

No Lawless Place: Foregrounding Property in Sociology

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Abstract

Sociologists examine space and place as constitutive of social life but rarely attend to the fact that places are also real property. The authors use a law and society lens to investigate how property regulations (property rights, codes, zoning, and licensure) shape place characteristics for two very different cases: a neighborhood and a bathhouse. These regulations influence the characteristics that sociologists argue constitute places: location, materiality, meaning, and use. Both cases demonstrate how attending to the “legal life of place” reveals hidden mechanisms, challenges old assumptions, and opens new lines of inquiry. The authors conclude by discussing how property is hiding all over existing urban ethnographies and is central to the most pressing social issue of our time: the pandemic. The authors argue that no place is lawless and, therefore, that sociologists ought to foreground property in place research in order to highlight core sociological concerns such as power, the state, and inequality.

Keywords

place, property, law and society, regulations

Across the globe, real property is governed by states that set boundaries, regulate use, control access, tax ownership, facilitate transfer, protect rights, and, through all these ways, influence social relationships. *Real property* refers to land and any buildings on that land. Real property stands in juxtaposition to personal property, such as the furniture in one’s house. According to the law, property is a bundle of rights that give owners powers of exclusion, control, and benefit. But property is not merely a relationship between a person and a thing, it is a complex social relationship that mediates our interactions with one another and with the state, often in unequal and exploitative ways (Carruthers and Ariovich 2004). Our relationship with real property is naturally emplaced: everything in social life happens somewhere, therefore social life largely takes place on or in real property (land, houses, and buildings).¹ Despite the prominence of the spatial turn within sociology and the overlap with law and society scholarship, sociologists have not connected the two in order to rigorously examine the legal life of place or the social life of property.

Sociology has well-developed theories of space and place (Gieryn 2000). Scholars have uncovered how space and place shape social life in ways similar to race, class, or

health. Law and society (sociolegal) research has shown us many ways the law shapes social life. It is a normative force and a state tool of social control. It infuses our consciousness, affects everyday decisions and interactions, and helps constitute social categories and ideas that may seem far removed from law. Recent property scholarship has come largely from the disciplines of law and economics, but sociology stands to gain from a sociolegal orientation to studying property. Such an approach would consider property rights, institutions, and regulations as forms of social control but would also investigate legal consciousness about property and how property is constitutive of social life even in domains in which law seems absent. Property is a legal concept but one that functions in our social world to dramatically influence inequality, wealth, and power—central sociological concerns. Yet our discipline has paid little attention to how real property operates in and influences our social world in both ideological and material ways, as cultural practice

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¹Exceptions might include the “space” of oceans, air, or space.



but also through laws and regulations that control conditions, access, and use of particular places.

Putting spatial sociology in dialogue with a sociolegal approach to property requires engaging explicitly with the regulations that shape “natural” space in the process of it becoming place. *Natural space* refers to the “air over dirt” (Gans 2002); it is where social life happens. Spatial sociology, often bifurcated between urban and rural subfields, studies how individuals and collectivities transform space into place, examining how social forces, individuals, communities, and the material world coproduce particular social worlds (Gans 2002; Gieryn 2000; Paulsen 2004). Four place characteristics transform space into place: location, materiality, meaning (see Gieryn 2000), and use (Bell 1997; Paulsen 2004). Writing about space and place, Herbert Gans (2002) pointed out the missing legal regulatory dimension nearly 20 years ago:

Governments usually have the power to regulate land uses. How and why planning and zoning agencies, building inspectors, landmark preservationists, and others affect land uses the way they do and on what grounds deserves further study than it has received from sociologists. (p. 330)

Although sociological literature provides rich insight into how the material world becomes meaningful and used by people, it typically does not articulate the property relationship of these places to the state, nor does it focus on the role of legal regulations in shaping place or community.

In this article we direct a law and society lens toward our own areas of research to reexamine two types of *places* often studied by sociologists: a changing neighborhood (in Detroit) and a resistant community space (gay men’s bathhouses). We center the concept of property and look for the ways in which it is regulated by the state. We show how the four features of place (location, materiality, meaning, and use) are formatively influenced by legal property regulations (property rights, zoning, codes, and licenses). We also illustrate how these regulations are used by actors and the state in multiple, sometimes contradictory, and always political ways. In doing so, we show that place does not exist without law. Focusing on the legal regulation of property in place-based research can help sociologists (1) find hidden mechanisms, (2) open new lines of sociological inquiry, and (3) challenge old assumptions about the places they study. We argue for attention to property as the sociolegal mediation of people and space rather than a depoliticized understanding of place alone. Such a focus draws our attention to the centrality of systems of ownership, exclusion, power, and inequalities in studies of space and place.

Place

One way sociologists today attend to the material world is through place, paying close attention to its relation to

meaning-making, identity formation, and the creation of communities. Place theoretically captures a sophisticated understanding of location’s role in the creation of social worlds. According to Gieryn (2000), place is the combination of three features: location, materiality, and meaning. To these we add use, which shapes and precedes meaning in the construction of place (Bell 1997; Gans 2002; Paulsen 2004). After examining how each of these place characteristics shapes space and is implicated in property, we turn to differentiating the legal regulations we focus on in this article: property rights, zoning, building codes, and licensing. These regulations influence place characteristics (and vice versa) and thereby produce real property as a social force, not just a legal abstraction.

