

# A Housing Crisis, a Failed Law, and a Property Conflict: The US Urban Speculation Tax

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**Abstract:** In 1978 the local government in the District of Columbia approved a measure to tax up to 70% of the profits made on residential speculation. The tax was the first of its kind in the USA. But, it was quickly overturned and deemed by supporters and opponents a failure. Based on 10 months of archival research and interviews in Washington, DC, this paper examines how property rights became a narrative barrier that tax supporters could not overcome. By narrative barrier, I mean the set of rules that shaped how speculation was discussed. Tax supporters did not publicly convey a counter-hegemonic vision of how tenure security and economic wealth could be achieved for black residents through means other than private ownership and real estate investment. This paper contributes to understandings of housing markets, housing crises, and intersections between housing justice and property rights.

**Keywords:** property rights, racial politics, housing markets, urban policy

## Introduction

To Lavinia Harvey, “buying a house was the safest thing to do”.<sup>1</sup> In 1972, she and her husband, who had worked for 20 years for the Washington DC train terminal, received an eviction notice for their small, run-down house on Seaton Street Northwest. The owner wanted his house back. In a DC City Council hearing on 17 June 1975, Harvey explained why she and her husband then began looking for a place to buy: “It seemed like everybody that was renting was being evicted, so we wanted a house to buy so we would be able to stay in the community.” Not far from Seaton Street Northwest, they found a house with a posted “For Sale” sign. As first-time black American homebuyers who were unsure about the purchasing process, they went for help to the local neighborhood group, the Adams-Morgan Organization (AMO). What happened next was typical of real estate practices at the time. The owner of the house, Gerald Dunphy, did not want to sell the house to the Harveys. He was holding out, according to Harvey, for a young white lawyer who would “upgrade the community, upgrade the street”. The Harveys sued with the help of AMO and eventually won a discrimination case against Dunphy. Still, in the meantime, the Harveys struggled to find a place to live.

They moved into one of the few nearby rental units they could afford, a place at 1704 V Street Northwest. The house was about to be boarded-up, but they convinced the landlord to let them move in. What this negotiation meant was that the house was not up to code and that the Harveys would not report the infractions. After they “repaired it to living conditions”, recounted Harvey, the landlord

raised the rent and, not long after, put it up for sale. The property then changed hands a few times in a matter of months—another typical practice of the period—and, after one of the sales, the Harveys were evicted and again faced the problem of where to live. A few months later, their search ended. They could not get financing, but the realtor of a house on U Street Northwest agreed to hold the mortgage for them if they made a large cash down payment of \$3000. Harvey described the feeling of relief and, then, outrage at having had this problem:

Our house is renovated. It is not full of luxuries like air-conditioning, garbage disposals, but it is our house. Our struggle to find a decent, clean place to live with just enough room for all of us has been three long years ... We pay taxes just like anybody else in this city and we feel we have a right to a decent place to stay ... I know of many other families who are forced to leave right within a couple of blocks of us. On Seaton Street, where we used to live, all of the houses have been bought-up by the speculators. And we've heard that they will soon be evicting more families who are our neighbors and friends. What is going to happen to them? I hope the City Council will really take the time to listen to us and understand this issue. We have to save the city for people like us to live in.

The end of their struggle, as Harvey said, was by no means the end of the city's larger problem. Their struggle to find a "decent, clean place to live" illustrated the reality of the 1970s and 1980s housing crisis in Washington, DC, which forced city residents to contend with a deteriorating housing stock from years of disinvestment; an increase in evictions connected to speculation; demands for housing by a new population of white professionals; and the possibility that much of the city would no longer be a place where working-class residents like the Harveys could live. In 1975, when Harvey testified at the City Council, housing options were dire for poor and working-class residents, the majority of whom were black. Abandoned, run-down, and foreclosed shells stood next to unaffordable, renovated homes on the same street. This landscape of uneven development was one of extremes. An estimated 22,000 vacant structures littered overcrowded neighborhoods while roughly 260,000 families could not afford or access decent places to live (Diner and Young 1983). Incomes remained steady but housing prices skyrocketed; gentrification seemed imminent, and the city's small supply of housing for low- and moderate-income residents began to disappear (Goldfield 1980).

This paper is about that crisis and the City Council's struggles to make sense of it. In it I examine one of the Council's most radical responses to the housing crisis of the 1970s: a speculation tax. The Council passed the tax in 1978 as a means to deter residential property flipping, which involved quick sales of a purchased property at dramatically increased prices. This tax cut to the core of the principles that undergirded the housing market, and it was for this reason that the policy spurred the creation of the city's first realty lobby. The policy also raised serious questions for tax supporters about the purposes and effects of capitalist housing markets. I argue that these questions, which were left unanswered, ultimately undermined the efficacy of the country's first and only urban speculation tax. At the end of 1981, the Council let the tax expire.

