

Enclosure, common-right and the property of the poor.

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*'Before we can reclaim the commons
we have to remember how to see it' (Rowe, 2001, no page)*

While considerable research has been conducted into the dynamics of commons in rural settings, we still know very little about common property within cities. Given the hegemony of certain models of property, the urban commons has been overlooked and ignored. Urban commons do not look like property to us. This can lead, I argue, to real injustice.

Based, in part, on empirical research in Vancouver, I attempt to map out the urban commons of the poor, particularly in relation to the dynamics of inner-city gentrification. Produced through intensive patterns of use and collective habitation, this commons is fiercely moral, reliant upon political claims, and the exclusion of interests that threaten enclosure.

For inner city activists contesting displacement, the commons is real. As such, gentrification, and related dynamics, can usefully be thought of as forms of enclosure, or what David Harvey terms 'dispossession by accumulation'. I conclude by asking what urban policy, political praxis and property theory might look like, if it acknowledged the collective property interest of the poor in the inner city commons.

¹ This paper builds upon the argument in my recent book, *Unsettling the city* (Routledge, 2004) by taking the commons more seriously. Versions were presented at the *Living out the metropolis* series at St John's College, University of British Columbia, in November 2004, at the 'Commons' symposium at University College London, in July 2005, and at a 'work-share' at the Law, Societies and Justice Centre at the University of Washington in September 2005. I am grateful for the comments made in these intellectual commons. Thanks also to Janet Sturgeon, Sean Robertson and two anonymous reviewers for helpful advice.

1. Woodward's belongs to us.

In May 1995, a poster appeared in Vancouver's Downtown Eastside. It called upon residents to bring a bucket, a broom and a friend to the site of the Woodward's store, closed since 1993. People gathered, and began sweeping the streets and cleaning windows. At a subsequent gathering, participants painted the store, decorating the windows with images of flowers, mountains and slogans. I was one of the painters.

Cleaning and painting are both particularly domestic acts. They are the sort of thing one does to one's own home. In part, I will suggest, this was the point. The protests were prompted by a proposal from a private developer, Fama Holdings, whose CEO was Kassem Aghtai, to build 350 condominium units in the site. This was locally opposed, in part because of a fear that it would lead to an escalation of property values, intensified redevelopment of the surrounding real estate and the unchecked displacement of the poor. However, it was also opposed on the grounds that Aghtai, to quote a protest leaflet, was 'taking land that had been in the community for decades'.

Woodward's is located in the heart of the Downtown Eastside, a poor neighbourhood with a long history of activism and opposition around issues of land, redevelopment and gentrification. This reflects the fact that a significant number of the residents are tenants of residential hotels with limited security of tenure. Located just to the east of Vancouver's downtown core, on land zoned for high density, rich with 'heritage' style buildings, the affordable housing stock of the Downtown Eastside has come under increased pressure. Long characterized as a marginal, anomic and mobile zone, activists have long (and often successfully) invoked a language of residency, community and permanency. Fierce and politically and ethically laden battles have ensued over particular sites. Woodward's is one of the most important. Over a hundred

years old, the store is fondly remembered by many Vancouverites. Residents of the Downtown Eastside, in particular, often used the store, both as a social space and for food shopping.

The early wave of protests over Woodward's were successful, insofar as the Left-of-centre provincial government felt compelled to intervene, providing funding for some non-market units in the site, and establishing a partnership between state, developer and local community representatives. This, however, fell apart in 1997, when the developer withdrew, returning to the market-only option. City Council, then dominated by a pro-business party, granted planning permission. Infrustrated, local activists staged new protests at the site. What is interesting, for my purposes, is the way a particular property claim, noted earlier, now became more explicit.

A poster (figure 1) from 1997 makes the point tellingly: 'Woodward's belongs to us ... Not to Kassem Aghtai. It is true that Kassem Aghtai has money. But no one developer has the right to determine Woodward's future. We have given Woodward's its history. Now we are coming together to **reclaim** that history, not only for the Downtown Eastside, but for the entire city'. In other words, it is not just the proposal for the site that is objectionable, or its effects on the neighbourhood. It is also that something that 'belongs to us' is being taken away, and needs to be 'reclaimed'. In interview, one activist noted that if the development had been proposed for a parking lot, it would have been less controversial. The fact that it occurred in a site over which 'we' had a particular claim.

More window painting occurred, further enacting a claim to the building. One activist noted that some residents were a little uneasy doing this, as it could have been construed as a property crime. They countered by arguing for community ownership of the building. Fama covered the windows with plywood, and hired security patrols. Activists countered with claims of 'community property', insisting that the developer 'Give it back' (figure 2). Warning signs noting that the premises were 'protected by

Vancouver security K-9 Patrol' were opposed by a graffito that read 'these premises are protected by the community of the D.E.S'.

