

## Subterranean Commodification: Informal Housing and the Legalization of Basement Suites in Vancouver from 1928 to 2009

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*This is the pre-peer reviewed version of the following article: Mendez, P. and Quastel, N. (2015), Subterranean Commodification: Informal Housing and the Legalization of Basement Suites in Vancouver from 1928 to 2009. International Journal of Urban and Regional Research, 39: 1155–1171, which has been published in final form at [DOI: 10.1111/1468-2427.12337](https://doi.org/10.1111/1468-2427.12337). This article may be used for non-commercial purposes in accordance with [Wiley Terms and Conditions for Self-Archiving](#).*

### Abstract:

This paper draws on Margaret Radin's theorization of "contested commodities" to explore the process whereby informal housing becomes formalized but also shaped by legal regulation. In seeking to move once informal housing into the domain of official legality, cities can seldom rely on a simple legal framework of private law principles of property and contract. Instead, they face complex trade-offs between providing basic needs and affordability and meeting public law norms around living standards, traditional neighbourhood feel, and the environment. This paper highlights these issues through an examination of the uneven process of legal formalization of basement apartments in Vancouver, Canada. Choosing a long time period -- from 1928 to 2009 -- we explore how basement apartments became a vital source of housing often at odds with city planning that is ill-designed to accommodate population growth. We suggest that Radin's theoretical account makes possible identifying legalization and official market construction with both questions of whether to permit commodification and how to permit commodification. Real world commodification processes -- including legal sanction -- reflect hybridization, pragmatic decision-making and regulatory compromise. The resolutions of questions concerning how to legalize commodification are also intertwined with processes of market expansion.

**Keywords:** commodification, informal housing, secondary suites, basements, zoning, Vancouver, Smart Growth, EcoDensity

### Acknowledgments

This article draws on Pablo Mendez's unpublished dissertation, "Ambiguity at home: Unauthorized geographies of housing in Vancouver." This was supported by a Social Sciences and Humanities Research Council (SSHRC) Doctoral Canada Graduate Scholarship Award. Noah Quastel provided additional theoretical interpretation, secondary literature review and historical, legal and archival research. The conceptual framing drew from research in his unpublished dissertation, "Transforming commodification: Sustainability and the regulation of production and consumption networks." This was supported by a Social Sciences and Humanities Research Council (SSHRC) Doctoral Canada Graduate Scholarship Award. We thank Nick Blomley for helpful comments. The usual disclaimer applies.

## Introduction

Informal housing in cities can involve complex problems concerning the relationship of formal law to illegality, underlying housing market dynamics, and the role of the state in market construction. While in the Global South the policy debate has largely focused on establishing property rights and access to finance, in the Global North responses often revolve around enforcing codes and standards in the face of small developers and homeowners who circumvent zoning bylaws through building and renting out garages, basements, or subdividing suburban houses. In seeking to move once informal housing into the domain of official legality, cities can seldom rely on a simple legal framework of private law principles of property and contract. Instead, political pressure and a history of public law means that the local state must take a more active role and engage in forms of market construction, balancing the way informal housing can provide affordable options with the perceived need for rules pertaining to living standards or traditional neighbourhood feel. Further, the Smart Growth agenda has brought environmental concerns to the table, showing how informal housing sectors contribute to urban densification, and provide ways of breaking the carbon lock-in of sprawl, automobility and single-family zoning. Informal housing thus stands at the juncture of how housing is simultaneously part of the urban eco-social metabolism, a marketable good -- or *commodity* -- and an entity shaped by legal regulation and socio-environmental values. This paper explores this conjuncture by examining Margaret Radin's (1996) theorization of "contested commodities" and extending her framework through considering the simultaneous legal formalization, and ongoing illegality, of accessory apartments in Vancouver, Canada. We discuss how Radin's theoretical account makes possible the identification of legalization and official market construction with questions of whether to permit commodification and how to permit commodification. We also show how reframing informal housing issues in this fashion helps bring to light the way capitalist urban development can morph to accommodate and absorb social opposition.

Unauthorized accessory apartments result from the illegal subdivision of detached dwellings by their owners, and are usually rented out to help offset mortgage payments. Such apartments are common in many North American cities, but they typically constitute a marginal proportion of the housing stock. In Vancouver, however, this type of housing constitutes an estimated 10 percent of all occupied dwelling units in the city (\_\_\_\_\_), acting as an

important source of low cost rental housing and enabling significant increases in density while preserving the single-family housing 'feel' of low-density residential neighbourhoods. Most of the city was envisioned in the 1920s (and later built) according to Harland Bartholomew's (and behind that, Frederick Law Olmstead Jr.'s) vision of bringing nature to the city through treed streets laid out in grid iron, opulent parks and middle-class neighbourhoods where housing was largely restricted to single-family dwellings. While this has now been supplemented by high condominium towers in the city centre and some mid-rise developments on neighbourhood high streets, most of the city continues to conform to this single-family vision -- but only as an aesthetic façade. Accessory apartments (known by the City as "secondary suites") house families, students and individual working class households in subdivided main floors but most typically in retrofitted basements, "invisibly" turning single-family dwellings into multi-family housing. In some Vancouver neighbourhoods (such as the 'funky' area of Commercial Drive/Grandview-Woodlands) a majority (or 59 percent) of houses have basement suites (City of Vancouver, 2009a). While initially supported during the Second World War and the domestic 'war effort', basement suites were officially suppressed or ignored during the post war Fordist-Keynesian era. Over time, however, the City has developed a unique solution to the problem of formally recognizing and encouraging secondary suites as contributors to housing affordability and Smart Growth: On the one hand it authorizes suites only if they conform to local building codes and standards, and on the other hand it follows a stated policy of rarely enforcing this rule.