To understand the failing of the speculation tax, I turn to empirical data about the nitty-gritty mechanisms by which local residents, politicians, and the real estate

industry discussed, confronted, and undermined the tax. I pay special attention to transcribed records of Council hearings in which dozens of residents testified. I use these transcripts to demonstrate how debates at City Hall—even those in which the tax’s strongest supporters participated—did not outwardly question some of the core principles of the existing housing market or the role of homeownership in struggles for racial justice. Tax supporters confronted speculation head-on, yet failed to publicly address fundamental problems about needed repairs and additions to the existing housing stock, the availability of credit for housing production, and economic mobility and tenure security for black residents. For opponents of speculation, some kinds of housing investments were good. In the aftermath of the civil rights movement, property development offered the possibility of wealth and housing security for the city’s majority black population. As a result, a blurry and unsustainable line emerged in debates between “good” and “bad” kinds of property rights. I argue that this blurry line was critical to how the speculation tax failed and how hegemonic property rights endured. The failure of the speculation tax was a narrative crisis about property rights and the role of property ownership in racialized housing struggles.

It is possible to understand the failure of the speculation tax as a testament to race as the predominant story in the city, or evidence that civil rights supporters sought equality in the existing system through property ownership. But in this paper I focus less on what the speculation tax says about the civil rights movement and the workings of race. I focus instead on how the short life of the speculation tax informs understandings of housing justice, and its racialized intersections with property ownership.

In the aftermath of the subprime mortgage and foreclosure crisis and the Occupy movement, urban residents are grappling with questions about how to make cities more just, what to do about the increasing number of families experiencing homelessness, and whether progressive legislation can address predatory activity like the recent securitization of scattered site rentals. In 2014 San Francisco voters saw a speculation tax on the ballot and leaders in Quito today are considering a similar proposal. But, researchers and residents know little about how, where, and why attempts to make housing markets more just have often failed (Anand and Rademacher 2011; Weinstein and Ren 2009). While there is extensive research on policies that have contributed to housing crises, there has been little analysis of repealed policies or the political mobilizations behind them that seek to protect tenants and homeowners from market forces. Policy scholars have not examined the failings of socialist, leftist, or anti-neoliberal policies within neoliberal governance structures. Tenant protections are common across geographic contexts but researchers do not know much about how these rights are actually made, negotiated, and challenged (Leckie 2003). Recent research, for instance, has suggested that legal service professionals play a larger role in achieving housing rights than previously thought (see eg Harris 2004) and the practices of squatters, like those who sell to the highest bidder the title of recently earned properties, make the political dynamics of housing rights more complicated than previously thought (see eg Anand and Rademacher 2011). This study contributes to the growing body of work on housing rights by shedding light on the politics of one failed campaign

to limit market-driven distributions of housing. While a right to housing underscores the argument of this paper, its major focus is different. The question here is how other rights, like private property rights and civil rights for economic mobility, have been prioritized over rights to housing.

Washington, DC, which has been described as representative of late twentieth century American-style urban development (Gillette 1995), offers an exemplary case. What was at stake in American cities in the last quarter of the twentieth century was at stake in Washington, DC: the profits from booming housing markets and growing mortgage industries; the effects of white and black suburbanization; the costs of increasing inequality, poverty, and unemployment; the decreases and decentralization of federal safety-net programs; and the possibility of black political empowerment. What made Washington, DC unique, and what makes its history illustrative, was the extent to which its small population of 500,000 residents pursued a different kind of urban future. In the 1970s, residents mobilized en masse for civil rights, housed a center of the feminist liberation movement, and created some of the country's strongest anti-displacement legislation. If limits to speculative markets could not succeed in Washington, DC in the 1970s during the apex of the city's radical moment, where and under what conditions will limits to speculation ever take hold? The city's history of failed housing laws offers significant relevance for examinations of contemporary housing markets and social movements concerned with racial justice.

The rest of this paper consists of three sections. The first section reviews critical scholarship about housing crises and discusses how scholars theorize the role of property rights in housing struggles. The second section explains how radical housing policies arose in Washington, DC in the 1970s. It traces a speculation wave that took over the city just as residents achieved self-governance and the majority black electorate created a majority black legislature of civil rights activists. In doing so, it shows how urban development was intimately tied to histories of racial oppression and restrained political representation. This section also examines the empirical data that illustrate how the speculation tax was made to fail. By re-visiting the existing literature and the empirical findings, the third section elaborates on the relationships among housing struggles, property rights, and racial politics. This section concludes by exploring the implications of property rights and civil rights discourses in which there is little room for discussions about alternative ways of organizing and producing residential space.

## **Theoretical Context**

### ***The Housing Question***

For political economists, the answer to Friedrich Engels' housing question—the question of why decent, clean places to live continue to be out of reach for many—is the profit-oriented nature of the housing industry and market (Bratt et al. 1986, 2006). Though exacerbated by racism and sexism, the root of housing problems is the commodification of residential space. Geographic research has explored at length regulatory mechanisms, sophisticated credit systems, labor-market restructurings,

“free” market ideologies, and practices like speculation that produce housing as a commodity. This work has helped scholars like David Harvey (1976), Manuel Castells (1979) and Chester Hartman (1983) to see speculation as a predatory practice and one that differs from traditional development. Neil Smith (1979:25), too, has argued that there is “a vital distinction between the speculator proper who buys a house to sell it unaltered, at a profit, and the developer who buys a house to rehabilitate it before selling”. The only thing a real estate speculator hopes to produce is a rising land value.