The outgoing provincial government again interceded, purchasing the site from Fama. A new neo-liberal government came to power in 2001, and sought to offload the site. Various rumours flew over possible buyers, including a Wal-Mart. Another private developer expressed an interest. In September 2002, radical activists occupied the building and 'Woodsquat', as it was quickly dubbed began. Police evicted the squatters, but allowed them to establish a protest on the surrounding sidewalks. A tent-city of homeless people quickly gathered (figure 3). The language of the protestors became increasingly strident, with particular emphases on homelessness, welfare cutbacks and the possible effects on the housing stock were the city's bid for the 2010 Winter Olympics successful. However, a continued collective claim was also made to the site itself. 'Our community, our building', read the graffiti; 'This building is not for sale. It belongs to the community'. The squat itself materially enacted a property claim through physical occupancy. 'Home, sweet home' read the posters. As one walked down Hasting Street, you walked through people's bedrooms and living rooms.

Controversy over Woodsquat, Woodward's and the Downtown Eastside more generally played a crucial role in bringing about a seismic shift in city governance in 2002. A new left of centre slate, with strong ties to the Downtown Eastside, and Woodward's in particular, acquired the site from the province, and ended the squat. A call for development proposals ensued. Interestingly, the winning proposal goes some way to recognizing a community interest in, and claim to the site, using language such as an 'architecture of community', the involvement of residents, and the provision of a significant amount of affordable housing². To that extent, this marks a provisional

² The project is being marketed as an 'intellectual property' (to signal both the involvement of Simon Fraser University, whose School for Contemporary Arts will occupy the new development, and the idea that the smart investment money is going into the eastside) (see woodwardsdistrict.com)

success for the Downtown Eastside (Grdadolnik, 2006). However, many still worry at the continued threat of displacement, as gentrification begins to pick up again in the area³.

2. An urban commons?

In one sense, this is a very familiar story to any scholar of urban development. Issues of gentrification, homelessness and political struggle are, of course, widespread. However, what is perhaps less familiar is the importance of property to these conflicts. Viewed from the perspective of the poor of the Downtown Eastside, property appears to work in largely negative ways. The private property rights of Kassem Aghtai to dispose of his property as he sees fit threatens to indirectly displace many poorer tenants, as hotel owners exercise their right to expel, and evict long term welfare tenants in order to make way for newer residents. We can find many examples in cities across the world where state or private actors use the power to exclude, central to private property, to displace, evict and remove the poor. This is an important dynamic that demands careful attention⁴.

However, what I find striking about Woodward's and many other urban conflicts and struggles is that it forces us to go beyond an exclusive focus on the workings of private property, and to acknowledge the existence of counter-posed property claims that are collective in scope. The developer's right to exclude is countered by the claim that the poor have a right to not be excluded. The unitary claim of the developer is challenged by the argument that the poor also have a legitimate property interest in, and claim to, the site. This interest is a collective one – note the frequent invocation of

³ The condo units sold out in one day (May 2006). Some local commentators saw this as a welcome sign of the willingness of purchasers to embrace Woodward's as a social experiment. Others might see it as a smart purchase by savvy buyers in a rising market. Perhaps it is both.

⁴ The work of the Centre on Housing Rights and Evictions (www.cohre.org) is worth noting here.

‘us’ – and also a clearly localized one (‘the community’). This property interest in Woodward’s, moreover, is not one of alienation or transfer. It cannot be monetarized, but is, rather, predicated on use, occupation, domicile (cf. Radin, 1986) and inherent need. As with many other commons, the stakes are high: the ‘enclosure’ of Woodward’s is seen to compromise the very survival of a poor community itself. The redevelopment of Woodward’s is bad, activists say, not simply because it displaces, but because it appropriates and encloses. It turns a collective interest into an individualized one. Property is the threat, in other words, and that which is threatened. This is not an exclusive claim by the poor, but it is one, at minimum, that requires the active involvement of the poor in planning such developments. They claim, in other words, a property interest in Woodward’s. Such developments, moreover, cannot ‘enclose’ the neighbourhood: that is, they cannot exclude or expel the poor.

This extends beyond Woodward’s: elsewhere, I’ve argued for the existence of a property-like claim made in the name of the poor of the Downtown Eastside that encompasses the neighbourhood as a whole (Blomley, 2004b). Both state, private and collective property, including streets, parks, residential hotels, community centres and so on, are imagined here as integral parts of a local land-claim over which the poor have legitimate interest, with rights that are both symbolic and practical. This claim is extended to private space, as in the case of Woodward’s or hotels, as well as to state-owned space, such as parks (Blomley, 2004).