Radin's theoretical framework of 'contested commodities', we argue, helps disentangle the regulatory compromises the City has reached in its peculiar approach to dealing with basement suites. Radin juxtaposes theories of possessive individualism (from Thomas Hobbes, through to law and economic scholars such as Gary Becker and Richard Posner) and Marxian commodification theory (from Karl Marx to literary critic Georg Lukacs). While the former is a pro-commodification 'archetype' and the latter a 'counter-archetype,' both approaches work with a formal ideal of property and contract distant from real life commodification processes. Radin's work is well known in legal studies and feminist scholarship, and some scholars have recognized how her work destabilizes ideas of commodification and can be used to understand regulated markets (Parry, 2008). However, it has not been applied to the study of city-making processes.

The interpretation we propose here highlights the relevance of her 'contested commodities' framework to the field of urban studies.

In this paper, we demonstrate how Radin's framework encourages a joint analysis of both market imaginaries (i.e. different ideas for how to make and legally frame markets) and the processes of contestation and compromise that develop as such imaginaries make way for legal decision-making and institutional building. Radin leads us to focus attention on the discourses surrounding social policy, the continuing role of commodifying archetypes, and the conceptual shifts involved in pragmatic decision-making and regulatory compromise. Recognizing the theoretical utility of the abstract notion of "commodity form," we draw on Radin's work to argue that it is equally important to pay attention to particular, contingent, discursively and legally constituted modes of commodification. As such, we show how Vancouver's basement suites provide unique subterranean and green types of commodification.

In what follows we first provide a sum-up of our close reading of Radin's "contested commodities" argument, which we use as an entry point for understanding basement suites in Vancouver. We then provide a brief overview of British Columbia's property law system, and move to the City of Vancouver's secondary suite policy. (We follow the convention of capitalizing "City" when referring to the local government.) Through the 1950s and 1960s there was a pro-active (but unsuccessful and weakly applied) policy of resisting suites. From the 1970s to 1990s, this was followed by a policy of non-enforcement as the state turned a blind eye. In the 2000s there was a process of regularization which, by decade's end, opened the way for active policies to promote and expand suites under the influence of environmental "Smart Growth" policies.

We argue that Radin's framework is both particularly useful but potentially troubled by the case of Vancouver's basement suites. When the City moved to legalize suites, it did so through novel forms of regulation that reflected a mix of pro- and counter-commodification rhetorics as Radin's approach would suggest. The result -- read through Radin's work -- was the formation of policies concerning *how to* commodify, or more specifically the setting of legal rules to help situate the practice within societal norms. However -- and here we go beyond Radin's thought -- when we move from discourse analysis to study urban *process* we see that successful legal resolution of the 'how question' can also lead to the expansion of

commodification: Vancouver's policies did result in partial conversion of existing properties into rental stock, but this shift has both facilitated and condoned the transfer of more of the city's living space to the realm of monetary exchange.

### **Theorizing Contested Commodification**

Radin's (1996) *Contested Commodities* is addressed at resolving social policy questions such as the legalization of prostitution or surrogate motherhood, but does so through engaging with political theory of commodification (c.f. Prudham, 2009). Commodification theorists have often focused on the 'commodity form' and analyzed the underlying logics implicit in the sale of goods for money. For instance, exchange is said to involve a process of abstraction whereby the specificity of a thing is lost as qualitatively distinct things are rendered equivalent and exchangeable (Castree, 2003). Radin's key move is to identify discourses of and about commodification and explore their relationship -- one marked often by disconnect and dissimilarity as much as causal connection -- with real world, legally constituted commodification processes.

Radin follows in a tradition of legal scholarship, found in writers such as Evgeny Pashukanis (1923) and Duncan Kennedy (1985), which identifies property and contract law as central to commodification processes. But as Kennedy has shown, this move reveals the ways commodification does not involve only *the idea* of ownership and exchange, but its instantiation in legal institutions and extra-legal regulatory processes such as social norms. Much commodification theory implicitly works with nineteenth-century formalist property and contract theory: It thus fails to recognize the way social welfare states incorporated the legal realist revolution and its recognition that contract and property are 'bundles of rights' the state can intervene to transform. The actual rules which underlie commodity production are constantly being changed and deflected in new directions as part of "a moving project" (Kennedy, 1985, 997), none of which are seen by Kennedy as capable of being captured by abstract theories. From this perspective, the idea of the commodity form is 'hopelessly imprecise' (Kennedy, 1985, 1000) and fails to capture the complexity and ever changing nature of actual commodity regulation. Radin's implicit answer to this problematic is to suggest that abstract ideals of ownership and

exchange still have life but do so as *discourses*, and these unevenly influence the policy process. This paves the way for Radin to make a series of novel interventions.

### *Social and Participant Aspects of Commodification*

First, Radin points out that dominant political theories in the Western tradition can be analyzed for how they embody abstract ideals of commodification, and thereby analyzed for all their failings and over-generalizations. She singles out three visions in particular:

- "Universal, complete commodification" or "complete commodification in rhetoric," exemplified in Thomas Hobbes, Chicago School neo-classical economics, and writers such as Gary Becker and Richard Posner who are central to the law and economics movement. This vision seeks to describe -- and reform -- all aspects of social life to conform to a vision of persons as commodity holders and the world as an object of exchange value. Because it ignores many non-market forms of value -- such as human dignity or essential features of personhood -- it operates as an archetype: it is "oversimplified, a caricature" (Radin, 1996, 2) and "lends itself to easy deconstruction" (p. 120).
- The tradition of "liberal compartmentalization," which runs from Immanuel Kant and G.W.F. Hegel to Michael Walzer and seeks to delineate a market realm in which possessive individualism is sanctioned but circumscribed by a separate sphere of personhood and sanctity. However, Radin argues, these rest on the problematic idea that "things 'internal' to the person are inalienable and things 'external' are freely alienable" (p. 54). It is easy to see how this is untenable: even an apartment rented from a rapacious landlord remains one's home, and there is socially recognized non-market value in living in it under appropriate safety standards and with a right to privacy. Moreover -- and this will prove to be central to her full argument -- there are many contingent circumstances which operate to make viable the commodification of goods and which are also seen as having extra-market value and moral significance.