First, a place is distinguished from abstract space (e.g., here and over there) or metaphorical space (e.g., creating space for an idea) in that it has an actual geographical location (see Lefebvre 1974). This distinguishes the abstract “here” from the “here” of the building where we wrote this article or from the setting where you are reading it. These are actual locations. As spots on the globe, places have been divided between states through processes of treaty, colonization, and war. Although a wider postcolonial analysis would consider the way that the assignment of places to particular nation-states is also a legal (and violent) process, for this article we consider the legal regulation of place after this has occurred.²

Second, a place must be material. Gieryn (2000) sought to neatly divide physical and virtual space, declaring cyberspace placeless, but the intervening decades have troubled this distinction. Given the rise of geolocation technology that represents place digitally, this aspect might be debatable. Regardless, the materiality of a place creates the conditions for its regulation by the state. A place’s material-environmental context might provide affordances that allow or compel certain regulations over others. As we will show, laws often influence the social world by regulating the material conditions of place, or creating material preconditions to the existence of particular places.

Third, a place is invested with meaning. If a space is meaningless, having no “place character” (Paulsen 2004) that distinguishes it significantly from other space, then it is not a place. That is, to be considered a place, people must think of that space as meaningfully separated from other spaces with objects that mark that differentiation and embed meaning within the environment (Gieryn 2018). A place’s meaning is perhaps the most important element shaping its legal regulation: meaning is partly produced by people’s interpretation of regulations, and regulations in turn contribute to a place’s

²Importantly, in settler colonial nations such as the United States, treating land as property was a tool that enabled the federal government to steal land from Indigenous people, sever their relations to place, and threaten them with erasure.

meaning and use. Furthermore, a sociolegal perspective reveals that these regulations are not applied evenly according to meaning, take on a life of their own, and are points of contestation and inequality, contributing to the meaning and uses of places even as meaning and uses inform new regulations.

Although Gieryn (2000) focused on these three place characteristics, other scholars have stressed that the use of a place precedes and shapes its meaning (see Gans 2002). Placemaking is a social process in which actors and communities together select, prioritize, and discard meanings available in a location on the basis of perceptions of its character (see Paulsen 2004). In line with Goffmanian dramaturgy, we do not continuously restart the process of defining a place. Rather, actors use environmental affordances (e.g., materiality above) and perceptions of prior use. These “ghosts” of place reflect collective imaginings of how prior people used a place (Bell 1997), and powerfully shape our current perceptions. Legal regulation directly enables or prohibits use, and by regulating property, the state allows some ghosts but dispels others.

Property in Sociology

The concept of property has a long history in sociology. Marx and Engels ([1932] 1947), Weber ([1923] 1981), and Durkheim ([1957] 1992) all recognized the importance of property and property rights, largely for our understandings of commodification and economic inequality. In their work, property is largely a discussion of private ownership; real property regulations are more often in the background. The task of foregrounding property is more specific, and, we suggest, property is harder to see in part because we are so immersed in it (most likely you are reading this article while inhabiting property; how might that property relationship affect your work?). Closing this gap is a task sociology is particularly well suited for, in part because sociologists have made significant contributions to sociolegal and spatial/place-based scholarship over the past half decade: property links the two.

Defining this gap is difficult, because the ubiquity of property means that we rarely notice its ever-presence in our everyday lives, and we certainly do not notice its absence in relevant research. In his article “Remember Property?” geographer Nicholas Blomley (2005) wrote, “It used to be that we took property in land seriously. . . Now, however. . . Property becomes simply (and, I argue here, frighteningly) taken for granted” (p. 125). Contemporary sociological scholarship overwhelmingly studies property only in its particular form as homeownership or property rights as a mechanism for the intergenerational transmission of wealth (e.g., Campbell and Lindberg 1990; McCabe 2016; Oliver and Shapiro 1995; Rossi and Weber 1996). In their *Annual Review of Sociology* article calling out part of this scholarly lacuna, Carruthers and Ariovich (2004) addressed property *rights*, as the legally defined relationship between a person and an object that can

be owned. In this article, we focus on the spatial dimension of this gap (real property, in contrast to personal property, intellectual property, or natural resources as property) and expand our discussion to suggest that sociologists examine the way the legal concept of *real property* functions in social life (not just property *rights*). *Real property* is, simplistically, legally defined, state-regulated space. By interrogating how the law shapes place characteristics, we aim to take a first step toward bringing property back into sociology.

Some scholars working in disciplines such as urban studies, geography, and sociology rigorously engage with legal regulations that affect space and place in their work. Examples include the way zoning and building codes shape single-family homes (Hirt 2014; Valverde 2012) or municipal laws that regulate the spatiality of sex, food, and other consumption industries (Coulmont and Hubbard 2010). Regulations also help transform postindustrial urban spaces into sites of cultural consumption (Patterson and Silver 2015) or new, expensive residences (Frickel and Elliott 2018). These scholars link space/place and law but do not foreground the concept of *property*, even though property is all over their research.

Private property allocates power, creates and reflects inequalities, and adjudicates access to space. Because real property is spatially rooted, it mediates relationships among individuals in a given proximity and their relationships to the resources nearby. For example, legal rights to property in highly sought after neighborhoods afford access to quality schools, retail choices, efficient transit, and so forth. In spaces of concentrated disadvantage, residents are hindered by the limited resources proximate to the property to which they have legal access. In rural areas, rights to property that abut waterways may be more economically valuable and enable more diverse productive capabilities. Property, more than place alone, helps maintain analytical focus on these resources and inequalities. As a discipline rooted in the study of social relationships and particularly concerned with power inequalities, sociologists will benefit from a deeper understanding of the way property operates in, influences, and is shaped by social life.

