

THERE ARE 596 ACRES OF VACANT PUBLIC LAND IN BROOKLYN ALONE and other strategies for making the potential commons visible and actionable

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Can't common what we can't see: *Central Club for Boys and Girls, Philadelphia PA*

Mrs. Mabel Wilson³ moved to South Philadelphia's 2500 block of Alter Street in 1928. By 1929, she had purchased the empty building across the street from her home with the entirety of her savings – five hundred dollars – to create the Central Club for Boys and Girls. By the 1930s and 40s, many of Mrs. Wilson's Alter Street neighbors died or fled the neighborhood, leaving their homes behind. As these empty buildings became dangerous to surrounding properties, the City of Philadelphia demolished them. Each left behind an abandoned parcel.

Philadelphians speak of 40,000 such parcels, distributed throughout the city and concentrated in areas associated with historic disinvestment. We call them “vacant,” because, as the owners of record fade from view, these parcels become unproductive

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³ Joseph Myers, “Taxing Times at Central Club”, June 7, 2012, <http://www.southphillyreview.com/news/cover-story/Taxing-times-at-Central-Club-157601275.html>; and court filings (e.g. http://www.pilcop.org/wp-content/uploads/2012/06/petition-mays2540_2.pdf).

land resources in the eyes of municipal officials and developers. On Alter Street, not one of these abandoned parcels ever became truly vacant. Under Mrs. Wilson's staunch leadership, multiple generations of Alter Street residents cared for at least a dozen parcels on one small block, creating garden plots, provided food baskets for area families, and hosting sixty-nine years of annual Central Club events, alumni gatherings, family reunions, and repasts.

For over seventy years, Central Club functioned extra-legally as land stewards. The club itself had legal status, incorporating in the Commonwealth of Pennsylvania as a nonprofit corporation in 1947. However, Central Club had no visible legal connection to the land, even as it hosted 4-H groups, Boys and Girl



Scout troops, and vacation bible school,⁴ sometimes supported with public funding. Though its on-the-ground presence was unmistakable, instead of Central Club building wealth by accruing equity in the property over time or the stability that comes from explicitly de-commodified community ownership of the property,⁵ tax debt and municipal liens of absent owners mounted. Central Club's lack of legal status came to a head in 2005, when the City of Philadelphia began foreclosing on and selling tax delinquent properties at sheriff's sale. With Central Club's legacy at risk, the club filed a series of quiet title actions asserting its ownership to the remaining "vacant" parcels based on adverse possession or squatters' rights. Central Club prevailed in 2010, establishing "equitable title" to eight parcels.

At once lacking the resources to pay the transfer taxes to put the deeds in its name and immediately burdened by the tax debt of long absent owners, Central Club was both legally invisible and unaware that it was still at risk. And, just as Central Club lacked legal visibility, debt owed on the properties prior to 1996 was not immediately apparent to Central Club as it had been sold to a private bank as part of a tax lien securitization. In 2011, the law firm of Linebarger Goggan Blair and Sampson LLP, a private tax collector representing the private bank, filed foreclosure actions against the record owners of three of the eight Central Club parcels. Linebarger did not see Central Club

⁴ Central Club for Boys and Girls, "1940s Snapshot", <https://centralclubforboysandgirlspshilly.wordpress.com/pic-archive-1940s/>

⁵ E.g., through a community land trust.

as the owner and did not provide the club timely notice of the sale. Working with newly formed Garden Justice Legal Initiative (GJLI) at the Public Interest Law Center,⁶ the Club scrambled to have a voice in the proceedings.⁷



Relying on photos that showed the Club as stewards going back to the 1930s, Central Club convinced a court to grant a non profit tax exemption going back to 1978, retroactively making them both the owners of the property and bona fide non-profit owners for the intervening years.⁸ Central Club's status as an extra-legal land steward in the years before 2010 never

hindered its vibrance as a cohesive force in the neighborhood. In fact, absent the Central Club's maintenance of these lots, the majority of 2500 block of Alter Street would have been unoccupied for most of Mrs. Wilson's lifetime. In 2012, the court rewrote history and aligned Central Club's legal connection to the land with the lived experience of people on Alter Street.

Can't common what we can't see: *Keap Fourth Community Garden, Brooklyn NY*

In August 2012, 596 Acres posted a sign on what is now Keap Fourth Community Garden and shortly after neighbors began making plans for the space. This lot was designated as an "Open Space" in the Urban Renewal Area Plan⁹ for the neighborhood,

⁶ Cahn is the director of GJLI, which had launched one month before.

⁷ Other gardens have been lost or almost lost simply because of lack of timely notice or no notice given at all. See Samantha Melamed, "Room to Grow" (July 25, 2014) http://articles.philly.com/2014-07-25/food/51956615_1_west-philadelphia-gardeners-sheriff; Community Gardening in Philadelphia, "2008 Harvest Report" (October 2009) http://www.farmlandinfo.org/sites/default/files/Philadelphia_Harvest_1.pdf;

⁸ Joseph Myers, "Taxing Times at Central Club" (June 7, 2012)

<http://www.southphillyreview.com/news/cover-story/Taxing-times-at-Central-Club-157601275.html>.

⁹ In 1949, Congress initiated the federal urban redevelopment program, or "urban renewal," with the passage of Title I of the Housing Policy Act of 1949, which provided resources to the municipal project of "blight clearance." Title I allocated federal funds so that local redevelopment authorities could buy and clear blighted areas and then sell that land to private developers, using the proceeds to cover public costs. Amy Laura Cahn, On Retiring Blight as Policy and Making Eastwick Whole, 49 Harvard Civil Rights-Civil Liberties Law Review 450 (2014). Keep in mind that, on its face, "blight" was a neutral term, but its application was "infused with racial and ethnic prejudice." A "blighted" neighborhood was more than likely home to African Americans

which was adopted in 1992.¹⁰

Despite planning that engaged neighbors and local organizations, despite City expense to acquire and consolidate the land, for 20 years, the lot, designated as Open Space, simply languished both in the neighborhood and in the City bureaucracy. It sat in the inventory of the Department of Housing Preservation and Development (HPD), which also serves as our local redevelopment authority for Urban Renewal Areas (this means they get the land once the planning and condemnation are complete). HPD has neither the mandate nor the budget to make sure that planned open spaces in its inventory become real open spaces. Other lots, also in HPD's inventory, were planned as new housing projects and those moved forward. But the corner of Keap and South Fourth

just kept gathering weeds and trash.