- Finally, the Marxian tradition, as exemplified by Georg Lukács, represents a counter-archetype to universal complete commodification, which Radin sees as no less simplistic and a caricature for identifying real markets with an endless slide toward the market vision. She is thus critical of the 'domino theory' which she ascribes to Lukács: the belief that the market knows no bounds. For Radin, this wrongly implies that "a nonmarket regime cannot coexist with a market regime" (p. 46) and that that we cannot both recognize market prices but also other forms of value, that "we cannot both know the price of something and know that it is priceless" (p. 47). We will return in the conclusion to the limits of this aspect of Radin's analysis.

A second intervention relates to ways of analyzing how policy debates are shaped by political theories and the commodification rhetoric they embody. From Lukács Radin borrows a sense of how commodification rhetoric can penetrate beyond theory to a broader discursive realm of social norms, cultural values, popular debate and actual regulatory compromises instantiated in law and regulation. However, Radin argues (contra Lukács) that this broader discursive realm often contains what she calls "internally plural meaning" (p. 107), by which she means that such discourses may both describe important aspects of social and economic life in commodified (and with money value) and non-commodified form. This can play out at the societal level (what Radin calls the 'social aspect') in terms of social contestation over whether market or non-market ordering is appropriate. There is also a 'participant aspect' which concerns how particular individuals may work with conceptually heterogeneous conceptual schemes. Both individuals and collective decision-making bodies might, for example, see a worker as earning a specific quantity of income but also as a person with dignity and rights. Individual and social worldviews may thus only unevenly incorporate political theories, and can range on a continuum from those which give high priority to commodification rhetoric to those which seek more broadly to abolish it.

Third, real world commodification processes reflect the built history of the social welfare institutions, political theories with their own ideals of commodification (or what we can call 'commodification imaginaries'), and the continuing influence of internally plural and non-market conceptual schemes. Radin uses the term 'incomplete commodification' arguing that "many

things are ... neither fully commodified nor fully removed from the market... For example, things that are subject to price controls are incompletely commodified because freedom to set prices is part of the traditional understanding of property and contract" (p. 21). In fact, our inspiration to draw on Radin stems from her directly citing housing as an example: "Residential habitability requirements, safety regulation, and other forms of product-quality regulation all become contests over the issue of commodification" (p. 21). While her arguments are, in general, normative -- directed at social policy debates over applied issues such as organ donation and sales -- her account also invites empirical examination of how contested commodification actually plays out. Real world commodification processes involve the play of different imaginaries for how to construct markets, some of which seek to incorporate 'non-market' values such as respect for human's basic needs and the integrity of a person.

Radin also acknowledges that legal decision-making must grapple with less than ideal situations: "There are complex and multifaceted forms of oppression and poverty that deprive millions of people of the opportunity to access in a timely manner sufficient and adequate food, shelter, and health care, and more generally strip them of the ability 'to lead a humane life'" (p. 117). While concerns about the dignity of persons may lead many to advocate for banning 'desperate exchanges' such as baby-selling, womb-renting or prostitution, doing so may lead to even worse results for the poorest and most oppressed members of our society. This is what Radin calls *a double bind*: A situation where either option -- banning a practice or permitting it -- is less than ideal. While she emphasizes that "justice requires that we consider changing the circumstances that create the dilemma" (p.124), she also recognizes that a *double bind* arises precisely where changing those circumstances is unlikely to be achieved in the foreseeable future. In such situations, the fact that "we still must choose a regime for the meantime" (p. 134) only strengthens the argument for case-by-case decision-making.

### *Commodification as economy, law and discourse*

Our analysis of the simultaneous legal formalization and ongoing illegality of basement suites in Vancouver follows Radin's discourse analytic treatment. We see Radin's work as



containing important parallels with, and complementing, work on urban policy mobilities and on Chicago School neoliberalism as a strategic but ultimately incomplete project (Peck, 2011), and research on the way city policy rests on regulatory compromise mixing use and exchange value (Kipfer and Keil, 2002; While et. al. 2004). Radin helps highlight the play of discourse, its conceptual contents and the ultimate hybridity of regulation. Reading her in conjunction with these well-established urban political economic traditions also invites us to chart the process over time as discourse reshapes material economies, and to weigh the relative contribution and political power of different projects.

In our view the most central insight, and the one most in need of further elaboration through empirical example, is Radin's recognition that real world commodity processes mix law, economy and discourse in an ever shifting web. Rather than reflecting an unchanging 'commodity form,' they are contact zones where diverse discourses meet and material configurations and social practices shift as part of what Warren Samuels has called the "legal-economic nexus" (Samuels, 2007). Geographers have in different ways also made a similar point. Some theorists of Global Production Networks, such as Ray Hudson, outline how objects made for trade in markets should be seen as issuing from broader processes such as long distance networks linking sites of production and consumption, and which can be viewed from multiple registers: As economic processes driven by capital investment, as material systems which draw on natural resources, and as semiotic fields invested with cultural meaning and discursively framed state policy support (Hudson, 2008). There are parallels also to David Hulchanski's argument that housing can be traded in markets (as a commodity) but is better understood in the context of a *system*:

"Each country develops a relative unique housing system – a method of ensuring (or not) that enough good quality housing is built, that there is a fair housing allocation system, and that the stock of housing is properly maintained. Government plays the central role in creating, sustaining and changing this system. It establishes and enforces the 'rules of the game' through legislation defining everything from banking and mortgage lending practices to tax and regulatory measures affecting building materials, professional practices (e.g., real estate transactions), subsidy programs, and incentive patterns for

average households. This system is so ingrained into the culture and so intertwined with related systems (such as tax measures and welfare state benefits) that it tends to be taken for granted." (Hulchanski, 2004, 222)

We thus look to the overall process, configurations and layers of legal institutions whereby, as Radin argues, "our material relationships of production and exchange are interwoven with our discourse and our understanding of ourselves and the world" (Radin, 1996, 80). As our discussion of Vancouver's emergent basement suite regulatory regime shows, legal questions of whether to commodify (e.g. create permission) become intermixed with questions of how to commodify (the substance of enabling laws that shape markets and marketable objects).