What remains an open question is why progressive efforts to reshape housing markets and extend housing rights in the USA have fizzled. Housing rights remain a rallying cry and tenant protections remain popular demands, especially as part of the “right to the city” mantra (Brenner et al. 2012). But, little is known about how and why projects that promote de-commodification or limits to capitalist housing markets often flop. Some scholars, who point to the 1960s and 1970s housing activism and legislative reforms, have said that the downfall of housing reforms are fractures along racial and tenure lines (Bratt et al. 1986). Others, like Peter Marcuse (1999), have attributed the failures to the absence of housing movements. To him, there have only been collective bargaining units in the USA, not housing movements. Research has yet to explore in depth how housing rights are actually made (Anand and Rademacher 2011; Leckie 2003; Weinstein and Ren 2009). Research has not examined the conditions in which housing rights are often negotiated and changes to housing markets are often rejected. To understand the nature of housing injustices, geographers need to pay attention to what happens to political mobilizations around housing rights, including legal attempts to protect tenants and homeowners from market forces like speculation.

The intervention that this paper makes is a simple one. This paper brings the subjects of property rights and racial politics to the housing question. Property rights, despite broad attention to the subject in geography, remain an unresolved issue in scholarship about racialized housing crises.

### ***Property Rights***

Within the large geographic literature on property and the hegemony of private property rights, a particular debate has developed. This debate is both helpful in framing issues about housing struggles and limited in going beyond them. One set of property scholars sees property rights as claims to exclusion and fundamentally incompatible with just arrangements of space. I call these scholars “property antagonists”. Another set of scholars, whom I call “property pluralists”, argues that property rights exist in a number of forms and are not always antagonistic to equitable arrangements of residential space. In this section I sort through these approaches and their usefulness for making sense of racialized housing crises and failed political mobilizations against housing markets.

For Don Mitchell (2006:566), the issue of “whether property rights trump” other rights, like rights to housing, is not a relevant research question anymore. Property rights, as a means to exclude others from the benefit or use of something, routinely

trump other rights, he writes, and so the pressing question is how and with what effects this process happens. His studies of laws that criminalize homelessness and limit the use of public space in the USA lead him to the conclusion that property rights are antithetical to a social order in which everyone, or at least most, has a decent place to live. A right to inhabit the city “must always be asserted not within, but against, the rights of property” (Mitchell 2003:20). David Harvey (2008) similarly argues that property rights cannot be effective tools for fighting displacement: they are tools only for oppression. Greater democratic control cannot come through expanded property rights or even re-written property rights, like state ownership of land or self-help housing. Harvey (1976:272) explains: “Extended individualized homeownership ... promotes the allegiance of at least a segment of the working class to the principle of private property, promotes an ethic of ‘possessive individualism’, and brings about a fragmentation of the working class.” From this vantage point, uneven landscapes of housing, like those that give way to housing crises, are inevitable outcomes of a social and spatial order organized by capitalist relations. Rosalyn Deutsche (1996:40) comes to a parallel condemnation of property, which she describes as a means to protect “the self-interest of each individual against any concern of the social good”. Like Mitchell and Harvey, Deutsche views property rights as antagonistic to a social and spatial order based on inclusion, one in which marginalized people participate in meaningful decisions about where and how they live.

Property pluralists disagree. For them, property rights are far from antithetical to housing justice. In his investigations on the ontological diversity of property rights, Nick Blomley (2004:xix) finds that property discourses and practices can be “a critical political resource” for challenging dispossession. Drawing on C.B. Macpherson (1999), Blomley argues that property rights need not be reduced to traditional private property rights. Property rights can be, and already have been, re-appropriated in other formations as vehicles for justice. Macpherson (1999:205), whose arguments shape most geographic scholarship on the subject, explains:

[t]he narrow concept of property as an individual right to exclude others from the use or benefit of something became the paradigm of property for historical rather than logical reasons ... [I]t led to a denial of property as a right to what is needed to be human.

Macpherson makes his case for the re-politicization of property rights through a review of different meanings of property over time and across space. Like E.P. Thompson (1975), Macpherson suggests that the current ownership model, which distributes near exclusive control over discrete resources, should be seen as only one possibility.

Property rights are “dialectically entangled with changing material conditions”, and so a condemnation of contemporary property rights as some kind of abstract and ahistorical concept would be misguided (Blomley 2010:353). In other words, property rights—regardless of how they have been abused and misused—can be used to make more just socio-spatial worlds. A handful of researchers share this view that property rights are malleable enough to help to create more equitable arrangements of resources (see eg Brown 2007; Griffin 2010; Mansfield 2008; Rose 1994; Roy 2003;

Singer 2000). These histories present property rights as “plural and evolving” (Geisler 2000:80), not some firm structure that exists out there.

While property antagonists call for research about how property rights are made to be dominant and hegemonic, property pluralists explore how property rights are diverse and malleable. This debate in geography about the extent to which property rights impinge or support struggles for a better world matters for how researchers study housing injustices and social movements in general. Property rights may be the antithesis to a place where there is a “decent, clean place to live” for all, if not most, residents. But such a judgment requires scrutiny, a task that this paper begins to take up. This paper contributes to the debate between property antagonists and property pluralists by investigating the role of property rights in a racialized struggle for a more just landscape of housing. In doing so, it also points the housing question and its scholarship toward the intersection of property and race.