Some scholars, including sociologists, have demonstrated the importance of centering property in their research. In their book *Urban Fortunes*, sociologists John Logan and Harvey Molotch (1987) emphasized the role of real property for their political-economic theory of urban development. They described property as a commodity like no other, which influences the ways that place entrepreneurs deploy their profit-making schemas, often to the detriment of residents whose primary interests are in the use value of place. Logan and Molotch foregrounded the concept of real property and in doing so demonstrated its centrality in conflicts over how cities grow and change. More recently, sociologist Debbie Becher (2014) studied conflicts over eminent domain in Philadelphia. She found that residents have multifaceted

valuation systems for their properties and that they expect government to protect their time, labor, and emotional investments, not just their property rights. Housing research often implicitly intersects with property, but by foregrounding the complex dynamic of property rights for mobile home park residents (many of whom own their home but rent the land), sociologist Esther Sullivan (2018) uncovered a widespread form of instability for low-income homeowners. The first author, sociologist Claire Herbert (2018, 2021) studied property law violations in Detroit and found that in the context of lax municipal enforcement, residents are more concerned with how squatters and scrappers informally relate to properties and neighbors than the legality of their use.

Scholars from other disciplines offer empirical and theoretical work that sociologists can build on in expanding property research, such as legal scholars who theorize property as embedded in social relations and obligations rather than just individual freedoms (Alexander 1999; Alexander and Peñalver 2009; Rose 2019; Singer 2008) or geographers who attend to the spatial dynamics of real property. For example, Neil Smith (1996) focuses on property conditions and the revanchist (territory reclaiming) elements of gentrification. And Nicholas Blomley's (2016) work examines the meaning, use, and impact of property in everyday life, such as how residents understand property boundaries. It is these kinds of explicit engagements with the concept of property, property rights, regulations governing property, or the liberal private property regime that we hope to build on and stimulate within sociology.

Law and Society

As a first step, we propose analyzing *place* through a law and society (sociolegal) lens. Sociolegal scholarship shifts the study of law beyond the realm of legal institutions and actors (such as courts, judges, lawyers, or even the laws themselves). These works have examined the “gap” between law on the books and law in action (Gould and Barclay 2012) and how the law is not just an instrument of social control but constitutive of social life (Scheingold 2010). Legal consciousness scholarship examines how people understand and interpret law in everyday life or how people invoke or resist the law (Ewick and Silbey 1998). Sociolegal scholarship has demonstrated the importance of recognizing that law and regulations on the books, their enforcement, their impacts, and everyday interpretations of laws and regulations are related but distinct entities (Brisbin 2010; Ewick and Silbey 1998; Marshall and Barclay 2003; Valverde 2012).

In this article, we limit our analysis to the instrumental role of property regulations. However, in a true law and society approach, our larger interest and aim for sociologists is not just expanding our discipline's engagement with property laws on the books or how regulations are instrumentalized to shape property but also (1) how these regulations subtly and abstractly shape peoples' understandings of places

and (2) how the characteristics of places influence what regulations are deployed there. For example, the law is often instrumentalized through the enforcement of building codes that may force a restaurant to comply with fire safety regulations. However, the law also shapes people's legal consciousness: our everyday understandings of, for example, property rights, responsibilities, and boundaries (Blomley 2016). Perhaps a woman picks up pieces of trash on her walk through a park, but not on the lawn of a privately owned house she passes by, even if within arm's reach of the sidewalk. Even though she is not required to do either (and likely no one would object), her implicit understanding of private versus public property shapes her behavior.³ Or, reflecting the law's constitutive impacts, residents may invoke the law in an attempt to shape the sacred nature of a small cemetery in their neighborhood by restricting access to it. In all these ways, a sociolegal lens helps uncover the nuances of how law shapes our social world, including places.

Property Regulations

Many kinds of laws and regulations help transform spaces into places. Foregrounding the concept of *property* draws our attention to regulations that target different facets of real property and shape how property functions in the social world (beyond a legal abstraction). At its most basic, *place* is formed through the interaction between people and space; so we focus on regulations that affect either or both the *object* (space) of property and *subjects'* (peoples') relationship to property. Some regulations target the space of property (property as a legally defined object that can be owned and is subject to regulation by the state) by, for example, dictating what can be done with a vacant industrial building that is showing signs of structural instability (does it need to be demolished or can it be renovated?). Other regulations target peoples' relationships to property (the actors or *subjects* who use, control, benefit from, or are excluded from property) by, for example, delineating that all of the public has the right to use a county library for free, but only during certain hours. Most important, we sought to identify common regulations that have significant impacts for the four dynamics of *place* (location, materiality, meaning, and use) in order to make this schematic useful for sociologists.

We divide these regulations into four categories, acknowledging that these categories may need to be refined as research on the legal life of place and the social life of property expands: zoning, codes, licenses, and property rights.⁴ Zoning and codes primarily influence the object of property,

³*Public property* refers to government-owned property that is made available for public use. Common examples include parks, sidewalks, streets, and libraries.