#### Property Law, Planning, and Context

The city of Vancouver is relatively young, and from the formation of the Colony of British Columbia (in the 1850s) until the 1880s the area featured Musqueam, Squamish and Tsleil-Waututh First Nation villages, European settler farms, and from 1867 a small town built around a saw mill. The British colonial government land grant policy allowed would-be landowners to stake out a lot -- up to 16 acres in size -- and then settle it by making "improvements" to it for a period of two years, at the end of which the right would be granted to purchase the title to the lot from the colonial government. This minimalist property and contract system was not changed by the province's incorporation into Canada (in 1871) and gave rise to considerable land speculation in the growing city, as population jumped from 1,000 people in 1881 to 100,000 by 1911 (MacDonald, 1992).

Formal planning came relatively late. Competition among land speculators eager to liquidate their investments had made real property affordable to many "common workers," especially out in the southeastern suburbs, creating the possibilities for a cross-class alliance in the protection of values (Holdsworth, 1986). In particular, there was a perceived need to protect residential neighbourhoods from unpleasant smells, fumes or noises from farming or industrial enterprises and "the rowdy behaviour associated with licensed hotels" (Weaver, 1979, 213). The City of Vancouver did impose building and fire code standards but relied in large part on a system of restrictive covenants -- a form of private agreement that lot buyers were required to sign as a condition of the sale, legally outlining a series of limits to what the new owners could

do with the land. Some new built developments, such as Shaughnessy, experimented with protective zoning in the 1910s (Ley, 1993). But by the late 1920 it was widely understood that there was a need for comprehensive planning in the city. The provincial government granted to the City of Vancouver the powers to enact a zoning bylaw, which it did in interim form early in 1927 and more comprehensively at the end of 1928 with the adoption of elements of the Bartholomew and Associates' Master Plan (City of Vancouver, 1928).

Harland Bartholomew and Associates exemplified the new field of town planning, which situated individual home ownership in the context of projected urban growth: Master planning would incorporate concerns with hygiene, harmony and a public realm. This urban imaginary conceived of cities as "delicate living organisms, and failures to maintain their health could not be easily reversed" (Stanger-Ross, 2008, 551). Based in St. Louis Missouri, the firm made plans for cities throughout North America, strongly influenced by Frederick Law Olmsted Jr.'s suburban and romantic vision of segregating commercial and residential uses, with the latter to be single-family houses in regularized but well-treed streets. The new bylaws sectioned the city into districts and neatly divided uses -- non-residential uses (except for parks, schools and churches) were for the most part to be kept separate from residential ones. It sought to control residential densities, stipulating type of dwelling, the minimum site area that a dwelling could occupy on a lot, and the intensity of lot occupancy. While provisions were made for some areas to have two-family dwellings, three-storey multi-unit buildings, and six-storey multi-unit buildings, the majority of the city was laid out on the familiar grid iron format, with specification that only single-family dwellings be built. After the amalgamation of the city of Vancouver with its neighbouring municipalities of Point Grey and South Vancouver in 1929, more than 70 percent of the city's land mass was covered by low-density districts devoted exclusively to single-family dwellings.

The Bartholomew vision remained normative for decades but in practice was only partially realized. By 1931 the economic downturn had created a need for low-income housing, and neighbourhoods near the city centre such as the West End, Kitsilano and Mout Pleasant began to experience a mass conversion of one-family houses into lodging rooms or apartments. Efforts to maintain single-family hegemony were further eroded during the Second World War.

The War Measures Act, applied throughout Canada, encouraged homeowners to relieve wartime housing shortages by allowing suites in single-family homes (City of Vancouver, 2009a).

### ***Postwar Reinstatement***

Housing policy in postwar Vancouver was strongly organized around reinstating the Bartholomew vision of homogenous owner-occupied zones. From the mid-1950s, council worked to end homeowners' rental of secondary suites, albeit allowing a temporary reprieve to "moratorium" suites. The City tacitly worked in conjunction with national Keynesian era demand-side policies that encouraged home ownership. Spurred by systems of mortgage support, tax subsidies and freeway investment, the rate of homeownership rose in conjunction with spreading suburbanization.

We can see also in this period a series of changes that sharpened commodification rhetoric around housing. The Canada Mortgage and Housing Corporation, established in 1946, focused public funds almost exclusively on the ownership sector and building up the amortized mortgage market. Homeowners paid no tax on profits (or 'capital gains') from selling their houses in a climate of expanding prices (Hulchanski, 2004). Large numbers of North Americans began to conceive of housing not only in terms of its consumption as a "materialization of home," but also as a "good" and even an investment asset that can be potentially traded at a profit (Smith, 2008). Homeownership "seemed to offer exceptional opportunities for investment... Home ownership was not just a safe repository for savings, but the centrepiece of an investment portfolio" (Harris, 2009, 529). Through North America and Australia, local states sought to increase the supply of privately owned dwellings by establishing property rights in units of multi-unit buildings or condominiums. At the provincial level, but which proved to profoundly reshape the City of Vancouver, the *Strata Titles Act* (1966) compartmentalized land further into marketable 'air space parcels' the ownership of which could be traded and could provide security for loans (Harris, 2011).

By the early 1970s this 'air space parcel' thinking seems to have migrated to City of Vancouver specifications for single-family houses and basements. For decades, basement floor area was not counted in allowable floor area as long as the basement was not used as habitable

accommodation. In 1974, the zoning was amended to include the basement in the floor area calculation regardless of its use (City of Vancouver, 2009b). The concern at the time was that the allocation of allowable floor area was allowing visibly larger houses, and including basement space was a way to give the City greater zoning control. But the effect was also to encourage the commodification of subterranean space, now delineated by rules for allowable zoning.

