

The Vacancy Report

*How Los Angeles
Leaves Homes Empty and
People Unhoused*



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ABOUT THE ORGANIZATIONS

Strategic Actions for a Just Economy

SAJE is a 501c3 nonprofit organization in South Los Angeles. SAJE builds community power and leadership for economic justice. Since 1996 SAJE has been a force for economic justice in our community by focusing on tenant rights, healthy housing, and equitable development. SAJE has taken many notorious slumlords to court, established a land trust, and helped implement innovative popular education programs. SAJE runs a regular tenant clinic, helps connect local residents to jobs, and fights for community benefits from future development through private agreements and public policies. SAJE, believing that the fate of city neighborhoods should be decided by those who dwell there, convenes with other organizations to ensure this occurs in a manner that is fair, replicable, and sustainable.

Alliance of Californians for Community Empowerment

The Alliance of Californians for Community Empowerment (ACCE) Action is a grassroots, member-led, statewide community organization working with more than 15,000 members across California. ACCE is dedicated to raising the voices of everyday Californians, neighborhood by neighborhood, to fight for policies and programs to improve our communities and create a brighter future.

UCLA School of Law Community Economic Development Clinic

The Community Economic Development (CED) Clinic at the UCLA School of Law provides transactional and policy-oriented legal support to community-based organizations throughout Los Angeles, working to ensure affordable housing and living wage jobs for all. For over 15 years, the CED Clinic has represented groups building community-controlled economic institutions and promoting empowerment through the meaningful participation of communities in development and planning decisions that fundamentally affect their lives.

Because of the unprecedented housing crisis in Los Angeles, few people will be surprised by this report. Our housing system fails to house tens of thousands of the city's residents and leaves hundreds of thousands more struggling under astronomical rents. But for some, the housing market is working exactly as they would prefer, delivering unprecedented profits to a privileged class of investors who have bent the housing market to their interests. Rampant speculation has resulted in a housing system that works in the interest of a few, to the detriment of the many, along lines of race and class.

Some of the outcomes of this dynamic are detailed in this report. With more than 36,000 unhoused residents, Los Angeles simultaneously has over 93,000 units sitting vacant, nearly half of which are withheld from the housing market. Thousands of luxury units across the city are empty, owned as second homes or pure investments. At a time when the city should be doing everything in its power to house people, over 22 square miles of vacant lots are owned and kept vacant by corporate entities. The power of finance, which has brought 67% of the city's residential units under its control, is also manifest in the ability of speculative developers to remake neighborhoods to fit their own vision. The pattern of development occurring all across Los Angeles further contributes to the vacancy and houselessness crises, as new units are priced beyond the reach of most Angelenos, leading to an excess supply of high-rent housing that fails to lease and therefore fails to house people, coupled with a crisis of unmet need for housing for the most vulnerable.

High vacancy rates in expensive luxury housing developments are a core symptom of a broader speculative housing system that is failing to benefit our communities. Speculative practices yield an unbalanced production of vacant luxury development at a time when evictions are fueling a

loss of affordable rental units, increasing numbers of corporate landlords are unaccountable to low-income tenants, and we are failing to build enough covenanted, deeply affordable housing. All of this accelerates our houselessness crisis. We must prioritize using housing to actually house people and reorganize the market to meet this goal. This report suggests a place to start, by proposing a suite of policies to curb the speculative excesses of the housing market and promote the use of housing for homes.

Los Angeles is currently suffering through an unprecedented public health crisis. COVID-19 has made the immediate shelter of all Angelenos, already a moral and political crisis, into a public health crisis as well. Beyond the immediate need for shelter, the economic devastation that has resulted from the pandemic has put hundreds of thousands of renters at risk for eviction and houselessness, magnifying the already desperate need for new permanently affordable and stable housing. The policies suggested in this report can help mitigate some of the effects of the current crisis on renters. COVID-19 has also deeply impacted the city's coffers, and the need for revenue-generating policies to fund the necessary expansion of affordable housing and service provision is apparent. The city should not fail to act on policies that will provide much-needed revenue for affordable housing and services for the unhoused, and curb harmful and speculative behavior in the housing market at a time when disaster capitalists circle.

Thousands of units are held off the market in Los Angeles.

Although normal vacancy occurs when units are waiting for new residents to move in, tens of thousands of units in Los Angeles are being withheld from the housing system for other purposes. Over 46,000 units are held in a state of non-market vacancy—more than one for every unhoused person in Los Angeles. Many thousands more units are withheld from the housing system by landlords listing them at high rents that keep them vacant long-term. This is a real issue with significant implications for addressing the housing crisis. Many of these units are kept vacant by owners seeking to profit by speculating on the increase in property value, returning properties to the market only when rents are high enough for their liking.

We are building homes, but only for the rich.

Amid an unprecedented shortage of housing for the people who need it most, Los Angeles is building plenty of homes. Unfortunately, much of it is accessible only to the wealthy, with 97% of rental units currently under construction in downtown L.A. classified by the commercial real estate data service Co-Star in the most expensive and luxurious “4 & 5 star” category, in which rents average over \$2,800 per month. Additionally, the benefits of such luxury construction do not simply “trickle down.” At similar rents, newer buildings are consistently more vacant than older ones, and high-rent units are plagued by higher vacancy rates at every affordability level. This suggests that the pattern of development in Los Angeles, which incorrectly prioritizes the construction of luxurious units on the assumption that this increases access to housing for all, will never resolve the housing crisis.

Property in Los Angeles is increasingly financialized.

Los Angeles is increasingly a city that is owned not by people but by corporate entities of all kinds. Nearly 67% of all residential units in the city are

directly owned by investment entities. The same is true for over 22 square miles of vacant lots, a massive amount of land going undeveloped to benefit corporations and a small class of investors. With only a tiny fraction of people having investments of any kind, this massive concentration of ownership represents a speculative property market set up to build wealth for the few, not the many. Additionally, the lack of financial disclosure requirements that apply to corporate property owners as well as the ease of creating shell companies make it nearly impossible to identify who is benefiting from owning housing in Los Angeles.

Speculation removes thousands of units a year from the market.

Rent control keeps thousands of families in their homes by preventing them from being forced out because of rent hikes, but unfortunately, many landlords use loopholes to evade rent control regulations and raise rents as high as they want when the unit becomes vacant—a process called vacancy decontrol. Additionally, the vast majority of tenants facing eviction lack legal representation. Speculative landlords commonly exploit the rent control system by forcing tenants out through illegal means to benefit from vacancy decontrol. In addition, thousands of rent-stabilized housing units are removed from the housing supply every year through the use of the Ellis Act—a legal tool favored by speculators to mass-evict tenants.

We are not building nearly enough affordable housing.

Though luxury construction is booming, construction of affordable housing is not. Against a backdrop of mass eviction and displacement, a persistent lack of deeply affordable housing construction has led to a shortfall of more than 500,000 affordable units in Los Angeles County. The gap between the housing that is most needed and the housing that is actually being built continues to widen, intensifying an unprecedented affordable housing crisis.

Cities across North America are turning to vacancy taxes to combat speculation and generate revenue for affordable housing.

Many North American cities, especially those with housing problems similar to Los Angeles', have enacted vacancy tax policies to combat speculation and raise revenue for the construction of affordable housing. Inspired by community groups mobilizing for housing justice, many cities have passed and implemented such policies (including some in California). These efforts should serve as a model in Los Angeles.

A vacancy tax can be done here.

A penalty for keeping units vacant is not only desperately needed but also is achievable within the confines of California law. Taking other cities' policies as examples and diving into the legal context surrounding taxation, policymakers in Los Angeles can craft and implement a vacancy penalty policy.

Complementary policies are needed.

A vacancy penalty, although important, is not enough to solve the housing crisis. Other complementary policies are necessary to advance a comprehensive response to the harms of the speculative housing market, including municipal disclosure requirements, better data collection, limits on condominium conversions and demolitions, a real estate transfer tax, flipping tax, and an out-of-state transaction tax.

Los Angeles needs better public data on vacancy.

Vacancy is a complex issue, and good data about vacancy are hard to find. Given the ongoing housing crisis and the many ways in which vacancy can have deleterious effects on a city's housing system, understanding vacancy in Los Angeles is crucial. The structural factors that undergird vacancy are not all benign, and good data are paramount to address these issues at their cause.

Recommendations

Vacancy Tax

Adopt a comprehensive Vacant Homes Penalty measure in the City of Los Angeles.

- *Apply the penalty citywide.*
- *Apply the penalty to rental unit vacancies, ownership unit vacancies, and commercial vacancies.*
- *Apply the penalty to undeveloped properties that are zoned for housing and have had rental housing onsite in the previous 10 years.*
- *Apply the penalty to dwelling units that are unoccupied for more than 90 days annually.*
- *Create a rebuttable presumption that units are vacant and subject to the penalty using DWP metering information and other best-available data.*
- *Create a progressive structure that penalizes speculative vacancies and maximizes revenue for community-centered housing justice programs.*
- *Include reasonable exemptions.*
- *Allocate the penalty revenue exclusively to community-serving uses that create nonprofit affordable housing and advance housing justice.*
- *Include registry, audit, and enforcement procedures, and ensure appropriate data management.*
- *Ensure comprehensive community oversight of program implementation.*

Supplementary Policies

- *Municipal Disclosure Requirements* to make it clear who owns Los Angeles
- *Public Access to Accurate Data on Vacancy* so communities and policymakers can work to make a housing system that actually houses people
- *A Prohibition on Condominium Conversions and Demolitions of Rent-Stabilized Units* until appropriate vacancy monitoring procedures are in place
- *A Flipping Tax* to deter speculative behavior in which buyers sell buildings for profit rather than using them to house people
- *A Real Estate Transfer Tax* to limit speculation and make the tax system less regressive
- *An Out-of-State Transaction Tax* targeting the deep-pocketed corporate entities that extract value from Los Angeles
- *An Increased Gross Receipts Tax* to ensure the largest corporate landlords pay their fair share for their role in the housing crisis.
- *Other means to use vacant units to house the unhoused*, recognizing the gravity of the current crisis and need for action.

Vacancy is a complex phenomenon, and multiple sources informed our analysis. Even defining vacancy presents considerable difficulty. The U.S. Census Bureau, for example, considers units vacant when a unit is unoccupied at the time of interview, unless the residents are temporarily absent, or if occupants are present at the time of interview but have a primary residence elsewhere.¹ Given that the entire housing supply of the United States is estimated from a sample of about 3 million addresses, there is obviously much error involved.² The difficulty of obtaining reliable data on vacancy of any kind, especially in Los Angeles, posed several problems that guided the choices we made for source data. Given the restrictions, there are a few potential approaches to collecting information on vacancy, though they all have shortcomings.

For the empirical portions of this report, we collected vacancy information citywide, on a census tract scale, from the Census Bureau's 2017 American Communities Survey (ACS) 5-year estimates, the most recent and reliable data set available to us. The same data set provided us with information about rents, housing cost burdens, and other useful demographic and socioeconomic indicators that we used in our analysis throughout at the census tract and citywide scale. ACS data, though imperfect, are regarded as the standard and widely used by researchers.³ In Part One's empirical section—

which deals with the associations between vacancy, building age, and rents—we also used data from the 2017 ACS 5-year estimates from Individual Public Use Microdata Statistics (IPUMS) but in this case the individual level data for the PUMAs constituting the City of Los Angeles, which is generated from 83,699 housing observations. We identified corporate ownership by querying ownership data as recorded in the Los Angeles County Assessor rolls, dated 10/13/2019, to find properties owned directly by a variety of entity types (Trust, Limited, Corp, Inc, Co, LP, and common variations of these are the search terms used).

