensation entirely as well as traditional opposition to taking. The application of vacancy, manifested through tax-delinquency, continues to justify these acquisitions.

While promoted as a progressive innovation, the Bank relies on ideological underpinnings – especially vacancy and “proper” public use – that have long justified expropriation specifically, and racialized settler property regimes more generally. These continuities raise questions about whether taking *back* through legalized mechanisms, like land banks, is functionally distinct from other legal takings. Does it simply reify forms of possession that reproduce uneven precarity and dispossession by re-settling an ownership model of property, or can it also serve a means of transforming the proprietary status quo? To

answer these questions, it is worth looking more closely at the operationalization of the Philadelphia Land Bank.

Banking vacancy

For members of the Campaign to Take Back Vacant Land and others concerned about the future of their neighborhoods, the promise of the Land Bank was in offering a means by which existing residents' could "take back" land and "help determine their community's path for growth" (CTBVL website). First, it presented state-facilitated taking as a tactic to ward off gentrifying development rather than facilitate it by providing a pathway to intervene in speculative real estate practices through the Bank's "priority bid power" in the city's property auctions. The ability to acquire tax-delinquent properties in a city where 80% of properties deemed vacant are privately owned is seen to be a particularly powerful tool in influencing development. Specifically, the Bank can proactively acquire properties "in high value neighborhoods in order to maintain some level of economic and ethnic diversity" (Clarke, 2018). Second, the Land Bank's priorities include broader notions of highest and best use, such as affordable housing development, garden preservation, and "community use." It thus offers the possibility of recognizing both existing possession without (clear) title and future use beyond the maximization of economic value. Specifically, the Campaign underlined the Bank's potential to facilitate the development of community land trusts, allowing for land to be taken out of the speculative real estate market in perpetuity. However, the first five operational years of the Bank reveals important limitations in these potentialities.

The pace of the Bank's property acquisition and dispensation processes has frustrated residents and community advocates. City Council passed legislation to create the Bank in December 2013, but by the end of 2018, the Bank had only acquired 2,200 properties and disposed of 132 properties, out of 42,100 properties the city deems to be vacant (PLB, 2019). While the Bank's acquisition of privately owned tax delinquent properties has increased significantly in recent years (from 21 in FY17 to 277 in FY18), several properties used as community spaces and approved for acquisition by the Bank, were instead sold at Sheriff's auction (Blumgart, 2017). In spite of nearly 400 requests for community gardens (Jaramillo, 2018), only 26 parcels have met the Bank's requirements for acquisition, and three conveyed for use (PLB, 2019). And, in a city where 42,900 households are on the waiting list for Housing Authority units, as of the end of 2018, properties conveyed for housing development by the Bank will only create a total of 35 units of very low-income housing (30% or below Area Median Income) (PLB, 2019, p. 32). While there are various factors that have contributed to the Bank's sluggishness and missteps, a continuing challenge is conflicting understandings of what it means to take (back) vacant property. Some city officials and community advocates disagree as to whether the Bank's primary function is to serve as a tool to disrupt the speculative real estate market and empower residents' involvement in their neighborhoods' futures, or simply a means of "transforming wasteful spaces . . . into spaces of value" (Gidwani & Reddy, 2011, p. 1643). Focused on maximizing property sales to reclaim lost tax revenue, the Revenue Department has resisted the Bank's acquisition of tax delinquent properties. After decades of population loss, as a former city lawyer put it, many public officials have a "knee-jerk reaction to accept any [market-rate] development." City Council members also maintain a "gatekeeper" role in every property

transfer, making the Bank's acquisition and disposition processes subject to members' agendas. These perspectives reflect divergences in how public use is defined in relation to property – and vacant property specifically. It is, therefore, useful to examine the Bank's mobilization of vacancy and public use – and how the public use of vacant property emerges at the intersection of biopolitical and geopolitical urban governance.