There were at this time, however, significant countervailing trends reflecting non-commodified understandings of housing. Through this period there was considerable shift across Canada away from laissez-faire property and contract law and the introduction (by the provincial governments) of a series of legal-realist inspired rules such as professional licensing and monitoring of real estate agents, anti-discrimination rules, and the formation of cooperative housing (Hulchanski, 1988). Some of these came late to British Columbia, such as reforms to landlord-tenancy law in 1970 that gave better protections to renters. Nationally, the Keynesian economic management paradigm viewed housing as not only a source of effective demand, but also as key to providing basic human needs and forging political consensus. Through the postwar era there were thus direct policies supporting low income rental and non-profit housing. This included direct cash transfers to the provinces and federal tax incentives for building rental properties.

While the official policy in Vancouver during this period was to eliminate unauthorized suites as a non-compliant land use, these efforts continuously met with seemingly unexpected difficulties. One example was the challenging question of how to legally define what constituted a family for the purposes of satisfying the single-family requirement of the zoning bylaws – a question that builders and homeowners -- especially those from non-Anglo-Saxon backgrounds and seeking to house their extended families -- repeatedly raised (Punter, 2003). The City thus made a series of exceptions, for example for suites occupied by parents, grandparents and children of the owner or where there might otherwise be financial or medical hardship of the owner or tenant (City of Vancouver, 2009a, 24).

### ***Towards Liberalization***

By the 1970s, there were increasing signs of liberalization and a gradual recognition that basement suites were providing needed low-income housing. The City was beginning to recognize that closing down all existing unauthorized secondary suites would have resulted in thousands of tenant households immediately losing their home, at a time when the supply of new purpose-built rental housing was already falling drastically behind a growing demand (Ley, 1996). Initial steps in this direction occurred in 1974, when Council established a plebiscite process that resulted in the creation of the RS-1A zoning district in two small areas of the city (Kitsilano and Grandview-Woodlands). These would maintain the "single-family residential character" while allowing one secondary suite or additional dwelling unit in a single-family residence. Over time City Council adopted a policy of only enforcing secondary-suite regulations in cases where complaints were registered by a negatively impacted neighbour or tenant.

By 1987 the City was increasingly worried about maintaining a policy of non-enforcement. On the one hand opponents of suites continued to argue against the "increased densities, commercial development, and higher land costs" that suites would bring (McMartin, 1987). However, City staff estimated the numbers of basement suites at 26,000, and that as many as 30 percent of houses had suites in some eastside neighbourhoods (McMartin, 1987). There was an increased perception that the legality issue would need to be addressed. As alderwoman Carole Taylor argued, "We have to recognize it is a viable housing option or we have to get rid of it" (quoted in Bramham, 1989).

The City resorted once again to holding a plebiscite as part of the 1988 civil election, leading to a planning process of rezoning to provide legal sanction for existing and new suites. There was widespread opposition to the process in the city's west side (Bula, 2003a), reflecting the fact that higher valued west side properties are much less likely to have a suite than on the east side -- where rents from suites commonly serve as middle-class mortgage helpers. Nevertheless, this neighbourhood-by-neighbourhood review resulted in 47 percent of the single-family-zoned properties ("RS-1") being rezoned to allow suites ("RS-1S") between 1989 and 1992. While the intent was to phase out illegal suites (giving owners a 10-year period to permit, upgrade or close their suites), enforcement proved problematic: owners argued it would be too expensive to upgrade, or saw that they could evade the City's limited number of inspectors (City of Vancouver, 2009a).

A further significant change came in 2004. The new centre-left government, dominated by the Committee of Progressive Electors (COPE), initiated a series of studies to consider the basement suite issue. This included awarding an outside contract to an engineering firm to study standards and enforcement issues (City of Vancouver, 2001; City of Vancouver 2009a) and staff recommendations to consider legalization and regulation as part of an overall housing and homelessness action plan. The new mayor, Larry Campbell, spearheaded the issue, arguing that "we have to see [suites] as a realistic form of housing ... Secondary suites help students, parents, relatives" (quoted in Bula, 2003a). Some basement suite detractors were driven by the desire to maintain the "single-family premium" -- "the quality of enjoyment and the value of their home" (City of Vancouver 2004, 7). Others saw suites as bringing unwanted (i.e. property price damaging) neighbourhood activity levels, parking problems, noise and 'problem premises'.

Mayor Campbell would have created a de facto amnesty, but City staff argued that for pre-existing suites there could be a slight relaxation (but not abandonment) of standards -- such as for building heights (from 7'6" to 6'6"), and allowing hard-wired smoke alarms rather than sprinkler systems (Bula, 2003b; City of Vancouver, 2004). The City ultimately adopted a set of new rules officially recognizing suites, allowing that they could be built in all areas of the city, prescribing building standards and requiring parking spaces, permits and business licenses, and limiting numbers to one suite per detached house (City of Vancouver, 2004; 2007). However, the City also made its non-enforcement policy explicit, meaning that homeowners could continue to operate non-permitted suites and in practice routinely ignore substantive requirements around codes and standards as long as neighbours did not complain.

### **Commodification Redux**

It is tempting (but as we will explain ultimately unsatisfactory) to see the City's policy as one of 'raising a white flag on basement suites' -- as one newspaper headline put it (Allen, 2004) -- and acquiescing to expanding market forces. Basement suites represent the physical transformation of the spaces of a house. Areas that were formerly not considered part of living space -- and so contributing little to house price -- are now seen as revenue generators. While often repairs are done by homeowners themselves, it is not difficult to find framers and

carpenters who advertise their expertise in remaking basements, and contractors who specialize in retrofitting suites into (relatively) livable spaces. It is now routine for sales listings to cite as a selling feature the income potential of illegal suites in detached dwellings, signalling that the suite's status as a mortgage helper shapes negotiations over house price. Major mortgage lending institutions such as Vancouver City Savings Credit Union do not consider whether suites are legal or illegal but allow borrowers to add (potential) rental income in calculating ability to service mortgage debt (Smart Growth, 2003). Suites fit into a broader trend whereby households look to exchange value to replace the roll back of the state's commitment to social spending—using home equity (and rental income) as a potential replacement for lacking pensions and employment insurance (Allon, 2010).

