

JUST HOUSING

THE MORAL FOUNDATIONS OF AMERICAN HOUSING POLICY

CASEY J. DAWKINS



Just Housing

Urban and Industrial Environments

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The Moral Foundations of American Housing Policy

Casey J. Dawkins

**The MIT Press
Cambridge, Massachusetts
London, England**

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The open access edition of this book was made possible by generous funding from the MIT Libraries.

The MIT Press would like to thank the anonymous peer reviewers who provided comments on drafts of this book. The generous work of academic experts is essential for establishing the authority and quality of our publications. We acknowledge with gratitude the contributions of these otherwise uncredited readers.

This book was set in Stone Serif and Stone Sans by Westchester Publishing Services.

Library of Congress Cataloging-in-Publication Data

Names: Dawkins, Casey J., author.

Title: Just housing : the moral foundations of American housing policy /
Casey J. Dawkins.

Description: Cambridge, Massachusetts : The MIT Press, 2021. | Series: Urban
and industrial environments | Includes bibliographical references and index.

Identifiers: LCCN 2020053009 | ISBN 9780262543071 (paperback)

Subjects: LCSH: Housing policy—United States. | Housing—Moral and ethical
aspects—United States.

Classification: LCC HD7293 .D33 2021 | DDC 174/.936355610973—dc23

LC record available at <https://lccn.loc.gov/2020053009>

publication supported by a grant from
The Community Foundation for Greater New Haven
as part of the **Urban Haven Project**

I dedicate this book to Mom and Dad, who made our house a home,
and Erin, who gave my heart a home.

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Preface

As I began to proofread the final draft of this book, the world changed. In March 2020, the COVID-19 pandemic forced everyone into their homes. The housing justice community mobilized for action on behalf of those without homes and those facing housing insecurity. Several local, state, and federal government agencies in the United States responded with policies that granted temporary relief from rental and mortgage payment obligations. In May 2020, George Floyd's brutal death at the hands of the Minneapolis police catalyzed a nationwide reckoning with the durable legacies of America's racist past and present. These events, combined with the disproportionate burden of COVID-19 borne by people of color, brought attention to structural injustices that are deeply embedded within America's institutions. A variety of proposals for reform that were only in their embryonic stages in summer 2020 will likely come into full view by the time this book hits the shelves. I hope that this book offers lasting advice to US housing policymakers seeking to incorporate the lessons from 2020 into policy reforms that will chart a path toward justice. As this book goes to press, these lessons have only begun to be revealed.

Acknowledgments

Most of my previous work dwelled in the realm of empirical housing and land-use policy evaluation. This book is a departure from that. The idea for the book originally came from my work in the fair housing arena, where advocates are currently engaged in a spirited debate about the scope of the Fair Housing Act's mandate to affirmatively further fair housing (Fair Housing Act of 1968, § 808). I quickly learned that this debate was one among many that could not be resolved with additional empirical data on the consequences of policy alternatives. The most interesting debates to me are those that boil down to disagreements over the moral foundations of housing policy that test the limits of consequentialist reasoning.

This book is my attempt to bring clarity to these debates. It would not have been possible without the support and encouragement of friends, family, and a large community of scholars. I am particularly grateful to my friends and family, without whom it would not have been possible to write a book about home's special meaning and significance. In addition to providing emotional support throughout the writing process, Erin Riley gave several constructive editorial suggestions. Kyle Dawkins offered valuable artistic advice on the book's cover. I am also indebted to my academic home, the University of Maryland School of Architecture, Planning, and Preservation (MAPP+D). I offer a special thanks to our current dean, Don Linebaugh, and former deans, David Cronrath and Sonia Hirt, for providing the resources and support to bring this book to completion. Gerrit Knaap and the National Center for Smart Growth were instrumental in helping me secure funding to support the development of several of the book's ideas.