Possessing vacancy

From a policy perspective, the Philadelphia Land Bank was primarily created to address the “problem” of vacancy – the proliferation of abandoned or “blighted” properties that, to the city, represent both liabilities and “untapped resources” to be put to “productive” use (Branton, 2016, p. 1). The Land Bank's mobilization of vacancy resonates with settler colonial ideologies in a couple of ways. First, as discussed earlier, framed as a naturalized resource, “vacant” land justifies appropriation. As Becher (2014) suggests, in the context of urban redevelopment vacancy is “the most important indicator [to the government] that a particular property can be taken legitimately,” since it “signals a lack of current value without making the use/exchange distinction” (67). While the city of Philadelphia has identified “indicators” of vacancy – including physical decline – as asserted by community activists, many of these “vacant” properties are not empty, uninhabited, or unused. Rather their uses are not legally legible since they do not align with city regulations and narrowly defined conceptions of proprietary possession – or are disregarded because of debt. While, as discussed below, the Land Bank does provide a broader definition of highest and best use and some protections for owner-occupied tax-delinquent properties, the Bank also frames these properties, and their surrounding communities, as “nonproductive,” and at least implicitly empty, and thus suitable for taking.

Second, similar to the discourses of blight used to justify urban renewal, as a seemingly innocuous term to describe the state of the built environment, vacancy is discussed in terms of “quality of life” (CTBVL, 2011; Mallach, 2018) as well as fiscal costs to the city. There is no consistent definition of property vacancy across city agencies or policies, and this definitional “elasticity” allows for broad application (Gordon, 2004, p. 317). Philadelphia Land Bank policies draw on local studies relating to the relationship between vacant property and crime (Branas et al., 2012), economic decline (Corporation, 2010), and public health (Branas et al., 2011; Garvin et al., 2012). The bill forming the Bank states that property vacancy “harms the safety and economic strength of individual blocks and neighborhoods, as well as the City of Philadelphia as a whole” (City of Philadelphia Bill No.130156-A, 2013). These discourses echo those of blight and “broken windows,” whereby vacancy is associated with “social fragmentation” (National Vacant Properties Campaign, 2005, p. 11) and threatens a “ripple effect” on surrounding neighborhoods (Frank Alexander, 2015, p. 15). Descriptors of space extend from the state of infrastructure to residents themselves. The management of surplus land thus expands to “surplus” populations that possess and use these spaces – indebted homeowners, those experiencing houselessness, illegal substance users, squatters, sex workers, and the underemployed – where the former are transferred to legitimized “responsible” new owners and the latter displaced (Heins & Abdelazim, 2014). Disconnected from structural contributors to abandonment and insecure tenure – such

as the continuities of uneven development (Smith, 1984/2008) and redlining (Glantz & Martinez, 2018) – taking vacant property by erasing existing uses and users is framed as a service to the public. But who constitutes this public?

Highest and best public

Like vacancy, “public use” in relation to legal taking has been broadly applied, used to validate both state expropriation in the service of “revitalizing” development,⁵ and notions of highest and best use, inflected with colonial ideas of improvement and productivity. Framed as a “modernized” form of urban renewal that seeks to eschew the “missteps” of the past (Branton, 2016), the Philadelphia Land Bank – thanks, in large part, to the advocacy of the Campaign to Take Back Vacant Land, among others – defines public use in terms other than purely economic ones, allowing for the transfer property for a nominal cost to projects with a “beneficial community impact,” including affordable housing and urban agriculture. It thus seemingly recognizes the sociality of property, allowing for a vision of possession that includes not just rights, but also “responsibilities” (Gregory Alexander, 2009, p. 112).

At the same time, the Bank evaluates the potential “public return” of taking (back) property in economic terms, prioritizing acquisitions and dispositions according to Market Value Analysis (MVA) of the city’s real estate market. MVAs divide the city according to four zones of “market strength” – from “stressed” to “strong,” with the former “scarred with decades of blight” and the later showing “no signs of vacancy or abandonment” (Goldstein, 2012). As Sara Safransky (2014) points out, MVA categorization is “not just diagnostic, but prescriptive” since it is used to determine city investment and use priorities (244). The Bank uses this data to determine where to acquire properties, and their “appropriate” reuses (PLB, 2019). The economic logics of this data-driven approach – in which city residents “are its customers” (Goldstein, 2012) – elide present uses, past injustices, and forms of possessive use differentially valued when taking (back) vacant property.