Suites in Vancouver are notorious for having bad conditions. Typical violations include creating more than one suite on a given site, keeping lower-than-permitted ceiling heights, and carrying out substandard electrical or plumbing installations. There is a widespread perception that owners can rent out such suites and face little risk of being penalized by local authorities. In this context, a *laissez-faire* "complete commodification" ethos would argue that tenants exhibit a market-based choice to accept sub-standard conditions, trading housing quality for affordable rent.

We would argue, however, that the situation does not reflect an instance of "complete commodification." Houses (and their basement suites) are after all also homes -- meeting needs "for security and a setting for family and community life" (Mendez et. al. 2006, 101) and inscribed with "ideas about privacy, intimacy, domesticity and comfort" (Mallet, 2004, 67). As such, basement suites serve as an example of how "our culture stubbornly insists on conceiving of the person as a moral agent, as a subject distinct from a world of objects, yet how at the same time our culture persistently commodifies and objectifies" (Radin, 1996, 131).

First, drawing on Radin's idea of the "participant aspect" we argue that individual homeowners also take on non-commodified understandings. In their own drive towards home ownership, homeowners who rent out their basement do not simply seek 'utility' but are in part motivated by securing the standard of a single-family home in tight times: they are in other words driven by Fordist-Keynesian consumption ideals and the marker of a single family dwelling as a mark of identity and personhood. This mixture of utilitarian, security, and symbolic



motivations and attachments is a clear example of Radin's "internally plural meanings." Moreover, our visits to more than 30 basement apartments available for rent in the city revealed that some owners of illegal secondary suites seek to compensate for their code violations by spending significant amounts of money turning their rental units into pleasant spaces for tenants to live in, including the installation of brand new appliances and sound-proof ceilings. To some extent, this reflects both a (commodified) response to a competitive environment and a (non-commodified) normative concern for the well-being of potential tenants. More importantly, we suggest that these extra-legal norms work as part of the institutional setting and regulatory context that shapes how basement suites are commodified -- and creates a unique form of variation from laissez-faire ideals.

Secondly, we also can cite a number of further departures from laissez-faire suggested by what Radin refers to as the "social aspect" -- broad societal level policy debates and discourses. There is the continued relevance of the Olmsted-Bartholomew vision for the city, and the way the marker of acceptance of suites continues to be whether they preserve the single-family 'character' of Vancouver neighbourhoods. Existence of building codes and standards reflect societal beliefs in minimum standards, which we do not feel are easily explainable through utilitarian calculus (as some law and economic scholars attempt to do). Code continues to have some (albeit limited) normative sway: the City does enforce bylaws and building standards if neighbours complain about a secondary suite, and this both gives some strength to these regulations while accentuating those that speak to neighbourhood 'feel' and localized impacts on nearby homeowners.

But most significantly, the legalization rhetoric was dominated by the pragmatic need to address the city's housing shortage. As City staff reports on the issue routinely note: "Suites are seen as an essential component of the affordable rental stock, providing reasonably priced rental housing for students and young adults, older individuals, and low income couples and families" (City of Vancouver, 2006). While basement suites often represent substandard housing, Vancouver has had a long term and significant housing shortage and the city and its region are known for having the most expensive housing markets of Canada's major urban areas, as well as for being among the priciest of the metropolitan world. The metropolitan region's fast growth (for instance at 14.5 percent between 1999 and 2009) has meant that there has been a near

constant squeeze on housing in the City of Vancouver. The result has been high ownership and rental costs for housing and very low vacancy rates. Moreover, salaries in the region do not compensate: Housing prices in Vancouver became dislocated from the local economy as a result of pressures imposed by the heightened globalization of people and financial capital (Ley and Murphy, 2001). Secondary suites have come to be regarded as a way to facilitate middle-class home ownership. As a result, City authorities -- and the public more generally -- may have more sympathy for the perspective of marginal owners, for example, early on in their housing career when they are struggling to break in to the ownership market and want to use secondary suites to help them do so.

Basement suites thus represent a much needed source of supply for those who cannot afford to 'get in' to Vancouver's strong ownership market. Developers have not shown any desire to build rental housing but instead have been eager to cater to new owners through building smaller condominiums. Developers can obtain very high returns for private condominiums -- 40 percent by one city report, in contrast to a two percent return for purpose-built rental housing (City of Vancouver, 2008). Spreads as high as 57 percent for condominiums versus 1.69 percent for rental have been reported from the suburb of Langley (McClanaghan and Copas, 2006). The result is that of 96,734 housing units built in the metropolitan area between 2001 and 2006, only 6,808 were purpose-built rental (Metro Vancouver, 2010). Most of the purpose-built rental units in the city are now at least four decades old (City of Vancouver, 2008) and many have been converted from rental and upgraded to expensive condominiums. In the five-year period from 2001 to 2006, the number of tenant-occupied dwelling units fell to 131,500 in 2006 from a peak of 132,755 in 2001 (Cityspaces Consulting, 2009).

The situation is exacerbated by neoliberal policy shifts. By the 1980s the federal government had dropped its tax subsidy regime for rental investments (and reintroduced capital gains tax on rental properties) with the effect of dampening construction of new rental properties in subsequent decades (Drummond et. al. 2004). Governments are highly unlikely to resuscitate them, being not only an expensive subsidy but also oriented as they were to the broad rental market rather than being targeted at the low-income end (Drummond, 2004). Generally, the federal and provincial governments have embarked on long-term strategies of exit from social housing provision. While in the post-war era the federal government used direct grants for social

housing and preferential tax treatment for rental housing investment, this was administered through long-term contractual commitments to the provinces that in turn managed low- and moderate-income public housing and encouraged non-profit and co-operative housing programs. However through the 1990s the federal government gradually reduced its role, ending the federal co-operative housing program, not increasing budgets for social housing to match inflation, and mandating year over year decreases in funding for the Canadian Housing and Mortgage Corporation's budget (Begin, 1999).