Problems arise for researchers even in defining vacancy. The Census Bureau defines vacancy as a condition of units unoccupied at the time of interview or are occupied by persons who maintain a primary residence elsewhere.⁴ Vacancy is further broken down into subcategories. Vacant units currently for rent, vacant units for sale, units sold but not occupied, and units leased but not occupied constitute one group of classifications of vacancies, which we term market vacancies. The other group, which we term non-market vacancies, includes what the Census Bureau describes as “vacant units held off the market.”⁵ This category of non-market vacancies comprises units “for seasonal, recreational, or occasional use” and “other vacant” units. Vacancies “for seasonal, recreational, and

1. United States Census Bureau. (2017). *American Community Survey and Puerto Rico Community Survey 2017 Subject Definitions*. https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2017_ACSSubjectDefinitions.pdf?#.

2. Census Bureau. (n.d.). Vacancies Fact Sheet. <https://www.census.gov/housing/vacanciesfactsheet.html>.

3. In calculating vacancy, the Census Bureau collects data monthly, ultimately sampling 3% of units, then uses statistical models to estimate overall vacancy. Ibid.

4. Census Bureau. (2017). *American Community Survey and Puerto Rico Community Survey 2017 Subject Definitions*. https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2017_ACSSubjectDefinitions.pdf?#.

5. Census Bureau/ (n.d.). *Definitions and Explanation*. <https://www.census.gov/housing/hvs/definitions.pdf>.

occasional use” are vacation homes including beach houses, seasonal workers’ quarters, and timeshare-type units. “Other vacant” applies to all non-market vacancy that is not captured in the first category. Generally, the assignment of a vacancy categorization to a unit is made at the discretion of the survey taker.

Other definitions of “vacant” could potentially yield different results. Theoretically, more accurate data based on metering information are available from the DWP, which samples every residence in the city daily. DWP’s metering information can demonstrate which units are vacant even when rented out. Physical vacancy, however, is a fairly different conception of vacancy than the Census Bureau’s. In many ways, the DWP data set is less useful in investigating the function of a housing system because, unlike the ACS, it does not record the characteristics of the units associated with the physical vacancy. These data, in any case, are currently inaccessible to policymakers and the public.⁶ In calculating its own vacancy rates, the Department of City Planning uses the same ACS 2017 5-year data used in this report, and according to a 2017 report filed with the housing committee, the department considers this data set the best available, aside from the DWP data.⁷

Since the completion of the analysis in this report, the Los Angeles Housing and Community Investment Department (HCIDLA) has acquired DWP vacancy data. In a recent report, HCIDLA found the data are largely consistent with the Census Bureau’s

estimates. HCIDLA’s publication of the data is a significant step toward transparency, though much more work is necessary to ensure that DWP data is accessible, transparent, and workable by the public.⁸

Section I explores the phenomenon of vacancy in Los Angeles, assessing data from the Census Bureau’s most recent ACS in the context of an increasingly speculative housing market. This section also details how the financialization of the housing sector has led to vast corporate entity ownership of residential property in Los Angeles, fueling the expansion of vacancy-inducing speculation to the benefit of a small minority of investors.

Section II provides a citywide analysis of differentiated vacancy rates in Los Angeles, outlining the characteristics of buildings associated with higher or lower rates of vacancy. The implications of this analysis cast doubt on simplistic narratives of housing market operation and show that the dominant development pattern is the overproduction of luxury development and the corresponding failure to produce sufficient affordable housing.

Section III documents the human costs of this speculative system, demonstrating that the overproduction (and consequently high vacancy) of luxury housing occurs at the same time that existing affordable units are lost and new affordable units are underproduced. This process is driven by eviction and is ultimately a root cause of increased homelessness.

6. Los Angeles City Council Department of City Planning. (2017, Sept. 21). Supplemental Report Relative to Strengthening Enforcement of the Rent Stabilization Ordinance and Ellis Act Provisions. https://clkrep.lacity.org/onlinedocs/2017/17-0480_misc_09-21-2017.pdf.

7. Ibid.; appendix item 3.

8. Twum-Akwaboah, N., & Abood, M. (2020, p. 20). *Council Report Back on the Amount of Vacant, Habitable Housing Units in Los Angeles*. Los Angeles Housing and Community Investment Department. https://clkrep.lacity.org/onlinedocs/2019/19-0623_rpt_HCI_06-12-2020.pdf.

Part One:
How Speculative Finance
Keeps Homes Vacant
and People Unhoused

Vacancy is a Structural Feature of the Housing Market

WHAT IS VACANCY?

Vacancy is much more complicated than empty lots or homes without people living in them. At the most basic, a vacant unit is one in which nobody lives. From another perspective, vacancy is a problem caused by excessive supply at a given price in the housing market. Vacancy occurs in a variety of forms and for a variety of reasons. Recall the Census Bureau definitions of “vacancy.” The overall vacancy rate includes market and non-market vacancies. Market vacancies result from market transactions: when units are offered for sale or lease, or when they are sold or leased but not yet occupied. Non-market vacancies occur outside these transactions: when units are used as vacation homes or otherwise held off the market. Both types of vacancy can be problematic or relatively benign.

Some vacancy is normal in any region’s housing supply. Units are often vacant simply because they are between inhabitants and are for rent or sale. Some have been rented or sold, but the new residents have not yet moved in. Units can be vacant when they are being repaired or otherwise under construction that is too disruptive for residents. These types of vacancies are inevitable and relatively harmless, and parts of both market and non-market vacancies are normal. Other types of vacancy, however, are not so benign.



Vacancy rates can be too high, too low, or both simultaneously. Some cities, in the Midwestern United States, for example, struggle with “hyper-vacancy,” in which many properties are abandoned because of a precipitous decline in residents amid offshoring and deindustrialization.⁹ Other cities, like San Francisco, San Jose, and Denver, have extremely low vacancy rates, which can make it difficult for families to find housing in these places, especially affordable housing.¹⁰ Vacancy in Los Angeles, with its large area and socioeconomically diverse and differentiated neighborhoods, is even more complex.

Vacancy in Los Angeles: The Numbers

More than **93,500** housing units were vacant in Los Angeles in 2017.

More than **46,400** non-market vacant units are being used as vacation homes or investments or are otherwise being held off the market rather than housing people.

About **36,300** residents are unhoused in the City of Los Angeles.

SOME OF L.A.’S VACANCY IS THE INEVITABLE PRODUCT OF A SPECULATIVE HOUSING MARKET

Although some vacancy is harmless and expected, some is produced by speculation that is harming Los Angeles. Speculative vacancies, simply put, are those that arise from speculative behaviors that abuse, distort, or manipulate the market as a way to make money to the detriment of residents—for example, when investors swoop in to buy property and then hold it vacant while waiting for its value to rise. Speculation is an inevitable feature of a housing system designed around profitability for owners rather than the well-being of residents, and is endemic to markets. Reexamining the Census Bureau’s vacancy subcategories can help us disentangle the nature and causes of such vacancy in Los Angeles. In both the market and non-market ACS categories of vacancy are speculative practices that keep housing unoccupied, even in the midst of an unprecedented housing and houselessness crisis.

Non-market vacancy, because it represents properties deliberately held out of the housing supply, is an important place to start when examining the relationship between speculative housing markets and vacancy. Many of these vacancies are long-term and structural, driven by the allocation of housing according to wealth rather than need. The Census Bureau defines over 46,000 L.A. housing units

Figure 1. *Vacancy in Los Angeles: The Numbers*¹¹

9. Mallach, A. (2018). *The Empty House Next Door: Understanding and Reducing Vacancy and Hypervacancy in the United States*. Lincoln Institute of Land Policy.
10. Brinklow, A. (2019, March 21). *San Jose, SF Among Lowest Vacancy Rates in the U.S., Says Study*. Curbed San Francisco. <https://sf.curbed.com/2019/3/21/18276227/vacancy-rate-san-jose-san-francisco-lendingtree>.
11. Census Bureau, IPUMS NHGIS. (2019). American Community Survey 2013-2017 5-Year Estimates [Data set]. <https://www.nhgis.org/user-resources/datasets-overview#dsg76>; Los Angeles Homeless Services Authority. (2017). *Greater Los Angeles Homeless Count*. [Data set]. <https://www.lahsa.org/news?article=408-revised-2017-homeless-count-results>. See methodology and footnotes for more information.

(about half of all vacant units in the city) as non-market vacancies.¹² These vacancies are generally second homes or other non-market vacancies.

Over 12,000 housing units, about 13% of all vacancies in the city, are in properties held “for seasonal, recreational, or occasional use”—that is, properties held for the leisure of the well-heeled as second homes or vacation homes.¹³ In some locations, housing is plentiful, and the maintenance of “beach houses” and “hunting lodges” in the Census Bureau’s definition for the category may have a benign effect on overall affordability. But in a city like Los Angeles, dealing with an extreme affordability and homelessness crisis, it is concerning to see so much housing that benefits only people who can afford a second home. Moreover, in Los Angeles, a second home is almost never just a leisure property. For many owners in a market where property values are as consistently elevated as in Los Angeles, second homes are also investments: used either to store wealth for the long term or to profit from increasing property values. In both cases, the value captured from these properties by the rich precludes their primary usefulness as housing, constricting supply and exacerbating the city’s affordability problem.

The other major category of non-market vacancy is “other vacant,” a catchall term for all non-

market vacancy that does not fit into the previous category.¹⁴ Some of these units are held in a form of abandonment, either “literal,” in which the owner has totally ignored the unit, or “constructive,” in which the owner is present but fails or refuses to maintain the property, which perpetuates direct harm on their communities.¹⁵ In Los Angeles, buildings that have been cleared of tenants through an Ellis Act eviction and are yet to be demolished or redeveloped are an example of this type of non-market vacancy. In other cases, flippers and other speculative buyers can receive higher sale prices for properties that they “deliver empty” (that is, cleared of tenants through eviction, harassment, and/or non-renewal) to developers seeking to rehabilitate and re-rent, or redevelop, a site. Many buildings are left partially or mostly vacant for months or years while the landlord tries to drive out the last tenants. These types of non-market vacancy can be particularly damaging, because many of the properties that fall into this category play no part in housing people, serving only to build or store wealth for their owners.

Beyond housing units, speculators also invest in vacant undeveloped property. Los Angeles has more than 800 million square feet of vacant lots, accounting for about 6% of the entire area of the city.¹⁶ The purchase of land and housing for the purpose of speculating on the long-term increase

12. Census Bureau, IPUMS NHGIS. (2019). American Community Survey 2013-2017 5-Year Estimates [Data set]. <https://www.nhgis.org/user-resources/datasets-overview#dsg76>; Los Angeles Homeless Services Authority. (2017).

13. “For Seasonal, Recreational, or Occasional Use – These are vacant units used or intended for use only in certain seasons or for weekends or other occasional use throughout the year. Seasonal units include those used for summer or winter sports or recreation, such as beach cottages and hunting cabins. Seasonal units also may include quarters for such workers as herders and loggers. Interval ownership units, sometimes called shared-ownership or timesharing condominiums, also are included here.” Census Bureau. (2017, p. 42). *American Community Survey and Puerto Rico Community Survey 2017 Subject Definitions*. https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2017_ACSSubjectDefinitions.pdf?#.

14. “Other Vacant” serves as a catchall category for non-market vacancy: “If a vacant unit does not fall into any of the categories specified above, it is classified as ‘Other vacant.’ For example, this category includes units held for occupancy by a caretaker or janitor, and units held for personal reasons of the owner.” Census Bureau. (2017, p. 42). *American Community Survey and Puerto Rico Community Survey 2017 Subject Definitions*. https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2017_ACSSubjectDefinitions.pdf?#.

15. Mallach, A. (2018). *The Empty House Next Door: Understanding and Reducing Vacancy and Hypervacancy in the United States*. Lincoln Institute of Land Policy.