As for “the public” benefiting from the Bank’s practices, beyond generalized discussions of increased tax revenue, those seeking to take back property through the Bank are required to detail “appropriate end uses” that provide some broadly defined public benefit, including uses that remediate “blight” by transferring “problem properties” to “responsible owners” and “preservation-ready” gardeners (Branton, 2016; Heins & Abdelazim, 2014).⁶ Liberal proprietary imaginaries of “who can count as the subject who can claim home and land” (Roy, 2017, p.A3), which, as previously discussed, are racialized and gendered, make it doubtful that the taking back through the Bank offers a means of shifting normative logics of possession that maintain a division between “proper” propertied subjects and the “improper” propertyless. Rather, in the Bank’s policies, a connection is maintained between property and propriety – or a “conformity to that which is proper” in socio-political organization (Nicholas Blomley, 2005, p. 618). This proprietary sociality is uneven – its relations are differential, dependent on social distinctions related to valued use and the subject who has (more of) a right to be an owner.

Not only is non-owners’ production of value (such as cultivating an abandoned lot) captured by owners (in rising property values), there is variability in which possessors are deemed “proper” and worthy of legal property. While formalized “preservation-ready”

gardeners and “new responsible owners” can be supported through the Bank’s land dispersal, informal or illegal users of vacant spaces – such as organizers of unofficial recovery houses for those experiencing addiction, undocumented entrepreneurs, and the houseless – cannot. In her examination of “blotting” in Detroit, for instance, Safransky (2017) highlights the ways that social groups have different capabilities “to make land into property” since only some people and practices are legitimized by the state and market (1090). To be legible, as Porter (2014) argues, “dispossessed subjects” are “required to provide a measure of proof of their worthiness to remain, or to be compensated, or to be treated with at all” (400). Obtaining a legal right to take back vacant property by adhering to particular proprietary visions of highest and best public use is thus linked to “the improvement of populations” (Bhandar, 2018, p. 47), where use becomes a “devious means” of controlling those on the social, legal, and economic margins (Valverde, 2005, p. 35). Because it ultimately relies on state legitimized and legally legible uses, the Bank fails both to “challenge the extent to which property rights trump the interests of the propertyless” (Rosser, 2012, p. 114), and unsettle, in any significant way, normative distinctions used to determine legitimized possessors and forms of possession.

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The Philadelphia Land Bank provides the potential for strategic interventions in the speculative property market and for some possessors to at least temporarily ward off dispossession through “secured” tenure by extinguishing liens and transferring properties for nominal costs. However, because the Bank continues to rely on uncritical conceptualizations of vacancy as socio-spatial absence or breakdown that justifies legal taking, and of public use as a form of *collective possessive individualism* that maintains uneven proprietary sociality, the Bank’s capacity to serve as a means of taking back property from the precarity of the ownership model is inhibited. Its reliance on vacancy and public use also blurs distinctions between legal taking and “taking back,” provoking concerns among some residents about the Bank becoming a more “proactive force” in development given the detrimental consequences of past urban renewal programs (Lefcoe, 2008). As one former organizer with the Campaign to Take Back Vacant Land put it, “[t]he Land Bank turned into a land grab,” whereby the Bank’s board – in conjunction with City Council – decide on community priorities with minimal input from those most affected by land-use decisions. While the Bank offers a possible tool to counter capitalist accumulation in the neoliberal city, as David Harvey (2008) lays out, “[r]aising the proportion of the surplus held by the state will only have a positive impact if the state itself is brought back under democratic control” (38) – control that he describes as “the right to the city” (23). Perhaps, then, it is worth examining what taking back property might consist of within the context of a common right to the city. To do so, I turn to consider the taking back of vacant property by the Poor People’s Economic Human Rights Campaign that is based in collective organizing around an acknowledged precarity of property, and does not necessarily seek legibility through legal ownership.

Taking over possession

For over thirty years the Poor People’s Economic Human Rights Campaign (PPEHRC), a movement led by and for the self-identified poor and houseless, has organized to “unite

the poor across color lines” in order to end poverty. PPEHRC’s work involves undertaking “projects of survival” as a means of meeting basic needs and political mobilization. An important part of these efforts entails providing emergency housing – on couches, in community centers and places of worship – and by appropriating unoccupied government-owned buildings. While few of these occupations have resulted in legal ownership, they provide housing for those turned away or excluded from the city’s shelter services, including the evicted, formerly incarcerated, non-English speakers, survivors of domestic violence, those who have lost their homes to fire and natural disasters, and, most recently, the houseless during the COVID-19 pandemic. PPEHRC does not have any paid full-time staff, and membership tends to be fluid and informal. When someone reaches out or is referred to PPEHRC, the group’s extensive phone tree and social network are quickly activated to organize around immediate needs.