It sat waiting until neighbors, working together, and in response to the specific information about the lot 596 Acres posted on its fence, were able to manifest the “planned” open space by creating a community garden. In June 2014, two years after the sign posted by 596 Acres went up on the lot, the ribbon was finally cut on the Keap Fourth Community Garden. Shortly before, the

lot had finally been transferred to the Parks Department. Neighborhood parents, a Latino-youth-led “Green Light” district campaign and the daycare center next door came together to gather the support needed to force the city agencies to do what was planned. They collected hundreds of petition signatures, dozens of letters of support from businesses and nonprofits and came up with a layout for the space and a plan to build it using a combination of City and philanthropic resources; all of that, just so 22 years after a City-sanctioned plan for a new Open Space in the neighborhood could

and immigrants, as well as poor people. Wendell Pritchett, The “Public Menace” of Blight: Urban Renewal and the Private Uses of Eminent Domain, 2 YALE L. & POL’Y REV. 1, 14 (2003). After 1967, through the Model Cities program, Urban Renewal Planning took on a “participatory” form, in which residents of areas to be cleared to “eliminate blight” were engaged by City officials to create plans for the futures of the cleared areas, with federal support from 1967 to 1974, and independently after. See Haja Worley, Model Cities, at <http://www.urbanreviewer.org/#map=12/40.7400/-74.0072&page=essays.html>.

¹⁰ See Southside, <http://www.urbanreviewer.org/#map=17/40.7084/-73.9531&plan=Southside>. The plan for this Brooklyn neighborhood was created with the participation of residents and Southside Williamsburg not for profit organizations.

become a reality.

The key to identifying the lots that became the Keap Fourth garden as a place simply waiting to become the target of care and regeneration was 596 Acres unearthing and reviewing the over 150 comprehensive neighborhood master plans adopted by the City of New York under the Urban Renewal umbrella. These plans have existed in paper form in HPD offices, but have been historically inaccessible to the public. Over 100 hours, a team of trained volunteer records inspectors for 596 Acres examined each plan and listed all the lots that were included in it. Where possible, they included the dispositions that were promised where those were available – which lots were envisioned as (or promised to be) “open space,” which were planned to be “commercial,” and which were planned to be “residential.” This process made unfulfilled promises visible and exposed clear opportunities for today’s residents to pick up where those who had been involved in crafting the plans 25 years ago had been left by the City employees charged with stewarding the urban



renewal planning and execution.

The Urban Renewal research is now on the web at urbanreviewer.org¹¹ and has been incorporated into 596 Acres’ community land access advocacy workflow.

Visibilities

Abandoned properties in legal limbo and government-owned land and buildings are natural starting places for both a theoretical discussion of common pool resources and local searches for places to collaboratively create such resources. To “find” the urban commons, it is necessary to create a bridge between

¹¹ Named one of the top websites of 2014 by Planetizen, and received coverage from Technical.ly, CityLab, Planetizen, Untapped Cities, TechPresident, Urban Omnibus, and Fast Company. 596 Acres also presented this work in three dimensions as Reviewing Renewal, a five-week installation on the Panorama of New York City at the Queens Museum of Art (originally commissioned by Robert Moses for the 1964 World’s Fair). The Urban Reviewer, “Press”, <http://www.urbanreviewer.org/#map=12/40.7400/-74.0072&page=press.html>.

disposition strategies for public resources and the cooperative projects that emerge when these strategies result in land access by community-based organizations or when self-help land access occurs in the absence of accessible disposition strategies. Such bridges are the necessary interruption of the narrative of scarcity that permeates all conceptions of real estate.

Making maps that show the abundance of the multitude of existing and potential commons in cities. Connecting those maps with tools and strategies understandable to residents creates the necessary conditions for the commons to emerge and then to be recognized. By becoming visible via tools accessible from further away than the fence line of a particular parcel, common spaces become both valuable and governable from a distance. But there is a tension in these strategies and a danger that they will amplify and replicate a history of uneven development across neighborhoods in our cities. Visibility and value can conspire to displace the vulnerable and expose local communities to market forces more powerful than they can stand; but recognizing the value of shared resources for local constituencies and making their abundance and potential seen also gives voice to those usually left out of land use planning discussions.

As practitioners, the authors strive to develop practices to balance vulnerability and collective power so that our tools can be used by immigrants, youth, people of color, and residents of neighborhoods scarred by a century of redlining, municipal neglect and urban renewal as amplifiers and generators of power.¹²

These places burdened with the present-day concentrations of vacant lots and abandoned buildings, with properties left in legal limbo: these are the neighborhoods where foreclosures are concentrated, where vast numbers of people are paying more than 50% of their income in rent, where renters most often find themselves in housing court. These are the neighborhoods from which jail and prison populations are drawn and to which they return, bringing the trauma and violence of their experiences back home; the neighborhoods to which you have to take a bus because the subway does not reach them; the neighborhoods where no hospitals ever opened or where those that did are closing, the neighborhoods with few grocery stores and fewer farmers' markets, the places overburned with industry and trash incinerators, but without parks. These are also the neighborhoods where the majority of the world's poor people and people of color live.

Patterns of want and abundance replicate themselves in urban centers, though in some places concentrations of poverty may be found in the middle of cities and in others at the periphery. Goal-oriented visibility of key information aimed at actualizing the redistributive potential of the polycentric city-as-commons is one means of putting those who have traditionally been disenfranchised closer to the driver's seat.

¹² See, e.g., DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 51 (1993)(chronicling the history of institutionalized racism in lending practices); Amy E. Hillier, *Redlining and the Home Owners' Loan Corporation*, 29 *J. URBAN HIST.* 394, 395 (2003).

