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Social Ownership

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A Right to Housing

Foundation for a New Social Agenda

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11 Social Ownership

IN ORDER TO REALIZE a Right to Housing, a large and increasing share of housing must be treated as a social resource rather than as a commodity yielding private windfalls. Indeed, all housing contains both social and individual rights and interests, differing only in the nature and extent of their social characteristics. It is thus appropriate and useful to conceptualize a continuum of housing ownership forms. As discussed in this chapter, "social ownership" encompasses that portion of the spectrum where the overriding social interest is to ensure security of tenure and permanent affordability.

Social ownership of housing and land may be traced back to neolithic villages and Native American cultures. Within the capitalist era, various alternatives to the commodification of material life were put forth during the 19th century, ranging from socialist revolution to utopian models of shared property and including a spectrum of working-class demands for cooperative and social housing. Many European countries accepted the notions of social ownership earlier and have gone much further toward their realization than has the United States (see Donnison 1967; Wynn 1984; Gilderbloom and Appelbaum 1988: Chapter 8; Harloe 1995; Fuerst 2000; Stone 2003). Even in the United States, significant strands of nonspeculative and social ownership have emerged, despite the ideological domination and political force of the purveyors of unfettered private ownership. They amount to a little over 4 million housing units, about 4 percent of all housing in this country.¹ Their accomplishments and potential provide encouragement and hope, while their

limitations and contradictions provide valuable lessons on the dilemmas of partial and piecemeal reform.

The chapter begins with an overview of the social dimensions of all housing. This is followed by a definition of the more particular concept of social ownership and explanation of how the housing tenure available to residents of socially owned housing differs from both conventional renting and conventional homeownership. The bulk of the chapter then examines the nature and scope of existing models of social ownership, grouped into two major categories: socially owned rental housing, consisting of public housing, nonprofit rental housing and mutual housing associations; and nonspeculative homeownership, consisting of limited-equity cooperatives, ownership with community land trusts and some resale-restricted individual ownership. The models are evaluated in terms of differences in the degree of social control. The chapter concludes with identification of various routes through which the amount of social housing can be increased.²

THE SOCIAL COMPONENTS OF HOUSING OWNERSHIP

While "property" is usually understood to mean material things such as houses, land, cars and furniture (as well as nonmaterial forms of wealth such as "intellectual property"), in more precise legal terms, property consists of socially created and enforced rights and obligations regarding the acquisition, use and disposition of such

wealth. That is, even in an ostensibly “private free-market” economy, the terms under which someone can obtain and dispose of a house (and other property) is not by individual (private) whim but instead by procedures established by constitutions, statutes, common law, case law and administrative regulation. The relationships between private parties regarding property ownership are socially governed.³

Furthermore, even where there are extensive private rights within these social procedures of ownership, the government, as the legal representative of the social interest, retains for itself rights vis-à-vis private owners of houses, land and other so-called real property. In the U.S. legal system, these are the powers of taxation, eminent domain and police power.

The power to tax real property has long been the prerogative of and principal means of revenue-raising for local governments, implicitly if not explicitly based on the premise that real property has economic value, not merely because of the activities and investment of an individual owner but because of the activities of other owners (“neighborhood effects”) and the provision of public services that benefit private property owners, such as roads, public safety, schools and so forth. Furthermore, the obligation on an otherwise “private” property owner to pay assessed property taxes creates a potential lien on the property—a form of property right that is “owned” by the government and is legally superior to the rights of the nominal owner and any other private parties with rights to the property (e.g., mortgage holders). Such tax liens constitute an old and well-established form of “resale restriction” on private property.

Eminent domain is the power of governments to take property for public purposes. While governments must exercise due process and provide compensation for seizing and extinguishing private property rights, the social power of eminent domain transcends all private rights and interests.

The police power enables government to regulate private property to protect the “health, safety and morals” of the society and to “promote the general welfare.” The society holds an array of such rights that owners of housing, land and other real estate are expected to accept and

abide by, with civil penalties—sometimes including forfeiture of the property—and sometimes criminal penalties for violations. These rights include not only building and health codes, zoning and subdivision regulations, fair housing laws, landlord-tenant laws and environmental standards but also use restrictions and resale restrictions accompanying receipt of public benefits. Such powers constitute an enforceable social interest in all housing and other real estate.

In addition to these legal and governmental manifestations of social control of housing, there are material and experiential ways in which housing is inherently social. Because housing is so durable and long-lived (if reasonably well built and maintained), over the course of its useful life, a house accommodates the needs of many different households. Few houses are built in response to the unique needs and requirements of a particular household. Even those that are so built typically undergo adaptations and modifications as different people live in and use the housing over the course of generations and even centuries, giving each dwelling a rich and complex social history and identity. Indeed, no other major item of personal and family consumption is passed on in this way from user to user. That is, housing is not only inherently social but uniquely social.

THE CONCEPT OF SOCIAL OWNERSHIP

Beyond the universal social elements possessed of all housing, housing is defined here as socially *owned* if it meets all of the following criteria:

- it is not owned and operated for profit;
- it cannot be sold for speculative gain; and
- it provides security of tenure for residents.

Social ownership embraces the notion that housing should be permanently removed from the possibility of resale in the speculative private market. This means that once the original cost of producing or acquiring the housing is paid off, the only costs would be for operations and any additions, alterations and capital improvements. Even if nothing else were to change, the

care-taking and improvement that for the most part is associated with homeownership—including the freedom to modify one's dwelling, make repairs and renovations oneself and use the house in ways that personalize it, give it meaning and adapt it to changing household needs and circumstances.

Security of tenure in social housing might also substantially reduce and possibly eliminate some of the negative social attitudes and behaviors caused by the existing ownership system. Concern about the protection of property values is a frequent explanation given for the exclusionary behavior that homeowners currently manifest against people of color, low-income households and so-called incompatible developments and land uses. Absence of anxiety about protecting one's investment (anxiety that often is based on misperception or on agitation by realtors and others) may reduce resistance to increased neighborhood diversity and socially beneficial new development. Reduction of the locked-in feeling that homeownership now tends to produce—again out of concern for protecting one's investment or reluctance to incur high turnover costs such as brokers' commissions and other closing costs on selling and buying—may provide people with a greater sense of freedom to take advantage of employment opportunities in other locales or otherwise pursue changes they might like to make in their living situations.

In addition to security of tenure, control over one's living space and the sense of social status, conventional homeownership also offers significant economic advantages over renting. To be a viable alternative to homeownership, social tenure has to confront the strength of this appeal. Under the existing housing system, homeownership provides three economic advantages over renting. First, for an identical house bought at the same time and the same price, a homeowner will have somewhat lower monthly outlays than a renter because there is no payment for the landlord's cash flow profit and overhead costs. Yet a resident of social housing would have much lower housing costs even than a homeowner—as much as two-thirds lower (see Chapter 4)—if the housing is financed with capital grants rather than mortgage loans.

The second economic advantage of homeownership consists of the income tax benefits generated from being able to deduct mortgage interest and property tax payments from taxable income (if one itemizes deductions rather than uses the standard deduction). The cost savings available in social housing with no mortgage payments would much more than offset these benefits received by owners of conventionally-owned and -financed housing, especially for lower-middle-income households who have seen homeownership slip out of reach and for whom the tax benefits have been quite limited at best (see Chapter 5).