In the remainder of this article I analyze the rise and fall of the speculation tax in Washington, DC, drawing on 10 months of archival research and interviews in 2011 about failed anti-displacement policies. For the year, I worked and lived in DC. The richest trove of primary data for this project came from Gelman Library Special Collections at George Washington University. There, I looked through personal papers, including those of one of the sponsors of the speculation tax, David Clarke, and one of its main opponents, the Greater Washington Board of Trade. I also gathered hearing transcripts from the DC City Council’s Legislative Services and media stories from national and local sources, including *The Washington Post*, *The Washington Afro-American*, *Regardies*, and *The DC Gazette*. In addition, I conducted and transcribed 59 hour-long interviews with realtors, developers, planners, policymakers, and housing advocates. I contacted the majority of these participants through snowball techniques or personal connections, and interviewed all but 16 of the participants in person. This collection shed light on how different urban futures were negotiated during one of the city’s most racially progressive periods. These data, however, are limited by their exclusions of an interview with a chair of the Anti-Speculation Task Force and the personal collections of a deceased drafter of the tax and a deceased City Council sponsor of the tax.

## **Case Study**

### ***Political Repression, Inadequate Infrastructure, and Racial Inequality***

From its colonial inception on the land of the Nacotchtank American Indians, Washington, DC has been an underfunded city with limited political representation and stalled urban development. Though Washington, DC was designed to be outside of state jurisdictions so as to protect the national government from local pressures, the city’s structure was not designed to be protected from the whims of the federal government. When the US Congress granted Washington, DC a city charter in 1802, it stripped residents of their right to vote for the president and to have congressional representation. The earliest members of Congress were largely anti-urban and

uninterested in taking up a permanent residency in the new capital. They supported investments only in the streets and buildings nearest to its operations, not the city at large. For much of the nineteenth century the city government was heavily indebted, its physical infrastructure largely abandoned, and its housing stock deeply inadequate (Gillette 1995; Schrag 2006; Zeitz 1979).

Racial politics deeply shaped Congress' dislike for the city. In the 1850s, Washington, DC was the US city with the largest percentage of free black residents, a hub for the abolitionist movement, and home to an expansive network of black communal resources including private schools. Residents put black leaders into political offices and made aggressive planning improvements like paving streets in front of wealthy and poor residents alike—employing thousands of black laborers in the process (Gillette 1995). In the 1870s, the post-Reconstruction Congress put an end to many of these advances toward racial equality. Congress members took away residents' ability to elect a local governing body and wrestled control of urban planning from local leaders (Masur 2010). For much of the twentieth century the federal government and its appointees prioritized monuments for grand spectacles rather than pedestrian byways for everyday use; tore down alley dwellings without adding to the housing stock; financed suburban houses for white buyers; prioritized the for-profit housing industry over public housing provisions; and razed entire neighborhoods, creating what Margaret Farrar (2008:104) called a “geography of injustice”.

In the last quarter of the twentieth century, an influx of affluent white residents and a mass exodus of black middle class residents added an important layer to these urban development politics. Black city residents had to contend not only with Congressional oversight and material disinvestment. They now had the question of what to do about new wealthy and largely white migrants.

In 1970 the city's population was 72% black and 28% white. As the decade went on, the number of black residents living in the city shrank for the first time in history and a demographic dichotomy emerged. The city's population became increasingly either white and wealthy or poor and black. There was a rush of condominium conversions, a surge of gentrification, and a larger number of white residents moving into the city than out (Gale 1987). A cardboard sign taped to the window of a house, and captured in a newspaper photograph, described some of the racial politics of these changes:

Black families who have  
paid to live on this st. for 30 years  
have been given 30 days  
to leave by whites who seek status  
of an in-town address: their status—  
our homes.

I hate you white vultures and  
spend all my waking hours  
thinking how best to drive you  
away. You will get exactly  
what you deserve.

At the moment that the city's long-term population of black renters became eligible for federally backed mortgages and won protections against discrimination in leasing, housing construction shrank, credit for the housing industry dried up, funding for public housing was diverted, and affordability in the housing markets disappeared (Diner and Young 1983).

### ***“The Wild West”***

Across the city, tenants, the majority of whom were black, were kicked and priced out of their homes. In Adams Morgan, a row of houses that were in use as rentals sold one week for \$26,000 and a few weeks later with no remodeling for \$65,000. On Capitol Hill an entire block of six-bedroom townhouses that were in use as rooming houses was converted to single-family dwellings and sold to 19 new homeowners in a single summer (Zeitz 1979). A white realtor who was active at this time, Brian Logan, described the fervor in an interview with me:

It was sort of like the Wild West back then. Oh ... they would do flipping where you would get a contract on a shell, you know, for \$4,000 and that person would flip it to another one for \$5,000 and it might change, the contract might change hands two, or three, four times before you actually got to settle it for \$10,000. I mean, prices were going up high then, I mean, quickly. People were just flipping. There was a bunch of guys who made enough money that they moved to Costa Rica and bought a big farm and are now doing something in Costa Rica, I don't know. Anyway, there was a whole lot of people, little developers, and contractors that would buy these things and actually fix them up a little bit and then sell them and other people would just buy them and sell them without fixing up. It was great. It was a lot of fun.<sup>2</sup>

Another white realtor of the early 1970s said in an interview with me:

[t]here were so many people making so much money ... There were people from California coming here because they heard about money. A little man from Iran came with a suitcase full of cash because D.C. was the most under-priced capital city in the world.<sup>3</sup>

Between 1970 and 1974, the median sales price of a home increased in Washington, DC roughly the same amount as it did in the preceding 10 years: 80%. Property tax assessments sometimes increased as much as 10% from the previous year.