16. According to a query of properties identified as vacant in the Los Angeles County Assessor’s roll.

in property values seems irrational to many. Yet in Los Angeles, persistently rising land value makes real estate a safe bet. Further, Proposition 13, a 1978 amendment to California's Constitution that slashed property taxes, has enabled investors to sit on valuable properties without needing to rent them to cover their tax bills.

In addition to speculation-driven non-market vacancy, much of what the Census calls "market vacancy" is driven by speculation and is harmful to low-income Angelenos. Some market vacancy arises from speculating landlords. In one example, landlords ask exorbitant rents and refuse to lower the price when they fail to be rented. Speculative market vacancy is also structural, because speculation is endemic in markets. In the simplest terms, an economist might describe vacancy as a condition in which lack of demand leaves some housing unsold at a given price. Under the idealized conditions of a functioning housing market, failure to rent vacated apartments would result in landlords' lowering the asking rent to meet demand, and new housing production would satisfy unmet demand at the price renters are able and willing to pay. As we discuss throughout, however, these conditions are not realized in Los Angeles. Simply put, new expensive housing remains disproportionately vacant, thereby failing to free up units for lower-income families. In addition to the intentional maintenance of overpriced units for rent or sale described above, the system of housing production in Los Angeles has created, on the one hand, a surplus supply of high-rent housing with elevated vacancy for new and higher-priced units, and on the other hand, a massive shortfall of low-cost housing that has contributed to the houselessness crisis.

Vacancy Rate by Census Tract

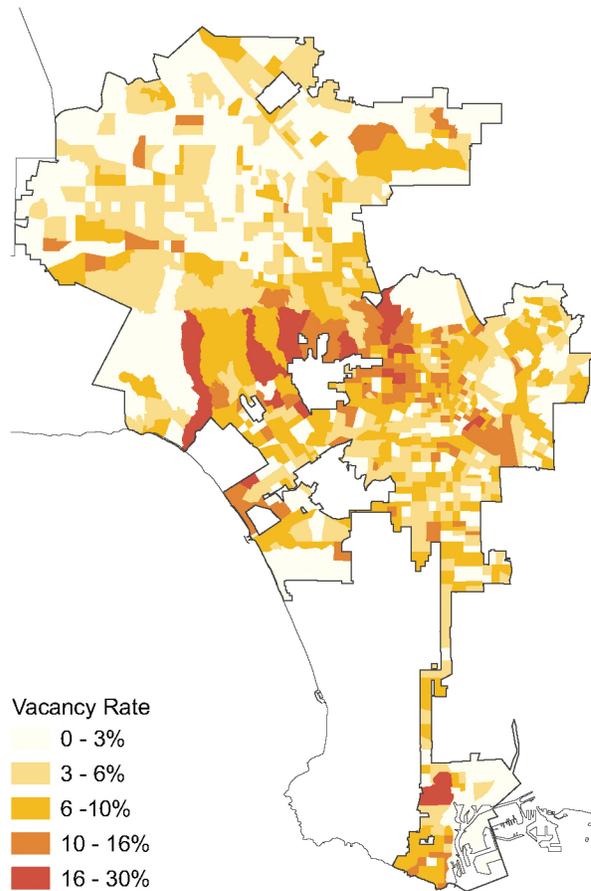


Figure 2. Vacancy Rate by Census Tract

Vacancy in Los Angeles also has a particular geography. As seen in the map above, vacancy is concentrated in areas with hot housing markets and gentrification, including Downtown, Hollywood, East Hollywood, North Hollywood, Venice, and Koreatown, and in some of the city's Westside neighborhoods. A recent HCIDLA report corroborates these findings, noting that Hollywood, Venice, and Koreatown have a disproportionate share of the city's vacant units, and confirming that the data suggest "prolonged periods of housing units sitting idle in these neighborhoods."¹⁷ HCIDLA concludes that this is probably because these neighborhoods contain new, high-end units that are disproportionately vacant (an analysis we detail in the following section). Regardless of how properties are left vacant, the spatial concentration of vacancy, and its association with rapid development and expensive neighborhoods, reveal the speculative, damaging nature of development occurring in Los Angeles today.

Speculation hoards units that are sorely needed in the housing system today, monopolizes land that could be developed into deeply affordable housing or otherwise be used for the benefit of the community, and props up a massively unbalanced system of housing production. The increasing prevalence of speculation-fueled vacancy in housing to the benefit of a wealthy minority is just one symptom of a much larger problem: the transformation of land and buildings from homes to financial assets for a wealthy few through a process known as financialization.

FINANCIALIZATION OF HOUSING IN THE U.S. AND SPECULATIVE FINANCE IN CITIES

In the past few decades, the housing sector in the United States has undergone a dramatic process of financialization, akin to a corporate takeover. Financialization has been described as "the increasing dominance of financial actors, markets, practices, measurements and narratives, at various scales, resulting in a structural transformation of economies, firms (including financial institutions), states and households."¹⁸ Through financialization, property is increasingly concentrated into the hands of private equity and corporate interests for use as an interest-bearing investment. In her book *Urban Warfare: Housing Under the Empire of Finance*, Raquel Rolnik, former United Nations Special Rapporteur on Housing, describes the "long process of deconstruction of housing as a social good and its transformation into a commodity and a financial asset."¹⁹ This takeover has driven the transformation of housing into a commodity and accelerated the many deleterious and speculative trends detailed in this report.

The Los Angeles County Assessor's 2019 data show the impacts of financialization in Los Angeles, with a dramatic portion of the city's housing owned by investment vehicles. Corporate entities and other non-individual investors²⁰ own about 67% of all

17. Twum-Akwaboah, N., & Abood, M. (2020, p. 20). *Council Report Back on the Amount of Vacant, Habitable Housing Units in Los Angeles*. Los Angeles Housing and Community Investment Department. https://clkrep.lacity.org/online/docs/2019/19-0623_rpt_HCI_06-12-2020.pdf.

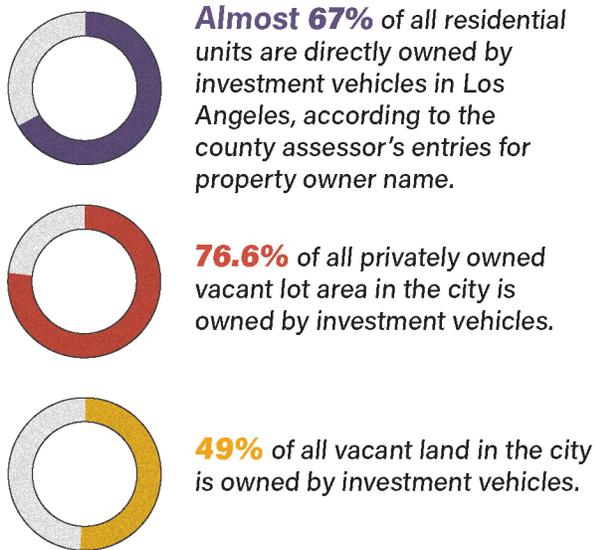
18. Aalbers, M., (2019). Corporate Financialization. In Richardson, D., Castree N., Goodchild, M.F., Kobayashi, A., Liu, W., & Marston, R.A., (Eds), *The International Encyclopedia of Geography: People, the Earth, Environment, and Technology*.

19. Rolnik, R. (2019). *Urban Warfare: Housing Under the Empire of Finance*.

20. A terminology borrowed from the Census Bureau's definitive Rental Housing Finance Survey. [Data set]. <https://www.census.gov/programs-surveys/rhfs.html>.

residential units in the city.²¹ This same group of corporate entities owns more than 22 square miles of vacant lots in L.A., which is 76% of all privately owned vacant lots and 49% of all vacant land in the city.²²

Who Owns L.A.: The Numbers



More than **613,513,000 square feet** of vacant lots—the equivalent of **10,651 football fields** or **22 square miles**—are owned by investment vehicles in Los Angeles, accounting for **over 4% of the entire city.**



Figure 3. Who Owns L.A.: The Numbers ²³

21. Mortgage loans issued by banks are not categorized as bank owned and are therefore excluded from this 67% figure. According to Los Angeles County Assessor data as of June 2019, it's likely an underestimate due to issues and inconsistencies in recording, and the difficulties of determining the actual beneficiaries of property ownership, as discussed in this section. The assessor's data set is massive, and there are many variations in the naming of entities and entity types because of inconsistent entry of ownership information. Further, corporate ownership is not tracked there in a meaningful way. Many more properties that are nominally owned by individuals or companies are in reality predominantly owned by banks through the mortgage system, the securitization of which means that there could be hundreds of investment vehicles and thousands of investors who have a stake in properties that appear "owned" by others. Los Angeles County Assessor. (2019). Secure Basic File [as of June 2019]. <https://assessor.lacounty.gov/secured-basic-file-abstract/>.

22. Ibid.

23. The data in the chart are derived from a query of ownership data in the Los Angeles County Assessor rolls to find properties owned directly by a variety of entity types (LP, LLC, Inc, Co, Trust, and more). Ibid.

The proportion of corporate-owned units in Los Angeles is far larger than the national rate of ownership by non-individual investors, as outlined in the 2015 Rental Housing Finance Survey by the Census Bureau, the only definitive nationwide survey on the subject. Nationwide, the survey found that only 25.6% of units were owned by non-individual investors, leaving Los Angeles with a rate over 2.5 times greater than the national average.

High levels of corporate ownership are associated with high rates of vacancy in the same census tracts, as shown in Figure 4.²⁴ For any given census tract, a greater number of units owned by investment vehicles is associated with a greater number of vacant units. Figure 5 depicts this in another form, showing that the relationship between the density of corporate ownership and vacancy is positive and statistically significant.

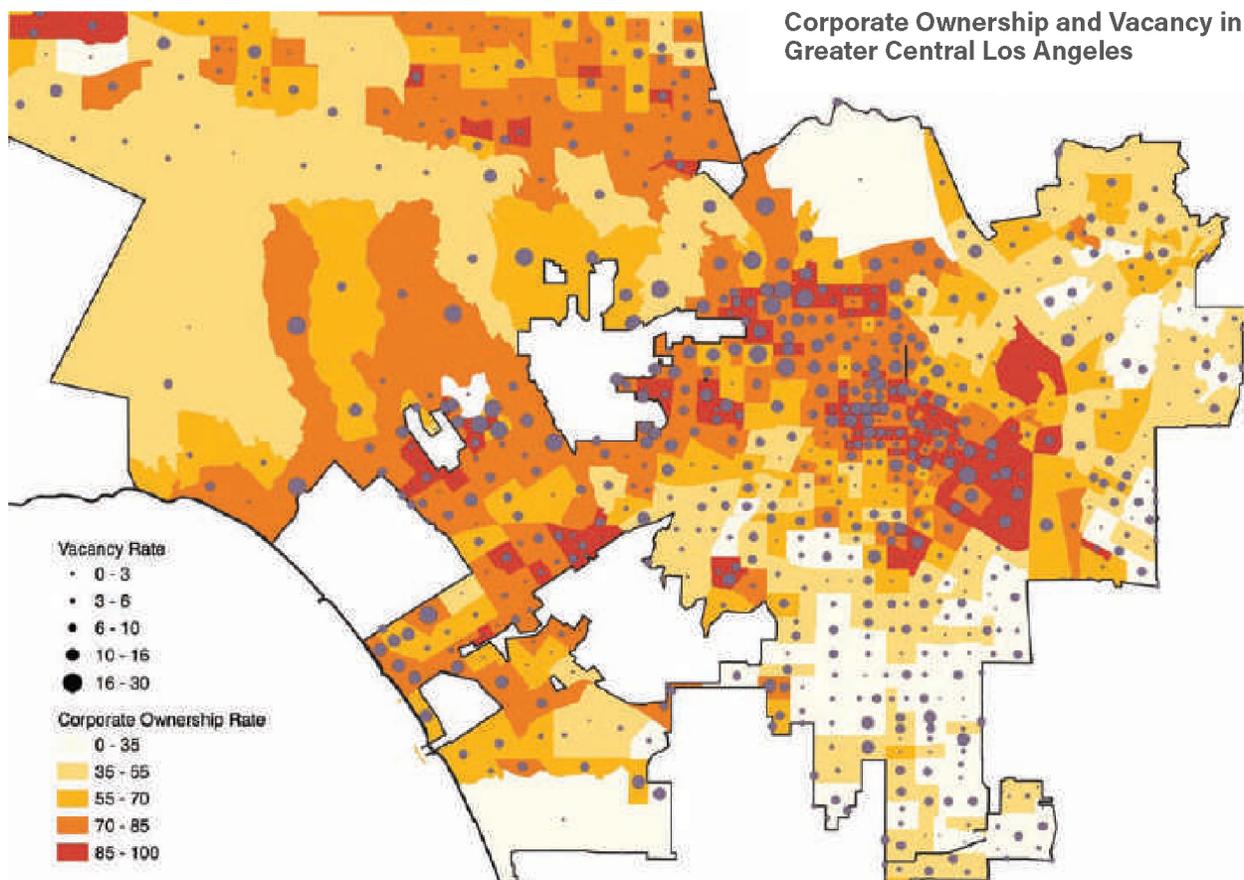


Figure 4. Corporate Ownership and Vacancy in Greater Central Los Angeles

24. The in-tract density of corporate ownership was found by finding the sum total of units recorded by the Los Angeles County Assessor's data set within a given tract, and the sum total of units owned by investment vehicles (see footnote 23), using the "count points in polygon" feature in QGIS. The assessor's data set was converted from a polygonal vector data set to a point-based vector data set using the "centroids" operation.