⁴Including property rights as a form of regulation aligns with legal scholars such as Alexander (1999), Singer (2008), and Underkuffler (2003).

licenses influence the object of property and somewhat the subjects of property, and property rights primarily influence the subjects of property. *Zoning* refers to land-use regulations that dictate what functions (e.g., residential, industrial, commercial) are permitted across various locations within a city or region and is increasingly understood to have significant ramifications for inequality. For example, single-family zoning is considered one of the biggest obstacles to creating affordable housing (Glaeser and Gyourko 2002). Building codes, which emerged in the early twentieth century in the United States, dictate aesthetics, safety, construction, and overall material conditions of properties (Ross 1996). Codes shape the creation of buildings but also create preconditions on their existence. Unequal enforcement of codes creates unequal places, but burdensome codes can also make certain places impossible for communities to create (see Bartram 2019a, 2019b). Codes, such as those requiring compliance with the Americans with Disabilities Act, also can enable use for people otherwise excluded. Licenses regulate the qualifications of the people who build or work at a site as well as what practices are allowed to take place on or within real property, from alcohol sales to health clubs. Licenses also can function to limit the density of uses, such as per capita limits on alcohol stores within a neighborhood. Licensure is a political tool to shape use, limit entry, and raise prices, while also enabling safety, rights, and well-being. Property rights determine ownership and boundaries of real property and thus who can dictate use, access, allocation, and control over a property and its resources, such as a private actor, corporate entity, a local or even a federal government. Defining a space as public enables different permissions and gives enforcement power to other state actors in contrast to private property. In both cases, certain actors are granted the ability to exclude others from a place. Removing or refusing to recognize legal rights to property has powerfully influenced inequality in the United States through processes such as contested inheritance of Black land ownership and eminent domain (Ashwood 2018; Becher 2014; Rothstein 2017). Figure 1 lists the four regulations and four place characteristics that are the focus of our analyses.

Cases of Places

As part of this intellectual collaboration, we turned toward domains of scholarship we regularly engage in our research to see if we could “find” property, which, as we suggest in the foregoing discussion, is often hidden because of its ubiquity. Here we use a sociolegal lens to (re)examine two very different kinds of places: a changing neighborhood and a queer community space.

We selected Cass Corridor in Detroit as an example of a changing neighborhood and gay men’s bathhouses in San Francisco as an example of queer community space. We chose these for three reasons. First, they both can be understood to

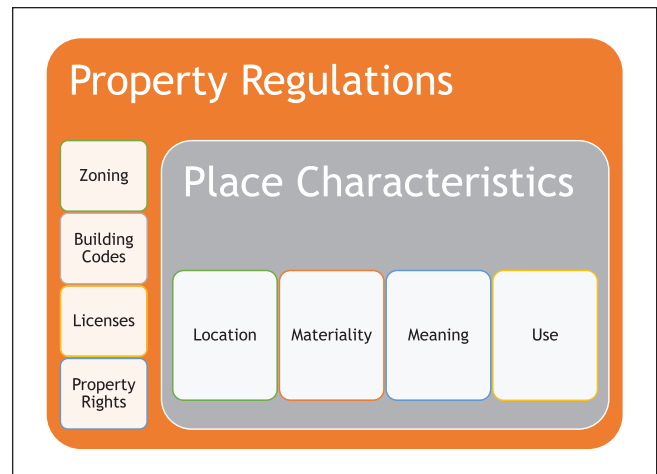


Figure 1. No lawless place: regulations shape place characteristics.

represent typical places studied by sociologists: neighborhoods and community spaces. But second, they are very different from each other, which demonstrates breadth in the types of places that would be fruitfully examined through a sociolegal lens. And third, they illustrate the way that property regulations operate at different scales to shape place: from a building, to a neighborhood, to perhaps (for future research) even entire cities or rural communities. We build on scholarship germane to these two cases, which we then analyze through a law and society lens to draw out the way legal regulations of property are shaping the characteristics of the places we thought we knew so well.

A Changing Neighborhood

Sociology has long studied neighborhoods, how they change, or places within them. But neighborhoods are also collections of properties, some privately owned and others, such as parks and streets, owned by government but for public use. Sociologists have recently focused a great deal of attention on how neighborhoods change from deteriorated and disinvested to upscale and trendy: the process of gentrification. Importantly, the place characteristics of neighborhoods change with gentrification: who uses it, what they use it for and where these uses are located, elements of the built environment and material conditions, and the meaning associated with a neighborhood and its reputation.

Neighborhood rebranding (Wherry 2011) often accompanies gentrification, as when the deteriorated Cass Corridor in Detroit was rebranded Midtown and now boasts some of the highest rents in the city. Like neighborhoods across Detroit, Cass Corridor suffered from population and economic decline due to racial tensions, suburbanization, white flight, and the waning auto industry. Reports from the 1970s describe Cass Corridor as a once prosperous residential-commercial area that became increasingly vacant and

blighted. Over time, rescue missions, bars, sex workers, and winos found a home among the trash-strewn empty lots (Elliott 2018:122), and a rigorous underground drug economy bloomed.

The physical appearance of a street or neighborhood is an important way that people assess its desirability, signaling features such as safety, class, and investment potential (Allen 2013; Hipp 2009; Prickett 2014; Sampson 2012). Urban scholars have been at least somewhat cognizant of the role of building code violations in shaping the character of deteriorated or disorderly urban spaces such as Cass Corridor. Indeed, an entire method of policing derived from the idea that larger scale crimes could be curtailed by forcing residents to expeditiously fix “broken windows”: a building code violation. Yet research has tended to focus on “disorderly spaces” as the result of apathy among neighbors rather than government failure to enforce building codes. Neighborhoods where codes have not been enforced and properties are deteriorated also tend to have low property values, leading to a rent gap (the difference between current and potential property value; Smith 1996). Economists often cite rent gaps as an instigator of gentrification, because investors can capitalize on renovating low-valued property. Thus, the lack of enforcement of building codes played a role in the deterioration of Cass Corridor, which helped make it fertile ground for gentrification.