This book is the culmination of numerous spirited conversations about the moral foundations of housing and land-use policy. These conversations

have included too many scholars and advocates to list, but my doctoral advisor and coauthor, Chris Nelson, deserves special recognition for his support and encouragement over the years. My ideas have also been shaped by many conversations and engagements with the ideas of Andrew Aurand, Michael Bader, Howie Baum, Ariel Bierbaum, David Bieri, Raphael Bostic, Karen Chapple, Michael Elliott, Lance Freeman, George Galster, Ed Goetz, Andrew Greenlee, Sonia Hirt, Derek Hyra, Keith Ihlanfeldt, David Imbroscio, Dan Immergluck, Seema Iyer, Larry Keating, Gerrit Knaap, Ted Koebel, Rob Lang, Willow Lung-Amam, Brian McCabe, Kirk McClure, Myron Orfield, Kurt Paulsen, Rolf Pendall, Jessie Richardson, Bill Rohe, Barbara Samuels, Tom Sanchez, Ben Scafidi, Jenny Schuetz, Lisa Schweitzer, and Ron Sundstrom. I owe a special debt of gratitude to my students, who added the right amount of seasoning to the uncooked versions of the ideas expressed in this book. Others, too numerous to mention, have shaped my ideas through their written work. Their influence can be found in the book's citations. I thank the MIT Press editors and anonymous reviewers for numerous suggestions that greatly improved the book. I also owe a debt of gratitude to Laurie Prendergast, who prepared the index. The words on these pages are my own, but countless conversations about housing policy and justice have given the words meaning. This book is derived in part from material previously published in the following journal articles:

- Dawkins, Casey J. 2017. Autonomy and Housing Policy. *Housing, Theory and Society* 34 (4): 420–438. Published online January 8, 2017. Copyright IBF, The Institute for Housing and Urban Research, available online at <https://doi.org/10.1080/14036096.2016.1274679>.
- Dawkins, Casey J. 2017. Putting Equality in Place: The Normative Foundations of Geographic Equality of Opportunity. *Housing Policy Debate* 27 (6): 897–912. Copyright Virginia Polytechnic Institute and State University, Metropolitan Institute, available online at <https://doi.org/10.1080/10511482.2016.1205646>.
- Dawkins, Casey. 2018. Toward Common Ground in the U.S. Fair Housing Debate. *Journal of Urban Affairs* 40 (4): 475–493. Published May 19, 2018, Copyright Urban Affairs Association (<https://urbanaffairsassociation.org/>), reprinted by permission of the publisher (Taylor & Francis Ltd, <http://www.tandfonline.com>), available online at <https://doi.org/10.1080/07352166.2017.1310595>.

- Dawkins, Casey. 2020. Realizing Housing Justice through Comprehensive Housing Policy Reform. *International Journal of Urban Sciences* 25 (S1): 266–281. Copyright Institute of Urban Sciences, University of Seoul, available online at <https://doi.org/10.1080/12265934.2020.1772099>.
- Dawkins, Casey. 2020. The Right to Housing in an Ownership Society. *Housing and Society* 47 (2): 81–102. Copyright Housing Education and Research Association, available online at <https://doi.org/10.1080/08882746.2020.1722055>.

I Foundations

Introduction

I do not believe the American economy is strong when home foreclosures are now the highest on record, turning the American dream of homeownership into a nightmare.

—Bernie Sanders (2007, 1:17)

America is not so much a nightmare as a non-dream. The American non-dream is precisely a move to wipe the dream out of existence.