“Little old ladies” were “badgered to death” to sell their homes, according to a City Council member. More than 30 real estate agents told a newspaper reporter that they had pressured “elderly, black homeowners in gentrifying areas” to sell their homes (quoted in Gale 1987:163). If residents were unwilling to sell, realtors sent housing inspectors. Then, if homeowners lacked the means to repair the identified infractions, they would be forced to sell, which often meant selling to the speculator whom they had refused in the first place (McGovern 1998).

## ***Citywide Tenant Revolt***

In the 1970s a citywide tenant revolt erupted. Residents demanded new kinds of neighborhood planning, demonstrated at City Council, and organized the city's first rent strikes against landlords for inadequate maintenance (Reed 1981). If the metropolitan region had indeed become the wealthiest in the USA, for whom had benefits accrued?

The moment for answers arrived in 1974 when the city finally achieved limited self-governance after a hundred years of Congressional control. That year, Congress' Home Rule Act went into effect. City residents elected their own mayor and a 13-member City Council, all but two of whom were black and more than half of whom had some kind of alliance with the radical Student Non-Violent Coordinating Committee. In its first year, the City Council considered 35 bills to address the housing problem. They passed eviction moratoriums, condominium conversion restrictions, and limited-equity cooperative provisions. The speculation tax, which had gained popularity at a "reverse blockbusting" forum, was one of the most radical and, of those passed, one of the shortest-lived.

After much lobbying by the Anti-Speculation Task Force, the bill was introduced to the City Council by the council members representing the gentrifying Adams Morgan and Capitol Hill neighborhoods. A member of the Task Force, a new group of community leaders from the areas of Adams Morgan, Capital Hill, and Shaw, and a local lawyer from Ralph Nader's tax reform group drafted the original speculation tax bill. They proposed levying a tax of up to 70% on the profits made by quick sales of row houses.

A speculation tax, in theory, discourages flipping by penalizing the offender. If it is successful, such a tax can discourage speculation by taxing away short-term gains. If the tax does not deter speculation, it can still serve a useful purpose by capturing a portion of the windfall profits when properties change hands and funneling those revenues into housing resources for low- and moderate-income residents. But, in the latter case, price escalation could nevertheless result (Bratt et al. 2006).

As there continues to be today, there was little research for drafters of the bill to review. Part of the problem was that anti-speculation policies and similar proposals by Henry George supporters never gained much popularity. Over the years state legislatures in California, Hawaii, Maryland, Massachusetts, Montana, Oregon, Virginia, and Washington have considered taxes on the profits from speculative sales but no jurisdiction in the USA apart from Washington, DC and Vermont have enacted these measures (Bratt et al. 1986, 2006). Vermont's speculation tax, which was passed in the early 1970s and offered a model for the one proposed in Washington, DC, focused on rural land flipping. Ski resorts and second-home developments were threatening what many described as an affordable pastoral landscape. The effect of that tax, which is still on the books, is debatable. Some say it slowed speculation; others said its effects have been inadequately studied. Dennis Gale was not optimistic that a speculation tax could produce significant effects anyhow. Gale, a local professor of urban and regional planning, reviewed the Washington, DC proposal in 1975. He was sympathetic to the aims to slow speculation, minimize displacement, and maintain a supply of affordable homes but not convinced that the tax could minimize dislocation without discouraging restoration.<sup>4</sup>

## ***Profits and Bonafide Builders***

In June 1975, the City Council's Committee on Finance and Revenue held its first public hearing on the proposed tax. The chair of the hearing, council member Marion Barry, opened the daylong hearing by saying, "We cannot afford to allow the value and availability of our housing to be manipulated" by speculators.<sup>5</sup> But, before he turned to his fellow council members for comments, he pointed to an issue that would become a stumbling block in the debates: "How do you stop the speculator without also stopping the bonafide builder or restorer who provides decent and sound housing at justifiable prices"? In a city in which there was no manufacturing or commercial base and, for a century, Congress had denied political rights, instituted racial oppression, and repeatedly failed to build and protect decent housing for low- and moderate-income residents, the real estate industry—one of the few groups to invest in the city's infrastructure—held a unique and powerful position. In the late 1970s the real estate industry was the largest contributor to local campaigns and, according to a leader of the industry, "what steel means to Pittsburgh, cars to Detroit, tobacco to Durham, cattle to Kansas City, oil to Houston—that's what real estate means to Washington".

In the hearing room the Anti-Speculation Task Force showed slides of properties that had been flipped and distributed lists of speculators who had flipped entire blocks. The Association of Black Social Workers, a group of black police officers, members of the city's teachers' union, and a number of black ministers were among the 50 or so speakers who voiced support for the tax and told stories of their own struggles to secure decent and affordable housing. Members of the Task Force, with a number of evicted tenants, also performed guerrilla theatre vignettes.

In these stories and in the testimonies offered, the speculator was vilified as evil incarnate. Council members sympathetic to the tax called the speculator a "cancer", a "perilous enemy", a "highway robber", a "rip-off artist", the "scourge of their community", and a "despicable bunch [who] ought to be cast from the center" of the city. A member of the Anti-Speculation Task Force said speculators posed "the most fundamental threat" to the future of the city's health. A drafter of the bill described speculation as "one of the few major afflictions that we D.C. residents can do anything about. Wars, inflation, famines, the waste of our resources, including land, are beyond our direct control. Real estate speculation is not." The speaker invoked Abraham Lincoln's thoughts on speculators: "I respect the man who properly named these villains land sharks. They are like the wretched ghouls who follow a ship and fatten on its offal."