Compliance with building codes can be extremely costly. The enforcement of previously unenforced building codes can burden landlords or homeowners. Research shows that building inspectors use discretion when enforcing these regulations, taking into account things such as neighborhood characteristics, residents’ expectations, and perceived economic stability of property owners (Bartram 2019b; Ross 1996). These regulations play a role in who stays or goes in a neighborhood by influencing costs associated with property. Confirming other qualitative research (DeLuca, Garboden, and Rosenblatt 2013; Desmond 2016; Tucker 2009), Bartram (2019a) finds that landlords increase rents to cover the costs of housing repairs, some of which may be in order to remedy code violations (Greif 2018). The enforcement of building codes, then, can stimulate economic displacement of renters or homeowners.

When property owners renovate to adhere to building codes, they are also shaping the way other residents and outsiders perceive a neighborhood—the meaning they associate with that place. Perhaps the earliest sign of a shift in Cass Corridor was in the 1980s, when a local couple, Bob and Debbie Slattery, purchased and invested sweat equity to renovate several deteriorated properties in the neighborhood (Elliott 2018). First-wave gentrifiers, shopping around for an inexpensive home to renovate, may view a neighborhood such as Cass Corridor as a safer investment and more desirable when some properties have been repaired to adhere to building codes (Hwang and Sampson 2014). Building codes, and their enforcement or lack thereof, play important roles in

the materiality and meaning of a neighborhood, influencing its desirability and investment potential.

Zoning comes into play at a broad scale in changing neighborhoods, as sites of new development are either restricted by existing zoning or must be rezoned, influencing what uses can take place at that location. The “game changer” in the transformation of Cass Corridor was the 1999 renovation of the Canfield Building, a 1920s industrial power building. To be turned into the trendy Canfield Lofts (Calabrese 2020), the land had to be rezoned from industrial to residential/mixed use. This process is often politically heated, as developers may leverage their power to alter or sidestep zoning restrictions to open up new sites for capital investment and expansion.

With new developments and renovated properties, new uses came to the Cass Corridor. The distribution of licenses affects what uses can take place within properties. The meaning, reputation, and use of a neighborhood influences and is influenced by the businesses or services located there. A corner in Cass Corridor, once the hub of Black consumer life in the neighborhood, now boasts upscale bars, restaurants, and luxury goods (Elliott 2018). As Midtown, the neighborhood now has a reputation associated with high-end consumption and a robust nightlife. This reputation, enabled by establishment licenses to serve alcohol, would differ if Midtown had several businesses licensed to provide quality childcare, for example. Yet if crime should be attracted to the nightlife in Midtown, nearby residents might complain to authorities, and those same licenses could be targeted for redistribution, forcing these businesses elsewhere or to change their business model. In each case, local government plays a role in shaping the neighborhood’s uses and meaning (reputation) via the distribution of licenses.

The gentrification of Cass Corridor has displaced many longtime residents in part because of rising property values (Mah 2021). As illustration, in 1977, suburbanite Joel Landy bought a Victorian mansion in Cass Corridor for \$1,500 (Capital Impact Partners n.d; about \$5,940 adjusted for inflation in 2016). By 2016, median sale prices in Midtown were \$293,000 (Gallagher 2016). Economic displacement is often viewed as the “downside” to gentrification. But even while economic forces are blamed, this displacement happens because residents’ right to access their property is removed: leases are not renewed, tenants are evicted, or homeowners’ properties are foreclosed. Relatedly, neighborhoods with high rates of street homelessness result from a property regime that excludes citizens who have no legal right to space, rendering the sustenance and reproduction of their lives illegal (sleeping, urinating, having sex) (Blomley 2009).

More powerful actors who own and thereby control property shape neighborhoods in accordance with their desires. Mike Ilitch, the now-deceased billionaire owner of Little Caesars Pizza and the Detroit Red Wings, amassed title to hundreds of vacant lots in the Cass Corridor over time, had

them rezoned, and, despite a great deal of opposition from longtime residents, built a new hockey arena, 58 percent paid for by public funds (see Elliott 2018:156–58). Much urban literature has explored the idea of the “right to the city” (Harvey 2003), which refers to the ability of residents to not only access the city but change it in accordance with their visions and desires. This literature purposefully does not reduce the right to the city to legal property rights, but sociologists also ought not ignore the way that legal property rights influence individuals’ ability to access, control, use, and benefit from the city.

With the decline of Detroit’s Cass Corridor and subsequent transition to trendy Midtown, the place characteristics of this geographic area changed dramatically. Reexamining this shift through a sociolegal lens highlights how these changes are influenced by zoning, codes, licensing, and property rights. Code enforcement (and the lack thereof) shaped the material conditions of Cass Corridor’s housing and buildings. Zoning changes allowed two pivotal developments to take place which influence how the neighborhood is used and where new uses can be located in the neighborhood: Midtown’s first residential loft and the massive sports arena. Licensing has shaped what kinds of businesses operate in the neighborhood, influencing use and meaning of this neighborhood (as trendy Midtown, not gritty Cass Corridor). Property rights determine who gets to use the neighborhood legally and who is excluded: resulting demographic shifts also significantly affect the meaning (à la reputation) of Midtown.