The third and most significant economic advantage of conventional homeownership is the ability to build up wealth through ownership. A homeowner's equity is established initially with the downpayment and is then increased through mortgage principal payments and rising property values. As long as the choice is between renting in its present form and homeownership in its present form, equity build-up is a real economic advantage of homeownership, although the advantage is often less than commonly believed. Social tenure, by contrast, offers a way of accumulating wealth that would be competitive with homeownership in most parts of the United States and over the long term. Suppose a moderate-income, prospective first-time homebuyer had the choice between conventional homeownership, on the one hand, and, on the other, occupancy of a comparable house with little or no downpayment and no mortgage payments, with security of tenure and control but no opportunity to re-sell the housing on the private market. It turns out that, in general and on average, the money saved by choosing the social housing option more than compensates for giving up the right to re-sell and reap a potential speculative profit in the private market (see Stone 1993:196–198). And if the limited income-tax benefits that the current system provides to moderate-income homeowners were also eliminated or equalized for renters, the advantages of this alternative tenure form would be even greater. A household choosing this form of tenure may be termed a "resident-saver," since a valid comparison with the equity-accumulation benefits of

conventional homeownership involves the assumption that such a household would place the money that otherwise would have gone for a downpayment and monthly mortgage payments into savings.

If our society were to establish a large social sector of housing, this alternative tenure could be available not only to shelter-poor households but would be an option for moderate-income households closed out of conventional homeownership or able to achieve such homeownership only with substantial personal sacrifice and risk. The existing homeownership market would still be available for those who can afford it and who, for whatever reason—whether it be the hopes of speculative gain or ideological attachment—prefer to obtain housing in that way. Those eligible for and choosing to enter the social housing sector would have all the benefits of homeownership but would not have to possess the personal savings needed for a downpayment, and what savings they might possess could accumulate at a faster and more stable rate than if invested in buying a house, paying off a mortgage and worrying about property values. In addition, their savings would be available when and as needed—not only for investment, but for consumption, college education for their children, travel and the like—without having to mortgage or sell their home.

Also, with the creation of a large social sector, the allocation of social housing could be through a “social market” that would provide resident choice, eliminate bureaucratic procedures and achieve a degree of efficiency never realized in the existing housing market, rather than through current practices of waiting lists, priority categories and lotteries (see Stone 1993:214–217 for discussion of how such a social market might work).

SOCIAL RENTAL HOUSING

Public Housing

Public housing is by far the most extensive and most maligned form of social ownership in this country. As of 2001, local housing authorities owned 2 million housing units (U.S. Census

Bureau and HUD 2002:Table 1A-7), about 2 percent of all housing: 1.3 million of these under the federal program (U.S. Department of Housing and Urban Development 2000)—a reduction of about 100,000 from the early 1990s (Dolbeare 1991)—the remaining 700,000 under various state and local programs. In addition, the Department of Defense owns and operates about 400,000 family housing units, the “other public housing program” (Hartman and Drayer 1990; Twiss and Martin 1999).

The origins of public housing are well known, as are the ways in which the real estate industry from the outset attacked public housing ideologically and constrained it operationally through restrictions on design, location and management as well as funding, making virtually inevitable the well-publicized problems with some public housing (Bratt 1986). Yet despite these problems and the too-successful attempts to discredit the concept of public housing (and social enterprise generally), more complete and balanced examinations reveal that for the most part public housing has had a remarkable record of success in providing physically decent, non-speculative, mortgage-free and cost-effective housing to poor people (Bratt 1986, 1989:Chapter 3; Council of Large Public Housing Authorities 1986). “Public housing serves more tenants with extremely low incomes, more tenants who are nonwhite and more households headed by a single parent than any other housing program” (National Housing Law Project 1990:15). In addition, for several decades starting in the late 1960s, a combination of tenant organizing, lawsuits, regulatory reforms and some (though inadequate) funding for modernization and operating subsidies brought about physical improvements in some older developments; more competent and responsible management of a number of local housing authorities; a measure of tenant protection in terms of leases, grievance procedures and collective bargaining rights; and in a few cities and individual developments, tenant membership on housing authority boards and even tenant management.

Public housing remains a vital resource despite its checkered history and reputation (Fuerst 2000). Many housing authorities have more people on their waiting lists than are

currently living in their developments. Some have closed their waiting lists because the wait is as long as 20 years. In some cities, the turnover is so low that until deregulation policies were put into effect in the mid-1990s, federal preferences successively established over the decades had limited new occupancy to those who were victims of fire or other disaster, were able to demonstrate past denial of admission due to racial discrimination, or were homeless or paying over 50 percent of their incomes for housing (Vale 1999:14). As a result, by 1997, the median annual income of public housing households was under \$7,000, less than 20 percent of the national median income (CLPHA 2000).

While giving priority for public housing to the most needy households is quite appropriate in a society where low-cost housing is scarce and housing is not a right, the deepening concentration of the poorest households in public housing added fuel to attacks on the very idea of public housing, blaming public ownership and management (and/or the residents themselves) for the poverty of the residents (see, for example, Husock 1997; Evans 1998; Hickman 1998 and the debate between Timothy Ross [1997, 1998] and Tom Angotti [1997]). Furthermore, in some cities, large public housing developments are situated in areas where, in recent decades, urban redevelopment and gentrification have raised land values, making the sites ostensibly too valuable for poor people. Thus, since the 1980s, there have been increasingly strong forces working to reduce the amount of public housing, through density reduction in existing projects, wholesale demolition, sale to private developers and conversion to mixed-income (including market-rate) housing—without requiring (since 1995) one-for-one replacement of lost units, let alone increasing the number of low-income units. In addition, behavioral requirements for residents, similar to those under welfare “reform,” and greater autonomy for local housing authorities under the Quality Housing and Work Responsibility Act of 1998, increase the likelihood of many residents losing their homes even if their units are not physically lost (see, for example, Ranghelli 1999; Keating 2000).

During the 1980s, some public housing underwent renovation and revitalization, which,

while reducing the number of units, did retain public ownership of the housing for low-income people. Other cases, though, involved replacement of public housing—wholesale physical and social transformation into privately owned mixed-income housing, with the loss of units for low-income families far exceeding the physical reduction (Vale 1999:19). The prevailing public housing policy of the 1990s and into the new millennium—known as HOPE VI—largely embodies the principles of public housing replacement, with substantial displacement and loss of units even where local housing authorities retain ownership (Pitcoff 1999; Vale 1999; Keating 2000; National Housing Law Project et al., 2002).

As of the late 1990s, it was projected that HOPE VI would result in the demolition of about 100,000 units, with a net loss of as many as 60,000 low-income units (Keating 2000:385). This process has proceeded apace, despite evidence that in many cases public housing demolished or slated for demolition was not physically unsound and that, contrary to prevailing beliefs, resident satisfaction was often remarkably high prior to redevelopment (Keating 2000; see also Varady and Preiser 1998 on resident satisfaction). Indeed, despite being promoted as a vehicle for redeveloping “severely distressed” public housing, a federal audit in the mid-1990s concluded that HOPE VI was increasingly targeting public housing in locations where there is a market for profitable higher-income housing rather than solid evidence of “severe distress” (National Housing Law Project et al., 2002:ii).