And when one looks more carefully, one can find similar claims being made elsewhere. Property – both private and collective – is a frequent basis for political claim-making in the city, and a site of contestation. Proponents of private property rights have mobilized across the United States, for example, in opposition to urban zoning, arguing that it relies upon objectionable collectivist principles. Yet advocates for the homeless have also used private property rights to argue that state actions, such as the confiscation of homeless people’s property in San Francisco, constitutes an illegitimate taking of property. Others pit collective use and occupation rights against fungible

expressions of property. Dana Cuff (1998) argues, for example, that many planning disputes in fact conceal conflicts between individual property rights and localized community ownership: '[C]ontemporary development contentions often pit the developer-owner's private property against the community's common property' (135), she argues. In Britain, urban activists under the banner 'This Land is Ours' have directly invoked a language of historic rural common right to contest contemporary urban redevelopment, appealing not only to social need, but also to collective entitlement: 'The land bequeathed to all of us must be made to work for us once more. Today the dispossessed of Britain are starting to reclaim their inheritance'⁵.

Such conflicts, including those around Woodward's, use a language of property, possession and land rights. Many of them directly appeal to community and collective property. Focusing more directly on Woodward's, what I wish to explore here is whether Woodward's can be thought of as a commons and, if so, what is gained – analytically and ethically - by so doing. I shall argue that Woodward's is, indeed, a commons, although not in terms that much of the prevailing literature may accept. Yet Woodward's, I shall argue, teaches us important lessons about the need to extend analyses of the commons. In so doing, I shall argue, we gain valuable political and analytical insights.

To answer the first question, however, we must confront at least two analytical obstacles. The first, to which I return below, is the tendency in discourse on property to essentially ignore or trivialize the commons. Property comprises two categories, on this account: private or state property. If commons appear at all, they are deemed anomalous and dysfunctional. Rejecting this notion, the common property regime

⁵ 'Urban dereliction: analysis and aims' (n.d.) (www2.phreak.co.uk/tlio//pubs.urbande.html – accessed October 2 2002). See also the discussion of the Karthago project, a 'point of struggle against the New Enclosures in Zurich' (p.m., 1990, 83). A recent art project (May 2006) in Vancouver's Downtown Eastside, entitled 'Not Sheep', traces the deep historical roots of enclosure, and its contemporary manifestation in cities across the world.

(CPR) literature (Bromley, 1991; E. Ostrom, 1990; E. e. a. Ostrom, 2002) has documented the stubborn persistence of communities of individuals who have relied on ‘institutions resembling neither the state nor the market to govern some resource systems with reasonable degrees of success over long periods of time’ (Ostrom, 1990, 1). We can find commons, as in the Downtown Eastside, ‘outside’ law, such as the case of squatter settlements in 3rd world cities, ‘surfing’ commons, and cyberspace (Wikipedia or open source software, for example). We can also find these ‘inside’ law, as in the case of nuisance and riparian law, all of which rely upon forms of common ownership and collective regulation. We can find them in our past, as in the classic rural commons, but commons may also be thoroughly modern, and fully state-sanctioned, such as limited equity co-operatives and land trusts (Singer, 1996). We can find them in rural areas, and in cities (McGinnis, 2001). They can serve the rich, as in the gated community, but they can also be creatively used by the poor. Such a focus has been valuable, insofar as it can be used to refute the ‘tragedy of the commons thesis’. Common property regimes, numerous empirical studies have shown, can be sustainable, productive and efficient. However (and this is my second analytical challenge), in making sense of the conflict over Woodward’s, as well as related struggles, this literature only takes us so far.

Firstly, the CPR scholarship has had much less to say about the urban commons (though cf. Ingerson, 1997; Morgan, 1998; Roisin, 1998). An online search (November 2005) of the Digital Library of the Commons, held by the influential International Association for the Study of Common Property reveals that only 21 of the available papers on common property (1.2%) concerned the ‘urban commons’. Yet there are many forms of urban common property including community gardens (Selznick, 2003), land trusts (Davis, 2000), squatting (Neuwirth, 2005) and common interest developments, such as gated communities (Blakely & Snyder, 1997; Hesse, 2001). By one estimate (Nelson 2000) half of all new housing in major US cities is part of a collective ownership regime, such as a homeowners association. Contemporary urban debates around privatization, the appropriate use of public space, the public good in an era of neo-

liberalism, and planning as a form of state regulation of private interest (Booth, 2002; Krueckeberg, 1995) also implicate common property.

Secondly, Woodward's does not fit the template for the commons provided by much of the CPR literature. As an ideal-type, a common property regime is operative when a resource is held by an identifiable community of interdependent users, who exclude outsiders while regulating internal use by community members. The tendency has been to think of these commons through an institutional or economic lens (E. Ostrom *et al.*, 1999), premised on rational-choice. Common property regimes, argues Bromley (1992, 4), are 'fundamentally instrumental in nature'. Scholars of the commons note the existence of intricate internal rules and principles governing membership, access to and control of resources, and broader principles such as risk-pooling (Oakerson, 1992). Membership may be defined formally or according to *ex post* criteria (such as residence or acceptance by existing members). The group's practices and goals, if definable at all, may shift and change. Resource rights are unlikely to be either exclusive or easily transferable. Traditional rules of individual property may be modified as a result. A communal fishery may not allow members to alienate their shares for example, or may change the right to exclude (members may be expected to share their gains). The rights of the group may be legally recognized (such as in a condominium) or *de facto* (as in an inshore fishery) (Feeny *et al.*, 1990, 4-5; Rose, 1998).