The result is that the legalization of basement suites in Vancouver was championed by progressive organizations in part as a necessary measure to cope with the affordable housing gap. The Tenants' Rights Action Coalition (TRAC) and other groups in the centre-left actively campaigned between the mid-1980s and the early 2000s for the regularization of this type of housing unit (Smart Growth, 2003; City of Vancouver, 2009a), arguing that aggressively enforcing habitability requirements by shutting down offending suites would restrict the supply of one of the few sources of rental housing available to low-income tenants in the city. Some politicians within the larger metropolitan area agreed: "If we shut them all down tomorrow, we would have a huge crisis in affordability" (Councillor Marvin Hunt of Surrey, quoted in Bula 2003a). As journalist Francis Bula explained at the time, "[if municipal authorities] force owners to legalize, they run the risk of creating a housing disaster as landlords are forced to shut down what has become a major source of affordable housing" (Bula 2003a).

The 2004 changes to basement suite regulation were driven by a largely left-wing City Council (which included long time social housing advocate Jim Green), and were consistent with a stated position of opposing and condemning federal and provincial off-loading of social welfare and housing responsibilities (City of Vancouver, 2003). There has thus been a large-scale move away from the paternalism of the old single family/building code arrangement and a recognition of the perils of strict enforcement. Radin reminds us that there are cases where "market-inalienability -- especially if enforced through criminalization of sales -- may cause harm to ideals of personhood instead of maintaining and fostering them" (2006, 132). While prohibiting the rental of basement suites through strict bylaw enforcement is not the same as their "criminalization," Radin's broader insight remains valid here: The new policy of tolerating

sub-standard housing conditions legitimized suites as a way for low-income households to meet their housing needs, but did so in the context of a severe shortage of affordable housing.

### **Greening Commodification**

Urban environmental activists were another force seeking regularization of Vancouver's basement suites. Within this movement, the Smart Growth agenda has characteristically focused on rethinking planning to consider the needs for densification, create mixed-use neighbourhoods and re-orientate cities away from car use and sprawl. Rather than seeing 'nature' through a suburban (or nuclear-family oriented) vision of opulent parks and houses on commerce-free tree-lined boulevards, Smart Growth shifts the focus to protecting agricultural land and mitigating climate change. By the mid-1990s the City had begun to incorporate these principles -- the 1995 *City Plan* for instance called for increasing neighbourhood housing variety throughout the city and giving people the opportunity to stay in their neighbourhood as their housing needs change.

In April 2003, the local organization Smart Growth BC helped organize a workshop that was instrumental in the City adopting new laws legalizing basement suites. The current Bartholomew-inspired zoning system was identified as a barrier to Smart Growth and to the possibility of "accommodating the thousands of new people who want to live here" (Smart Growth, 2003, 2). As the organization's then-executive director made clear, densification had to be embedded in various social values. She thus argued that basement suites ensure affordable rental units that are currently not provided through other sources, that the rental revenues they provide can serve as mortgage helpers in an expensive market, and that their existence allows density increases without "changing the character of a community" (Smart Growth, 2003, 2). The centre-left-dominated City government at the time was broadly supportive of the Smart Growth agenda, and the arguments were likely influential in the City of Vancouver's decision to legalize suites. By 2004 City staff was explicitly linking this policy orientation to basement suites (City of Vancouver, 2004). In 2005, the City's newly created Cool Vancouver Task Force released a Community Climate Change Action Plan, in which the legalization of suites throughout the city's single-family neighbourhoods was lauded as a positive Smart Growth initiative (Cool Vancouver Task Force, 2005, 19). While there is an academic tradition that links Smart Growth to urban

entrepreneurialism and capital accumulation (While et. al., 2004), our analysis suggests that proponents of this agenda do not show a monolithic face, and different formulations vary along the commodification-rhetoric spectrum. For instance, Smart Growth BC has been careful to accentuate the need for social housing provision (Curran and Wake, 2008).

By 2007, however, a new mayor and council led by Sam Sullivan of the centre-right Non-Partisan Association were pushing what they called the “EcoDensity Initiative”. EcoDensity tracked much closer to ‘complete commodification’ rhetoric, claiming as it did that liberalizing zoning laws to increase building density would be good for the environment. This was far more explicit about seeking to rupture the Olmsted-Bartholomew vision of the City to allow developers to densify. Basement suites were to be just one way to achieve greater density, alongside new types of mid-rise buildings along arterial routes and in areas such as Chinatown where there was a tradition of anti-gentrification activism opposed to new-build condominiums. The EcoDensity Initiative constituted a significant push to utilize environmental concern to commodify previously unexploited airspace parcels. The mere fact of density was assumed to have a trickle-down effect on house prices. As Marit Rosol (2013, 2251) argues, EcoDensity operated as "a discursive strategy whose aim was to gain acceptance of densification."

Rosol's fieldwork shows how opponents of EcoDensity identified the initiative with a commodifying agenda. Protestors felt that it deceptively sold densification for profit, using environmental discourses to legitimize density in order to serve developers and rich condominium buyers. Others saw EcoDensity as a push to displace poorer residents and exacerbate gentrification. They were afraid that renters would be evicted and homeowners would be 'taxed out'-- i.e. forced to sell their property due to increased property taxes as a consequence of rezoning. Activists from the low-income downtown neighbourhood known as the Downtown Eastside were especially vocal, as they saw in the plan an underhanded tactic for introducing condominium towers into their neighbourhood, fearing further gentrification and loss of affordable housing in a neighbourhood already under massive socioeconomic and development pressure. Their concerns echoed both Radin's argument that "physical and social contexts are integral to personal individuation, to self development" (p. 56) and Chester Hartman's argument that city dwellers have "the right to stay put" (Newman and Wyly, 2006).