—William S. Burroughs, “From the Job” (1998, 289)

For the growing number of Americans who are homeless, lack safe shelter, or spend the majority of their monthly paychecks on rent, the American dream of home is a mirage. On a single night in 2019, nearly 568,000 people were homeless. Homelessness has risen for the third year in a row, following a six-year decline, because of increases in the number of people living on the streets or in unsheltered locations (Henry et al. 2020). The number of households experiencing severe housing problems has increased by 36 percent since 2001 (Watson et al. 2020).¹ For nearly one-quarter of all renters and more than half of renters with very low incomes, housing costs now account for more than half of household expenditures, yet only one-quarter of those eligible for federal housing assistance actually receive it (Watson et al. 2020).²

The problems of homelessness and housing insecurity are manifestations of two broader trends: rising housing inequality and a growing shortage of affordable homes. Since 1970, the price gap between the most and least expensive American homes has grown, in part because of increasing housing market segmentation within cities (Albouy and Zabek 2016).

Although housing production outpaced household growth between 1982 and 2010, completions and placements of new housing units barely kept pace with household growth between 2011 and 2018. Since 2011, the number of homes renting for less than \$800 per month has declined by 4 million units (Joint Center for Housing Studies of Harvard University 2019). Today, those earning below 30 percent of their area's median income face a shortage of 7 million rental homes that are affordable and available for rent (Aurand et al. 2020).

The housing affordability crisis comes on the heels of a foreclosure crisis that erased years of accumulated home equity and forced 7.8 million households into foreclosure (CoreLogic 2017). The foreclosure crisis hit Black and Hispanic families particularly hard. Between 2007 and 2009, nearly 8 percent of homes that had been recently purchased by Black and Hispanic homebuyers were lost to foreclosure. During the same period, only 4.5 percent of homes recently purchased by white families were lost to foreclosure (Bocian, Li, and Ernst 2010). Racial and ethnic differences in foreclosure rates have exacerbated the racial and ethnic wealth gap. Between 1983 and 2013, median Black household wealth fell by 75 percent, and median Hispanic household wealth dropped by 50 percent. Over the same period, median white household wealth rose by 14 percent. By 2013, the median white household wealth of \$116,800 was 58.4 times larger than median Hispanic household wealth and 68.7 times larger than median Black household wealth (Asante-Muhammad et al. 2017). In the same year, 5.5 percent of white homeowners owned homes worth less than the value of the outstanding mortgage principal owed, while 14.2 percent of Black homeowners and 12 percent of Hispanic homeowners owned homes with negative equity (Wolf 2014).

Matthew Desmond's *Evicted: Poverty and Profit in the American City* (2016) paints a vivid portrait of the human costs of housing insecurity. For Scott and Patrice, two protagonists in Desmond's ethnography, housing is more than four walls and a roof; housing is the key to economic stability. After Scott secured a bed in the Guest House, an 86-bed homeless shelter in Milwaukee, he was finally able to receive regular methadone treatments for his narcotics addiction. Eventually, Scott became a resident manager of the Guest House and received a subsidy to offset the cost of renting a unit at the Majestic Loft Apartments. The stability of his new home life enabled Scott to develop and pursue a five-year plan that culminated in a return to the

nursing profession. After years of living in “rat holes,” Patrice secured stable housing, earned her GED, was named Adult Learner of the Year, and went on to enroll in a local community college to pursue a career in law enforcement. The key to Desmond’s stories is the chain of causality. Housing (in)security fosters employment (in)stability, not the reverse.

In addition to providing a platform for economic stability and mobility, housing enhances human health and well-being. Those who are homeless are more likely to fall ill, require hospitalization, and die at a much younger age than the general population (Maness and Khan 2014). While finalizing this book, I was reminded of these connections daily, as the COVID-19 pandemic required me to stay at home to protect myself and my loved ones from exposure to a deadly virus. I was also reminded of the health risks facing those without homes, who were asked to “shelter in place” despite having no place to call their own.