McCann (2004) is critical of the 'methodological individualism, self-interested rationality, rule guiding behaviour and maximizing strategies' (7) that dominate CPR research. One consequence of this economic logic is that it leads scholars to ignore other dimensions of the commons, in particular their crucial political and ethical dimensions, particularly when threatened by enclosure (Johnson, 2004). For Woodward's (and many other urban spaces, I suspect) seems to be a commons in a different but equally important sense. Woodward's is not an instrumental commons, governed by rules: rather, it is a moral and political commons, justified and enacted through a language of rights and justice. Hotel conversions and private developments are often characterized

as an illegitimate appropriation of the commons. For Marg Green, an area activist: ‘the central conflict [in the DES] is one of land use and land ownership.... Does a low-income community have a right to occupy the land its members have lived on for decades? Or is it the unlimited right of landowners and developers to make the best profit on the land that the free market can give? The situation of Downtown Eastside SRO hotel tenants facing eviction ... is similar to that of tenant farmers whose land is wanted to expand the cash crops of a landowner’ (in Blomley, 2004, 92). More generally, the moral and political logic of the commons needs to be acknowledged (Peluso, 2005; Sturgeon, 2005). Moreover, it is not so much the internal logic of the commons that is crucial in the case of Woodward’s, as that which threatens it. The commons depends upon, and is produced in relation to a constitutive outside. If Woodward’s can usefully be thought of in terms of the commons, then, it is also imperative that we consider the dynamics of enclosure. I return to this point below.

While private and state property are justified according to a variety of principles (Waldron, 1988, Vogt, 1999), there is also intriguing evidence that common property, as in the case of Woodward’s, is also sustained by deeply entrenched values and beliefs. Rose (1994), for example, argues that common property can sustain productive forms of public life and sociability. A subterranean and often inchoate array of long-standing principles affirm and sustain collective and common property. These can be more or less formalized. For example, Joseph Sax has pointed to the enduring significance and value of the *public trust* doctrine to Anglo-American property law, which vests ownership in the public, not the state (Sax, 1970). While the state may act as trustee, there is still a recognition of ‘the public at large, which despite its unorganized state seems to have some property-like rights in the land held in trust for it – rights that may be asserted against the state’s own representatives’ (Rose, 1994, 121-122, 2002). Canadian lawyers have also argued that Canadian law ‘embraces the notion of common user (*jus publicum*) rights to access and use public resources for limited, specified purposes’ (Maquire, 1988, 41; Vogt, 1999). Similar principles underwrite successful attempts to allow public access to private lands in the United Kingdom, in defence of

the ‘right to roam’ (Parker, 2002). Some legal scholars have also claimed to identify a ‘*reliance interest*’ within law that acknowledges and protects relations of mutual dependence between ‘private’ enterprises and the communities in which they are located such that ‘some kind of community property right arises from the long-standing relation between a company and a community’ (Lynd, 1987, 927). Singer argues that the reliance interest ‘constitutes a central aspect of our social and economic life – so central that numerous rules in force protect reliance on those relationships’ (1988, 622).

However, less formalized though no less powerful group property principles and values may also be present outside judicial discourse. My own research, for example, has revealed interesting and often conflicting understandings of public ownership on the part of city officials (acting for an hypothesized and abstract ‘public’) and community members (who may ground the ‘public’ in more localized ways) (Blomley, 2004a). If private property is based upon the right to exclude others from the benefits of a resource, common property can be understood as the right to *not* be excluded from the use of a thing (Angus, 2001; Macpherson, 1978). The degree to which these group-based property principles inform urban practice and deliberation (judicial or otherwise) is an important and understudied question. It is unlikely that commons will be predictable or orthogonal: private interests can use the language of the public good in relation to private land (for example, mall owners, justifying the exclusion of teenagers in the name of public well-being and security); while governments can deploy privatized principles in relation to public land; competing ‘publics’ can vie for rights to use municipal land, held in trust for an abstract public; and scholars can call for ‘collective private property rights’ in place of traditional municipal zoning (Nelson, 2000).