Although correlation is not causation, and the available data don't link specific corporate-owned units to vacant units, it does suggest that corporate ownership and vacancy may be driven by related forces. Corporate landlords are investing in the same high-rent, rapidly developing neighborhoods that are host to a disproportionate share of the city's vacancies.

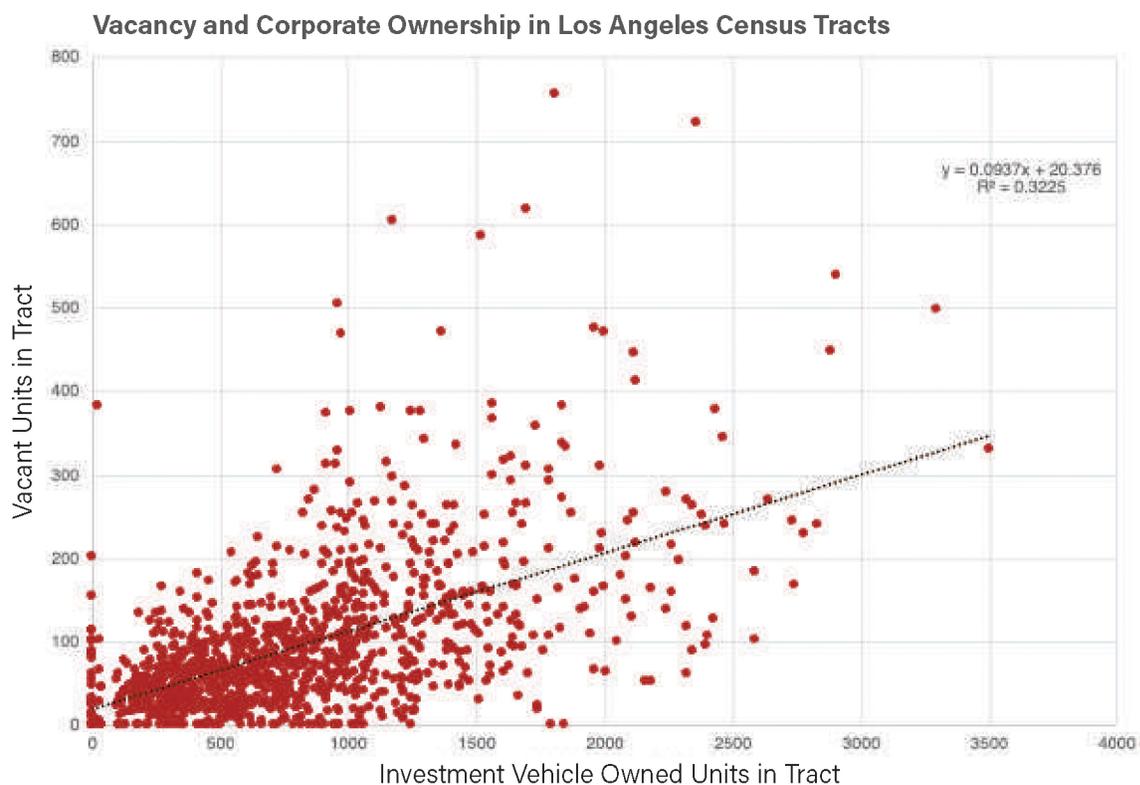


Figure 5. *Vacancy and Corporate Ownership in Los Angeles Census Tracts*²⁵

25. The correlation coefficient between these two variables across all City of Los Angeles census tracts⁹ is 0.5679, indicating a strong association in a context as overdetermined as the housing market, and the coefficient of determination ($R^2 = 0.3225$) similarly indicates that increasing numbers of investment-vehicle-owned properties in a tract is fairly predictive of the amount of units that will be vacant in the same tract. The portion of buildings that are vacant is derived from the ACS survey, and the portion of units that are corporate owned is derived from the assessor's data set. The analysis is intended to demonstrate spatial correlation of the two phenomena rather than to establish any causal link.

Working-class Angelenos struggling with housing insecurity are overwhelmingly not the ones benefiting from an investment-driven housing system. Only 4.2% of families have trusts, which is the entity type that owns the largest share of corporate-owned properties in Los Angeles.²⁶ Most trusts are not family-owned and are investment vehicles of another sort.²⁷ Only 10% of households own any type of pooled investment fund shares, which includes those types of trusts and an alphabet soup of other investment companies and partnerships.

Identifying those who ultimately benefit from corporate investment in land and housing is extremely difficult. As other researchers have noted, it is easier to start a shell corporation than it is to get a library card in many cities.²⁸ Any of the corporate entities surveyed could have a number of investors that themselves may be corporate entities, or might be run wholesale by another corporation to begin with.²⁹ Many types of property investment companies are also securitized to some degree, meaning they issue shares as securities either on the public stock markets or privately to institutional investors, private equity, and high-net-worth people. Gaining a clearer picture of who owns cities is a crucially important issue for further research and one of the reasons we call for Los Angeles to adopt Municipal Disclosure Requirements in the

Recommendation section of this report. Generally, however, what this all means is that the vast majority of vacant land and many vacant properties are vacant for no reason other than to pad the pockets of the richest investors and corporations, at a huge cost to communities.

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26. Only 4.2% of families have trusts, which is the entity type that owns the largest share of corporate-owned properties in Los Angeles. United States Federal Reserve. (2017, September). *Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances*. <https://www.federalreserve.gov/publications/2017-September-changes-in-us-family-finances-from-2013-to-2016.htm>
27. According to a query of Los Angeles County Assessor property records, fewer than a third of trusts owning property in Los Angeles are explicitly “family” trusts; this accounts for less than a quarter of all properties owned by corporate entities. In contrast, entity names containing common corporate markings like “LP, LLP, Inc, Ltd, Co or Corp” constitute more than 37% of all properties owned by corporate entities. Furthermore, “family trusts” are sometimes the preferred vehicle of the largest corporate landlords. Consider the Donald Sterling T Family Trust, which owns over 5,000 units in Los Angeles and is one of the city’s largest property owners, or the Frederick Leeds Family Trust, which directly or indirectly owns over 2,000 units in the city. In any case, the inclusion of trusts in classifications of investment-vehicle-owned properties is standard, as is the case in the RHFS. Los Angeles County Assessor. (2019). Secure Basic File [as of June 2019]. <https://assessor.lacounty.gov/secured-basic-file-abstract/>.
28. Collins, C., and de Goede, E. (2018, Sept. 10). *Towering Excess: The Perils of the Luxury Real Estate Boom for Bostonians*. Institute for Policy Studies. <https://ips-dc.org/report-towering-excess/>.
29. Collins, C. (2019). *Who is Buying Seattle? The Perils of the Luxury Real Estate Boom for Seattle*. Institute for Policy Studies. <https://inequality.org/wp-content/uploads/2019/10/IPS-SEATTLE-REPORT-FINAL.pdf>.

The Market Is Overproducing Luxury Housing in Los Angeles, Much of Which Sits Vacant

Citywide ACS data reveal the many variations of vacancy in Los Angeles, but the dramatic implications become clearer when vacancy rates are studied in the context of housing production trends. When housing is treated as a speculative asset and not as a basic necessity, resources are allocated according to what makes the most profits for investors. In Los Angeles and many other cities, this leads to the overproduction of luxury housing priced far out of reach of residents of the neighborhoods in which these units are built. As a result, significant numbers of these luxury units sit vacant—a fact at odds with the oversimplified narrative that the effects of luxury developments will simply “trickle down” in the form of lower prices for all Angelenos.

WE’RE BUILDING HOUSING, BUT FOR WHOM?

Contrary to a popular narrative, a large amount of housing is being built in Los Angeles, but only the wealthy can afford it. According to Co-Star,³⁰ 12,000 units have been built Downtown alone since 2014, and 3,500 more were expected to be completed before the end of 2019. Unfortunately, this building spree is unlikely to make even the smallest dent in the city’s housing crisis, because the housing is not the type that is most needed.

Downtown is an extremely top-heavy rental market to begin with, and 97.2% of the units now under construction are in the most expensive class identified by Co-Star. Of 32,393 units in the neighborhood, 72.33% (or 23,431 units) fall into this “4 & 5 star” class, with an average rent of over \$2,800 a month and per-square-foot rent of \$3.27.

30. Co-Star. (2019, April). Downtown Los Angeles Multi-Family Submarket Report. [Data Set].



A glut of housing is already being produced in this category, leading to a high vacancy rate of 16.3% for units of this kind, driving up the overall vacancy rate in Downtown to 13.1% by Co-Star’s calculation. In comparison, the vacancy rate for the units not under this super-luxury designation is under 5%. This disparity will only be compounded going forward, with 3,402 of the 3,500 units under construction the most luxurious class.³¹ An HCIDLA analysis of contemporary Co-Star figures found a similar phenomenon across the city, with vacancy concentrated in high-rent areas and more luxurious buildings.³²

High rates of vacancy for newer and higher-rent buildings are not confined to recent mega-developments Downtown. A clear citywide trend of higher vacancy rates exists in buildings with higher rents and buildings that are newer. Using ACS data, we analyzed the 83,699 housing units in Los Angeles that the Census survey captures and that are used to generate the citywide estimates to get deeper insights into the city’s housing market.