While they do not maintain detailed records, PPEHRC estimates housing over a hundred people every year. As put by one PPEHRC youth organizer: “If the politicians won’t house the people – we will!” While operating on the margins of the city’s governing apparatuses, housing and legal advocates, churches, and even some city employees give referrals to PPEHRC since it is well known that they will use “any means necessary to get people housed.” “First, we try legal means,” one organizer asserts – often helping people identify and access legal services. However, if that fails, they look into other options. In appropriating government-owned properties as “human rights houses,” PPEHRC not only provides emergency shelter while working to identify longer-term housing solutions, but also cultivates a community of mutual aid. Many of those housed by PPEHRC end up sheltering others once they find a more permanent housing situation, contributing to what they refer to as an “underground railroad” for the poor and houseless. The only criterion for receiving assistance from PPEHRC is a commitment to helping others. Cheri Honkala, PPEHRC’s co-director, who recently struggled to find housing when she and her son faced eviction, suggests that it is about “remembering this moment [of crisis] when others are in need of assistance.” “Taking back” for PPEHRC is less about claiming legal property rights and more about meeting an immediate need through immediate use – prefiguring a human right to housing by collectively countering what Honkala calls the “mundane, everyday violence of poverty.” In other words, this *taking over* does not seek to resolve the precarity of property through legalized possession or the exercise of a right to property, which, through their regularized experiences of eviction and houselessness, PPEHRC members recognize as intrinsically uncertain and insecure. Instead, an acknowledgment of shared (uneven) precariousness becomes an organizing principle to make claims to possession based in need. Possession then entails collectively finding a physical way into a building and cohabitating in a space rather than obtaining a subprime mortgage and property title, struggling to pay rent, or overcoming the increasingly untenable hurdles of securing housing assistance. When they are removed from these properties, PPEHRC uses the eviction as an opportunity to shame the city by drawing public attention to the failures of current housing policies whereby there are more than enough peopleless buildings to shelter the city’s houseless people. In doing so, PPEHRC members challenge narratives of property vacancy that empty out space and erase those that occupy it, primarily framing a building or lot in terms of lost or potential economic value, rather than recognizing its actually existing use value. “The city sees vacancy,” says Honkala, “we see a house.”

Precarious possession

Similar to the calls to take back land through the Land Bank, PPEHRC members recognize the social value of vacant properties, but it is a sociality that resists distinctions between the “proper” propertied and “improper” propertyless, the possessed and dispossessed. The work of PPEHRC thus resonates with that of the Chicago Anti-Eviction Campaign and other poor people’s movements, which may draw on “a logic of possession but it is not necessarily an enactment of possessive individualism” (Roy, 2017). In the case of PPEHRC, possession is forged through collective struggle – made explicitly political through an acknowledgment of shared socio-economic precarity and the structural causes of this insecurity. It involves the creation of legally illegible refuges *from property* that offer not only shelter, but also a basis for collective organizing. Emerging from the Welfare Rights Movement⁷ and drawing inspiration from the Black Panthers and global social movements (including the Zapatistas), PPEHRC members consider meeting basic human needs as a critical form of politics. Free meals and food distribution organized by PPEHRC trace their roots to the Black Panther survival programs, especially their breakfast project, revealing and challenging the racism of hunger specifically and poverty more generally (Heynen, 2009; Mitchell & Heynen, 2009). Personal necessity becomes political imperative through acts of collective appropriation to meet common needs.