In the introduction to their scathing critique of the HOPE VI program, the National Housing Law Project and its co-authors state (2002:ii):

HOPE VI plays upon the public housing program’s unfairly negative reputation and an exaggerated sense of crisis about the state of public housing in general to justify a drastic model of large-scale family displacement and housing redevelopment that increasingly appears to do more harm than good.

Their report provides extensive evidence regarding a whole host of problems with HOPE VI, including the loose definition of “severe distress”; reduction in the amount of housing

affordable the lowest-income households; few meaningful opportunities for resident participation; worsened housing situations for displaced residents and inadequate record-keeping and monitoring by the U.S. Department of Housing and Urban Development (HUD). Also, a field report of residents' experiences under HOPE VI, conducted by the Center for Community Change for the national organization of public housing tenants (ENPHRONT 2003), poignantly documents the human costs in residents' own words. Even the Urban Institute's research has acknowledged that while some public housing residents have been helped by HOPE VI, "vulnerable families face significant barriers" (2002; also, Popkin 2002).

While prevailing current sentiment gives little encouragement, public housing is an essential ingredient in addressing the housing crisis and realizing a Right to Housing, in part because it is unequivocally outside the speculative market and also because it includes an established, operational infrastructure for producing, financing and managing housing, including the power of eminent domain.

The amount of public housing should be increased not only through new construction but even more expeditiously and cost-effectively through acquisition of some existing housing. Several housing authorities have acquired and substantially rehabilitated older buildings or purchased rehabilitated buildings under "turnkey" contracts with private developers. Some authorities have purchased existing housing units not in need of rehabilitation. For example, the Houston Housing Authority bought some Federal Housing Administration (FHA)-foreclosed homes during the mid-1980s' downturn in the economy of the region. Some Massachusetts housing authorities purchased condominium units in multifamily buildings that had been converted during that state's 1980s real estate boom. More recently, the Watertown, Massachusetts, housing authority purchased several two- and three-family houses as scattered-site public housing for large families (Stone, Werby and Friedman 2000:20).

In some instances, the possibility of non-speculative resident ownership of some public housing (as mutual housing or limited-equity

co-ops—see below) should be considered, under certain conditions: (1) physical modernization and tenant capacity development have taken place; (2) there are enforceable guarantees of deep affordability subsidies and future modernization funding in perpetuity; (3) residents are given full opportunity to choose whether to take title on the basis of full independent evaluation of the trade-offs and risk; and (4) resident ownership is nonspeculative forever. If these conditions were required by law, then tenant ownership of public housing might contribute to the goal of resident empowerment while simultaneously retaining it as social housing and enhancing it physically and economically.⁵

As an alternative to selling public housing to residents, greatly increased resident power offers the potential for improving conditions in the housing and developing a sense of dignity, self-esteem and solidarity among some of the poorest and most oppressed members of society. If strong tenant organizations are created, if there are sufficient technical and financial resources, and if an adequate legal and regulatory framework for collective bargaining and shared decision-making with the housing authority is in place, public housing tenants can achieve these benefits while holding management and the government operationally and financially accountable. Moving into tenant management while the housing still is under public ownership may offer residents certain further advantages in terms of day-to-day operational authority, skills development and collective responsibility but also certain pitfalls, in terms of resource uncertainty and lack of control over the larger context—economic and physical—that shapes the lives of the poor. Tenants may be left administering their own dependency, with the leadership becoming the focus of blame for problems beyond their control. But as long as there is public ownership, there is also some legal and political leverage over government resources and responsibility (Peterman 1987).

With real tenant power, adequate public resources for modernization, adequate affordability subsidies and a gradual expansion of the economic mix of residents as the amount of social housing increases, public housing can be revitalized physically and socially. These changes will

not be easy to achieve, as trends have been in the opposite direction, but the accomplishments and potential of public housing are still worth recognizing and fighting for.

Nonprofit Rental Housing

Unfortunately, there are few precise figures on how many housing units are under ownership by private nonprofits, due to the ambiguity of definitions, overlap of categories and lack of any entity (public or private) that has been given or assumed responsibility for compiling and disseminating such information. Nonetheless, I estimate that as of the early 21st century, there are about 1.3 to 1.7 million rental units in nonprofit ownership. This consists of about 1.1 to 1.3 million subsidized rental units, plus roughly 200,000 to 400,000 other rental units in nonprofit ownership that have received no government subsidies or possibly just capital assistance from nonfederal public or private sources.⁶ This is a significant number, but it is just slightly over one-half the number of units owned by local public housing authorities, and about 1½ percent of all housing units in the United States.

While ideological factors kept public housing from our nation until the 1930s, in the late 19th century, moral righteousness and enlightened self-interest on the part of some capitalists stimulated a modest move toward "philanthropic housing." Nonprofit projects were developed in a number of cities in the early part of the 20th century, totaling several thousand units (Abrams 1946:170ff). By eliminating development and rental profits, the housing was slightly less expensive initially than speculative new housing. But with construction costs to be paid off from rents, the units were still more expensive than the tenements occupied by poor and working-class people, so the residents were mostly of middle-income. Had these developments remained out of the speculative market, by today, they might be debt-free social housing and hence much less expensive than speculatively owned apartments of the same vintage or newer. However, most were eventually sold. As Charles Abrams aptly put it (1946:175), "Philanthropy could no more solve the problem

of housing than it could solve the problem of poverty."

In the modern era, private nonprofit housing has evolved and expanded through several phases, in which the lessons of this historical experiment have been learned gradually and unevenly but sufficiently to hold the promise of an increasingly important role in the growth of the social sector of housing.

The most clearly identifiable and longest-lived component of modern nonprofit ownership consists of federally financed and subsidized Section 202 housing for the elderly and handicapped, a program created in 1959 as the first of a series of subsidized housing production programs for private development and ownership. Unlike all subsequent programs, though, 202 has from the outset been restricted to development and ownership by nonprofit (and public) entities. The result has been the emergence over the past four decades of a set of organizations specializing in such housing, although some regional and community-based nonprofits have included 202s among their broader housing repertoire.

Section 202 housing was financed through below-market direct federal loans until changed to capital grant financing by the Housing Act of 1990. Projects built since 1974 also receive Section 8 rental subsidies. In addition, an owner may not sell the housing into the speculative market, at least during the 40-year term of federal financing and regulation. And even in the rare instances of foreclosure, Section 202 projects have been transferred to other nonprofit owners. These features, together with the capital grant financing and supportive services provided by the 1990 Housing Act, make the 202 program a premier model of privately owned nonspeculative housing (see also Bratt 1989:184–185). As of the late 1990s, there were about 200,000 units of Section 202 housing (HUD 2000).