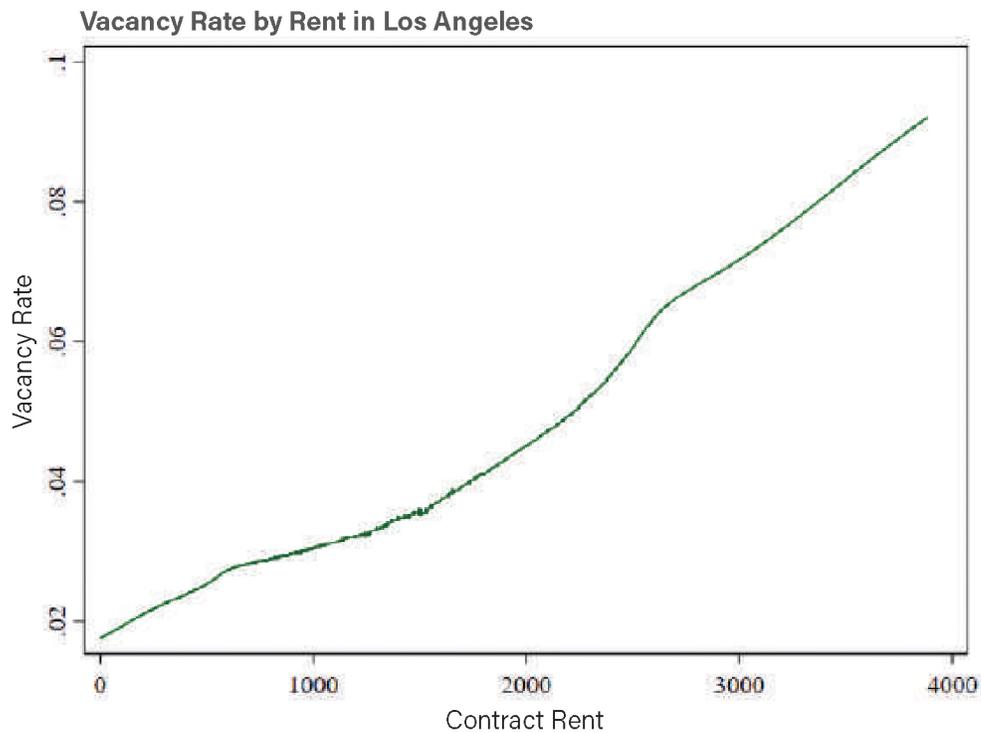


Figure 6. Vacancy Rate by Rent in Los Angeles

31. Ibid.; Co-Star. (2019). Underwriting Report.

32. Twum-Akwaboah, N., & Abood, M. (2020, p. 20). *Council Report Back on the Amount of Vacant, Habitable Housing Units in Los Angeles*. Los Angeles Housing and Community Investment Department. https://clkrep.lacity.org/online/docs/2019/19-0623_rpt_HCI_06-12-2020.pdf.

Figure 6 shows the association between vacancy rates and rents in ACS-surveyed buildings that are for rent in Los Angeles. Generally, the higher the asking rent, the more likely the unit is vacant. Significantly, the vacancy rate increases more rapidly for units with rent higher than \$1,500 a month (which is the same rent level at which median-earning residents of Los Angeles become rent-burdened).³³

construction of market-rate and luxury units while failing to generate substantial numbers of low-cost units, will fail to alleviate the housing crisis.

In addition to this general relationship, there is evidence that, at higher levels of rent, tenants are more likely to occupy older buildings than newer

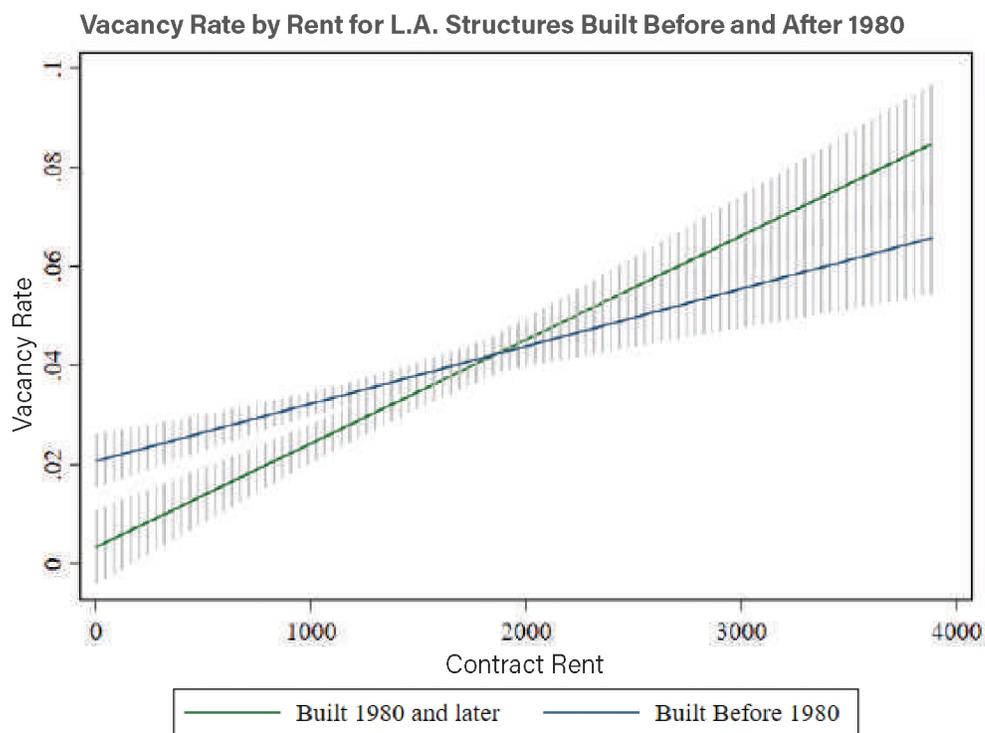


Figure 7. Vacancy Rate by Rent for L.A. Structures Built Before and After 1980

Figure 6 suggests segmentation in the housing market, with different patterns evident in lower- and higher-rent segments. Especially striking is the comparative tightness of the low-rent housing segment in comparison to the high-rent segment. This indicates a relative oversupply of high-rent housing and an undersupply of low-rent housing. This is hardly a radical conclusion, but it implies that current housing production, which favors the

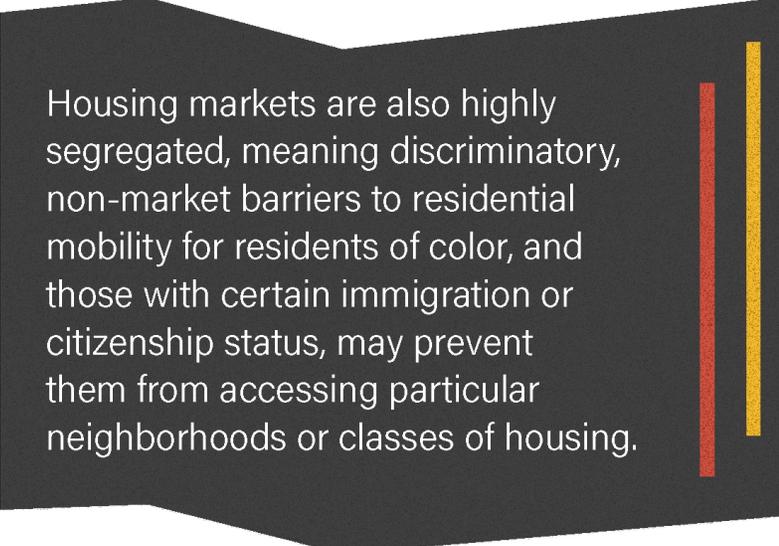
buildings—leaving the newer buildings with higher vacancy rates as similar price points. As shown in Figure 7, at lower rents, pre-1980 buildings have higher vacancy rates than post-1980 buildings. This would be expected because of the likelihood of high-quality amenities and general conditions in the newer buildings (though it must be emphasized that

33. United States Census Bureau, IPUMS NHGIS. (2019). American Community Survey 2013-2017 5-Year Estimates [Data set].

few newer buildings rent at such affordable levels). The near-zero vacancy rate for units in this category indicates strong unmet demand for new affordable housing. At higher rents, however, a counterintuitive picture emerges. In units that rent for more than roughly \$1,800, newer buildings have higher rates of vacancy than comparably priced older buildings. This suggests a clear undersupply of new affordable housing and a possible oversupply of new expensive housing in more recent construction—a finding that would cut against the argument that increasing high-end housing production would address Los Angeles' housing crisis by expanding overall supply and thereby reducing rents at the lower end. Like the benefits of a tax code that favors the wealthy, the benefits of constructing luxury housing do not appear to trickle down.

As the National Low Income Housing Coalition points out, for housing to be available to a given occupant, it needs to be vacant, affordable, and available, and the availability of housing to low-income tenants is seriously limited by the ability of higher-income renters to rent the same units.³⁴ This means that adding homes at high rents makes units available to low-income residents only if a unit affordable to them is in turn vacated. As the data show, however, the relative vacancy of newer units to older units at the same rent level indicates that this is not occurring at a scale sufficient to make lower-cost housing accessible. Figure 7 demonstrates a persistent shortfall in rental housing supply at the lower end, suggesting a market imperfection that prevents the production of high-amenity, high-price housing from expanding access to affordable housing more broadly. Although more work needs

to be done to understand why the benefits of luxury housing do not filter down, it is clear that adding affordable units would expand housing opportunity for Angelenos overall.



Housing markets are also highly segregated, meaning discriminatory, non-market barriers to residential mobility for residents of color, and those with certain immigration or citizenship status, may prevent them from accessing particular neighborhoods or classes of housing.

Housing markets are also highly segregated, meaning discriminatory, non-market barriers to residential mobility for residents of color, and those with certain immigration or citizenship status, may prevent them from accessing particular neighborhoods or classes of housing. New construction tends to be not only prohibitively expensive for most residents but also disproportionately concentrated in neighborhoods that are already desirable, or becoming desirable to wealthier residents, which exacerbates this kind of spatial inequality.³⁵

34. Aurnand, A., Emmanuel, D., Errico, E., Pinsky, D., & Yentel, D. (2019). *The Gap: A Shortage of Affordable Homes*. National Low Income Housing Coalition.

35. Rodríguez-Pose, A., & Storper, M. (2020). *Housing, urban growth and inequalities: The limits to deregulation and upzoning in reducing economic and spatial inequality*. *Urban Studies*, 57(2), 223–248. <https://doi.org/10.1177/0042098019859458>.

In any case, the data above raise significant concerns about the trend toward unaffordable luxury development, which is evidently failing to house people. As discussed in the context of the Co-Star numbers, market-rate and luxury construction dominate new units despite the desperate need for more affordable construction. Worse, the very act of building luxury housing in an area can drive up the prices of all neighboring units, because of the spillover effects of gentrification.³⁶ Luxury

Furthermore, as we have demonstrated, not all housing construction, especially of luxury units, ends up actually housing people. As part of the process of financialization, individual units and entire apartment buildings may be sliced and diced into securities and traded as assets globally by massive corporate investors. This is another phenomenon that prevents the benefits of luxury units from simply trickling down.

The narrative that building any type of housing will help, even housing for the rich, is dangerous because it provides policymakers with the justification to do nothing in the face of an affordable-housing crisis, waiting instead for the market to alleviate it. Worse, the narrative suggests that policymakers should always approve luxury housing because it will ultimately increase supply and be good for everyone, which can lead to spiraling gentrification and displacement when the market is hot and luxury towers are left vacant as wealth-building opportunities for the richest investors in the world.

The narrative that building any type of housing will help, even housing for the rich, is dangerous because it provides policymakers with the justification to do nothing in the face of an affordable-housing crisis, waiting instead for the market to alleviate it.

development typifies the larger problem in a system of housing production focused on profit rather than shelter. As long as it remains most profitable (even given higher rates of vacancy) to build the most luxurious housing, developers will not on their own provide affordable and accessible housing. This is evident in luxury rental mega-developments up all over the city that sit with hundreds of vacant units, and in the towering condominiums that have higher portions of units owned by corporations than homes by real people.

36. Chew, A. (2018, November 5). *Here's What We Actually Know About Market-Rate Housing Development and Displacement*. Shelterforce. <https://shelterforce.org/2018/11/05/heres-what-we-actually-know-about-market-rate-housing-development-and-displacement/>.

It Doesn't End with Vacancy: The Speculative Housing Market Produces Unstable Housing, Displacement, and Houselessness

As described throughout this report, Los Angeles' unbalanced production of luxury housing and the excess vacancy it perpetrates exemplify a speculative housing market that prioritizes profit for a select few over housing justice for the rest. This has devastating consequences for low-income people. In particular, the speculative housing market results in the overproduction of unaffordable luxury housing at the same time that existing affordable units are destroyed or converted to unaccountable corporate ownership and new affordable units are underproduced. This process is fueled by eviction and is a root cause of increased houselessness.