The US Congress first acknowledged the intimate links between housing and human well-being and prosperity in 1937, when in the Housing Act of 1937 it adopted legislation designed to “promote the general welfare of the Nation” by eliminating “the unsafe and insanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income” (Housing Act of 1937, 42 U.S.C. § 1437). Twelve years later, the Housing Act of 1949 established the national goal of providing “a decent home and suitable living environment for every American family” (Housing Act of 1949, 42 U.S.C. § 1441). Today, many are calling for fundamental reform of the federal housing policies enacted during the first half of the twentieth century. One recent poll found that 60 percent of Americans view housing affordability as a serious problem in the places where they live (Badger 2019). Some consider the housing affordability crisis America’s next big political issue. In the race to secure the Democratic Party’s nomination for the 2020 presidential election, several candidates offered bold proposals for sweeping reforms of America’s federal housing policy infrastructure (Schneider 2018b).

An emerging “housing justice” coalition views America’s inability to deliver on its 70-year-old promise as a moral failing. In cities across America, grassroots advocates carry signs that read “cancel rent,” “save our homes,” and “housing is a human right” to draw attention to exorbitant rents, gentrification-induced displacement, and home evictions. Applying a twist to the NIMBY (not in my backyard) acronym given to affordable housing

opponents, a new generation of YIMBY (yes in my backyard) advocates is calling for fundamental reform of local and state laws that constrain the supply of affordable housing. Other housing justice advocates demand PHIMBY (public housing in my backyard). The contemporary housing justice movement is a big tent that provides shelter to a loose coalition of right to the city advocates, housing rights advocates, civil rights advocates, and human rights advocates who believe that the government has a moral obligation to provide adequate housing to everyone living on US soil.

Behind the unity veil, housing justice advocates remain divided over the question of means. Some housing advocates seek judicial remedies to housing injustices, while others pursue statutory reforms. Some call for an expansion of subsidies for affordable housing production in the neighborhoods where low-income households live (Goetz 2003), while others favor tenant-based rental subsidies that enable low-income households to move to different neighborhoods (DeLuca and Rosenblatt 2017). Virtually all fair housing advocates endorse the goal of eliminating unfair forms of housing market discrimination, but some question the spatial objective of integrating neighborhoods by race and ethnicity (Goetz 2018).

Two recent events highlight these divisions. In response to the growing housing affordability crisis in the state of California, state senator Scott Wiener introduced Senate Bill (SB) 827 in 2018, which would have granted the state authority to override local zoning to permit the construction of high-density affordable housing near transit stations. YIMBY advocates offered their full support for the bill, while tenants' rights organizations and PHIMBY advocates opposed it. Tenants' rights organizations argued that removing regulatory impediments to private-sector housing development would only foster gentrification and displace low-income residents of color. In their opposition to SB 827, tenants' rights organizations found themselves politically aligned with the same NIMBY opposition groups they had previously opposed (Schneider 2018a).

Now consider another battle in the city of Houston. For years, the state of Texas has been under the national spotlight for violating federal fair housing laws in its Low-Income Housing Tax Credit (LIHTC) program. In January 2017, nine days before the inauguration of President Donald Trump, the US Department of Housing and Urban Development (HUD) notified the city that its rejection of a permit for a subsidized housing project in a

majority-white neighborhood violated federal civil rights laws by maintaining existing patterns of racial segregation and giving too much weight to the racially motivated concerns of white neighbors. In March 2018, HUD and Houston agreed on a residential mobility and housing assistance plan coordinated with the city's Hurricane Harvey recovery efforts. Housing justice advocates objected to the plan, citing the agreement's weak enforcement provisions, which would not have reversed the city's historical policy of siting affordable housing in segregated neighborhoods. Attorneys for the Texas Low Income Housing Information Service later filed a lawsuit against HUD and Houston in a federal district court, threatening to block Houston's receipt of federal disaster recovery funds (Elliott 2018).