To stress this viciousness, many supporters of the tax delineated the speculator from the good homeowner or even the semi-decent home restorer. Even a drafter of the tax said: "Although renovators and rehabilitators play the same role as the speculator in moving low- and moderate-income families out of their homes and neighborhoods, they do provide some benefits to the District through improvement of the housing stock." One of the council members who introduced the speculation tax bill toed this same line when she announced that private redevelopment of dilapidated housing could have a beneficial impact for the city at large. Renovation, restoration, and redevelopment of housing were not described as problematic. The city badly needed physical repair. And who if not the real estate industry would repair it? The problem was the flipping without the repairing and the inflation without the

improvements. Such a standpoint that vilified speculation while endorsing the private property market proved a complicated and ultimately damaging position.

Realtors and other opponents of the tax latched onto this claim about a difference between speculation and restoration. Opponents presented a naturalized view of speculation as no different from any other kind of conventional capitalist practice and suggested that few distinctions existed between speculators and other real estate actors. When they presented this view, supporters of the tax booed these realtors, bricklayers, developers, and government officials. At the hearing the director of the city's Department of Housing and Community Development (DHCD) said, "When you say 'the speculator', you see, I don't know who you are taking about." A representative of a new lobbying group formed to counter the speculation tax, the Washington Residential Development Corporation (WRDC), responded to a question about his activities with seeming unfamiliarity with what constitutes speculation: "I suppose I have speculated. If you mean that you buy something hoping to sell it at a higher price, yes, I have done that." In *The Washington Post*, the newspaper with the largest local circulation, a realtor who was known to flip houses said that a speculator is simply "a man who buys and sells for profit. That's all it means." In these comments, speculation was framed as ordinary and benign.

Opponents to the tax went further with this point. They repeatedly alleged that any regulation on speculation would "virtually end" all private investments in housing. At the hearing the director of DHCD said the tax "will frustrate the District's efforts to massively engage private interests", which was one of the government's major objectives. A representative of the WRDC said the tax would deprive low- and moderate-income residents of their only means to purchase a home, adversely affect small minority businesses, lower the employment rate for skilled construction workers, and decrease the property tax base. The outcome, wrote a consultant to the WRDC in *The Washington Post*, "can only be housing abandonment and desertion of the city." A newsletter by the Washington Metropolitan Board of Trade said the bill would be "fatal" for real estate firms. A regulation on speculation was framed as a regulation against the entire real estate industry.

A false choice emerged in the debates: housing development through an unregulated housing market or no housing development at all. A representative of the Office and Apartment Building Association was explicit: "It's not a choice between houses for poor people and houses for rich people. It's a choice between houses for rich people or no houses at all." An editorial in *The Washington Post* reinforced these limited options:

Are you haunted by the vision of slick operators who buy up whole blocks of Capitol Hill or Adams Morgan, turn the residents out into the street and then, after a minimum of rehabilitation, sell for three or four times what they paid? Or is your favorite specter a row of boarded-up houses waiting to be destroyed by vandals—housing which, with proper incentive, could be added to a diminishing supply?

The question whether to regulate residential flipping so as to protect the dwindling affordable housing stock and prevent displacement of low- and moderate-income residents was twisted into a much more general question about whether

the substandard housing stock should be repaired, a proposition with which few disagreed. A drafter of the tax tried to show in a local magazine how there was a spectrum of possibilities between the hurricane of speculation and the drought of a deficient housing stock. Saying that speculation helps restore the decaying housing stock, he said, “is like saying a hurricane is good because it helps to water the grass. It is possible to clean up and fix neighborhoods without the inflationary profits going in the pockets of the speculators ... and without disrupting communities.” In the debates about the tax the private housing market was regarded as both a key contributor to the housing crisis and one of the only mechanisms that could provide a feasible way out.

Real estate industry leaders understood what was at stake with the speculation tax and said that “there is nothing wrong with making profit” and that regulating speculation is “like telling somebody he can’t invest in the stock market”. Tax opponents gave speeches about the sanctity of capitalism, free enterprise, and private property rights. In what was intended to be an insult, they called the speculation tax “socialist”.

At the hearing council member Douglas Moore was one of only two supporters who outwardly portrayed the issue as one about property rights, which is exactly what a geographic analysis of the issue would have revealed. The spatial pattern of speculation was not an aberration. Speculation had plagued the city for decades: it had shaped the slums in the Southwest and Georgetown, then in the close Northwest and Northeast urban renewal areas, and, in the 1960s, in more distant places like Brightwood, Petworth, Woodbridge, Brookland, and Fort Stanton (see Figure 1). At the hearing, Moore declared that housing for too long had been “left to the private market and the private market doesn’t give a damn about poor people”. He said:

The old capitalist way of doing business just ain’t going to work no more. The great barbeque is over. The time that we could leave it to the private sector to do what they do, ain’t going to happen no more ... I hope that you will work with us to come into a new social order, which says that Washington, DC is not going to let one speculator, if we can find it, destroy this City for their money.