Some scholars have criticized the abstracted nature of much CPR scholarship. McCay and Jentoft (1998), for example, call for thicker, more ethnographic accounts of

the commons⁶. This seems critical in the case of the Downtown Eastside. At minimum, we need to attend carefully to the multiple geographies of the commons (Peluso, 2003, 2005). Neeson (1993) describes the intimate spatiality of the classic commons. Similarly, in the Downtown Eastside, the commons is both produced in and productive of a particular place. In a crucial sense, the claim to the commons of the poor in the Downtown Eastside is based upon and enacted through sustained patterns of local use and collective habitation, through engrained practices of appropriation and ‘investment’. By virtue of being in place for a long time, and using it, and relying upon it, commoners both acquire and sustain a legitimate property interest. Woodward’s, when it was open, was a well-used space (‘We have given Woodward’s its history). Similarly, the hotels are intensively used. The poor have ‘invested’ in that space. There are also many sites, such as CRAB Park, or the Carnegie Centre, that were actively created by local residents, often in the face of external resistance. There are echoes here of the common law notion that sustained use can lead to a sharing of even transfer of title, as in the case of prescriptive easements, adverse possession, public rights of way and so on. The commons, in other words, is not so much found as produced. The presence of certain iconic sites – either produced through struggle, or lost to or successfully defended against enclosure – are frequently invoked by local organizers and commentators as expressions of political agency and community power. Dense local narratives – often told and retold – of property are present. These tell the story of enclosure and dispossession, but they also invoke (and help produce) the commons (Blomley, 1998). It is true to say that place helps make the commons, it is equally the case that the commons is a form of place-making.

3. The difference that the commons makes.

⁶ Bill Maurer criticizes the tendency within the institutional literature on common property resources to reduce common property to ‘the relationship between different individuals, with presumably conflicting interests, and the land, rendered as an inert object or resource... In this framework, the social relationships that make up individuals, interests, and the land itself, are removed from view’ (quoted in Mann, 2002 p. 147).

The claim to Woodward's, then, does not fit comfortably within much of the prevailing literature on the commons. Yet, I hope I have demonstrated the presence and significance of a claim to the commons, linked closely to anxieties over enclosure. Yet, residents and observers do not often directly refer to the urban commons (despite, as noted, frequent use of property discourses). What then is gained by using a common-property analysis⁷? To conclude, I will point toward some implications for political praxis and for scholarship.

i) Property theory.

The idea that the poor may have a legitimate common property interest in Woodward's or a residential hotel is, according to many, absurd and fanciful. Local commentators have been derogatory of such a claim. For one, 'the Downtown Eastside is home to militant community activists, who view the district as their own, despite the fact that few of them own property' (Collins, 1997, 16). The only property worth noting, it seems, is private property, itself conceived in limited and largely asocial ways. In particular, the assumption is, as Singer (2000) notes, that ownership is unitary and stable. There is one, identifiable owner. The idea of overlapping and mutable *interests*, as in Woodward's, is hard to comprehend. The possibility of a coherent and more general *common* property interest in the Downtown Eastside is even harder to deal with.

⁷ There are analytical and political dangers in using a language of the commons. These include the adoption of a narrow, binary logic (commons v. enclosure) that structures much debate (McCann, 2004); the reduction of diverse, mutable and locally specific phenomena to narrow categorical codes; and the uncritical adoption of a pervasive ethical code (commons = good, enclosure = bad). Commons are not necessarily progressive and inclusive places, and enclosure may improve social possibilities (Harvey, 2003). Commons can also be invoked by the rich and powerful (Kohn, 2004). Another important dimension to this concerns the crucial and often complicated logics of spatial inclusion and exclusion that characterize the commons. Classical commons, of course, were often highly exclusionary, and deeply concerned at boundary-making. Such complexities require a more sustained treatment than I can provide here.

If anything, the Downtown Eastside is seen as bereft of property, as a sort of terra nullius, even a zone of anti-property.

This reflects the prevalence of a particularly tenacious model of property that skews our analytical and political imagination (Blomley, 2005; Nedelsky, 1990). For our purposes, the consequences of what Singer (2000) terms the ownership model is a view of ownership as essentially binary, such that ‘either ownership is vested in private parties or it resides with organized governments’ (Rose, 1994, p 110). As a consequence, there may be many owners of land, ‘but, for practical purposes, ... only two classes of ownership’ (Geisler, 2000, 65). This is combined with a tendency to privilege (analytically and morally) private ownership, treating collective ownership (understood as state ownership) as secondary or exceptional. This conception echoes a ‘liberal-economistic model’ of the public-private divide, preoccupied ‘with demarcating the sphere of the “public” authority of the state from the sphere of formally voluntary relations between “private” individuals’ (Weintraub, 1997, p8). This distinction is said to frame ‘issues of social and political analysis, of moral and political debate, and of the ordering of everyday social life’ (Weintraub 1997, 1; cf Ehlshain 1999).