Regulations such as these can also have protective effects for neighborhood inequalities. For example, making no-fault evictions illegal makes renters’ rights to use and access their housing more secure and can mediate the economic pressures of gentrification. Current scholarship on neighborhood change has not given due attention to the role of property regulations, but if foregrounded, this focus could pave the way toward policy changes that might help us envision more equitable ways of regulating access to property, curtail the unequal power to shape place, and combat the effects of political and economic dominance.

A Resistant Community Space

Since inception, urban sociologists have studied unique manifestations of place. Park and others of the early Chicago school were particularly concerned with the role of places thought to promote sexual and romantic integration between ethnic groups and regulation of spaces thought to be detrimental to proper assimilation, such as the Taxi Dance Hall (Cressey 1932). In this section, we show how regulations such as building codes, licensure, zoning, and property rights play significant roles in the continued presence of bathhouses and thus also the intimate communities they foster and serve. We (re)examine the closure of gay men’s bathhouses in 1984 San Francisco to reveal how property regulations functioned

as a political tool to shape the use and material conditions of these places and had wider consequences for their meaning as important community space for this marginalized group.

Influenced by Randy Shilts’s (1987) famous book *And the Band Played On* (and the 1993 HBO drama of the same name), many people believe a simple narrative that in 1984, concern over HIV/AIDS prompted San Francisco officials to close all of the city’s bathhouses. The historical record shows more political controversy and highlights the role of property regulations. The closure order issued by Mervyn Silverman, San Francisco’s public health director, was extremely controversial and subject to intense judicial scrutiny afterward. Officials and politicians were divided on closure, and the gay and lesbian community at the time was largely against closure (Disman 2003). The closure order was prompted not only by fears of HIV/AIDS but also to preempt a ballot initiative that would have had wider impact, potentially closing all LGBTQ establishments (Disman 2003; Murray 1996). Much of the controversy around the closure stemmed from the city’s regulation of the bathhouse buildings themselves—real property—rather than specific behaviors that put people at risk for HIV.⁵

Bathhouses played a significant role in the 1920s in forming a post–World War I nascent gay identity and functioned to provide cruising and community connection, eventually lending their image to nearby areas as subtle gay neighborhoods (Chauncey 1994). Our focus in this article, modern gay bathhouses (Bérubé 2004), embrace their purpose as erotic spaces, with dedicated areas for glory holes, slings, other kinds of sex play, and private rooms. As a result, during the height of the AIDS crisis in the 1980s and 1990s, bathhouses were targeted for increased regulation (Disman 2003; Shilts 1987), even though not all communities’ bathhouses explicitly promoted sexual activity.

A law and society perspective on the regulation of these places as property reveals new aspects to this story and attunes scholars to the long-term community consequences and spillover of spatial regulations. First, the determination of whether bathhouses were public or private spaces was fraught. The state may regulate only people’s *public* sexual conduct (Carpenter 2012), and in 1978, California had legalized gay sex on the basis that it was private conduct between consenting adults (Disman 2003). Privacy in this context was not merely about audience or viewership but about regulated and restricted access to the space in which it was conducted. An expectation of privacy derives from the context of search and seizure, in which private ownership of a property requires government to get consent to search that space. Legally, bathhouses are private places: a judge ruling on the matter

⁵By 1984, research had already identified particular actions as leading to risk for HIV infection and demonstrated that bathhouse attendance itself was not a cause of HIV infection or AIDS (Disman 2003).

clarified that there is no difference between someone who accesses space in a bathhouse and paying for a hotel or a mortgage on a private home (Murray 1996:116–17). Thus, this legal determination of the private nature of bathhouses was central for the continued use of these buildings for promoting sexual communities (Carpenter 2012).

Second, earlier attempts to forestall the closure order revolved around negotiations and voluntary agreements between bathhouse property owners and the city to change building codes. Owners argued that the bathhouse itself was not causing AIDS but particular risky behaviors within the bathhouse. Even so, multiple building code revisions were suggested, including removing the bottom 24 to 39 inches of doors on individual video cubicles and booths or rooms to promote monitoring (Mandelman 2020), disallowing “orgy rooms” or common areas for multiple sexual partners, and regulating light levels to allow easier determinations of condom use (Disman 2003). Furthermore, building inspectors were to check for intentional building defects such as holes that could be used as glory holes. Building codes are a regulation that shaped the uses that could take place in these properties.

Third, licenses were a similar domain of controversy. Some bathhouses were regulated under hotel licenses issued by the police department. The public health department therefore had no normal legal basis to regulate the baths (as they would have for a restaurant or health clinic). This lack of control due to the way these properties were licensed eventually led the public health department to use broader powers to combat HIV infection and issue a closure order rather than more focused regulations targeting specific behaviors within the bathhouses. Even today, licensing remains a way that bathhouses in other locations maintain their private status, often by operating as gyms or health clubs, which enables membership-only access and prevents access by the public at large.

Finally, this closure order meant that some bathhouses and patrons relocated to outlying areas that did not have the same property regulations. In other parts of California, for example, local zoning ordinances allowed bathhouses to be zoned as commercial spaces, which gave owners more flexibility as to where they could be located (whereas sexual entertainment clubs were forbidden near churches, schools, etc.; see Richardson 1993). The changing locations of bathhouses influenced communities that used them; for example, after the closure order, a bathhouse owner in Oakland reported a 142 percent increase in business from patrons across San Francisco Bay (Murray 1996:117). The interplay between new locations and the zoning regulations regarding density and use have had a profound effect on the nature of San Francisco and the Bay Area’s gay community since.