But the majority of the speculation tax supporters did not confront capitalist principles or the racialized patterns of persistent rent gaps. In discussions about the housing crisis, property rights took on the guise of a largely untouchable black box. Supporters did not confront the claim that some regulated market activity would doom all private investment or, more radically, the assumption that housing development must be profit-oriented. This ambivalence about profit-making and private investment in housing was one of two jeopardizing issues in supporters’ public discussions about the speculation tax. In the next section, I examine the second issue.

### ***Ownership Power and Racial Justice***

At the City Council hearing, supporters of the speculation tax expressed concerns about the influx of white homeowners. They mentioned fears about the city



**Figure 1:** Neighborhoods across the city shaped by speculation. This figure depicts the areas that saw the highest levels of residential flipping between 1930 and 1980

becoming full of “little Georgetowns”, referring to a white, wealthy area of the city that gentrified in the postwar years. A real estate developer observed as much: “Everyone seems to be in favor of increasing housing ownership. The basic question is who is going to obtain that ownership?” One council member was direct: “I am talking about the minorities in the District of this City owning a piece of the rock ... I am not talking about bringing back people who live in the suburban areas.” Other council members agreed that any effort to regulate speculation should be focused on making housing more affordable for “the people who stuck it out”, the “poor black people” and “Spanish-speaking people” who stayed “through the rates and roaches”. At the hearing a member of the Anti-Speculation Task Force read a list of individuals involved in speculation, all of whom, she said, were white. Her colleague read a list of people hurt by speculation, all of whom, she said, were

black. In letters to the media and in testimonies at the City Council, residents pressed leaders to pass the speculation tax to protect the interests of black residents and advance civil rights. Expanded home ownership was heralded as the solution to black residential displacement.

Like proponents of the tax, opponents professed the same goal of expanded home ownership for black residents. A WRDC official claimed that 90% of the coalition's buyers in the past two years had been black residents and more than 70% of the properties sold had been vacant at the time, suggesting that he was increasing ownership opportunities. A second realtor said that 85% of his clients were black residents who otherwise would not have had the opportunity to own a house. The people who would be hurt by the speculation tax, these realtors alleged, would not only be members of the real estate industry but aspiring black homeowners. To pursue the project of civil rights, these white realtors argued, the City Council should not limit housing market activity.

At the hearing a young realtor voiced similar opposition to the tax but for different reasons. The speculation tax, he said, could knock out the newest entrants to the real estate business, black realtors like himself. Black entrepreneurs and middle-class residents demanded that the civil rights-oriented City Council not take away the possibility of economic power that black residents had just won. Black realtors testified that it was finally *their* turn to turn a profit. The president of a black real estate broker organization explained at a church why black residents should oppose the speculation tax:

We blacks will never rule this city ... until we own this city. That's what power is all about—ownership. What I do is helping my brothers and sisters to own their homes. And until we all do that, the whites will control us.

According to two observers, the presence of these “black profit seekers” made it difficult for members of the Task Force to express as much outrage as they might have had all of the perpetrators been white (Richards and Rowe 1977:60). The WRDC, whose members were majority white, hired a black lobbyist for, it seems, this very purpose.

The conversation about the speculation tax danced around the issue of whether the speculation tax would jeopardize opportunities for black residents to own homes or get involved in the real estate industry. The debates did not openly contend with questions about whether expanded home ownership would achieve racial justice. Missing in the debates were discussions about how home ownership for black residents during the slum speculation wave of the 1960s had impaired rather than propelled economic mobility and security. During the speculation tax debates, home ownership was sacrosanct. Despite the overarching talk about the civil rights movement and the need to make Washington, DC a place where black residents and poor residents could live, proponents of the speculation tax did not confront the tensions between a profitable private property market and the project of racial justice. For proponents of the tax, the goals of the civil rights movement seemed to be access to the private housing market, not the creation of a new housing order. Tax supporters did not explain what, if not the right to capitalize on

property, would propel residential stability or generate economic power for black residents. Tax supporters did not convey a coherent, counter-hegemonic, and spatial argument about how the city's foreclosed, abandoned, and run-down homes could be repaired without the help of the private sector or the motivation of profits. This communication failure, which might have been an ideological failure, compromised the possibility of a meaningful limit to speculation.

### ***In the End, "A Total Sham"***

After the hearing in 1975, the speculation tax bill languished in City Council chambers. For the next few years, different versions of the tax would be introduced and, after lobbying by real estate interests, never make it out of committee review. During this period, community support waned. The Task Force never coalesced into anything beyond a loose affiliation of leaders from other member-based organizations.

In 1978 the City Council finally acted on the speculation tax issue. That year, the tax had become a political liability for council member Marion Barry, the chair of the committee that had stymied the bill. Barry was a candidate for mayor and faced repeated questions in public debates about his alliance with real estate interests. In what seemed like a ploy to garner public support, Barry ushered into law a speculation tax several months before the mayoral elections.

The tax that finally passed was one that the WRDC had tailored to its needs. The WRDC met with council members outside hearings and funneled \$14,000 to those members; circulated letters to homeowners urging them to testify against the speculation tax; gathered secretly with business leaders; and contracted researchers to discredit a government study of citywide speculation. On the surface, the law taxed between 3% and 97% of the profits of flipping based on a graduated schedule; the duration of ownership and amount of profit from a sale determined the rate of taxation. In reality, speculators could proceed with business as usual. The final tax included a loophole to exempt renovated properties if a seller offered a one-year warranty on infrastructure like heating, plumbing, and electrical systems. A council member explained, "homesellers and speculators who have done nothing more than put up a new coat of paint will 'warranty' that all parts of the house are in good condition".