THE INCREASE IN UNAFFORDABLE AND DISPROPORTIONATELY VACANT LUXURY DEVELOPMENT COINCIDES WITH A PERSISTENT DESTRUCTION OF RENT-CONTROLLED HOUSING AND THE RISE OF WALL STREET LANDLORDS

Although thousands of units are being built in Downtown L.A. alone, the overwhelming majority are in Co-Star's 4 & 5 star category of super-luxury units, which have an average rent of \$2,800. As these unaffordable luxury units come on the market, and often sit vacant, the existing stock of affordable units is dwindling. Co-Star predicts that demolitions of 1- and 2-star category (more affordable) units will eclipse the development of new affordable units, leading to a net loss of reasonably priced market rate housing Downtown.³⁷

37. Co-Star. (2019, April). DTLA Multi-Family Submarket Report.



This trend—building new extremely expensive housing while inexpensive housing is converted or destroyed—is not unique to Downtown. Across Los Angeles, rent-stabilized units are being lost at an alarming rate, and expiring covenants are leading to the permanent loss of existing affordable housing. Since 2001, more than 26,000 rent-stabilized units have been removed from the market through Ellis Act evictions, and covenants have expired at over 5,000 units of affordable housing since 1997.³⁸ This accounts for a 3% reduction of the rent-stabilized housing stock and a 5% reduction of covenanted affordable units. Even worse, the City of Los Angeles estimates that 8,597 affordable units will become market rate because of expiring covenants in the next five years citywide.³⁹ Thousands more have had dramatic rent increases because of vacancy decontrol.

The remaining rental housing stock is undergoing a dramatic transformation. Since the 2008 housing crash, the Los Angeles region, like many parts of the country, has experienced a consolidation and corporatization of ownership of rental properties—or what the Right to the City Alliance has called “the rise of the corporate landlord.” Also known as Wall Street landlords, speculating corporate entities like Invitation Homes have bought thousands of foreclosed single-family homes and put them on the rental market.⁴⁰ In Los Angeles, single-family homes now make up a significant portion of rental

housing, having increased 67% from 2005 to 2015.⁴¹ Financialization and the rise of the corporate landlord can have serious impacts on tenants. A survey of Southern California tenants of Invitation Homes, notorious corporate landlords, produced by SAJE (an authoring organization of this report) found that their tenants face higher rates of eviction, worse housing conditions, and higher rents than other tenants, and also receive poor customer service.⁴²

EVICTION FUELS THE LOSS OF AFFORDABLE RENTAL HOUSING

Speculative landlords are often incentivized to evict tenants by the promise of higher rents, higher sale prices for vacated buildings, and the ability to renovate to attract higher-income residents to pay higher rents. As evident from Figure 6, the continued desirability of older, high-rent housing to affluent tenants makes it attractive for landlords to remove low-income renters through eviction and rehabilitate units to luxury standards. Vacancies are commonly created by this process, when property owners let housing units sit vacant after eviction until the building is completely emptied and ready to be sold or converted. Evictions are an epidemic in Los Angeles, with more than half a million unlawful detainer lawsuits filed in Los Angeles County since 2010.⁴³ Even when these issues culminate in a legal battle, tenants are almost always unrepresented when they face landlords in court, a significant

38. Coalition for Economic Survival & Anti-Eviction Mapping Project. (2020). Map of Ellis Act Evictions in Los Angeles. Retrieved Aug. 12, 2020, <http://www.antievictionmappingproject.net/losangeles.html>. [Perma: <https://perma.cc/YDB4-Z39R>].

39. Chandler, J. (2019, June 25). *The Big Problem with Affordable Housing*. Curbed LA.

40. Abood, M. (2017). *Wall Street Landlords Turns American Dream Into American Nightmare: Wall Street's Big Bet on the Home Rental Market, and the Bad Surprises in Store for Tenants, Communities, and the Dream of Homeownership*. ACCE Institute, Americans for Financial Reform, Public Advocates. <https://d3n8a8pro7v7hmx.cloudfront.net/acceinstitute/pages/1153/attachments/original/1570049936/WallstreetLandlordsFinalReport.pdf?1570049936>.

41. Ibid.

42. Call, R. (2014). *Renting From Wall Street: Blackstone's Invitation Homes in Los Angeles and Riverside*. The Right to the City Alliance. <http://homesforall.org/wp-content/uploads/2014/07/LA-Riverside-Blackstone-Report-071514.pdf>.

43. Bonnet, G., McKeon, K., Harshbarger, T., Moya, B. M., McGraw, C., & Nelson, K. (2019). *Priced Out, Pushed Out, Locked Out: How Permanent Tenant Protections Can Help Communities Prevent Homelessness and Resist Displacement in Los Angeles County*. Public Counsel & UCLA Law Community Economic Development Clinic, Unincorporated Tenants United Coalition. <http://www.publiccounsel.org/tools/assets/files/1188.pdf>. When eviction is perpetrated through the legal system, tenants are almost always left unrepresented. Guaranteeing tenants access to a lawyer is a crucial issue that could help prevent speculators from putting tenants out of their homes through spurious legal action or illegal harassment. www.rtccla.org.

and unjust disadvantage.⁴⁴ And these are only the most visible evictions: many more occur informally through unreasonable and possibly illegal rent increases, buyouts, long-term harassment and intimidation, and spurious notices. Many bad-acting speculator landlords drive out tenants simply by perpetuating slum conditions that make living in a unit unbearable.⁴⁵

Unfortunately, California law has aided speculators in removing people from their homes. The Ellis Act allows landlords to evict all the tenants in a building at once to go out of the rental business. But since it passed in 1985, it has been used primarily by speculators who want to evict rent-controlled tenants in cities throughout California. Commonly, an Ellis Act eviction precedes the building's redevelopment or conversion to condominiums. There is no limit to the number of times a building owner can "go out of business," meaning that owners can buy and Ellis multiple buildings over time.⁴⁶ In Los Angeles, from 2001 to 2019, the Ellis Act was responsible for removing 26,251 rent-controlled units from the market, roughly 4% of the rent-controlled housing stock in the city.⁴⁷ The mass eviction of tenants in properties bought by speculative developers is a clear abuse of the intended purpose of an already

problematic law. Some of these buildings—now "out of business"—are also showing up for rent as illegal vacation rentals on Airbnb and VRBO, although Los Angeles' new restrictions on short-term rentals may help end this.⁴⁸ And although there are penalties for re-renting units that have been subject to an Ellis Act eviction within five years, some property owners may just choose to wait it out and leave units vacant instead of providing inexpensive housing for someone who may otherwise become unhoused. Units sitting vacant after an Ellis Act filing add to the category identified by the Census Bureau as "other vacant" units, that is, the units left vacant for legal and procedural reasons such as evictions or foreclosures, which make up a significant share of non-market vacancies.

As Figure 8 shows, Ellis Act filings coincide spatially with high rates of vacancy and corporate ownership in Hollywood, East Hollywood, and Venice, which are experiencing rapid development and gentrification. The spatial concentration of these harmful trends in such neighborhoods should raise concerns about the pace and nature of development there and how it may be impacting those at high-risk for displacement and houselessness.

44. See Los Angeles' Right to Counsel Coalition. www.rtcla.org.

45. Reyes, E. A. (2019, May 14). "L.A. Set Up a System to Protect Renters. What Happens When It's Used Against Them?" *Los Angeles Times*. <https://www.latimes.com/local/lanow/la-me-ln-tenant-habitability-plan-rent-stabilized-housing-landlord-evict-20190514-story.html>.

46. Coalition for Economic Survival & Anti-Eviction Mapping Project. (2020). Ellis Act Evictions. <https://www.antievictionmappingproject.net/ellis.html>.

47. Ibid.

48. Said, C. (2018, Jan. 14). Airbnb Loses Thousands of Hosts in SF as Registration Rules Kick In. *San Francisco Chronicle*. <https://www.sfchronicle.com/business/article/Airbnb-loses-thousands-of-hosts-in-SF-as-12496624.php>.

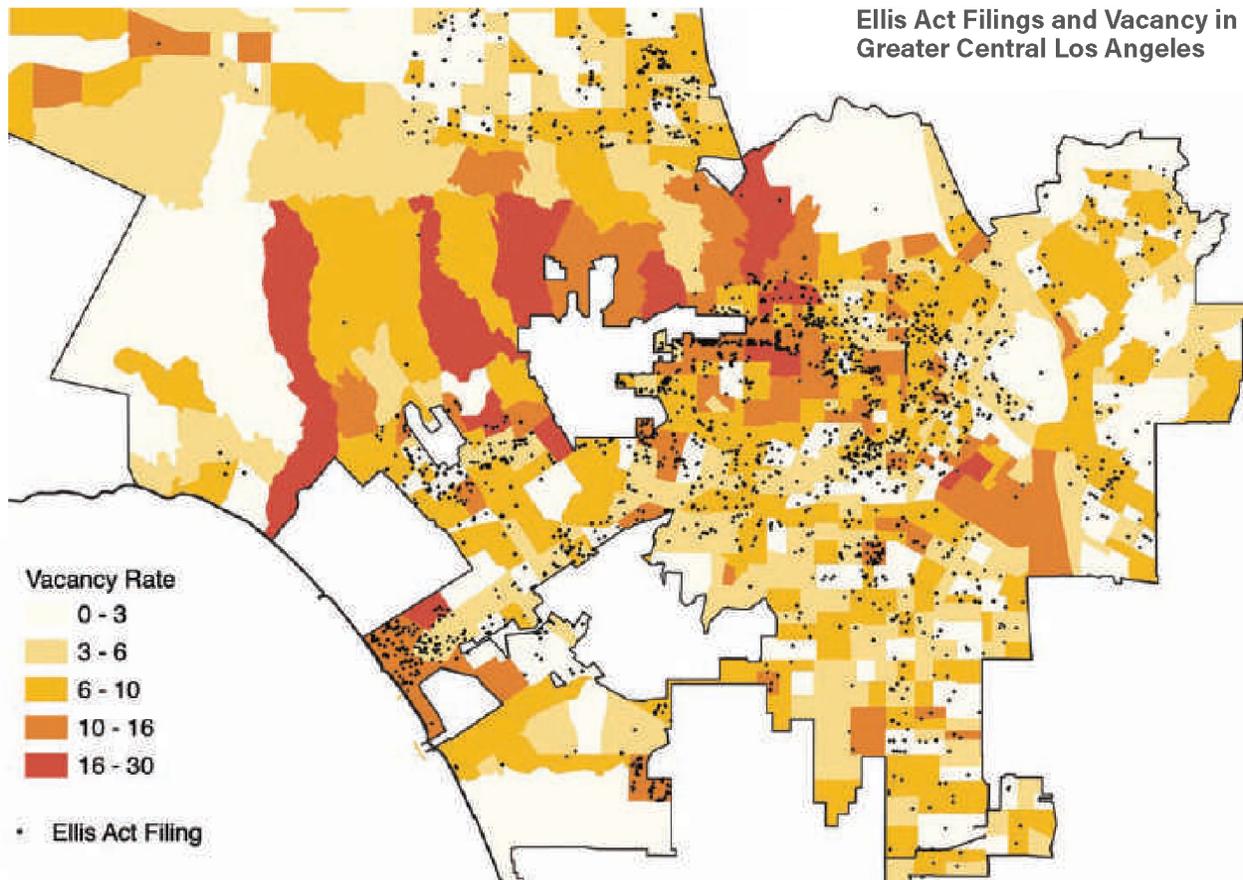


Figure 8. *Ellis Act Filings and Vacancy in Greater Central Los Angeles*

THE LOSS OF LOW-COST RENTAL HOUSING IS COMPOUNDED BY A DRAMATIC SHORTFALL IN THE PRODUCTION OF AFFORDABLE HOUSING

According to the California Housing Partnership Corp. (CHPC), there is now a shortfall of 568,000 units affordable to low-income renters countywide, a number that is only increasing. From 2015 to 2016, the CHPC calculates, the affordable housing shortfall increased by 16,488 homes. The shortage is most severe for housing that is affordable to the lowest-income renters, as the shortfall of production of housing available to deeply low-income renters increased 8%, and the shortfall of housing produced for extremely low-income renters increased 9%. At the same time, though, since 2008, the overall available funding for affordable housing has dropped 64%.⁴⁹