While a characteristic of “neoliberal regimes,” Butler writes, is to differentially “allocate disposability and precarity” (Butler & Athanasiou, 2013, p. 20), the recognition of shared precarity under these regimes reveals us to be “relational and social beings” – inextricably interdependent (Butler, 2011). PPEHRC’s projects of survival, which also include using city land to grow food for the neighborhood, involve appropriations that not only meet individual needs but also function as a form of commoning – where possession does not rest on liberal sociality, but rather is collectively enacted as buildings are occupied and lots are cultivated. This commoning is both differential (Noterman, 2016), as PPEHRC members participate in multiple ways and to varying degrees, and pragmatic (Huron, 2018), driven by both individual need and a shared struggle of organizing while poor and criminalized – what they refer to as “walking the Ugly Road.” This is commoning forged through “collective hustle,” developing diverse tactics and strategies for materially challenging the brutal realities of poverty. As Katherine McKittrick (2011) importantly reminds us: within “geographies of dispossession and racial violence,” there are “sites through which ‘cooperative human efforts’ can take place and have a place” (960). Galen Tyler, the grandson of a sharecropper and co-director of PPEHRC, puts it in pragmatic terms: “We have to go forward with new ways of organizing to take back the basic necessities of life. These things will not be handed to us.”

A right to re-possession

The political collectivity of PPEHRC’s actions seems to at least partially address the concerns raised by Butler and Athanasiou (2013) about how countering dispossession through possession continues to rely on a notion of the propertied individual forged through ongoing colonial expropriation and enclosure. In cultivating a movement of the

“poor helping the poor,” PPEHRC members often argue that “those with the least share the most.” In other words, those excluded from legal property ownership, or the *improprietary*, are willing to enact more expansive notions of possession outside the logics of possessive individualism. Rather than expressing their demands in terms of an individualized right to property, PPEHRC members promote universal economic human rights – drawing on principles laid out in the Universal Declaration of Human Rights (specifically Articles 23, 25, and 26) whereby these rights are expressed and enacted collectively. Thus, their invocation of human rights, like that of other poor people’s movements, is “no simple expression of global liberalism” (Roy, 2017, p.A7). Rather it has “radical potential” due to the fact that it “uses the ambiguous but universal identity of ‘humanity’ to make claims on the established terms of legitimate authority” (Hoover, 2015, p.1092 as cited in Roy, 2017). Their appeal to, and prefiguration of, a universal right to housing is not captured in an individualistic right to property nor predicated on recognition by the state, which is understood as “a site of violence, not resolution” (Hong, 2006, p.xiv). Rather, their acts of occupation, in the words of Butler (2011), “exercise[] a right that is no right,” or “the right to have rights, not as natural law or metaphysical stipulation, but as the persistence of the body against those forces that seek to monopolise legitimacy.” Considered in this way, PPEHRC’s focus on economic human rights not only reflects a “right not to be excluded” (Macpherson, 1978; Blomley, 2016), and a “right to be” (Mitchell, 2003), but also resonates with a “right to the city,” which, as described by Lefebvre (2009), is a right to collectively re-inhabit the city, through *autogestion*, or the practice of “refus[ing] to accept passively [the] conditions of existence, of life, of survival” (135). This right to the city, as Nicholas Blomley (2004) suggests, maybe “realized through property, when defined in more expansionary terms,” whereby property relations became a means of “contest[ing] dominant power relations” (154, 156).

There is some hazard in making claims based on expansionary notions of rights and property, whereby they can still be “interpreted in the liberal framework of individual rights” and used to bolster the dominance of private property (Dikeç, 2001, p. 1801). And yet, the conceptual ambiguity of demands for universal economic human rights and, more specifically, a common right to property emerging out of necessity, can allow not only for important nodes of solidarity, but also shifting notions of possession and “public use.” PPEHRC’s acts of collective possession resist proprietary individualism and invoke a “public” that explicitly includes the propertyless, the economic and socially precarious, the undocumented, and the “undeserving poor,” as members often refer to themselves. Public use in this context involves a continual – and conflictual – process of collective mobilization and transformation that is “not merely about gaining access to what already exists,” but building what *could* exist (Butler & Athanasiou, 2013, p. 24). In other words, *taking over* possession has a prefigurative orientation, whereby PPEHRC members are enacting a *common right to take care of one another*. It expresses a collective “Right to Remain” that “exceeds material presence” (Masuda et al., 2019, p. 15). Possession is less about what one owns or occupies, and more about what one has to offer – where food, furniture, skills, and knowledge are shared to find, create, hold, and advocate for housing for everyone.