Conflicts such as these threaten the unity of the housing movement at a time when the more significant threat to housing security is America's historical opposition to government-sponsored low-income housing programs. Since the nation's founding, Americans have been suspicious of government actions that tread on private property rights. Conservative critics opposed the New Deal-era public housing program and have consistently rejected bills funding it. The objections of conservatives gained steam during the 1970s, following reports of rampant corruption in HUD-administered mortgage subsidy programs (Welfeld 1992). During the 1980s, President Ronald Reagan slashed HUD's budget authority, and the agency still has not recovered (Schwartz 2015). Today, libertarians argue that government regulations and housing subsidy programs that restrict and crowd out the supply of private-sector housing are to blame for the housing affordability crisis (Glaeser and Gyourko 2008).

Conservatives are not the only opponents of government-sponsored low-income housing programs. Many progressives who fought for social justice and environmental causes during the 1960s now lead grassroots NIMBY campaigns against affordable housing (Fisher 1994). In Seattle, one of America's most progressive cities, residents objected to a proposed tax that would have funded the provision of services for the city's homeless population. Homeless people and their representatives were verbally chastised during a public discussion of the tax proposal (Hobbes 2019). NIMBY opposition to affordable housing is a bipartisan issue, and the language of social justice has been appropriated both to support and to oppose policies designed to address the affordable housing crisis.

To offer a compelling rebuttal to the critics of low-income housing policies, housing advocates must do more than simply assert that housing is a human right or a matter of justice. If the content of the right to housing is left unspecified, and no one is responsible for satisfying the right through the provision of shelter, the right to housing becomes an empty “manifesto right.”³ The idea that housing occupies a separate sphere of moral concern raises several questions. How is housing any different from other goods distributed by economic institutions? If housing is not “special” in some morally significant way, why modify “justice” with the word “housing?” If housing is special, how does housing justice relate to other spheres of moral concern? Is housing justice right based? If housing justice requires the recognition of a right to housing, how does this right relate to the right to own private property? Is housing “just” if everyone has a roof over their head, or does housing justice also require the elimination of housing inequality?

This book is for those who seek answers to these questions, including advocates, policymakers, scholars, and anyone seeking to understand and critically evaluate the moral arguments that inform American housing policy. I draw on the moral and political philosophy literature to advance the thesis that the solution to contemporary housing crises lies in reform of the very institution that creates those crises. Property rules foster housing insecurity by legitimizing the exclusion of nonowners, but the institution of private property offers a distinctive solution to the problem it creates. I argue that housing justice does not require abandoning private property or rejecting private property’s liberal philosophical foundations, but it does require distributing rights to the occupancy and use of residential property more broadly while simultaneously limiting the right to earn income from the ownership of residential property. Progressive Era critiques of private property foreshadowed new hybrid tenure arrangements that can be part of the solution to contemporary housing injustices, but progressive reformers’ aim of elevating the common good over individual rights blinded them to the possibility that the solution to housing crises lay hidden within the very institutions they rebuked. In this book, I defend a right-based conception of housing justice that combines elements of liberalism, republicanism, progressivism, and pragmatism to offer a justification for, rather than an objection to, private property.

Overview of the Book's Organization

The contemporary quilt of local, state, and federal housing policies cannot be understood apart from the inherited legacy of generations of policy experimentation, shaped by evolving social conceptions of housing and property. This book weaves a history of ideas with interpretive policy inquiry and philosophical analysis to make sense of the intellectual traditions that have shaped American housing reforms. The book's historical investigation sets the stage for a philosophical analysis of the moral foundations of housing policy.

Chapter 1 explores the application of the "materials" of justice—conceptions of value, principles, grounds, and bases—to normative questions pertaining to the distribution of housing. I argue that certain contextual conditions influence housing's distribution and valuation, and these conditions call for an approach to justice that considers housing's distinctive qualities. I also examine the American home's social meaning, particularly as embodied in the ideal of the owned single-family detached home. I argue that while the social meaning of housing provides insights into the moral foundations of housing policy reform, social meanings are not monolithic. A conception of housing justice should be robust enough to accommodate a variety of social meanings.