Unfortunately, there does not exist a well-established model of nonelderly housing that embodies all of the attractive features of 202 housing. During the 1960s and early 1970s, socially motivated nonprofit developers did produce nearly 200,000 housing units under the FHA Section 221(d)(3) and 236

interest-reduction programs that had been created primarily for profit-making developers. (Nonprofit production comprised over a one-fourth of the total under these programs—[Clay 1987:9].) However, many ended up defaulting on their mortgages (as did many profit-motivated owners but at a somewhat lower rate). The housing was taken over or resold by HUD, in some cases to speculative owners, so this experience does not offer the encouragement of provided by the Section 202 program. Also, apart from weaknesses in the federal programs themselves, nonprofit owners had to contend with inadequate resources, lack of experience, an unsympathetic HUD and the challenges of trying to serve and empower some of the neediest populations and communities (Bratt, 1989:185–191). Nonetheless, approximately three-fourths of these units remain in some form of nonprofit ownership.⁷

Beginning in the late 1960s, another type of nonprofit housing model was emerging, one that has proven much more successful at producing and operating housing under the government subsidy programs. However, in order to be successful, these housing providers have had to buy into many of the rules of profit-making development and stretched the meaning of nonprofit ownership. Community development corporations, regional housing development corporations and “intermediaries” providing technical assistance have been set up, with staffs that attempt to combine training and experience in business and finance with social concern. While these entities are themselves nonprofit corporations, and their housing commitment almost always is to permanent nonspeculative ownership, in order to benefit from the financial incentives provided through the Internal Revenue Code (notably the Low Income Housing Tax Credit), they have to enter into partnerships with profit-motivated investors. (See Chapter 16.)

When a nonprofit organization needs to market its housing plans to potential investors and also meet the underwriting criteria of mortgage lenders to obtain financing, the needs of prospective residents may at times have to be compromised. Once the housing is occupied, in order to maintain investor confidence in the

development and the organization, the housing may need to be managed quite conservatively in terms of tenants’ rights and rent levels. Even though these tensions may be mitigated with deep, income-determined subsidies, a nonprofit owner can face disturbing role conflicts between its obligations to the residents and the investors. Furthermore, because the tax benefits are of finite duration (typically 15 to 20 years, depending upon the type of tax benefit), down the road the investors will want to bail out when they no longer have any financial incentives. Unless the deal has been structured so that they can fully recover their initial investments as well as their profits from the tax shelters, the investors will expect to be bought out at this point—necessitating sale of the housing to owners who might turn it into market-rate housing, unless financing is available for the nonprofit or the residents themselves to buy out the investors.

In sum, the current prevailing model of nonprofit development and ownership might more properly be understood to be “quasi-nonprofit” or even “compromised nonprofit” ownership. Only if social financing replaces dependence on profit-motivated investors can the growing number of these community-based and regional nonprofit housing providers have a viable alternative to partnerships with profit-motivated investors and thus be able to achieve true social ownership.

Mutual Housing Associations

There is one other, more fully social model of nonprofit ownership—the mutual housing association (MHA)—that began in Europe over a century ago but has only emerged in the United States over the past two decades (Goetze 1987; Bratt 1990). One version, the federated MHA, consists of a group of resident-controlled limited-equity co-ops (see below) or nonprofit developments (Krinsky and Hovde 1996:10). The other version, referred to as an integrated MHA, has been promoted since the late 1970s by the Neighborhood Reinvestment Corporation (NRC) and differs from other models of social ownership in several significant respects.

First, the NRC mutual housing approach has deliberately eschewed outside profit-seeking

investors in order to avoid role conflict and possible pressure to sell the housing when the tax shelters run out. Second, NRC MHAs try to finance nearly all acquisition and development costs through upfront capital grants, although often they have had to use some debt due to limited availability of grant resources. Third, residents are expected to make a modest initial capital contribution (often waived for low-income people), which is recoverable with interest upon moving out but cannot otherwise grow and is not a marketable property interest; the goal is for residents to put up 5 percent of the total cost, with capital grants covering the rest. Fourth, a portion of each resident's monthly charges is supposed to go into a fund that will provide part of the capital grants for additional units, although generally only middle- to high-income residents pay high enough monthly charges to contribute to the capital fund. Fifth, the membership of each NRC mutual housing association consists of residents, prospective residents and local public and community officials. A majority of the governing board consists of residents and prospective residents, so the housing is largely owned and controlled collectively by residents. Sixth, organizational development is emphasized as much as the physical development of the housing, with residents required to participate and expected to take care of minor maintenance of their units, even though professional management is an integral part of the model. Finally, residents have lifetime security of tenure, as long as they meet their financial and other membership obligations and do not violate the rights of others. They may designate a family or household member as the successor to their unit but may not sublet; this ensures that every resident is an association member who is expected to participate in the organization.

Because of the experimental nature of this mutual housing model and because it has attempted to operate outside prevailing government programs and financing mechanisms, it has grown slowly and remains limited in scale despite early interest and enthusiasm. As of late 2002, there were only eleven NRC mutual housing associations that together owned about 8,300 occupied units (NeighborWorks Network 2005). Nonetheless, an encouraging analysis

found that mutual housing associations would be more cost-effective to the federal government than nearly any other approach in assisting very-low-income households on a long-term basis (Bratt 1990). Thus, despite its extremely small scale so far, there are compelling economic as well as social advantages to the mutual housing model. It is an emerging approach that comes quite close to realizing many of the goals set out here for true social housing.

Resident Security, Power and Control in Socially Owned Rental Housing

People who reside in housing owned by public agencies, nonprofit organizations and integrated mutual housing associations are legally tenants. Some people regard this as a fundamental weakness of these forms of ownership, as residents ostensibly have no opportunity to realize any of the psychological, social and economic benefits of homeownership. It is important, though, to challenge the notion of a sharp binary polarity, a great divide, between rental and ownership.

Even in the private housing market, neither tenancy nor homeownership is a unitary concept. And previously suggested, an alternative form of tenure under social ownership, in combination with no debt costs, can yield resident benefits that are competitive with conventional homeownership. Of greater subtlety and more immediate relevance, though, concepts of residential property have been undergoing considerable evolution so that the diverse forms of ownership, as well as their combinations and modifications in practice, have produced virtually a continuum on the dimensions of security of tenure, resident control and economic benefits.

For example, even in private rental housing the history of tenant organizing, legislation and litigation reveals that there are significant objective differences among tenancy-at-will, lease tenancy, tenancy with formal resident organization and collective bargaining, and tenancy with statutory and regulatory controls on conditions, evictions and rents.

Within existing subsidized rental housing, the history of public housing certainly

demonstrates how low-income residents can be disenfranchised, abused and degraded almost as much by public as by private landlords. Yet in public housing, as discussed earlier, organizing and advocacy led to legislative and administrative redefinition of the scope of residents' power and rights and the meaning of public ownership, even if some of these rights have been undermined since the late 1980s. Public owners have enforceable (though not always enforced, to be sure) legal, constitutional and financial obligations to residents greater than can be imposed on private owners. Thus, resident ownership is not necessarily the only or best route to greater power, security and control.