Overtaking property

There remains, however, an inherent precarity to this marginalized taking back, revealing the intersection of the state's governance of surplus life and surplus space. Philadelphia police regularly evict squatters. Due to the “optics problem” of removing houseless families from government buildings, according to PPEHRC members, the city administration also utilizes other disciplinary measures to deter and remove occupations, including leveraging the electric company and water department to cut services. Inspectors from Licenses and Inspections are then notified of the “uninhabitable” properties and agents from the Department of Human Services threaten to put children residing in these buildings into foster care. “The story of gentrification,” one foster parent involved with PPEHRC asserts, “is the story of the taking of children.” Driving around Kensington, one of Philadelphia's poorest districts and home to PPEHRC, the landscape is marked by fenced lots. This “gated community,” as PPEHRC members jokingly refer to the neighborhood, reflects the city's efforts to restrict their access to land and food. When PPEHRC sets up a tent camp or starts growing food, the city clears and fences off the “vacant” spaces. Before the recent development boom in the neighborhood, it was possible to map PPEHRC's history by locating fenced lots. “Wherever there is a fence around a property in this neighborhood,” Cheri suggests, “we have likely tried to grow food or house a family.” The relationship between the treatment of vacant land and residents is not lost on PPEHRC members. As Cheri continues, “[i]f people are not exploitable, they're expendable” – considered surplus just like the land and buildings they depend on.

While somewhat limited by the current political climate, PPEHRC's occupations are useful in thinking about what it would mean to *overtake* property – to take back possession from possessive individualism and property from the ownership model. First, their actions do not fundamentally resolve socio-economic insecurity, but rather recognize the inherent differential precarity of property. This recognition allows for a refiguration of the practices and subjects of possession. While acknowledging that their human rights houses are by their very nature precarious, PPEHRC members also understand that property ownership, renting, and housing assistance are also deeply insecure. Taking over properties serves as a means of developing a kind of “dis/possessive collectivism” or a politics that challenges liberalism's “proprietary prerogative” by recognizing and intervening in the contradictory nature of the property (Roy, 2017, p.A3) as socially produced and yet deeply anti-social. PPEHRC's assertions of economic human rights, and the prefigurative actions that undergird them, are not bound by notions of subjecthood based in exclusive property ownership. In other words, the purpose of their collective subject formation – distinct from the collective individualism of “citizens called the nation-state” – is not centered on the preservation of private property (Hong, 2006, p. 63). Rather, following the long tradition of women of color feminist praxis, the alternative communities they create, “formed by subjects through the lack of property ownership,” necessitate “forg[ing] solidarities across difference” (ibid.). Grounded in practices of mutual aid, whereby people share floor space, food, and knowledge, PPEHRC members are, even if only temporarily, taking back possession of resources – and also of themselves – from the vacancy of liberal property regimes.

Conclusion

The maintenance of “legitimate” forms of possession whereby the patriarchal whiteness of possessive individualism serves as a “prerequisite to the exercise of enforceable property rights,” cannot be relegated to history (Harris, 1993, p. 1716). As illustrated in a recent report on persistent lending disparities and the “modern-day redlining” of U.S. cities, including Philadelphia, access to property continues to rely on racialized possession and possessors (Glantz & Martinez, 2018). The Campaign to Take Back Vacant Land importantly helped to facilitate the creation of a tool – the Philadelphia Land Bank – which has the ability to “take back” property from the real estate market and reallocate it for affordable housing development and community spaces. However, at this point, it seems unlikely that it will stall the current influx of market-driven development and map out a broader agenda for “development without displacement” in a meaningful way. In addition to the ongoing challenges of political will, the Bank continues to rely on conceptualizations of vacancy and public use, which even in their progressive slant, elide addressing the racialized violence and uneven sociality that constitute the ownership model of the property.