The uneven growth of healthy places is compounded by uneven access to information about how people can influence the development of such places where they live and which places are the most in need of such influence and present the fewest barriers to being influenced by local engagement. A lack of developed, maintained and protected green spaces is just one symptom of municipal neglect;¹³ a lack of information about how people can shape the city comes with it. Urban land that lies vacant, abandoned by public and private owners alike, is one type of commons that is hidden in plain sight in neighborhoods in all cities; community stewarded spaces that act as key local institutions but have no formal land tenure are another. Both public assets improve their value as commons when residents engage with them, but neighbors standing on the street in front of a lot full of garbage or in front of a community farm that does not have a formal relationship to its land cannot see the pathways through which their engagement can be channeled.

Understanding what is already ours and what *could* be managed as a shared resource shapes the structure of dreams, requests and demands. The government of Bologna recognized that residents knowing which places “could be the target of action of care and regeneration” is a prerequisite to having people engage in that loving process.¹⁴ Without dreams of shared resources accessible to neighbors and presented in relatable ways, requests and demands cannot emerge. Since most cities have not adopted a formal obligation to announce to the public which places invite collaboration and care, advocates must make their own invitations. Advocates use whatever information is available – from local knowledge to Open Data – to build our directories of the possible and invite participation from key stakeholders.

Strategies for making key information about key places visible are key to encourage polycentrism¹⁵ in governance, decentralizing the power to govern among individuals,

¹³ The City Project, a Los Angeles based organization, has done extensive documentation of the disparity of green space access for communities of color and how that disparity corresponds with disproportionate exposure to environmental harm. See e.g. Robert García and Seth Strongin, *Healthy Parks, Schools and Communities: Mapping Green Access and Equity for Southern California Policy Report* (2011).

¹⁴ Comune di Bologna, “Regulation on Collaboration between Citizen and the City for the Care and Regeneration of Urban Commons, Sec. 10.6”, 2014, <http://www.comune.bologna.it/media/files/bolognaregulation.pdf>.

¹⁵ See Foster, Sheila and Iaione, Christian, *The City as a Commons* (August 29, 2015). *Yale Law & Policy Review*, Vol. 34, No. 2, 2016, at 46. Available at SSRN: <http://ssrn.com/abstract=2653084> or <http://dx.doi.org/10.2139/ssrn.2653084> (“to understand the polycentric approach is to understand the distinction between government and governance: governance is not just “what governments do” because governance is not a function limited to the State; rather, a myriad of non-governmental organizations, local neighborhood associations, individual property owners, etc. can (and already do) play an important role in governing resources,” citing Daniel H. Cole, *From Global To Polycentric Climate Governance*, in 2 *Climate law* 396 (2011)).

organizations and formal organs of government. Decentralized power means that a broader swath of people are included in decisions about the distribution of life-enhancing elements in cities, which are really decisions about life quality and longevity. But polycentrism alone, while a key feature of a collaborative commons-oriented governance strategy, does not mean that justice goals are attained or that centuries of racism, displacement from land, and disenfranchisement from decisions about key resources, have been undone.

To use visibility as a means to achieving those goals within a polycentrist commons governance framework, it is imperative to ask to whom the information is visible, which people find themselves at many centers of power and, thus, benefiting from access to the information, and to what goals is available information tailored. When making sites of potential engagement visible and actionable, the authors – and a network of practitioners dedicated to reversing the racist patterns of land allocation and accumulation that have resulted in the inequities of the present moment – strive to make sure that it is possible for people impacted by the long violent histories we seek to heal to benefit from the information and guidance; since power, knowledge and historical privilege have a tendency to accumulate around communities and individuals with traditional access to power, reversing the trend while expanding the commons must be a conscious act.

NYC: Public Land for Public Use

Over four years, 596 Acres’ Living Lots map, an interactive organizing map that presents all available information about “our” real estate assets online in an understandable form, has been a key part of city-wide movement demanding community access to and control of government land in New York City. The 596 Acres team started by hunting down the available information about city-owned land in New York City, gathering data from the NYC Open Data portal and in other city agency and not-for-profit organizations’ records, using New York State Freedom of Information Law when necessary.¹⁶ Living Lots also



¹⁶ These datasets needed a lot of work to be translated into information that makes sense in context. The NYC Department of City Planning marks all community gardens with the same “VACANT” code that it uses for truly empty lots; lots that have street access are lumped together with slivers of shared backyards that can’t be reached unless you go through the properties bounding the yards. 596 Acres created a classification system that created a closer alignment between the City’s data and the world as New Yorkers actually experience it, at least in the narrow category of “What is a vacant lot?” For each publicly owned “vacant” lot, the team asked

incorporates information about urban renewal area planning that was gathered for the creation of the Urban Reviewer and from a database of existing NYC gardens that responded to surveys in 2011 and 2014, published by GrowNYC.¹⁷

The Living Lots map and 596 Acres' organizing and advocacy support have led to the creation of 32 new community-managed gardens, pocket parks and farms. The map allows users to see our land that is hidden in plain sight, and allows advocates to take information directly into neighborhoods where vacant public land is waiting to become something else via conversations, signs on fences, and paper maps that bring the online experience to community Planning Boards, block associations and churches.

The way many community members first encounter us in New York City is by coming across the visually striking posters and signs hung on the fences of inaccessible publicly owned vacant lots. This physical intervention in the landscape changes the appearance of a space that neighbors may have walked by so many times that they've ceased noticing it. By calling attention to these gaps in the accessible landscape, signs alert neighbors to their potential. For example, posting a sign reading:

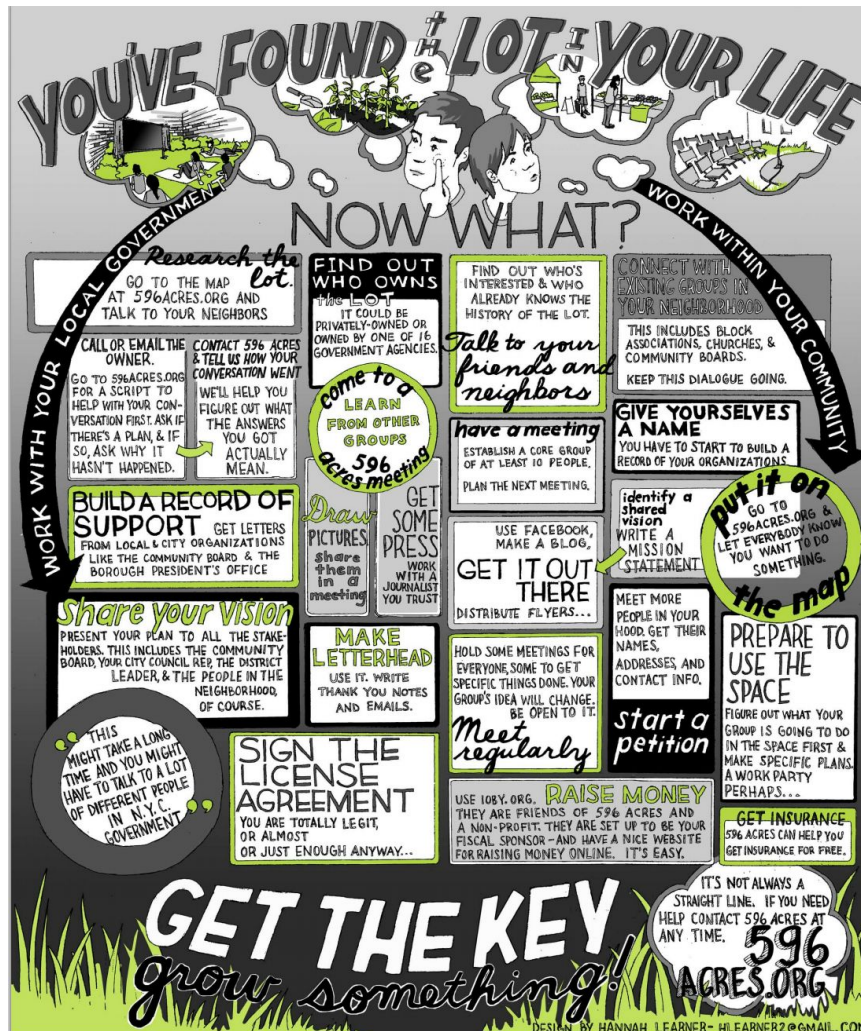
This lot is owned by Housing Preservation and Development, a NYC agency. It's called Brooklyn Block 372 Lot 4. They aren't using it right now and may let you and your neighbors create a garden here or a playground. Start by calling the local office for the agency and asking if there are any plans for this site: (718) 368-0000 or calling us for help: (718) 316-6092.

The attention to bringing the information to the fence line is an attempt to ensure that those most harmed by years of vacancy will have the most ready opportunity to turn the information into local action. New residents and innovators who have roots in other neighborhoods certainly have roles to play in the development of these new commons, but advocacy strategies that privilege those who have roots in the neighborhoods as decision-makers and change-makers are our priority.

two questions: "Is this lot in use already?" and "Can you reach this lot from the street?" The first allowed more accurate classification of existing community-stewarded spaces as lots that are developed and have a use; the second removed about 30% of the vacant "lots" that the City data points to because they are not places the public has access to. To do this analysis accurately, a combination of an automated script and a staff person who looked at the google street view for each property and the property shapefiles as available on OASISNYC.net, as well as property records, was used.

¹⁷ Grow NYC, "Community Garden Survey Released," January 6, 2011, <http://www.grownyc.org/blog/community-gardens-survey-released>; 596 Acres, "Living Lots NYC Data", 2014, <http://livinglotsnyc.org/about/living-lots-nyc-data/>. Unfortunately, this survey does not ask questions about the stewards relationship to the land.

A Land Access Program Manager responds to inquiries, facilitates online and in-person social networks replace the isolation of advocating for a future that not everyone can readily see alone, and helps groups craft campaigns around local needs and circumstances that are also responsive to changing City policies and priorities. Every campaign to access an unused lot for community use or protect an existing community space is different. In each instance, volunteers must navigate a unique bureaucratic maze: applying for approval from the local Community Board, winning endorsement from local elected officials, and negotiating with whichever agency holds title to the land.



Staff and the public use the open source Living Lots mapping tool and case management system¹⁸ to maintain continuity of a local campaign, even as individual residents of a

¹⁸ Living Lots is a 2015 Buckminster Fuller Challenge Semi Finalist project, recognized internationally as visionary, comprehensive, anticipatory, ecologically responsible, feasible, and verifiable; it has been adapted for use in global cities, including Los Angeles, Philadelphia (as www.GroundedinPhilly.org) and New Orleans, and has inspired copycat projects in Montreal (H-MTL for buildings and Land for vacant lots), Pittsburg, Melbourne, Sydney, Calgary, and Old

neighborhood have variable ability to contribute to a struggle that can sometimes take years. The system also allows us the easily transfer of knowledge from one campaign to another where the decision-makers are identical; when a single agency changes staff or policy, staff are able to quickly and seamlessly make sure that all the organizers impacted parcels understand how that change affects them.

Information provided where it matters, organizing, policy and advocacy support replace the lack of access to resources for communities to get permission to turn those lots into something better. And through the supported efforts of neighbors, gardens, farms, community composters and pocket parks replace vacant lots full of trash and weeds, thirty-two of them in New York City so far, and counting.

A unique condition to New York City is the tight political hold that the administration has on public land, particularly land that is in the inventory of Housing Preservation and Development. This inventory is controlled, warehoused and distributed to meet political goals and agendas. It is not land that is available for purchase without restriction on the private market. City agencies and politicians use the incentive of free government land to create conditions under which private developers – non-profit and for-profit – agree to build housing and sometimes other neighborhood amenities.

Opening the conversation about how free public land is distributed and what kind of development it is used to encourage is a distinctly democratic project; it is an invitation to residents to witness and take part in the traditionally closed-door process. Although New York City does have a Municipal Surplus Real Estate Auction process and an auction is held once every several years,¹⁹ only a small percentage of public land in the City goes through the auction and becomes available to un-vetted private buyers. Unlike in cities where purchase of most public land is available to all-comers, New York's highly political land-disposition process serves as a buffer to the market forces that would otherwise overpower neighbors once information about land was available.

Public land in New York is insulated from the market; but its disposition is also usually done through a process insulated from New Yorkers outside of the politics and development communities. Announcing public land as an opportunity for neighborhood engagement in New York City allows people to not only engage with the land itself and each other, but also with the political process.