For tenants in private nonprofit housing and mutual housing associations, the legal leverage and claims on public resources are, of course, less than for public housing residents. However, the organizational circumstances are usually quite different as well. Certainly, some of the socially oriented nonprofits that developed subsidized housing in the 1960s and 1970s lacked the financial capacity and organizational ability to sustain their social commitment to their tenants. When HUD foreclosed on the federally insured mortgages, the housing came into the public domain, where the outcome for the residents has depended upon their political strength and skill. In the best of circumstances, such as Boston's Methunion Manor, with sophisticated organizing and technical assistance the residents were able to force HUD to absorb the outstanding mortgage debt and agree to provide financing for rehabilitation and guarantee rental subsidies for at least 20 years. After winning this agreement, they took title as a limited-equity co-op, at which point they were no longer tenants (Stone 1986).

In contrast with many of the early nonprofits, some community development corporations and all mutual housing associations have explicitly involved residents in decision-making and, in some cases, management and operation of the housing as an integral part of the philosophy of the organizations. In such situations, there is not only objective resident power and security of tenure but also a considerable sense of "ownership" in the psychological sense even if in formal legal terms the residents are tenants.

In addition, while residents do not build up any wealth through their housing, resident-savers can on average do as well financially as conventional owners, as explained above, depending upon the financing and cost structure of the housing.

Furthermore, residents of participatory nonprofit rental housing can in principle have as much autonomy to fix up and change their units as do residents of physically equivalent limited-equity co-ops or condominiums. Finally, what must be weighed against some formal differences in legal status between participatory social rental and nonspeculative homeownership are differences in financial risk. In the contemporary situation of ownership by a community development corporation, mutual housing association or regional nonprofit housing corporation, the ownership entity transcends not only the individual unit but also the particular building or development and usually is connected to an infrastructure of intermediaries that have provided financial and technical assistance. This means that the residents, most of whom are low-income people, do not have to carry fully by themselves the cost burdens of unanticipated housing problems or changes in their own economic circumstances or of their fellow residents, in contrast with individual private ownership.

Along most dimensions, being a tenant in socially owned rental housing is not necessarily inferior to being a nonspeculative homeowner—or speculative owner. It may have real advantages and attractions not only for those of low or moderate income but for many of those with higher income as well.

NONSPECULATIVE HOMEOWNERSHIP

Limited-Equity Cooperatives

As of 2003, there were approximately 1.2 million housing units under cooperative ownership in the United States. About 425,000 of these are limited-equity or zero-equity co-ops, of which over one-half are in New York. The remaining 765,000 are market-rate cooperatives (National Association of Housing Cooperatives 2003). The latter group includes 550,000 conversions from

rental housing, mostly in New York City, similar to condo conversions in other parts of the country. The other 215,000 market-rate co-ops are mostly middle-income developments that originally had resale restrictions but in most cases now permit members to sell their shares at the market price.

During the 19th century, programs for cooperative ownership of workplaces and residences were integral parts of the utopian and revolutionary critiques of capitalism in the United States as well as in Europe. In this country, as early as 1869, Melusina Fay Peirce advocated cooperative residential neighborhoods as part of a vision she shared with many feminists and some socialists who saw a seamless connection between the public and private and the productive and reproductive realms in a radically transformed industrial society (Hayden 1984:29, 72–74). However, the earliest U.S. co-ops (in New York between 1876 and 1885) did not embody this radical vision but were instead a form of homeownership for high-income urbanites, presaging modern luxury co-ops and condos (Siegler and Levy 1987:14).

It was not until the 20th century that the first nonspeculative, socially oriented co-op housing was developed. Most of these were in New York City and under union auspices. In the early part of the century, several workers' housing cooperatives were developed (Abrams 1946:181; Siegler and Levy 1987:14), but most did not last. In the late 1920s, New York State passed a limited-dividend housing law that, among other things, facilitated co-ops for moderate- to middle-income people (Siegler and Levy 1987:14). One of the first was the Workers Cooperative Colony in the Bronx developed by the Amalgamated Clothing Workers. With the first units completed in 1928, it grew eventually to 1,400 units and still remains a co-op (Wright 1981:198–199; Hayden 1984:91; Siegler and Levy 1987:14; Krinsky and Hovde 1996:18). However, despite state tax exemptions, the co-ops developed by labor groups in New York were affordable only to higher-paid workers. Furthermore, subletting and turnover tended to undermine the socially oriented philosophical foundations (Abrams 1946:181–182). During the 1930s, depression conditions led to increased

national interest in co-ops, but postwar era ideological and economic conditions shunted co-ops to the margin of housing policy (Leavitt 1995).

While these early housing cooperatives were structured to assure continued affordability to members of the affinity group, there is nothing intrinsically nonspeculative about cooperative ownership. In any co-op, the housing is owned by a corporation made up of "cooperators," with each share in the corporation corresponding to either a particular dwelling unit or a proportion of the square footage of the entire building. Unless explicitly defined otherwise, a share is a marketable commodity that may be sold for whatever the owner can get. Furthermore, although ownership of co-op shares is not legally equivalent to ownership of the dwelling unit, for income-tax purposes the Internal Revenue Service (IRS) allows each share owner to deduct the pro-rata share of mortgage interest and property taxes attributable to that unit. In addition, unless the co-op agreement requires the owner of shares to be a resident of the unit, an owner may sublet the unit and charge whatever the market will bear.

Within this framework, the distinctly limited-equity form of co-op emerged as a housing strategy for helping to maintain long-term affordability and resident control for people of moderate if not low income. In a limited-equity co-op, the share price is set by formula, not by the market, in order to restrict or eliminate any speculative gain. The co-op corporation retains a first-option right to purchase a departing member's share at the formula price. In addition, occupancy and share ownership are generally coterminous—apart perhaps from approved temporary subletting—in order to prevent "landlordism" and to ensure that residents are people who have a legal and financial stake in the housing.

Interestingly, the growth of interest in the limited-equity co-op model over the past two decades does not simply hark back to the early co-ops. It also rests upon a substantial but little known historical foundation of several hundred thousand co-op units developed in the three decades prior to 1980. The great majority of these were unsubsidized, middle-income cooperatives, with federal or state government

mortgage insurance or financing. In addition, an entire infrastructure evolved to undertake development and provide technical assistance, services and training for co-op housing (Siegler and Levy 1987:16–19; National Association of Housing Cooperatives 1990). Indeed, after World War II, some progressive housers advocated a large-scale co-op program as part of urban redevelopment, to complement public housing for households who could not qualify for the latter and as a model for eventual conversion of public housing to resident control (Abrams 1946:179–187). However, as indicated above, from the mid-1950s until the mid-1960s, interest in co-ops by middle-income households waned in the face of “anti-collectivist” ideology and the suburban triumph.

In the late 1960s and the 1970s, several factors led to renewed interest in nonspeculative housing cooperatives, within a rather different political and economic context. The emphasis on community control and resident empowerment in the federal antipoverty program (and in response to the urban riots) contributed to the eligibility of co-ops for federal housing subsidies. About 60,000 co-op units were created under the HUD Section 221 and 236 programs between the mid-1960s and mid-1970s (National Association of Housing Cooperatives 1990). Also, the emergence of the modern women’s movement rekindled interest in co-ops—integrally connected with supportive services, as in the 19th century feminist notions—as a residential model especially well suited to the needs of single women (young and elderly) and women as single parents (Hayden 1984; Novac and Wekerle 1995).