The bathhouse closure order narrative lingers in the collective imagination as a straightforward effort to decrease the transmission rates of HIV/AIDS in San Francisco, but the inability to effectively regulate gay sex in private meant that

officials had to target property for increased regulation rather than people. (Re)examining the historical narrative reveals the deeply politicized efforts to control a marginalized community’s activities by regulating the spaces wherein those activities take place. Building codes affect the material conditions of the bathhouses and the activities possible within. Licenses are political tools that can be used to shape the legal uses and meaning of properties where those communities come together. Moreover, there were spillover effects from these regulations that affected, and continue to affect, other communities’ bathhouses, as ethnic and women-only bathhouses continued to operate in San Francisco but under new licensure as gyms. Some bathhouses and patrons relocated to outlying areas with different licensure and zoning regulations, affecting the ability of marginalized communities to have access to meaningful social space.

This case also illustrates the state’s power to use property as a means to enforce specific moral norms on marginalized groups: anthropologist Constance Perin (1977) wrote that these kinds of property regulations “are a shorthand of the unstated rules governing what are widely regarded as correct social categories and relationships” (p. 3). As acceptance of the gay community and understanding of HIV transmission shifted, San Francisco educators and organizers came to an agreement with the Health Department in 1997 to create a commercial sex club license and enforce several regulations (including building codes) designed to promote safe sex among patrons (Mandelman 2020), which has allowed a number of underground bathhouses to reemerge as legitimate gay community spaces.

Foregrounding Property in Sociological Research

Place is so much more than property, so we are not suggesting that spatial researchers abandon the concept. However, when property is treated as the background or landscape in which other social action takes place, we miss the role of the state in shaping these places through regulation. Before we offer concluding remarks, this section highlights how foregrounding property can be useful to sociologists, even if law and society is not their dominant framework. We discuss examples of previous work in which property is “hidden all over,” and we suggest ways property is central for the most pressing social issue of the moment: the coronavirus disease 2019 (COVID-19) pandemic.

Classic and contemporary ethnographies in particular provide obvious avenues for considering property: places ripe for a return visit. For example, Tally’s Corner (Liebow [1967] 2003) is a place—a street corner—that is public (government-owned) property. Although the area is a particularly disinvested, segregated neighborhood, Liebow’s thesis is precisely that it is not lawless. Yet if his work were done today, Liebow may have found it useful to discuss the law as regulations that have shaped the place, as opposed to just

police enforcement. Similarly, *The Code of the Street* (Anderson 2000) takes readers down Germantown Avenue in Philadelphia, noting the changing spatial landscape from upscale to disinvested. Yet a contemporary code of the street would benefit from looking at the code of the buildings lining the street (which Anderson notes are increasingly deteriorated and hence affected by disparate code enforcement) and the disparate distribution of licenses (as he observes liquor stores are increasingly prominent). Finally, the blocks where Goffman's (2014) subjects were "on the run" are composed of public property (the street) with private properties used as residences, both of which permit differential access by authorities. These places' stability as locations for the men to dip and dodge, despite their fragile ties and precarious landscapes, would have been more clearly enmeshed if Goffman had turned toward property regulations and not police enforcement alone.

Lest we be accused of arguing that only others need to consider property more thoroughly, Jay Orne's (2017) *Boystown: Sex and Community in Chicago* would have benefited from a more thorough examination of property regulations that underpinned the commercial district of the Boystown neighborhood. Although Orne noted the role of ownership and liquor licensing in the stability of neighborhood businesses, discussion of zoning and building codes is absent. Adding these elements would have enabled the book to more clearly implicate the state, through local government, as a driver of gentrification. Shining a light on the fact that property is hiding in plain sight all over place research will help us see axes of power, mechanisms of inequality, the pervasiveness of the state, users' legal consciousness, and the constitutive and instrumental impacts of property laws and regulations.

Looking ahead, we offer a tour through the most pressing social issue of our time, the COVID-19 pandemic, to locate the centrality of property. Social scientists have quickly pivoted to studying different facets of the pandemic that reflect salient themes in sociology, identifying racial disparities in mortality rates, how political tensions relate to people's feelings about lockdown restrictions, or how gendered caretaking roles are exacerbated with schools closed. But property and property regulations are also intertwined with the COVID-19 pandemic. Because of the way the virus spreads, the Centers for Disease Control and Prevention (CDC) has spelled out guidelines for social (spatial) distancing. This affects the number of people allowed in any given property. The way businesses are licensed has influenced when they are permitted to be open: if a gymnastics studio is licensed as a gym, it may be subject to different restrictions than if it is licensed as a school. Cities have temporarily altered or suspended zoning laws to permit restaurants to use public sidewalks for dining. Distancing requirements have dramatically curtailed the capacity of homeless shelters, so much so that the CDC has recommended that cities refrain from sweeping homeless

camps on government property. Debates about whether and when to open public schools pivot in part around key building code issues such as whether old buildings have proper ventilation. The CDC ordered a temporary moratorium on evictions that curtails owners' control over their property but expands renters' rights to access and use the property. People all over the world are spending time working, learning, and socializing from their homes (which for most are private properties to which they have legal right to use and access). More than ever, the conditions of work, school, play, and even staying healthy (since the virus travels faster in overcrowded, poorly ventilated spaces) is affected by the size, condition, and number of people living in a property (their home), exacerbating existing inequalities.