“Greg, I have bad news.”

Trafford (England). 596 Acres, “Maps for Other Cities”, 2015,
<http://596acres.org/en/about/other-cities-copy/>.

¹⁹ See, 596 Acres, Public Land for Sale to Private for Profit Developers,
http://596acres.org/en/news/2015/10/18/public-buildings-for-sale-to-private-for-profit-developers
/ (updated October 27, 2015).

It's 9pm on a Wednesday night. I don't know Greg well – I have met him at a few events, know he has a plan to scale up composting at his garden. I'm nervous. It's never nice to be the messenger.

“The administration published a list of lots they want developers to apply to build on.”

Silence.

“Imani Garden is on it.”

Greg hangs up. I call back. Three rings.

“Ok. What are we gonna do?”

In January 2015, when NYC Housing Preservation and Development (HPD) published a list of 181 “hard to develop” properties they are willing to sell for \$1 to housing developers willing to build housing affordable within the federal definitions, one of your authors was able to quickly analyze the list and find out that it included nearly 20 community gardens. Six of those were gardens that had formed through 596 Acres’ support in the past three years. Advocates were able to quickly use and expand an existing network to put community gardeners in the best position to respond to the list long before any particular garden is actually threatened with demolition. To be able to respond to these “vacant” lots being offered to private for-profit builders, it was necessary to connect the information about which lots were included in the published list with the information about which lots are actually being used already, as gardens and community spaces.

The Living Lots framework, which is based on the same parcel identification system that the City uses (the Borough, Block and Lot number), allowed advocates to create an accurate account of which of the sites have a current use, publish a map and call the impacted gardeners directly. The voices of those gardeners were then amplified through directing press to them²⁰ and co-organizing a rally at City Hall.²¹ Nearly a year later, the

²⁰ 596 Acres built a speakers’ bureau of gardeners on sites on the #hpdlist. Here is just one of the stories that have come from this polycentered accidental constituency: Cole Rosengren, “Bed-Stuy is Focus of Concerns Over Fate of Community Gardens,” Brooklyn Deep for City Limits, July 15, 2015, <http://brooklyndeep.org/bed-stuy-is-focus-of-concerns-over-fate-of-community-gardens>.

²¹ Michael Tortellano, “In Community Gardens, A New Weed,” New York Times. Feb 12, 2015, <http://nytimes.com/2015/02/12/garden/in-community-gardens-a-new-weed.html>.

HPD program is stalled; six months have passed since announcements of developer designations were due. It is clear that the invisible constituency has been recognized and that the program will not move forward until the presence of local land stewards on these sites is recognized by City Hall and further accounted for, either through removing the sites from the list or other mitigation strategies.

The effects of each campaign already ripple through our communities. Neighbors are telling neighbors about their experiences, about the possibilities that exist behind rusty fences. Organizers who become gardeners then join their local community boards and assert power over an even broader range of decisions about their neighborhoods. Over the long term, increased public participation transforms the way land is dealt with in New York, leading ultimately to a more democratic and greener city.

By knowing which places in our neighborhoods invite our interventions, we replace want with abundance.

By knowing what kind of intervention is possible, we replace disenfranchisement with true power gathered at many possible loci of action.

Strategically placed signs that bring information to neighbors and an innovative online platform replace the lack of access to information about the forces that shape our cities. Information about land ownership is the seed for community stewardship of our urban commons – creating the preconditions for real systemic and environmental change, locally and globally.

Translating data into maps and signs makes opportunity legible.

Das ist auch Dein: Berlin

In Berlin, where since the 1990s public assets have been aggressively privatized as a means for raising revenue and for signaling a paradigm shift from pre-unification Germany.

Whole neighborhoods are for sale by the federal government to the highest bidder,²² senior centers are at risk,²³ neighborhood libraries are closing, and publicly financed “social housing” has been transformed into a market commodity.²⁴ Each unique local

²² Though the sale was stopped! See

<http://www.rbb-online.de/politik/beitrag/2015/09/Berlin-Immobilien-Dragoner-Areal-Abstimmung-Finanzausschuss-Bundesrat.html>;

<http://stadtvonunten.de/dragonerareal-in-berlin-friedrichshain-kreuzberg-wird-nicht-privatisiert-oder-wie-schafft-man-es-als-buendnis-stadt-von-unten-den-bundesrat-zu-beeinflussen/>

²³ See, Visting the Oldest Squatters in the World,

<http://prinzessinnengarten.net/die-aeltesten-besetzerinnen-der-welt/>; Berlin's oldest squatters in town defend threatened community centre, The Guardian, July 20, 2012,

<http://www.theguardian.com/world/2012/jul/20/germany-europe-news>.

²⁴ <http://www.nachbarschaftsakademie.org/investigativer-workshop-urbane-gemeingueter/#more-1319>

situation impacts a specific neighborhood constituency – these neighborhood constituencies are capable of impressive local wins. But the missing information is that underlying all are policies based on the assumption that publicly-owned property assets are commodities, not resources, and a secretive process for determining which properties government entities release to the market, and which they hold back; this process is based on establishing market advantage to be able to draw higher prices for the land and

buildings,²⁵ not on serving the public good.

While the actual uses of these public property assets differ, from the perspective of



government, they are all potential real estate sales transactions. Just this summer, the City of Berlin started quietly creating a “clustering” system through which all public properties were assigned a status: to keep as infrastructure, to keep as potential future infrastructure to be used within five years, to sell. Local groups fighting to keep their libraries, to save public school buildings, to keep luxury condos from popping up on a former airport, to house refugees and to develop community-first proposals for the re-use of public buildings were not invited to “cluster.” In fact, these constituencies were all left out of the singular process of sorting public assets.²⁶

To point out that public property, no matter its actual use, was viewed by the City as a single class of assets for disposition, activists based at the Nachbarschaftsakademie, working with one of the authors, co-designed the signage system you see here with members of many local groups as a bridge through which the different constituencies stewarding different parts of Berlin’s commons could see their common threats and

²⁵ Author interview with Berlin government official, August 2015.