In addition, wholesale disinvestment and abandonment of vast amounts of housing in major cities across the country led to some spontaneous, grassroots building takeovers of unoccupied buildings and resident operation of occupied buildings. Especially in New York City, where effective title of many thousands of buildings passed to the city, the movement demanded not only rehabilitation but also title to the buildings as limited-equity co-ops (Kolodny 1973, 1986; Schuman 1986; Lawson and Johnson 1986; Leavitt and Saegert 1990). However, since the late 1970s, the limited-equity

co-op movement has been impelled rather less by the housing needs of the very poor than by declining opportunities for conventional (or even condominium) homeownership among moderate- to middle-income people. Over this period, about 150,000 additional limited-equity co-op units have been developed, with more than one-half of these being in New York City (National Association of Housing Cooperatives 2003).

Ironically, the ideal of resident control in a limited-equity co-op includes the risk that the residents may at some point reorganize as a market co-op. Because cooperatives are legally autonomous corporations, this possibility is real and has been occurring (Levy 1997). Only if the co-op incorporation documents preclude such dissolution, or if there is an entity that has some legal leverage and a broader public interest, can this risk be avoided. Where there is public involvement—through, say, mortgage insurance, publicly donated land or public grants, loans or subsidies—then contractual requirements or deed restrictions can protect the limited-equity requirement indefinitely. The strongest legal protection of permanency, though, is through ownership of the land by a government agency or broadly based community land trust (described in the next section). Under such an arrangement, the co-op corporation owns the structures but leases the land, with the ground lease stipulating retention of the co-op’s limited-equity character.

Nonspeculative co-op units have been created through both new construction and building conversions. Most have involved multifamily structures, but some, such as the Route 2 Co-op in Los Angeles (Heskin 1991), include one-family houses. While income mixes vary, including some low-income and some higher-income people, the middle range prevails. Although some public programs and public funds in the form of land, loans and grants have often assisted, financing has generally come from quasi-public mortgage lenders (such as state housing finance agencies and the National Cooperative Bank) that offer terms slightly below market. Each co-op has tended to be unique, not only in the circumstances that led to its creation but also in the resident mix, the financing sources and

terms, and the limited-equity formula (Heskin and Leavitt 1995). While this uniqueness reflects an encouraging creativity and resourcefulness, it also makes more difficult policies that could facilitate more rapid expansion of the model.

Limited-equity and zero-equity co-op housing constitutes one of the three main pillars of social housing in the United States, the other two being public housing and nonprofit housing. The cooperative model can make a significant contribution to a Right to Housing—and realize the vision of cooperation not only in legality but in living—but only when it achieves strict equity limitation, permanence in non-speculative ownership and transcendence of debt and tax-syndication financing.

Ownership with Community Land Trusts

While the origins of most of the other models of non-speculative ownership are primarily urban, the community land trust (CLT) has rural roots. These traditions include Native American concepts as well as several 19th century movements, most notably utopian socialist experiments in common ownership of land and other productive resources; Henry George's notions of land as the principal locus of unearned wealth and social exploitation; and aristocratic support for nongovernmental nature preserves and parks (e.g., the Audubon Society, the Massachusetts Trustees of Reservations).

Yet, despite its roots, the land trust movement that began in the 1960s and has been growing at an accelerating rate since the late 1970s does not seek to restore a vanished past or opt out of modern society. It operates within, while seeking to transform, contemporary real estate law. It is concerned with the active productive uses of land, including but not limited to residential use, in opposition to speculative holding and use of land. It is, in this sense, concerned with issues of responsible and active land use and planning, rather than preservation per se and resistance to development. And it seeks to use land tenure as the organizing locus for the expansion and realization of democratic decision-making (Institute for Community Economics 1982:Chapter 1; Davis 1984; White and Matthei 1987; Krinsky and Hovde 1996).

The model vests title to the land itself in a nonprofit community organization—the land trust—to be held in non-speculative ownership in perpetuity. Individuals are granted the right to use the land for their own benefit and with considerable individual autonomy. The formal legal link between the trust that owns the land and the people or organizations who use it is the ground lease, which grants lifetime or 99-year tenure (inheritable and renewable), subject to certain conditions. Thus, as it relates to housing, the form of ownership of the buildings may be anywhere on the ownership spectrum depending upon the terms of the ground lease under which the housing owners are allowed to use the land. In principle, the house owner could be a landlord renting the dwelling for whatever the market rent might be or a homeowner free to sell the house at the market price (exclusive of land). In practice, the land trust movement has been committed primarily to “permanently affordable homeownership” (Davis and Demetrowitz 2003), using the ground lease terms to enhance affordability, security of tenure, resident ownership and non-speculative transfer of houses in perpetuity. The actual form and conditions of ownership of the dwellings depend on the local context and individual circumstances.

Community land trusts acquire land by donation if possible, but often by purchase. Therefore, their immediate impact on the cost of housing depends upon their ability to obtain land at less than market prices, gain access to below-market financing for land acquisition that may include development as well and subsidize residents through resources the CLT receives as a charitable organization. Over the long term, housing costs are reduced primarily by preventing resale of the land and controlling the price at which the residential structures may be resold. As with other forms of non-speculative ownership, deep affordability remains constrained by continued dependence on debt financing and by residents' incomes.

The ways in which the community land trust approach distinguishes itself are, first, the dual ownership structure, which explicitly accepts individual property rights while establishing and protecting social or community rights. On the one side, the private ownership

of one's dwelling, opportunity to accumulate some wealth through homeownership and unrestricted right to pass the home to one's heirs enhance the appeal of the model by building on deeply rooted ideological traditions. On the other side, broad-based land trusteeship is intended to provide a legal and social framework for maintaining nonspeculative ownership forever. The goal is to strengthen established—though weaker—traditions of community, in ways that skirt popular skepticism about government. The second distinctive feature is the broader community development and land reform agenda, which, it is argued, can facilitate economic development and community empowerment and hence begin to address the income side of the affordability issue and aspects of the quality of life beyond just housing itself (Institute for Community Economics 1982:Chapter 2; Davis 1984:219–222; White and Matthei 1987:47–64; Krinsky and Hovde 1996).

However, just as each of the other social housing models faces certain fairly distinctive constraints, so does the CLT approach. First, because a CLT allows a leaseholder to own the buildings on the land, imposing a limited-equity and first-option resale restriction on building owners may lead to legal challenges as “restraints on alienation” (Davis 1984:223), although apparently this concern has been overcome (Institute for Community Economics 2001).

Second, because the supply of land that can be acquired through donation or below-market purchase will always be small, and the ability of CLTs to purchase substantial amounts of private land at market prices will always be limited, only a broader and more radical land reform agenda will enable the CLT movement to alter significantly the effects of land speculation on housing costs.