Many attempts have been made to address this crisis. Proposition HHH in Los Angeles is a voter-approved 10-year measure to support construction of supportive housing. Voters passed this \$1.2 billion bond in 2016. Thus far, \$790 million in public funds have been committed to 5,410 total units in the pipeline for development, 4,132 of which are supportive housing units.⁵⁰ Though far short of 568,000 affordable units the CHPC estimates are

needed, it represents a great start and a model for one type of intervention that should be pursued.⁵¹

The inability of tenants to pay rents is a huge driver of houselessness. In Los Angeles, lack of financial means to access housing is the top reported factor precipitating houselessness.⁵² Eviction is the most direct path to houselessness for many, and the Economic Roundtable found that formal eviction alone victimized 11% of unhoused persons.⁵³ According to a survey of recently evicted persons in Seattle, nearly 40% were houseless shortly after their eviction.⁵⁴ Other researchers have noted that almost all currently unhoused people have been evicted at some point, and eviction is one of the largest drivers of houselessness overall.⁵⁵

The eviction-fueled loss of relatively affordable housing, and the continued shortfall of the production of new deeply affordable housing to replace it, have led to a crisis of houselessness. And the juxtaposition of vacant luxury development with the massive shortfall of deeply affordable housing presents a stark picture of inequality and injustice in Los Angeles. Houselessness—like Ellis filings, corporate ownership, and vacancy—is concentrated in specific neighborhoods, such as Venice and East Hollywood, suggesting a relationship among these phenomena.

49. California Housing Partnership Corp. (2018, April 30). *Los Angeles County Annual Affordable Housing Outcomes Report*. <https://1p08d91kd0c03rxhmhtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/Full-LA-County-Outcomes-Report-with-Appendices.pdf>.

50. Los Angeles Mayor's Office. (2020, June). *Summary of HHH Pipeline*. <https://www.lamayor.org/summary-hhh-pipeline>.

51. Southern California Association of Non Profit Housing. (2019, May). *Los Angeles County's Emergency Housing Update*. <https://static1.squarespace.com/static/58793de5f7e0abe551062b38/t/5ce2fc70af9ae10001c74987/1558379634095/Los+Angeles+HNR+2019.pdf>.

52. Flaming, D., Burns, P., & Carlen, J. (2018, April). *Escape Routes: Meta-Analysis of Homelessness in L.A.* Economic Roundtable. <https://economicrt.org/publication/escape-routes/>.

53. Ibid.

54. The Seattle Women's Commission & the Housing Justice Project of the King County Bar Association. (2018, September). *Losing Home: The Human Cost of Eviction in Seattle*. <https://www.kcba.org/Portals/0/pbs/pdf/Losing%20Home%202018.pdf>.

55. Desmond, M. (2015, March). *Unaffordable America: Poverty, Housing, and Eviction*. Institute for Research on Poverty.

Houselessness by Census Tract

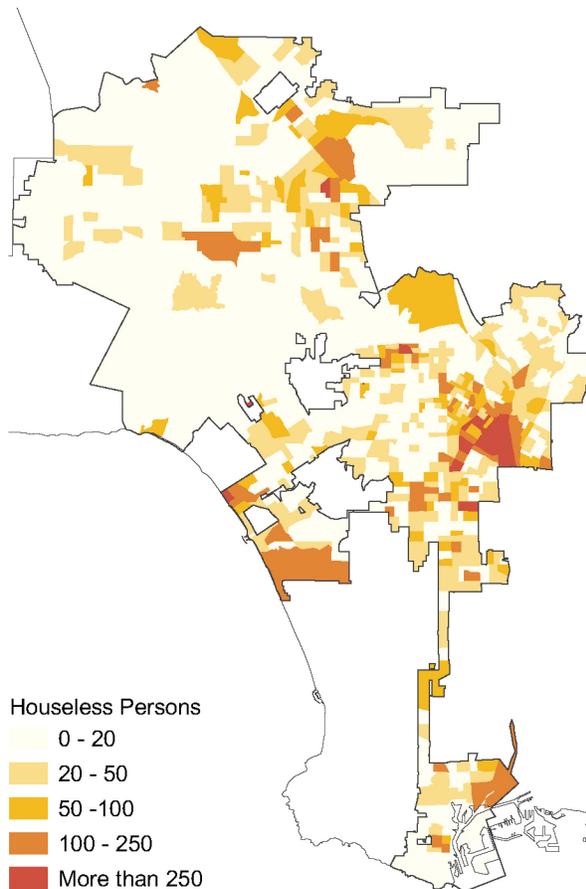


Figure 9. Houselessness by Census Tract

Houselessness is increasing year after year, yet every night there are more than enough units sitting vacant to house the entire unhoused population in the city.⁵⁶ Instead of tolerating the continued vacancy of units across the city and building more luxury towers that will sit vacant, we must prioritize the construction of deeply affordable housing for all Angelenos.

AFFORDABLE HOUSING PRODUCTION IS PART OF THE SOLUTION

All of this does not negate the need for new housing. Rather, it demonstrates that Los Angeles desperately needs the type of housing that low-income households can afford. The findings outlined in this part of the report—overall higher vacancy rates among higher-cost units, the failure of the filtering model to produce affordability, and the dearth of deed-restricted affordable units and corresponding loss of rent-stabilized units—require prioritization of new nonprofit and community-serving affordable-housing production. Building affordable housing should be a core standalone policy priority in Los Angeles and a central feature of any targeted effort to regulate and penalize vacancy.

56. See Figure 1.

**Part Two:
Reducing Vacancy and
Promoting Affordable
Housing in Los Angeles** ⁵⁷



Since the beginning of the 21st century, private companies have increasingly been able to profit from our communities through real estate investment. We have shown in this report that speculative finance is related to an overproduction of vacant homes and an unacceptable number of unhoused in our city. What can Angelenos do to end speculative finance in our city? How can we reclaim our land and our homes from speculators and house people? This section of the report offers suggestions.

We don't have to wait for structural changes in the economy or big shifts in federal or state policies to stand up to speculative investors looking to profit from our housing. The city has effective tools we can use.

Chapter IV of this report explains how cities in the U.S. and Canada have enacted vacancy taxes to combat speculative vacancy and raise money for affordable housing and other housing-related services. Vancouver has a successful vacancy tax, and Oakland passed a Vacant Property Tax Act in November 2018. Elements of these cities' vacancy measures informed our policy proposals.

Chapter V presents the legal framework for implementing a vacant homes penalty in Los Angeles. Though Proposition 13 prevents a vacant homes penalty from being directly tied to a property's assessed value, a progressive penalty can be structured in other ways. In particular, we show how a special parcel tax could work.

Chapter VI recommends policies to address speculation and vacancy. We detail our proposed vacant homes penalty, then suggest seven complementary policies, in addition to a vacancy tax, to address speculation and housing insecurity.

57. This section was written by the UCLA Community Economic Development Law Clinic. Primary authors are Zachary Frederick and Jacob Woocher under the supervision of UCLA Professors Scott Cummings and Doug Smith.

U.S. and Canadian Cities are Increasingly Using Vacancy Taxes to Fight Speculative Vacancy



Many cities and jurisdictions in the U.S. and Canada have passed or proposed vacancy penalties. These policies seek to increase residents' access to housing, whether by incentivizing property owners to sell or rent unoccupied properties, or by raising revenue devoted to affordable housing causes. The chart below outlines nine cities' existing or proposed vacancy penalties.

In California, the cities of Oakland, San Francisco, and San Diego have all either considered or passed anti-vacancy measures. Oakland voters overwhelmingly approved their Vacant Property Tax (Measure W) in November 2018, which the city began assessing this year.⁵⁸ It imposes a flat \$3,000 to \$6,000 annual tax on residential and commercial properties that are occupied fewer than 50 days per year.⁵⁹ The revenue flows to a Vacant Property Tax Fund that capitalizes housing-related programs such as assistance for the unhoused and affordable housing construction.⁶⁰ A San Francisco County supervisor has proposed a fee on vacant storefronts and a daily penalty on

residential properties with three or more units left vacant for six consecutive months.⁶¹ In San Diego, the City's Housing Commission chair has proposed a tax that penalizes property owners who keep their homes vacant for over six months per year.⁶²

Inspired by these movements and motivated to increase affordable housing access, policymakers in other U.S. cities have proposed vacancy penalties. To dampen Boston's recent boom in real estate speculation and luxury development, housing advocates published a comprehensive report on Boston luxury developments and proposed a vacancy tax.⁶³ In New York City, Mayor Bill de Blasio has expressed interest in a vacancy tax or fee to apply to vacant commercial properties.⁶⁴ New York policymakers have focused on commercial vacancy in light of recent studies that have reported high vacancy rates in Manhattan's retail areas.⁶⁵ In Honolulu, Mayor Kirk Caldwell has proposed a fee on properties left vacant for an extended period.⁶⁶

58. Resolution No. 87319. Code of Ordinances for Oakland, Calif., Oakland City Council, 2018, https://library.municode.com/CA/oakland/ordinances/code_of_ordinances?nodeId=930534; Pender, K. (2019, Jan. 26). Oakland's Vacant-Property Tax Takes Effect, Sparking Hope – and Alarm. *San Francisco Chronicle*. <https://www.sfchronicle.com/business/networth/article/Oakland-s-vacant-property-tax-takes-effect-13563273.php>
59. Resolution No. 87319. Code of Ordinances for Oakland, Calif., Oakland City Council, 2018. https://library.municode.com/CA/oakland/ordinances/code_of_ordinances?nodeId=930534.
60. Ibid.
61. San Francisco wants to propose a vacant property tax. (2019, Jan. 23). KTVU Fox 2. <http://www.ktvu.com/news/san-francisco-wants-to-propose-a-vacant-property-tax>.
62. Adams, M. (2019 June 17). *Housing Commission Explores Vacancy Tax*. Building Industry Association of San Diego County. <https://www.biasandiego.org/2019/06/17/housing-commission-explores-vacancy-tax/>; Warth, G. (2019, June 14). Housing Commission considers tax on vacant homes. San Diego Tribune, <https://www.sandiegouniontribune.com/business/real-estate/story/2019-06-14/housing-commission-considers-tax-on-vacant-homes>.
63. Collins, C., and de Goede, E. (2018, September 10). Towering Excess: The Perils of The Luxury Real Estate Boom for Bostonians. Institute for Policy Studies. <https://ips-dc.org/report-towering-excess/>.
64. Calder, R. (2019, Jan. 9). De Blasio: I will lobby for vacancy tax on landlords of empty storefronts. *New York Post*, <https://nypost.com/2019/01/09/de-blasio-i-will-lobby-for-vacancy-tax-on-landlords-of-empty-storefronts/>.
65. Rosenberg, Z. (2018, April 2). *De Blasio Hints at 'Vacancy Fee' for Landlords of Empty Storefronts*. Curbed New York, <https://ny.curbed.com/2018/4/2/17188918/de-blasio-retail-blight-new-york-vacancy-fee>.
66. Finnerty, R. (2019, June 13). *Could a Tax on Empty Homes Work in Honolulu?* Hawai'i Public Radio. <https://www.hawaiipublicradio.org/post/could-tax-empty-homes-work-honolulu#stream/0>.