²⁶ See <http://prinzessinnengarten.net/investigativer-workshop-urbane-gemeingueter/>

opportunities. Just weeks later, the refusal of the Federal Senate to approve the privatization of the Dragoner-Areal in Berlin-Kreuzberg²⁷ at the urging of The City from Below (“Bündnis Stadt von Unten,” an established group whose members participated in the Nachbarschaftsakademie process)²⁸ rippled as a success through the network. Shortly after another group – no longer unrelated – was formally invited to submit a proposal for a community-based use for a site they had been advocating to keep out of private hands.



²⁷ Although German federal law mandates that public properties are to be sold to the highest bidder, the law also requires all contracts for the disposition of public land to be approved by the Senate. The highest bidder for the Dragoner-Areal was an individual ready to pay \$36Million Euros for the site, having outbid two different communal housing companies of the City of Berlin, who endeavoured to purchase the federal land within City limits for \$20Million for the construction of publicly funded social housing.

²⁸ <http://stadtvonunten.de/>

Philadelphia: Building a Constituency through Law, Organizing, and Data

“Urban agriculture is not a constituency.”

About three months into the life of the Garden Justice Legal Initiative (GJLI), a staffer from one of Philadelphia’s landholding agencies made this comment to members of the Mayor’s Food Policy Advisory Council (FPAC) vacant land subcommittee.²⁹ FPAC members had requested a meeting with the agencies to discuss the city’s new draft land disposition policies and development of a web-based “virtual land bank,” called Philly Land Works and intended to map and make vacant land owned by multiple city agencies available for sale.³⁰

For city officials and community members alike, this project of making land available on the market was critical. Philadelphia gardeners and farmers had for years sought legal access to publicly owned land, but had both struggled to understand even basic facts about who owned land and how to get access. Even when they prevailed, they faced being marginalized as an “interim use,” “a means to other ends” best employed only until a “higher” use for land emerge.³¹ Moreover, it was clear that gardeners and farmers did not fully exist *to* the city, even as decisions were being made to fundamentally change their landscape *in* the city.

The FPAC worked with GJLI and the now disbanded grassroots Food Organizing Collaborative (FOrC) to establish a presence as a political voice. In the span of less than two weeks, FPAC and FOrC found and collected feedback from over 100 gardeners and farmers throughout the city. Advocates highlighted the place-based nature of this work and the significant and wide-ranging benefits garden and farm projects bring to communities and the intense investment of time, money, engagement, and trust-building required to start and maintain a garden. The goal was investment by the City towards continuity and permanence. By June 2012, revised policies allowed for up to 5-year leases for community gardens and leases of variable terms for market farms and signaled that there would be a pathway to longer-term preservation for more established gardens.³²

²⁹ At the time, Cahn was a member of the FPAC vacant land subcommittee. She served as the chair of the subcommittee for two years, until becoming elected co-chair of the council in October 2015.

³⁰ Philadelphia’s Vacant Property Journey: Fostering Collaborative Alliances With Converging Policy Reforms, September 2013,

http://vacantpropertyresearch.com/wp-content/uploads/2013/09/Philly-Layout_V5.pdf; City of

³¹ Susan Wachter et al., “Redevelopment Authority Of The City Of Philadelphia: Land Use And Policy Study 19, 34”, 2010,

<http://penniur.upenn.edu/uploads/media/urban-agriculture-final-report.pdf>.

³² Acquisition is dependent on both the capacity to negotiate complicated bureaucracy and gain political backing from the appropriate district councilperson. Even temporary legal permission has required jumping through similar political and bureaucratic hoops. Philadelphia’s Vacant Property Journey; City of Philadelphia. “Policies for the Sale and Reuse of City Owned Property,” April 20, 2012,

However, when Philly Land Works launched that same month, the city's attempt at making vacant land visible to potential consumers ignored the broad scope of vibrant, verdant work on and *in* the ground.

The City of Philadelphia was suddenly offering up garden parcels for sale.

Opportunity was being made visible by government actors, but was only actionable by entities aiming to participate in the privatization of public assets as opposed to their protection and development as commons.

Where can we create and secure commons?

Like Central Club, the majority of Philadelphia's hundreds of community-managed gardens and open spaces operate without legal permission. For decades, acquiring even temporary legal permission to public land has been a quagmire of epic proportions; acquisition of privately owned-tax delinquent land was even more complex. Thus, while gardeners had the tacit support of the City to function as a *de facto* land management team,³³ lack of access to the process dictated that they largely operated under the radar, particularly in Philadelphia's most disenfranchised neighborhoods. Thus, to make preservation pathways – the care and regeneration needed to protect existing common spaces – visible, activists in Philadelphia first needed to know *where* the places that need preservation were.

During the summer of 2012, GJLI began a garden data collection process. Building on existing data from a 2008 study,³⁴ GJLI used existing relationships, crowd-sourcing, and neighborhood based ground-truthing to begin mapping the physical scope of Philadelphia's existing commons, and to meet its land stewards in person and understand their histories and current resource needs.

By December 2012, GJLI had launched a collaboration with 596 Acres to create a web-based mapping and organizing site aimed at both bringing visibility to the breadth of existing urban commons--gardens, farms, and community-managed open spaces--and make transparent publicly owned and abandoned private vacant spaces and associated pathways to legal access. Through GroundedinPhilly.org,³⁵ GJLI made information

http://www.phdchousing.org/rfps/Philadelphia_Land_bank_Strategic_Planning_and_Analysis_RFP_final.pdf.

³³ See e.g. Susan Wachter et al., *Redevelopment Authority Of The City Of Philadelphia: Land Use And Policy Study 19, 34* (2010) available at <http://pennur.upenn.edu/uploads/media/urban-agriculture-final-report.pdf>.

³⁴ A key finding of the Harvest Report was the vulnerability of garden spaces due to barriers to land tenure. Domenic Vitiello and Michael Nairn, "Community Gardening in Philadelphia: 2008 Harvest Report," *Penn Planning and Urban Studies* 27 (October 2009) available at http://www.farmlandinfo.org/sites/default/files/Philadelphia_Harvest_1.pdf.