The very definition of property is carefully policed (Blomley, 2004b). Only certain relations are named ‘property’, and particular social actors recognized as viable owners. Private, individual ownership is at the core of this account, with provisional acceptance of state ownership. As a result, other property claims ‘do not look like property to us, and we have tended to ignore them’ (Rose, 1998, 142). This is consequential, and can lead to obvious forms of injustice. Common property, in particular, is rendered marginal, dysfunctional, and vestigial. Tom Bethell (1998, 45), for example, dismisses the very possibility of common property, arguing that its internal contradictions lead inevitably to systemic collapse, and claiming that it promotes ‘greed, selfishness, idleness, suspicion and a brooding sense of injustice’. More commonly, the commons simply disappear: common property, claims one legal scholar (Harris, 1995, 438), ‘means no property’.

The absence of the commons from orthodox treatments of property may be more than accidental. It may reflect an organized logic of purification. In a discussion of neoliberal globalization, Santos (2004) notes the way the prevailing economic order is ‘presided over by technico-scientific knowledge, and owes it hegemony to the credible way in which it discredits all rival knowledge... [through] discrediting, concealing and trivializing knowledges that inform counter-hegemonic practices and agents. Faced with rival knowledges, hegemonic scientific knowledge either turns them into raw material ... or rejects them on the basis of their falsity or inefficiency’ (237). Similarly, in relation to property, the tendency is to gloss over ‘the plurality of “legitimate” claims to, and interests in, land; and the plurality of ordering mechanisms that are capable of ordering rules and inducing compliance’ (Razzaz, 1993, 342)

The tragedy of the commons, from this perspective is less its supposed internal failures than its external invisibility. This is consequential. Its analytical absence on our mental maps constitutes an analytical failure, for we miss important dimensions of urban politics. However, it may also be an ethical failure, for we can easily commit injustice. It becomes crucial, then, to learn from organizations such as the World Social Forum that, Santos (2004) suggests, recognize that ‘there is no global *social* justice without global *cognitive* justice’ (238). Consequently, the WSF works to counter dominant logics of non-existence that work to disqualify, render invisible, unintelligible and discardable. What is needed, Santos argues, is a sociology of emergences that can ‘disclose, and give credit to, the diversity and multiplicity of social practices in opposition to the exclusive credibility of hegemonic practices’ (240). Recognizing the commons in our midst thus becomes a crucial political task through which noncapitalist possibilities can be discerned and revalorized (cf. Gibson-Graham, 1996, 2005). A space of hope and potentiality is prised open: For Santos (2004), the project ‘consists in undertaking a symbolic enlargement of knowledge, practices and agents in order to identify therein the tendencies of the future (the Not Yet) upon which it is possible to

intervene so as to maximize the probability of hope vis-à-vis the probability of frustration' (241).

That we do not see the commons reflects our failure to look, I believe, rather than an intrinsic absence. For Geisler (2000, 80), they are everywhere: 'Though they rarely appear on maps, they occupy measurable space, have physical reference points, grow out of social relations, and represent formal value systems'. For Carol Rose, 'we need to be looking for property in unconventional places' (162). The Downtown Eastside, for all sorts of reasons, is one such highly unconventional, but equally productive place. To do so, I have suggested, may require different models of the commons.

ii) Political praxis:

A number of scholars have pointed to the contemporary importance of the commons to political movements. Naomi Klein (2001) suggests that world-wide oppositional networks are inspired by 'a radical reclaiming of the commons. As our communal spaces – town squares, streets, schools, farms, plants – are displaced by the ballooning market-place, a spirit of resistance is taking hold around the world' (82). James McCarthy (2005) documents proliferating calls to roll back privatization and create or reclaim commons of many kinds, at every scale, from the atmosphere to woodlots, to pharmaceuticals, water, culture, broadcast spectrum and cultural knowledge (cf. Boyle, 2003; Watts, 2004)⁸.

Scholars differ in their interpretation of the politics of the commons. Hardt and Negri (2004) argue that what they term 'the common' provides a crucial basis and medium through which the 'multitude' - disparate global interests, opposed to neoliberal globalization - connect. The common, they argue, has become increasingly central to social production and reproduction: real wealth resides in the common. The

⁸ See *The Commoner*, at www.commoner.org.uk

informational economy is premised on shared social resources, such as language, knowledge, communication and collaboration which, in turn, helps produce the common: ‘Our common knowledge is the foundation of all new production of knowledge; linguistic community is the basis of all linguistic innovation; our existing affective relationships ground all production of affects; and our common social image bank makes the creation of new images’ (148). Social life, they argue, depends upon the common to the extent that social interaction, communication, affective relationships, science, information are all produced in common. Class exploitation, they argue, has shifted. No longer is it premised on the expropriation of value measured by labour time, but rather the capture of value produced by cooperative labour: capital manages to appropriate some of the wealth produced in common, the appropriation of indigenous knowledge, for example, or that produced in scientific communities being obvious examples. The defence of the common against this appropriation, for Hardt and Negri, provides a basis for the political project of the multitude. The common itself – shared practices and languages – is also produced through this mobilization.