Despite the limitations of the Land Bank in practice, some members of the Campaign to Take Back Vacant Land have sought to leverage the Bank to support community land trusts (CLTs) as a means of addressing the precarity of proprietary possession by “guarantee[ing] that land is permanently maintained and used for community benefit” (Campaign to Take Back Vacant Land, CTBVL, 2011, p. 2). By removing land from the speculative real estate marketplace, separating ownership of land from improvements on the property, CLTs can maintain community stewardship and affordability over time. It is still an open question as to whether the Land Bank can help facilitate the transfer of land to CLTs in Philadelphia. However, the idea is gaining traction amongst some community activists who see land banks and CLTs as “complements or supplements to each other” (Thaden et al., 2016), where land banks can assist CLTs in acquiring land, and CLTs can help land banks dispose of properties in a way that wards off dispossession over the long-term (Davis, 2012). In resisting land speculation and an individualistic right to profit, the CLT model offers a mode of ownership that is not necessarily tied to possessive individualism and exclusivity. Instead, it tends to be grounded in more expansive understandings of possession by focusing on “stewardship” for future as well as current residents, and democratic control of land that involves members of the wider community as well as those who directly use or occupy the land (ibid.). Transferring land to CLTs through the Land Bank could provide one means of at least partially taking back possession from the ownership model, even while recognizing that CLTs often reside “within but not opposed to a wider private property system” (Hodkinson, 2012, p. 435), and may ultimately reify conventional property relations (DeFilippis et al., 2019).

While collective illegal appropriation of property is inherently precarious, it does free us to think of alternative models of possession and highest and best use that are not tied to legal legibility and legitimacy. First, PPEHRC’s struggle to *take over* property in the context of continually reproduced precarity, highlights the ongoing violence of racialized property apparatuses that render land and people as vacant. In commoning urban spaces, they resist the alienation of the legal abstraction of property, narrow definitions of highest and best use, and the state’s monopoly over legitimized takings. Second, their

collective appropriation reflects an imperative driven by precarity to take back property from a singular, abstracted, and arguably “vacant” ownership model, and to move beyond an uneven sociality of property. Organizing around housing precarity may thus provide, as Alexander Vasudevan (2015) suggests, “a touchstone for other alternative imaginings of cityness” (339).

One of PPEHRC’s mottos is that “you only get what you’re organized to take.” Although we may not yet be organized to broadly take back possession from the ownership model, everyday acts of re-possession can shift how we relate to, understand, and value property. As Blomley (2004) argues, while property law requires “sustained enactment,” so “does its denial” (114). The processes of taking back possession are ongoing, often temporary, and marked by conflict as well as reinvention. They involve multiple points of intervention, reorienting not only how we relate to material resources, but also to each other. Perhaps then we should be thinking in terms of giving rather than taking back. Contesting the proprietarian nature of rights, Patricia Williams (1991) suggests that “society must give [rights] away” (164). As she lyrically puts it:

“Unlock them from reification by giving them to slaves. Give them to trees. Give them to cows. Give them to history. Give them to rivers and rocks. Give to all of society’s objects and untouchables the rights of privacy, integrity, and self-assertion; give them distance and respect. Flood them with the animating spirit that rights mythology fires in this country’s most oppressed psyches, and wash away the shrouds of inanimate-object status, so that we may say not that we own gold but that a luminous golden spirit owns us” (164-5).

Perhaps then, overtaking property through forms of everyday commoning is a continual process of giving back possession to each other and ourselves.

Notes

1. This work is based on over a year of fieldwork involving fifty-four formal qualitative interviews with city employees, private developers, and housing and green space activists using or advocating for use of “vacant” properties in Philadelphia. It also draws on participatory observation at 112 land-use related meetings and events, and on ongoing participatory action research with the Poor People’s Economic Human Rights Campaign.
2. This phrase is not unique to CTBVL, used by campaigns across the U.S. involved in organizing against displacement, including the Right to the City Alliance.
3. The Philadelphia Land Bank Alliance was another coalition that advocated for the creation of a land bank. Unlike CTBVL it included for-profit developers and realtors.
4. I develop this concept further in a forthcoming project.
5. E.g., in *Kelo v. City of New London* (2005), the majority found that “economic rejuvenation” comprised a public use.
6. “Responsible owners” include those who avoid foreclosure, tax delinquency, code violations, and abandonment (Frank Alexander, 2015). For the PLB, gardens are deemed “preservation-ready” according to criteria developed in partnership with the Neighborhood Gardens Trust (2016), including the presence of a “critical mass of gardeners and their resourcefulness.”
7. Specifically the Kensington Welfare Rights Union.

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