Part II of the book explores the historical evolution of the American housing reform tradition, emphasizing the social meaning of housing and property as interpreted by America's liberal and republican political traditions. Although reformers did not view housing as a separate policy domain until the late nineteenth century, America's founders believed in the sanctity of home and the natural right to landed property. The framers enshrined these ideas in the US Constitution, despite holding different views of how to distribute property to promote republican values.

Housing reformers assembled the patchwork quilt that is America's federal housing policy apparatus from layers of housing and land-use policies enacted over time. During the nineteenth century, radical land reformers proposed policies designed to foster a more egalitarian distribution of landed property. As America's economy transitioned from an agricultural to an industrial base, the separation of home from work elevated the importance of land devoted to residential uses. Rapid urbanization during the late nineteenth century created a shortage of safe and sanitary working-class

housing, and social reformers responded with various strategies designed to improve housing conditions and promote homeownership. During the Great Depression, housing construction and mortgage credit came to a grinding halt, and President Franklin D. Roosevelt wrapped housing into a package of economic stabilization and stimulus programs known collectively as the New Deal. By the 1960s, a new generation of right-based reformers fought to dismantle the legacy of decades of discriminatory housing policies that had segregated urban neighborhoods and concentrated urban poverty. Since the 1970s, the US government has been slowly dismantling its New Deal-era housing welfare state, and housing advocates have responded with appeals to housing justice.

The evolving sociocultural understanding of housing and property shaped each of these reform traditions. Social reformers responded to housing crises with solutions that challenged conventional understandings of property and housing while introducing new roles for government in the production and distribution of housing. Despite changes in American conceptions of housing and property, the owned single-family detached home has endured as the physical embodiment of American values. Thomas Jefferson's yeoman republic, nineteenth-century land reforms, Progressive Era housing regulations, and the New Deal-era federal housing policy apparatus were all designed in part to promote and protect the ideal of the owned single-family detached home. The American embrace of a single housing type has been both a blessing and a curse. Advocates have appealed to the ideal of the owned single-family detached home to expand access to middle-class housing while simultaneously denying housing to low-income persons of color.

While America may be exceptional in its love affair with private property and detached housing, American conceptions of property and home are the product of an international exchange of ideas. America's founders studied British political philosophy, and Europeans saw America as the blank canvas on which to paint European Enlightenment ideals. As John Locke wrote in the late seventeenth century, "Thus in the beginning all the World was *America*" (Locke 1980 [1690], 29; italics in the original). During the early twentieth century, American progressives borrowed European ideas, and the US government exported American homeownership strategies to developing nations during the Cold War era (Kwak 2015).

The historical discussion in part II sets the stage for an exploration of housing justice in part III of the book. Chapter 6 defends a right-based conception of housing justice that is grounded in the ideal of civic equality, understood as an ideal where every citizen is treated as an equal in accordance with a shared understanding of what citizens owe one another and what the government owes its citizens. Chapter 7 explores the implications of civic equality for the injustice of tenure insecurity. I argue that an acceptable defense of private property must appeal to the interests of those whose tenure is made insecure by the institution of private property. I propose that a “secure tenure” property regime, structured to extend the right to secure tenure to everyone, responds to this challenge.

Chapter 8 completes the circle by demonstrating how to extend the right to secure tenure to everyone in a way that is consistent with civic equality and social justice more broadly. I argue that civic equality justifies housing policy reforms that guarantee housing security and reduce housing inequality in a manner that is tenure neutral. My proposed “negative housing tax” is designed to achieve these aims by altering the income tax treatment of housing to fund a guaranteed housing allowance. After describing the justifications for and complications that arise from the negative housing tax proposal, I examine additional issues raised by the spatial geography of housing affordability. I also explore the relationships between housing justice and social justice writ large, bridging the gap between housing justice and racial justice while exploring the complementarities and conflicts between the right to housing and the right to the city. The final chapter summarizes the book’s main arguments and offers concluding observations.

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