Hardt and Negri (2004) are insistent that this is a new phenomenon. They deliberately reject the commons as an analytical term, given that the term refers to ‘pre-capitalist-shared spaces that were destroyed by the advent of private property’ (xv). Others disagree. David Harvey (2003) suggests that the features of so-called primitive accumulation identified by Marx remain powerfully present in contemporary capitalism (cf. Anon., 1990). The continued displacement of peasant populations, the privatization of collective assets, and the conversion of collective (state and common) right into exclusive private property all attest to the presence of what Harvey terms ‘accumulation by dispossession’. Indeed, he argues, the ascendancy of neo-liberalism has seen an intensification and shift in this process. Biopiracy, the commodification of cultural forms, the privatization of public assets and the intensified depletion of the global environmental commons indicate, as he puts it ‘a new wave of “enclosing the commons”’ (148). The effect has been to release assets held by the state or in common into the market, and to open up new terrains for capitalist investment. As the early

enclosures prompted the emergence of often radical movements, so contemporary accumulation by dispossession has provoked global resistance. Movements such as protests against dam construction projects in India, indigenous resistance to lumber companies seeking access to traditional territories, political organizing against the privatization of social housing or health care, and campaigns against biopiracy must be understood, for Harvey, as contemporary manifestations of a long-standing set of struggles against enclosure.

I find Harvey's argument more compelling. Either way, these literatures alert us that the struggle over Woodward's is one manifestation of a broader set of linked struggles (Donahue, 1999). The commons provides a language that can be used to both explain and connect these disparate conflicts (Angelis, 2003; Marcellus, 2003). 'To talk about the commons' argues David Bollier, 'helps us see how all sorts of important social movements – for the environment and conservation, for human values in commerce and trade, for limits on commercialization in public spaces, and so on – are thematically related. They are all about defending the integrity of the commons and its various gift economies against the forces of market enclosure (Bollier, 1988, 10 in McCarthy, 2005).

Situating Woodward's within a global commoner's movement is also ethically useful. As Harvey (2003) notes, the defence of the commons can easily become reactionary and particularized. A politics of nostalgia can lead to localized and regressive politics. Not all commons are worth defending. Klein (2001) suggests that the commons provides the suture that can link local and global activism. What is needed, she suggests, is for the anti-globalization movement to 'turn into thousands of local movements' (89) and for local movements, such as that in the Downtown Eastside, to link their campaigns into global movements, and trace the ways local issues fit into the neoliberal global agenda. To the extent that gentrification has become generalized, appearing in diverse urban settings across the globe (Smith, 2002; Smith & Derksen, 2002), and at all levels of the urban hierarchy, this becomes an easier task. The remaking

of urban spaces – such as the Downtown Eastside – are crucial sites in which the globalized logics of urban place-marketing become explicit.

iii) Political language.

If a focus on the commons allows us to connect otherwise disparate social movements, so a language of common property allows us to reframe the terms upon which conflicts, such as those around Woodward's, are fought. At present, the controversy over Woodward's is coded as a planning conflict. The primary calculus is one of 'land use', focused on the utilitarian question: 'Where do things belong?' For Krueckeberg (1995, 301), this has the effect of sanitizing a more pressing question: 'To whom do things belong?' 'Where things belong', he argues, 'cannot be answered justly until we know whose things we are talking about'.

Asking such a question, in the context of Woodward's, could be revolutionary, particularly if we did so in ways that acknowledged the possibility of a collective property interest of the poor. As suggested above, there may be some sensible grounds for doing so. One important set of consequences relate to the ways in which languages of claim-making would change. For example, the tendency now, in these neo-liberal times, is to think of the interests of the poor through a Dickensian frame of welfare and charity. Preventing displacement and homelessness is a 'good' thing to do. Evictions from hotel are lamentable, but little more. Viewed through the frame of the commons, however, we are forced to use a language of rights, entitlement and justice. Capital is not simply investing in *terra nullius*, or 'developing' an empty shell. Title to the site has not been quieted, with property rights fully vested in a single, identifiable owner. Rather, the property rights of others are endangered. The land is distinctly 'unquiet',

burdened by the claims of others⁹. Title is not unitary, but has effectively become unbundled and distributed.