During its three years on the books, only seven people paid the tax, and, of that group, one was refunded. An analyst in the tax assessor's office said that "[t]he whole thing is just a big joke ... Nobody pays the tax because by law they don't have to." In a half-hearted attempt to enforce the tax, Mayor Marion Barry assigned an employee to oversee it. The cost of this enforcement ran to \$66,000 while the tax's revenues sat between \$2000 and \$10,146. The city's office of consumer protection called the tax "a total sham". After intense lobbying by real estate executives and housing developers to make sure the flawed law was not repaired or extended, the City Council ended the short-lived affair with the speculation tax and let the tax expire in 1981. The tax, designed to counteract the racialized pressures of the property market, became a signal of the market's hegemony. The defeat of the

speculation tax became a signal of an urban landscape where material property existed as a lucrative space for investment, property rights were based on ideologies of exclusion, and traditional private ownership was treated as an empowerment vehicle in the civil right struggles of working-class black residents.

## Conclusions

By exploring some of the racialized political discourses through which hegemonic property rights were made to endure in Washington, DC in the late 1970s, this paper shows how property rights can function as narrative barriers to housing justice in unexpected ways. Speculation tax supporters held tight to a vision of a city in which residential space was largely distributed by the market, primarily developed by the real estate industry, and heavily controlled through home ownership. Home ownership was seen as a way to provide low- and moderate-income black residents forms of social and spatial security and the possibility of economic mobility that no other social relation could. For the project of racial justice in Washington, DC, the housing market was portrayed, despite all the talk of detrimental speculation, as essential. Neighborhood change may be “something that’s happened since the dawn of time”, as one developer I interviewed said.<sup>6</sup> But the key question, according to Mandi Jackson (2008:223), “is not whether cities should be revitalized or redesigned ... The question is who [or what] controls the strategy, process, and model for such a transformation.” In the case of the speculation tax, supporters and opponents contributed to a narrow ontology of neighborhood change where control of neighborhood transformation largely sat with the market. Their discursive treatment of the real estate industry, housing profits, economic wealth, and tenure security contributed to a conservative view of urban development. The quick death of the speculation tax was the quiet death of alternate narratives about housing justice and urban futures.

Capitalist housing markets in Washington, DC were expertly protected and legitimized through the small compromises that property rights were seen to offer black residents. Property rights were securely spliced into dominant as well as counter-hegemonic discourses. Even though concerned policymakers and residents espoused and likely believed in the project of housing justice, the goals of physical improvements and economic mobility subverted efforts to limit speculation and change the city’s existing set of property rights. The diversity of form strengthened existing property rights rather than undermined them. The failure of this law helped to protect private property rights, ensure the dominance of a pro-development planning agenda, and safeguard the seeds of gentrification that would entangle much of the city’s housing in the following decades.

These conclusions reflect a picture of property rights not fully depicted by either the property pluralist or the property antagonist sides of the theoretical debate. Scholarly debates in geography about the relationship between property rights and spatial justice tend to concentrate on either their inherent antagonism or how property rights can contribute to spatial justice. Both sides fail to imagine a compromise between their projects. This paper extends the debate among geographers by suggesting that re-appropriations of property rights, rather than creating

possibilities for housing justice, may act as serious barriers to them. The small compromises that won the day for the tax opponents reflect the larger conclusions of the property antagonists that property rights do not, in large part, work as a tool of housing justice. The case of the speculation tax supports property antagonists' conceptions of property rights as a tool of capitalism and antithetical to spatial justice.

This analysis contributes to the housing question by demonstrating how the failings of socialist, leftist, or anti-neoliberal policies can shed light on the perpetual failing of housing struggles and the relationship between housing politics and racial justice struggles. This study suggests that scholars concerned with racialized housing crises should pay attention to clashes between different social justice projects. The failing of the speculation was shaped by, and likely shaped, clashes between goals for economic mobility for black residents and goals for spatial self-determination. The housing problem was deeply embedded within questions of racial equality, sovereignty, and economic justice. The dissension that resulted and jeopardized the speculation tax raises questions about the kind of unity necessary to achieve spatial justice. Is spatial justice a different beast, in terms of what it requires, from other kinds of social change? Future research must fill-out the housing question with investigations not only of how racialized housing crises are made but also of how racialized housing struggles are made to fail, and the role that property ownership plays in those failures.

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## Endnotes

- <sup>1</sup> All quotes from Harvey are from a transcript of a DC City Council Hearing on 17 June 1975, available at DC City Council Legislative Services Archives, B1-57, Roll 37 and 38.
- <sup>2</sup> Interview with author, Washington, DC, 24 October 2011.
- <sup>3</sup> Interview with author, Washington, DC, 21 October 2011.
- <sup>4</sup> Dennis Gale Personal Letters, Gelman Library, George Washington University, Series 2, Box 7.
- <sup>5</sup> All quotes from transcripts of the 17 June 1975 hearing are from transcripts available at the DC City Council Legislative Services Archives, B1-57, Roll 37 and 38.
- <sup>6</sup> Interview with author, Washington, DC, 22 August 2011.

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