Finally, while the CLT model departs significantly from Henry George's 19th century proposals, the emphasis on land as the decisive element of wealth and power reflects some of the “Georgist” neglect of financial, industrial and commercial wealth and associated power in the modern world. Those people who do not own great wealth but have considerable economic security as members of the “upper middle class”

have not achieved their relative power and status because they own land, but through their occupational position. Their class, race, gender and associated educational opportunity have given them access to employment income that in turn has enabled them to accumulate equity in their residences (including the underlying land), not vice versa. There are compelling reasons for trying to remove land from speculative ownership, but real redistribution of power will require much broader redistribution of wealth, with land as only one and not necessarily the most decisive element.

Given the grandness of the vision, the recent emergence of the model and the lack of public programs and resources specifically for land acquisition, it is not surprising that the land trust movement is still modest in scale. Between the late 1960s and the mid-1980s, the number of community land trusts grew slowly, with some losses along the way; in 1985, there were fewer than 20. Since 1985, though, the growth has been substantial, reaching almost 50 in 1991 and 133 in operation or development by 2001 (Institute for Community Economics 2002). This upsurge has emerged directly out of the housing affordability crisis, as land trusts increasingly have been created in cities and towns, with “forever” housing as their primary focus. Although CLTs have been established in all parts of the United States, about one-half are in New England, which has experienced some of the most severe affordability problems and where grassroots organizing—both rural and urban—has long been a way of life.

In the entire country, there were only about 6,000 housing units on CLT-owned land as of the end of 2001 (Institute for Community Economics 2002). Nonspeculative housing under the CLT model is thus comparable in scale to mutual housing associations and orders of magnitude less than public, nonprofit rental and limited-equity co-op housing. Nonetheless, again analogous to mutual housing associations, the land trust emphasis on organizational development, participation and personal growth, along with the creation of permanently affordable homeownership housing, will undoubtedly make the model increasingly popular.

Resale-Restricted Individual Ownership

Since the 1980s, the principal response to declining opportunities for conventional homeownership has not, in fact, been promotion of social ownership programs but those public (and some private) programs to assist first-time homebuyers with mortgage financing at interest rates somewhat below market, "soft" second mortgages (i.e., deferred repayment), reduced or waived closing costs and proposals for tax-exempt or tax-deferred saving for downpayments. In addition, many localities have provided publicly owned land at little or no cost and offered below-market construction financing and even some partial capital grants to stimulate construction of below-market housing for homeownership. Because the participating homebuyer is able to obtain a house with below-market financing, possibly at a below-market price, most programs impose some resale restrictions in order to lessen the potential for owners to reap windfalls when they sell in the speculative market.

In most instances, however, the provisions are so weak that the housing may not be characterized as nonspeculative even for the initial owner, and generally the housing is fully in the speculative market with the second and subsequent owners. The weakest restrictions permit the owner to sell freely in the speculative market but then repay the subsidies out of the sales proceeds.⁸ While this supposedly enables the funds to be recycled to other buyers, repayment typically is interest-free (and inflation-free), and often the amount that must be repaid declines with time, so eventually no recapture occurs. Another approach places limits on the price for which the house may be sold, usually allowing an annual increment above the original purchase price equal to the overall rate of inflation or some fixed rate, such as 5 percent. The public agency then has a first option to purchase at this price or may require sale at this price to another qualified buyer. While this might appear to prevent speculative windfalls, it does not, because of the financial leverage involved in low downpayment residential purchases, even assuming modest market appreciation.⁹

Although rarely done in practice, there is no reason why the formula for resale-restricted individual ownership could not be a limited-equity formula comparable to those used in limited-equity co-ops. Under such circumstances, it would be possible to achieve nonspeculative individual ownership. There are, however, some legal and practical problems with the enforcement of most resale restrictions, whether mild or strong. Recapture provisions pose the least difficulty because they are easily secured through property liens, which pose no legal or enforcement difficulties, since the owner would not be able to sell without discharging the lien. Price, equity and first-option limitations are more problematical because they generally involve deed covenants, which in most states are legally limited in duration and enforceability.¹⁰ The best approach is thus to allow the buyer to own the house but not the land—to have the land owned by a land trust or public agency.¹¹

Some might wonder why a low-income family should be forced to accept a resale restriction, and especially a permanent limited-equity restriction, in order to achieve homeownership. Why shouldn't such households be permitted to accumulate whatever wealth the real estate market provides, just as higher-income households have been able to achieve? Are not resale restrictions a form of discrimination, against low-income homebuyers in general and homebuyers of color in particular, as the latter have for so long been denied homeownership through discriminatory sales and lending practices?

Certainly, any household who wishes to have unrestricted homeownership should be able to do so through conventional purchase and financing terms, without discrimination—but also without public or community financial assistance. If, however, a household receives downpayment grants, below-market loans and possibly deferred payment loans, that household is in effect entering into shared ownership with the community—the community thus legitimately having certain rights to the property. What does the homebuyer get from such an arrangement? First, access to homeownership, with the associated status and security of tenure that presumably would not otherwise be affordable. Second,

exclusive use and control of the living space—for instance, it is not necessary to share the space with the community “co-owner” nor be constrained by a landlord. Third, potential income tax benefits from the deductibility of mortgage interest and property taxes. Fourth, no rent payments on the community’s share of the property. Fifth, the opportunity to build wealth on the homebuyer’s share of the property. What does the homebuyer *not* get? The right to sell the community’s share and thereby appropriate for private gain the wealth that rightly belongs to the community. Nonspeculative homeownership, with permanent limited-equity resale restrictions, is thus not only not discriminatory but is more than fair to those who participate in it.¹²

INCREASING THE AMOUNT OF SOCIALLY OWNED HOUSING

How could the amount of social housing in our nation be expanded? There are a variety of routes, including:

- production of new housing, by nonprofit or public developers, or by for-profit developers for transfer upon completion to social ownership (see Chapters 16 and 17);
- preservation of existing subsidized rental housing, with transfer from for-profit owners to social owners (see Chapter 7);
- conversion of private rental housing, where owners are irresponsible or are otherwise willing to sell, through the use of receivership, eminent domain and tenant buy-out rights and assistance (see Stone 1993:228–231, 248–249);
- foreclosure protection and equity conversion as an option for low-income and elderly homeowners in return for their agreeing to current or future transfer to social ownership (see Stone 1993:226–228, 238–239; Stone 2002);
- permanent limited-equity resale restrictions with subsidized first-time homebuyer programs (see Stone 2002).

Historically, most of the social housing in the United States has been provided through

publicly subsidized new construction and substantial rehabilitation, even though this is the most capital-intensive, costly, time-consuming and complex of the available routes. Recently, however, considerable attention has been focused on strategies to preserve subsidized housing that was built by private developers in the 1960s and 1970s and convert it to true social ownership (see Chapter 7). However, to date, relatively little effort has gone into the other routes, which are surely the most cost-effective ways of achieving substantial increases in stock of social housing.

CONCLUSION

The notion that housing can be situated outside the speculative market has a long and established albeit constrained and little-recognized history in the United States. Various forms of nonspeculative ownership exist in practice, and real estate law continues to evolve to encompass new ideas and new economic and political realities. Each form of ownership has its trade-offs, its partisans and its critics. They differ in the degree to which they are truly and permanently nonspeculative and should be evaluated along these dimensions. Nonetheless, the various forms of socially owned rental and nonspeculative homeownership have a number of common components that distinguish them from both conventional rental and speculative homeownership and point toward true resident-controlled social ownership. The notion that housing should not and need not be a speculative commodity clearly is growing in legitimacy. As a practical matter, achievement of a Right to Housing will require that social housing not only become more acceptable in concept but will be greatly expanded in quantity and become the attractive alternative to conventional homeownership.