There was also some doubt concerning Sam Sullivan's invocation of supply-demand dynamics and the commodification-rhetoric it embodied. As Rosol explains, even the City staff reports at the time acknowledged that affordability would only be indirectly addressed, and that densification could at best moderate future price increases relative to what they would otherwise have been. Widespread social opposition was also focused on the ways densification would clash with 'livability', at times expressed as a direct concern that services and amenities would not be increased, but at other times meant as a cover for protecting the city's 'character', that which "makes it such a good place to live" (read, Anglo-Saxon-identified single-family housing) (Rosol, 213, 2248). Opponents thus cited "green overcrowding" (Rosol, 2013, 2248). Moreover, there was widespread disdain at how Mayor Sullivan seemed to be circumventing the City's "republican" (Radin 1996, 182) political traditions of public consultation in favour of an economics-and-efficiency inspired vision that was being imposed top down.

On June 10, 2008, Council adopted the EcoDensity Charter and approved a set of EcoDensity Actions, including as a priority action the expansion of options for secondary suites (City of Vancouver, 2009b). The EcoDensity vision was largely unsuccessful, but some of its component policies were instituted, such as expanding condominiums into Chinatown (directly adjacent the Downtown Eastside), and the largely bipartisan City staff initiatives to expand basement suites. Staff had actively investigated ways in which basement suites could be made nicer places to live and easier for home builders to incorporate into initial designs for newly build housing -- effectively shifting the concept to one of creating multi-unit buildings with the resemblance of single-family homes. This incremental step could easily fit within the agenda of earlier governments -- or the progressive version of Smart Growth -- to expand rental stock. After public hearings, Council approved zoning changes to enable full-size basements and more livable basement suites in all areas zoned for single-family dwellings (City of Vancouver, 2009c). The changes included a slight relaxation of floor space ratios from 0.6 to 0.7, allowing basements to be built two feet higher out of the ground, and increasing total building height (if only by one foot). In addition, the 'flexi-unit' concept -- allowing developers to build secondary suites in some apartments ("suites within suites") -- was also extended to new brownfield redevelopment sites such as the East Fraser Lands and Southeast False Creek.

City monitoring has found that these shifts have been effective in accelerating the building of basement suites -- more new houses now have basements, increasing from just over 30 percent of permits issued in 2000, to over 88 percent in 2011. The number of new houses with a permitted suite has also increased significantly. Until 2007, about 5 percent of new houses included an approved suite at the time of construction. Since then, this percentage has increased steadily, from 10 percent of new houses in 2008 to 34 percent in 2011 (over 300 suites in 2011) (City of Vancouver, 2012). City zoning laws had effectively reshaped house construction in the city, moving basement suites from an illegitimate anomaly to official local state practice.

### **Conclusion: From the double bind to the domino effect**

Following Radin's theory of incomplete commodification, this paper has shown how issues of whether to permit commodification and how to permit commodification -- in this case how to legalize market activity -- are intertwined. Through the 90-year history canvassed in this paper, basement suites have been inseparable from the commodification of housing -- whether this be through a commitment to banning suites in pursuit of ideas of home ownership and the single-family premium, or expanding suites to allow broader middle-class access to ownership and fulfil social policy goals of rental housing affordability for working class residents. Even though diverse policies were promoted for maintaining or accelerating property values, they differed in terms of how diverse non-market values were articulated and hybridized into commodification imaginaries. Questions of how to permit commodification extend beyond simply juxtaposing (and so trading off) exchange value and use value, and include a host of strategic decisions and assumptions about whose exchange values should be prioritized and how other values can be selectively incorporated and synthesized into the process. Within the ambit of this 'how' question there is still ample room for critique concerning the way this is done and whether regulation embodies principles of personhood, human flourishing and ecological integrity.

Applying Radin's work in a social science context also requires moving from mere discourse analysis to chart how regulatory compromise occurred over time and as part of the ongoing development of commodity systems. As the case of Vancouver's basement suites shows,

the issue is not only that there is a diversity of discourses but also contestation between them, and despite some hybridity and compromise, there are winners and losers in this process. But conducting a systematic process-based analysis that extends over time in turn suggests the need to move beyond Radin in important ways, in order to consider the forces that drive commodification and the regulatory compromises that settle how to permit it.

The issue in our opinion is not simply whether in a particular conjuncture more commodification is legally warranted, but also how legalizing commodification does beget more commodification. In the case of Vancouver, the City's contradictory approach of legalizing and not enforcing is a response not only to a double bind, but a bind created by the inscription of neoliberal (commodification-rhetoric heavy) policies at the local level by other layers of government. The City's decision to authorize basement suites occurred in the broader contexts of housing market design -- strongly informed by neoliberal commodification rhetoric -- and created a structural context that then shaped local state policy. Recall that the City of Vancouver itself participates in creating the current housing system -- in its past history of zoning, allocation of its own property, and property taxes charged. Suites are but a small ameliorative measure in an overall system of the commodification of housing -- strongly skewed as it is towards home ownership for the middle classes and the wealthy.

While Radin is quick to dismiss the 'domino theory,' she ignores a much broader concern raised by the Marxist tradition. Radin helps show that the 'commodity form' is not unitary and can contain many use values that allow market and non-market to coexist. But she overlooks how this works together with the ways capitalist economies include tendencies, often operating slowly but over decades, for markets to colonize non-market aspects of society and nature -- whether this be social customs, unexploited resources, wilderness areas or urban air space (Castree, 2003, 2008). We acknowledge that there are limits to this process and agree that commodification cannot go "all the way down" (Fraser, 2014). However, we do think it is still an important social scientific task to interrogate and understand the dynamics and spread of commodification in all its specificity. If questions about 'whether to permit commodification' suggest social policy reflecting societal counter-tendencies to this ongoing process, the question of 'how to permit commodification' speaks to the way capitalism can morph to accommodate and absorb social opposition. In reality, and as our case study shows, these often go hand in hand: the



expansion of commodification into new domains can be made more legitimate precisely through a combination of regulation that ameliorates its most offensive effects while providing a necessarily compromised respite from double binds.

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