³⁵ See e.g. Adrien Schless-Meier, "K(no)w Vacancy: From NY to PA, Urban Land Maps Support Reclaiming Abandoned Lots," *Civil Eats* (July 26, 2013)

accessible broadly, but also learned more about who was organizing on “vacant” land and where. Pairing on-the-ground and web-based strategies, GJLI soon had a database of facts on the ground. Now, staff could alert gardeners to spaces at risk and connect them with pathways to legal access. And now, the GJLI had the context to work with gardeners as advocates in removing decades-old barriers to land tenure.

Data Spurs Action

The Pulaski Zeralda Garden in northwest Philadelphia has been “the only spot of green” on a block of row houses for 25 years.³⁶ Early Bird Farm is a newer South Philadelphia market farm in one of Philadelphia’s most rapidly gentrifying neighborhoods. When GJLI cross-referenced garden data with those properties offered up for sale by Philly Land Works, it became obvious that the City was offering Pulaski Zeralda and Early Bird Farm up for sale, along with 68 other gardens and farms. Over the course of a month, GJLI visited each at-risk space, speaking directly with gardeners at at least 20 spaces and



leaving the remaining with laminated detailed instruction about the garden’s status and the most effective routes toward preservation. A number of gardeners thought they owned the land themselves. Others were sanguine about gardening late in life and did not wish to bother with the City. However, Pulaski Zeralda immediately began a process of

preservation by the local community garden land trust, while the Early Bird farmers purchased their farm lot directly from the City.

The following year, as the city’s new zoning code went into effect,³⁷ GJLI used the data to make at-risk gardens visible, once again. Within months of the new zoning code³⁸ going into effect, a district council member introduced legislation intended to roll back

<http://civileats.com/2013/07/26/know-vacancy-from-new-york-to-philadelphia-urban-land-maps-support-communities-in-reclaiming-abandoned-lots/>.

³⁶ Garden Justice Legal Initiative Program Report, 2011-2013 (quoting garden leader Dee Dee Risher).

³⁷ See generally, Philadelphia Code, Title 14, enacted August 22, 2012, [http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphiacode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia_pa](http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/thephiladelphiacode?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa).

³⁸ See id. § 14-601(11); Table 14-602-1.

efforts to legalize urban agriculture through an outright ban on community gardening and market farming in commercial mixed use areas. This legislation, in banning gardening and farming on about a third of commercial land, would have put about 20 percent of Philadelphia's gardens and farms at risk, since this use would, once again, be illegal.³⁹ Building the ad-hoc Coalition for Healthier Foods and Greener Spaces, with threatened gardens and farms at the fore, having key information made urban agriculture-and the visible in the media and in city council chambers.⁴⁰ Within a month, the bill had been scaled back and the bill's sponsor had removed provisions affecting urban agriculture entirely. And out of that ad-hoc organizing effort, a more formal coalition was born, now called Soil Generation.⁴¹

In the spring of 2015, GJLI used garden data to mitigate the impact of the City of Philadelphia's attempt at a tax lien sale.⁴² The revival of a largely failed 1997 policy, the

³⁹ Philly.com, "Twilight Zone- Already Some on Council Messing with Zoning Reform," November 19, 2012,

http://articles.philly.com/2012-11-19/news/35206190_1_new-code-twilight-zone-developers.

⁴⁰ John McGoran, "Zoning Amendment Threatens Urban Farms in Philly", Gridphilly.com, 2013, <http://www.gridphilly.com/grid-magazine/2013/1/18/zoning-amendment-threatens-urban-farms-in-philly.html>; Virginia Smith, "And You Thought Gardening Was A Passive Sport," Philly.com, January 17, 2013,

<http://www.philly.com/philly/blogs/gardening/And-you-thought-gardening-was-a-passive-sport.html>; Christine Fisher, "Councilman O'Neill's Amendments Hit Community" Planphilly.com, January 17, 2013, <http://planphilly.com/eyesonthestreet/2013/01/17/councilman-o-neill-s-amendments-hit-community-gardens>.

⁴¹ Soil Generation webpage, <http://groundedinphilly.org/HFGS-about/>.

⁴² Selling tax debt to private collectors has been New York City policy continuously since 1996, when Mayor Rudolph Giuliani decided to stop taking buildings [and lots] in rem. Instead, the city would place tax and water liens, a right to seize possession of the property (as well as emergency repair liens, in which a landlord fails to repay the city for intervening in hazardous conditions) against a building [or lot] and then, after a period of staged warnings, sell the liens to a servicer, which would then package the liens and sell them as investments. In this way, the city would get its money up front, and privatize the question of what happened to the buildings, [lots] —and their tenants. John Krinsky, *Managing New York City's Rental Housing Catastrophe: The Once and Future Potential of Tax-Foreclosed Properties*, October 20, 2015, *Metropolitiques*, <http://www.metropolitiques.eu/Managing-New-York-City-s-Rental.html>. The NYC Department of Finance has sold about 2,500 notes in the lien sale over three years, 2012-2014 for properties that have no buildings on them. About 20% of these are notes that were sold on the same property. These vacant lots are cavities in neighborhoods, either introducing hazards into the lives of residents or encouraging self-help in their transformation through their persistent structural neglect. For example, the Roger That! Community Garden was founded by the Crown Heights Youth Collective in 2007 on a property where a hardware store used to stand. The store owner abandoned the building and moved to Florida in 1998. No one has paid the taxes since then; annually the Department of Finance bundles the debt in a package with many other notes, and sells it to private entities that then have the right to collect. It took nine years for the City to demolish the rotting building on the site, and only after intense lobbying by the Crown Heights

City announced intent to, once again, use back debt as collateral to raise short term funds by selling 1400 tax liens to private investors.⁴³ GJLI pushed back with other advocates, reminding city officials that “properties whose liens were sold [in 1997] remained in limbo for years and unavailable for redevelopment because tax balances continued to be uncollectible.”⁴⁴

GJLI knew from experience with Central Club that privatized debt creates an additional barrier to transferring abandoned land into new ownership, including for garden preservation. Thus, advocates once again cross referenced garden data with the tax lien pilot list. Five active gardens were on the list, including one GJLI client and a non-profit garden and nature center that had just applied for and received its nonprofit real estate tax exemption. Armed with this knowledge, the City was able to remove each of these properties from the list. Publicizing the list and pending lien sale also put gardeners previously unknown to GJLI on notice. They too came forward to prevent tax lien sale of their spaces.