With the dramatic rise in forms of virtual communication during the pandemic, we also see the ability to increasingly transcend some of these spatially rooted property regulations (for those with reliable Internet access), as teachers and students meet via Zoom, families socialize on Gather, and friends connect on Facebook Portal. This shift, and the extent to which virtual spaces continue to dominate certain domains of postpandemic life, will require new examinations of the regulations that govern our interactions and the ability to forge virtual "places" together while spatially apart (all the while remembering that people are still rooted in place as are the servers and electrical connections that enable virtual togetherness).

Conclusion

There are no lawless places, as the meaning, use, materiality, and location of places are all intertwined with legal regulations, especially those that govern various aspects of real property. Although spatial sociologists acknowledge that, "place, at a basic level, is space invested with meaning in the context of power" (Cresswell 2014:19), there has been little recognition in place research that the law is a central way in which power is exerted. We need a new shift to recognize the legal life of place, or the social life of property. Foregrounding the concept of real property attunes researchers to the way law, the state, and power operate through space and place, shaping place characteristics, various social outcomes, and enduring inequalities.

Adopting a law and society approach to the study of place, in this article we have demonstrated that two very different examples of place, a neighborhood and a community space, do not exist without the law. Our interrogations of the legal nature of these places reveal how property rights, zoning, building codes, and licensure influence their place characteristics: the use, meaning, material conditions, and locations of bathhouses, or various people and elements within a gentrifying neighborhood. These regulations are formative for the ways in which people imagine and use these locations in their everyday lives, and thus the way that they materialize and become *places*.

In this article, our investigations into the role of property regulations have focused more so on the law's instrumental power to shape different place characteristics. But insights from sociolegal scholarship can advance future studies of place in other ways. First, the issue of legal enforcement is also fraught with power, and research should consider to what extent property regulations are enforced or not, when, and why (see Bartram 2019b; Herbert 2021; Valverde 2012). Harris (2018) called this the "politics of calculation," whereby state actors and agencies willfully turn a blind eye to violations, infractions, or lack of conformity to zoning, codes, licenses, or even property rights. These decisions also shape the character of place, for example by allowing powerful actors to achieve their goals, often to the detriment of less powerful citizens who are burdened by resulting conditions. Polluting businesses worm their way into neighborhoods occupied by poor communities of color. Elite condominium developers weasel their way around a regulation to increase building height and therefore also their profits. Alternatively (or simultaneously), municipalities may lack the resources to stay abreast of enforcement and are thus unable to enforce property rights (Herbert 2018, 2021).

Second, just as law and society scholarship has advanced beyond the study of legal actors and institutions, research could fruitfully explore individuals' legal consciousness as it pertains to property: how property is understood, how this concept and related regulations are used or avoided, resisted, or instrumentalized (Blomley 2016; Ewick and Silbey 1998). How do residents of changing neighborhoods understand and act on their power as related to their status as property owners versus renters? What narratives and ideological interpretations of property rights are called upon in contestations over space? When do marginalized community groups invoke the law to protect and create safe spaces? The law's constitutive dimension means that it comes to cohere categories and meaning in everyday life, often far removed from the state but in the realms of morality and social norms.

Conversely, bringing a sociological lens to the study of property highlights how these legal products (property rights, zoning, codes, licenses), which may be egalitarian "on the books," often function as instruments of inequality in everyday life. They can also, however, be tools for promoting social change, as when municipalities alter zoning laws to permit affordable multifamily housing in areas previously zoned for large, single-family homes. Or building codes in schools might finally be enforced and violations remedied, so that children are no longer exposed to lead poisoning in their classrooms from decades-old chipping paint. Regulations can also be deployed as a form of protection, as when Hahnemann Hospital in Philadelphia, serving primarily low-income residents in a prime urban location, was slated for closure and activists proposed rezoning the land under the hospital to prevent its being redeveloped as anything other than a hospital. Regulations can also promote equitable "rights to the city" by authorizing the various services a free health clinic can provide for the community, permitting ethnic and cultural amenities like

mosques in neighborhoods that are accessible to users, or ensuring residents' access to green space and recreational activities near their homes. Legal regulations of property are integral to the transformation of abstract space into place: place does not exist without law. Place is a conceptual stand-in for the social life of property, which inadvertently obfuscates the way real property functions as a site of power, exclusion, and control, linking everyday placemaking to the hegemony of the liberal private property regime and capital accumulation and exploitation.

Furthermore, other regulations may be usefully examined by sociologists concerned with the legal life of place. Researchers might study property-related contracts (such as between property owners and renters), parking rules (and when they are defied; see Shoup 2014), or laws through which private property rights are removed (e.g., foreclosure or eminent domain) or gained (e.g., adverse possession). Permits for temporary uses may have lasting impacts for place; a famous protest may forever influence a location's meaning in collective memory. Researchers might also examine the rules of smaller scale property regulatory bodies such as homeowner associations or the way other nongovernmental regulatory bodies, such as insurance companies, influence place characteristics (e.g., by dictating safety requirements in a restaurant to decrease potential liability).

Place is certainly not reducible to property nor related regulations, but recognizing that place and property are intricately intertwined highlights the role of enduring and unequal social structures for studies that may otherwise overlook or inadvertently deemphasize institutionalized power and inequality. We urge sociologists to foreground the role of real property in research. As a discipline rooted in the study of social relationships, we ought to be more attuned to real property as a legal concept, a mediator of social interactions and relationships, and a key mechanism for reproducing inequalities. The legal regulation of space should be central for sociological research, because when we regulate property, we are simultaneously regulating social relationships.

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