NOTES

1. The sources and methods used to arrive at the components of this estimate are included in the sections below on various types of socially owned housing.

Fewer than 3 million of this total consist of federally subsidized public and nonprofit housing units. The balance are nonspeculative units that either receive subsidies from state and local governments or no government subsidies.

2. This chapter is in part adapted and updated from portions of Stone (1993:Chapter 7, Chapter 9).

3. For a thoughtful philosophical analysis of the nature of property, critique of conventional notions of private property and proposal for an egalitarian alternative, see Christman (1994).

4. For social housing owned by public agencies or nonprofit organizations, grants could cover 100 percent of the acquisition or development costs. For limited-equity resident-owned housing, residents might make a small downpayment, with the rest of the cost covered by upfront grants. See the discussion below of the mutual housing association model, which uses this financing approach.

5. Approximately 20,000 units of public housing in the United States have actually been converted into zero equity or limited equity cooperatives (National Association of Housing Cooperatives 2003).

6. First, as indicated in the text, there were about 200,000 occupied 202 units in 1998 (U.S. Department of Housing and Urban Development 2000).

Second, under the Section 221(d)(3) BMIR, Section 236 and Rent Supplement programs, 192,000 units were originally under nonprofit ownership (Clay 1987:9). However, due to financial difficulties in both for-profit and nonprofit developments, HUD took over about one-fourth of all the units. While there are differing figures on how many remain in direct nonprofit ownership, how many are still held by HUD and how many have been resold to nonprofits (Clay 1987:9; U.S. General Accounting Office 1986:23; Achtenberg 1989:228–229), I estimate conservatively that at least 150,000 units originally produced under the programs are still owned by nonprofits.

Third, about 180,000 units owned by nonprofits were developed under various early unsubsidized FHA mortgage-insurance programs but subsequently received Section 8 subsidies, or, in a very few cases, other subsidies (U.S. General Accounting Office 1986:23). No hard data are available on how many are still part of the subsidized nonprofit inventory, but I am assuming at least 150,000.

Fourth, while there is virtually no official information on nonprofit ownership of units produced under the HUD Section 8 and HOME production programs, the best estimates come from studies of community-based developers. A 1998 census of such developers revealed that they have produced about 550,000 below-market units (National Congress for Community Economic Development 2000). Given the history of these organizations, most of these units have been rental housing. However, as Rachel Bratt points out

in Chapter 16, to some extent they have been producing units for homeownership. Without hard data, there is no way of knowing how many of the 550,000 CDC units are in the latter category, but it is probably less than 100,000. So, I am conservatively including 450,000 CDC units in the total of nonprofit rentals.

Fifth, the latter group of organizations does not include city-wide and regional nonprofits that do not fit the “community-based” definition. Such regional nonprofits have produced or preserved over 300,000 below market rental units (Housing Partnership Network 2002). It is likely that some of the at-risk subsidized housing such entities have preserved from going to market-rate rents includes some of the older nonprofit housing in the third category above. So to be conservative, I have assumed their net addition to the total below market “social” rental housing stock to be 250,000 units.

Combining the estimates for the five groups yields an aggregate estimate of 1,200,000 subsidized units in nonprofit ownership. Allowing for a margin of error of 100,000 units yields the text estimate of 1.1 to 1.3 million units.

Not included in this total are nonprofit rental units without subsidies developed under the various early federal mortgage-insurance programs. No estimates are available for the number of units in this category. Also not explicitly included in the estimate are Farmers Home Administration Section 515 subsidized rental units. There are about 300,000 units under this program (National Low Income Housing Preservation Commission 1988:17). It is not known how many are under nonprofit ownership, but it is possible that some if not most of these are included in the categories above. Note, finally, that the text estimate does not include nonprofit housing produced or acquired without federal involvement, either under state or local programs or with no government assistance at all. Again, no estimates are available for this category. It is thus likely that the actual total figure for nonprofit rental units is somewhat higher.

7. This is a very rough estimate based on anecdotal evidence, since no systematic accounting is available.

8. Consider, for example, the purchase of a \$100,000 house, involving the Massachusetts Housing Partnership “Soft Second Loan Program” (MHPP 2003). There is a requirement of a 5 percent down payment, but only 3 percent must be out-of-pocket; the rest may be a gift or grant. So suppose the household puts down \$3,000, with the rest as a grant. The remaining \$95,000 is financed through a conventional mortgage for \$75,000 and a below-market second mortgage for \$20,000, with payments on the second mortgage limited to interest only until the property is sold as well as a public subsidy of up to 75 percent of such interest

with partial repayment on sale. There is no restriction on resale price. To facilitate comparison, suppose conservatively that the price appreciated by 5 percent per year (in fact, Massachusetts prices have appreciated at a far greater rate). If sold after six years, the net appreciation would be \$33,000. Since 20 percent of this would have to be repaid, the household would be left with a net gain of \$26,400 as well as recovering their initial \$3,000—a compound rate of return of over 40 percent.

9. For example, suppose a moderate-income household is able to buy a house for \$100,000 with an out-of-pocket downpayment of \$2,000 and a resale restriction on price increases of 5 percent a year. Suppose they sell after six years: The price is \$134,000. Because this is a nonmarket sale, there will be no brokerage fee, but there will be other closing costs of no more than \$1,000. So they have recovered their original \$2,000 investment plus a gain of \$33,000 (and a modest additional amount for accumulated mortgage principal payments over the six years). This is a compound rate of return of 60 percent per year on their original cash investment!

10. However, Massachusetts has a statute (Mass. General Laws Chapter 184, Section 31), which defines an “affordable housing restriction” as “a right, either in perpetuity or for a specified number of years, . . . (a) limiting the use of all or part of the land to occupancy by persons, or families of low or moderate income in either rental housing or other housing or (b) restricting the resale price of all or part of the property in order to ensure its affordability by future low and moderate income purchasers or (c) in any way limiting or restricting the use of enjoyment of all or any portion of the land for the purpose of encouraging or assuring creation or retention of rental and other housing for occupancy by low income persons and families.” I do not know whether any other states have also explicitly created such a legal framework.

11. The first systematic evaluation of resale-restricted homeownership using the land trust model has yielded encouraging results (Davis and Demetrowitz 2003). The study of 97 resales of homes and condominiums of the Burlington (VT) Community Land Trust found, on the one hand, that the annualized rate of return on initial investment averaged 17 percent, yet on the other hand, affordability not only was preserved on resale, it was actually deepened: On average, at initial sale, the BCLT homes were affordable to households with 62 percent of area median income (AMI), while on resale, they were affordable to households at 57 percent of AMI.

12. There are no figures available for the number of non-CLT individual homeownership units (including condos) with long-term or permanent resale restrictions. It is unlikely, though, that it is more than a few tens of thousands.

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