The project of making gardens visible has become a collaborative endeavor, with a growing number of unexpected allies. Just weeks ago, a staff member from the Linebarger tax collection firm flagged a garden when cross referencing parcels headed for foreclosure action. That individual reached out to GJLI to discover that the parcel was part of a large network of gardens serving Philadelphia’s Bhutanese and Burmese refugee population.⁴⁵ This is a garden that will now not be sold. As full scope of Philadelphia’s

Youth Collective and its allies. The demolition costs are also liens against the property and have also been sold. No debt to the City remains, and therefore no City leverage. The total “private” debt against the Roger That! property is now roughly \$500,000. The tax lien sale enabled the City to ignore the it for years and to continue ignoring it now, a community institution that took the place of the dilapidated building is at risk of disappearing (“It is a private dispute and we cannot get involved,” said a staff member for the Council Member.). Instead of having foreclosed on the property for non-payment of taxes and dedicated it to a necessary community use—like the garden, or affordable housing—the City ignored it for years, selling its accrued tax debt and allowing the land to become the subject of speculation while the neighbors and local institutions were left with little choice but to transform the space extra-legally. See Nathan Tempey, Developer Claims It Bought Crown Heights Community Garden Property For \$10, Gothamist, June 10, 2015, at http://gothamist.com/2015/06/11/crown_heights_community_garden.php.

⁴³ NewsWorks, “Philadelphia to Auction off Tax Debts Despite Criticism from Community Groups,” June 24, 2015, <http://www.newsworks.org/index.php/local/homepage-feature/83398-philadelphia-to-auction-off-property-tax-debts-despite-criticism-from-community-groups>.

⁴⁴ Claudia Vargas, Philadelphia Readies to Auction 398 Tax Liens, June 24, 2015, http://www.philly.com/philly/news/20150624_Philadelphia_readies_to_auction_398_tax_liens.html. See also Center for Community Progress, Analysis of Bulk Tax Lien Sale City of Rochester, 2013.

⁴⁵ Marianne Lavell, This City Turns Brown Into Green, Just as the Pope Wishes, National Geographic (Sept. 25, 2015)

existing commons emerges for all to see, gardeners and farmers are creating their vision for a changing city and making that vision seen and heard. And, in the midst of it all, the Early Bird farmer and her young daughter walk down 25th Street from Point Breeze to Grays Ferry to meet Mrs. Mabel Wilson's son and celebrate Central Club's 69th Harvest Fair.

Detroit

While it is clear that having information, in context, connected to pathways to meet goals, is a consistent precondition in all geographic and political contexts – that the maps that we have produced to support our advocacy are a “scalable solution” in the language of technology entrepreneurs – it is equally clear that only the general shape of this solution can be applied across contexts.

Which information? which goals? what kind of connections are needed to truly shift power centers to residents who are members of historically marginalized groups and/or have roots in places that have suffered from the neglect that congeals when power is concentrated elsewhere?⁴⁶ – these are uniquely *local* questions.

In Detroit,⁴⁷ having access to enough data and local information to answer the question,

<http://news.nationalgeographic.com/2015/09/15925-pope-francis-Philadelphia-environment-green-space-gardens-immigrants/>

⁴⁶ See, e.g., Flood, Joe, *The Fires: How a Computer Formula, Big Ideas, and the Best of Intentions Burned Down New York City--and Determined the Future of Cities* (2011); Avirgan, Jody, “Why the Bronx Really Burned,” October 29, 2015, <http://fivethirtyeight.com/datalab/why-the-bronx-really-burned/>:

One of the lead chiefs who ran the Fire Department statistical operations group told me in an interview, “Yeah, when we get the recommendations of which firehouses to cut, sometimes you get one that would be down the block from where a judge lived or it would be in a powerful city councilman's district. We would skip that one and move down the list.” Where they knew they were going to get pushback, they actively did not cut in those places. So, naturally, it goes through places where they are poorer, less powerful, more disenfranchised.

⁴⁷ Detroit has been mapped exhaustively by Loveland Technologies through Motor City Mapping and WhyDontWeOwnThis. In the local context, simply having information about which parcels are owned by which private actors and public authorities and which are available for purchase through online auctions has not been a sufficient precondition to shift the balance of power and create a polycentrism that prioritises placing those who have been most impacted by disinvestment in the last century at centers of power. As the contrast between different types of auction-bidding behavior illustrates, sometimes public data and public auctions can act to disenfranchise those individuals and communities even further.

“Which houses in the post-tax foreclosure auction in 2015 are actually occupied by residents who want to stay?”⁴⁸

allowed a coalition of groups to band together to raise over \$108K in donations to buy fourteen occupied homes and place them into a new community land trust, expanding the commons, stabilizing neighborhoods, and helping individuals.

A Keep Our Homes Detroit organizer stressed, “The success of this campaign is actually a testament not to the power of digital tech but rather old fashioned relationships and trust.”⁴⁹ Knowledge about individuals’ situations combined with an understanding of the tax lien sale foreclosure auction process allowed organizers to build the bridge that is keeping Detroiters housed.

During the auction process, organizers learned that the bidding for homes with people in them was more intense than for the homes without residents; since the other bidders were not organizers actually working with residents but rather speculators and hopeful homeowners, one can only presume that they were bidding energetically on these same homes because having the answer to the question,



“Which houses in the post-tax foreclosure auction in 2015 are actually occupied?”

allowed them to conclude that these homes were in physically better shape than those that no one lived in. The information the two types of bidders were working with is identical, but the goals and context are completely different.

Innovations in power distribution must track innovations in information sharing and are integral to ensuring that legal and data tools actually serve the purposes of putting power over land use decisions in the hands of people most impacted by them, especially those people who have been disconnected from power over land for generations.

⁴⁸ See, Keep Our Homes Detroit, <https://www.gofundme.com/ourhomesdetroit> (“25,000 homes in Detroit are up for auction and at least 8,000 of them are occupied”).

⁴⁹ Interview with one of the authors (November 2, 2015).