Joseph Singer's (1988, 1996) argument for the reliance interest turns in part on the ways in which property rights are unbundled and distributed between parties under particular conditions of mutual reliance and interest. Thus, for example, doctrines such as public accommodation often dictate that when owners grant rights of access to their property, they are not unconditionally free to revoke such access in the future. Similarly, Woodward's, a space open to the public, was threatened with becoming private and exclusive. Moreover, Singer argues, when people create relations of mutual dependence involving joint effort, and their relationship ends, property rights are often unbundled and shared so as to protect the interests of the more vulnerable (as in the case of marriage, or employment, for example). He explores landlord-tenant law, just-cause eviction statutes, and condo-conversion ordinances as structured, in part, by the recognition that tenants can acquire a legitimate property interest through residency, the effect of which, in practice, is to constrain the rights of the recognized owner. Property rights are viewed as subject to potential social obligations to others that 'often materialize not during the clearly defined starting point, but rather at a later stage, consequent on the actual dynamics of the relationship over time' (Lehavi, 2004 p 73). Similarly, in the case of Woodward's, or the hotel facing conversion, analogous interests may also be present. Long-standing relations between residents and private owners, who have historically granted access to others to their property, have had the effect of redistributing property rights. The discontinuation of that relation, through the

⁹ One crucial set of common property claims are those of aboriginal First Nations, several of whom lay claim to the land upon which Vancouver now sits. To the extent that many aboriginal people live in the Downtown Eastside, this may complement the claim made on behalf of the urban poor. To the extent that it has been largely overlooked in political activism in the Downtown Eastside, as well as civic discourse more generally, it may complicate it. I consider this question more carefully elsewhere (Blomley, 2002, 2004b).

privatization of Woodward's, or the conversion of a hotel, threatens the more vulnerable party and should be checked, in some degree (cf. Lehari, 2004).

While there are many potential problems with using a language of property, particularly given the imaginative workings of the ownership model, noted above, it can provide a powerful, extant, political register for naming, blaming, and claiming. In particular, a language of rights allows relations of subordination to be reframed as relations of oppression (Laclau & Mouffe, 1985). Property rights, for too long, have been the exclusive domain of the Right, configured in restrictive and antisocial ways. Reclaiming the commons, then, requires a reclamation of language.

More practically, what of policy? Planners in a place like the Downtown Eastside, seeking to prevent displacement, are constrained (or feel constrained) in large part by prevailing property arrangements. Planning inevitably runs up against property. Although there have some useful forms of intervention, such as anti-conversion bylaws, these are limited. The state cannot be too 'interventionist'. But this ignores the ways in which the state routinely 'intervenes' so as to sustain private property. The idea of 'private' property, as a bulwark of individual liberty and autonomy, removed from the predations of the state is a pernicious myth. The state sustains, makes possible, and enforces private property relations through continuous forms of intervention and rule. This myth does powerful work. Limitations placed upon private property rights, such as that of the hotel owner, can easily be framed as a form of expropriation. Viewed through a commons frame, however, we are forced to recognize the ways in which the hotel owner may be expropriating the property of others. Consequently, other forms of intervention begin to become possible, ranging through anti-speculation taxes, Henry George-like tax schemes, conversion bans, 'displacement-free zones', and transfer to community ownership (Groc, 1997; Medoff & Sklar, 1994). Pre-existent forms of organized commons, such as land trusts and co-ops (DeFilippis, 2004) acquire greater legitimacy. While these may sound like significant departures, we can find many other examples of the remaking of property to serve both

social and private ends, whether enclosure, zoning or the civil rights movement. Also, it is clear that property regulation can be immensely inventive – consider, for example, air rights and limited-equity housing.

For Steinberg, the commons is an ‘underrated, much-ignored reservoir of valuable resources, system of social governance, and crucible for democratic aspirations’ (Steinberg, 1995, 15). Rowe (2001) notes the ways in which Adam Smith provided a language that allowed early modern observers, for the first time, to characterize diverse activities as components of the same thing: the market. The commons, he argues, provides a similar vocabulary for the present.

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Figure 1: Woodward's belongs to us



Woodwards Belongs To Us...

...Not to Kassem Aghtai

A Vision

For over 14 months people in the Downtown Eastside have worked hundreds of volunteer hours to make sure that the historic Woodward's building will become a positive model for our city. Their hard work, cooperation, and creative solutions have led to a plan that is inclusive, with affordable housing and community services to be shared by a wide mix of people. This bright vision for Woodward's seemed to be just around the corner from becoming reality.

Betrayed!

Suddenly, and without warning, Kassem Aghtai of Fama Holdings Ltd. broke his word and destroyed the agreement he had with the community. It is true, Kassem Aghtai has money. But no one developer has the right to determine Woodward's future. We have given Woodward's its history.

Now we are coming together to **reclaim** that history not only for the Downtown Eastside but for the entire city. Come and join us!

Saturday, April 19th
11:00 a.m.
Corner of Abbott & Hastings
(Bring a Banner if you have one)

Let's Keep the Vision Alive

MUSIC!
Community Art!
Bring a neighbour!

If you want to be involved in this or upcoming events or need more information, call 689-0397 or 602-593-4534

Figure 2:

The right
to not be
excluded

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

Figure 3 Woodsquat