In Seattle, a 2019 Institute for Policy Studies report on luxury housing recommended a Seattle-specific vacancy tax and ordinance.⁶⁷

Canadian jurisdictions have also passed comprehensive anti-vacancy measures. In November 2016, Vancouver passed an Empty Homes Tax, which went into effect in 2017.⁶⁸ It imposes a 1% tax on the value of vacant or unoccupied residential properties, subject to several exceptions.⁶⁹ Property is considered vacant if it is unoccupied for more than six months per year.⁷⁰ Revenue from the tax goes to affordable housing initiatives.⁷¹ Similarly, British Columbia (the province encompassing Vancouver) implemented a Speculation and Vacancy Tax in 2018.⁷² It imposes a tax of 0.5% of assessed residential property values on Canadian citizens or permanent residents, and a 2% tax on foreign owners and owners who do not report most of their income on a Canadian tax return.⁷³

67. Collins, C. (2019, October 19). *Who Is Buying Seattle? The Perils of the Luxury Real Estate Boom*. Institute for Policy Studies. <https://ips-dc.org/report-luxury-real-estate-seattle/>.

68. City of Vancouver. (n.d.). *Empty Homes Tax*. <https://vancouver.ca/home-property-development/empty-homes-tax.aspx>.

69. Ibid.

70. Ibid.

71. Ibid.

72. City of Vancouver (n.d.). *Will Your Home Be Taxed?* <https://vancouver.ca/home-property-development/will-your-home-be-taxed.aspx>.

73. Government of British Columbia. (n.d.) *Frequently Asked Questions About Speculation and Vacancy Tax*. <https://www2.gov.bc.ca/gov/content/taxes/property-taxes/speculation-and-vacancy-tax/faq-speculation-and-vacancy-tax>.

Vacancy Policies in North America⁷⁴

Jurisdiction	Properties Taxed	Definition of Vacancy	Structure of Tax or Penalty	Exemptions	Use of Revenue	Oversight
Oakland	Residential, nonresidential, and undeveloped parcels; units in condos, duplexes, or townhouses	In use fewer than 50 days per year	<p>\$6,000 flat annual tax per vacant residential, nonresidential, or undeveloped parcel</p> <p>\$3,000 flat annual tax per vacant parcel that allows ground-floor commercial activity; and per vacant residential unit in a condo, duplex, or townhouse</p>	<ol style="list-style-type: none"> 1) Owner is “very low income” per HUD 2) Owner has financial hardship 3) Owner has demonstrable, nonfinancial hardship 4) Exceptional circumstances prevent use of the property 5) Parcel is under construction 6) Owner has a building permit 7) Owner is 65 or older and is “low income” 8) Owner receives Social Security benefits and income is below a threshold 9) Owner is a nonprofit 10) Owner has applied for planning permits 	Job training for the homeless; services for homeless; move-in expenses; incentive programs to free up affordable housing; relocation assistance; construction of affordable housing; blight alleviation; displacement prevention; tenant assistance; emergency rent assistance.	<p>City has not yet determined how to administer</p> <p>Commission on Homelessness, comprising nine city residents, reports on ordinance efficacy and use of funds</p> <p>City auditor analyzes use of revenue</p>
Vancouver	Residential properties in the greater Vancouver area, including undeveloped parcels	Unoccupied for over six months a year; “unoccupied” means not the principal residence of occupier, or not occupied by an arm’s-length tenant for at least 30 consecutive days	<p>Annual tax of 1% of assessed taxable property value</p> <p>Property owners must declare property’s vacancy status, whether or not they think the tax applies (opt-out system)</p>	<ol style="list-style-type: none"> 1) Owner has died 2) Property is being redeveloped or renovated 3) Occupiers are living in a hospital or supportive care facility 4) Property is part of a “Strata” complex, a type of ownership that restricts rentals 5) Property ownership is being transferred 6) Owner is physically employed in the city 7) Owner is pursuing a court order 8) Law limits use of property to vehicle parking, or some physical limitation preventing building 	Affordable housing initiatives, including building temporary modular housing for homeless; providing capital grants to nonprofit housing projects; building affordable housing units	Collector of Taxes mails property status declaration forms, reviews them for accuracy
British Columbia	Residential properties (does not apply if there is no residence on the property)	Property is not owner’s principal residence or property is not rented out for at least three months of the year	<p>Annual tax of 0.5% of property value for Canadian citizens or permanent residents; 2% of property value for owners who don’t report most of their income on a Canadian tax return</p> <p>Opt-out system</p>	<ol style="list-style-type: none"> 1) Applies only in enumerated areas 2) Property occupied by a tenant 3) Owner recently bought or inherited the property 4) Owner has declared bankruptcy 5) Owner has died 6) Property is in trust created by a will for a minor 7) Property has rental restrictions 8) Property includes a daycare center 	Affordable housing initiatives, including construction of affordable housing; greater security for renters; funds for local governments to build and preserve affordable housing	<p>Local government administrators collect owners’ declarations of vacancy status, file other pertinent info</p> <p>Independent assessor determines property values</p>

74. Analysis conducted in spring 2019

Jurisdiction	Properties Taxed	Definition of Vacancy	Structure of Tax or Penalty	Exemptions	Use of Revenue	Oversight
Boston (Institute for Policy Studies and City Council proposed policies)	IPS focuses on residential housing; City Council proposal targets both commercial and residential properties	Empty for over six months per year	Unclear	Unclear	Affordable housing initiatives	Unclear
New York City (proposed vacancy tax)	Primarily commercial property; possibly residential property	Unclear	Unclear	Unclear	Unclear; tax is primarily designed to incentivize landlords to sell or rent property, not to generate revenue	Unclear
San Francisco (proposed vacancy penalty)	Residences and storefronts	For residences: three or more units unoccupied for six consecutive months For stores: Unclear	\$711 registration fee to register as a vacant storefront; those who don't pay the fee face a \$3,000 penalty Owners of vacant residential properties: \$250 daily fee until property is leased	Unclear	Unclear; tax is explicitly designed to incentivize landlords to sell or rent property, not primarily to generate revenue	Unclear
San Diego (proposed vacancy tax)	Residential property	Empty for over six months per year	Unclear, but modeled on Vancouver's, which assesses annual tax as a percentage of property value	Unclear	Affordable housing initiatives	Unclear
Honolulu (proposed vacancy tax)	Unclear; targets luxury housing and seasonal rental properties	Unclear, but modeled on Vancouver's, which defines vacant as empty over six months per year	Unclear, but modeled on Vancouver's, which assesses annual tax as a percentage of property value	Unclear	Unclear	Unclear
Seattle (Institute for Policy Studies proposed vacancy tax)	Unclear; targets luxury buildings	Empty for over six months per year	Unclear	Unclear	Unclear	Unclear

Figure 10. Vacancy Policies in North America

These vacancy penalties all take the form of a monetary tax on owners of property that remains empty most of the year. To simplify the tax's administration, many of the measures require property owners to report their vacancy status and

opt out of the tax if their property is not vacant. Moreover, the measures that designate the revenue to specific purposes devote at least some of it to affordable housing initiatives.

The Legal Framework for Implementing a Vacant Homes Penalty in Los Angeles

Following the example of Oakland and other jurisdictions at the forefront of addressing the negative impact of speculative vacancy, a coalition of Los Angeles residents, community leaders, housing advocates, and community organizations is helping advance a vacancy tax. In June 2019, Los Angeles City Councilman Mike Bonin introduced a motion directing city departments to form policy options for a vacancy tax, to be considered by voters in 2020.⁷⁵ Unfortunately, because of pandemic-related and other delays, the City Council decided to reconsider the motion for the 2022 ballot.⁷⁶ Opponents of the tax raised questions about its legality and the framework for a policy that might be adopted. We try to answer some of these concerns in this report. Just as in Oakland, a local vacancy tax (hereafter Vacant Homes Penalty) can be legally implemented in Los Angeles in conformity with California-specific tax laws. A brief assessment of the legal framework for a Vacant Homes Penalty in Los Angeles:

- A. **A Vacant Homes Penalty in Los Angeles must be approved by voters.** The California Constitution grants charter cities,⁷⁷ including Los Angeles, the power to implement taxes, within certain constraints.⁷⁸ Any new tax imposed by a local government in California must be approved by voters in an election; a tax cannot simply be adopted by the City Council.⁷⁹
- B. **A Los Angeles Vacant Homes Penalty would probably be considered a special tax.** In California, a local tax is either a general or special tax.⁸⁰ Whether a tax is general or special depends on its purpose.⁸¹ A general tax is any tax imposed for general governmental purposes⁸² and may be approved by a simple majority of voters—50% plus 1.⁸³ A special tax is one whose revenue is for restricted purposes, with the money going toward, for example, public housing construction or services for those experiencing houselessness.⁸⁴ Moreover, Proposition 218, passed by voters in 1996, classifies as special any tax assessed on real property or on a person as an incident of real

75. Los Angeles City Council. (2019, June 11). Motion. http://clkrep.lacity.org/onlinedocs/2019/19-0623_mot_06-11-2019.pdf

76. *LA Punts on Apartment Vacancy Tax Ballot Measure*. (2020, June 25). The Real Deal Los Angeles. <https://therealdeal.com/la/2020/06/25/la-punts-on-apartment-vacancy-tax-ballot-measure/>.

77. A charter city is one that has adopted a charter for its own governance. *City & Cty. of San Francisco v. Regents of Univ. of California*, 7 Cal. 5th 536, 541 (2019).

78. *City & Cty. of San Francisco v. Regents of Univ. of California*, 7 Cal. 5th 536, 558, 684 (2019); Cal. Const., art. XIII C, § 2, subd. (a)-(d).

79. Cal. Const., art. XIII C, § 2, subd. (a)-(d).

80. Cal. Const. art. XIII C, § 2, subd. (a); see also *City of San Buenaventura v. United Water Conservation Dist.*, 3 Cal. 5th 1191, 1200 (2017).

81. *Neilson v. City of California City*, 133 Cal. App. 4th 1296, 1309 (2005).

82. Cal. Const. Art. XIII C, § 1, subd. (a).

83. Cal. Const. Art. XIII C, § 2, subd. (b).

84. Cal. Const. Art. XIII C, § 1, subd. (d). A special tax may have multiple purposes, and those purposes can encompass broad government functions, provided the expenditure of tax proceeds is restricted in some way. *Howard Jarvis Taxpayers Assn. v. City of Roseville*, 106 Cal. App. 4th 1178, 1185 (2003); *Neilson v. City of California City* 133 Cal. App. 4th 1296, 1310 (2005).

property ownership.⁸⁵ Because a vacancy tax is assessed on the “real property” of a person, it would probably have to be a special tax. Unlike a general tax, a special tax requires a two-thirds voter approval.⁸⁶

- C. **A Los Angeles Vacant Homes Penalty may not be assessed on property value.** Although a special tax may be assessed upon a parcel of real property or as an incident of real property ownership, Proposition 13 prevents such a tax from being determined based on the property’s value.⁸⁷ In other words, the dollar amount a property owner must pay under the Los Angeles Vacant Homes Penalty cannot be directly tied to the value of the property.
- D. **A Los Angeles Vacant Homes Penalty may be legally structured as a progressive special parcel tax.** Although a parcel tax may not be assessed on property value, several other options are available. For example, a parcel tax may be levied as a flat rate on property, such as Oakland’s.⁸⁸ Parcel taxes in California have been structured with rates tied to the size of the property⁸⁹ and that differ by use of the property⁹⁰ and the number of residential or commercial units on a given parcel.⁹¹

Other variables may also be considered. For example, San Francisco’s proposal would tax landlords owning residential properties with three or more units that are vacant for six consecutive months at a rate of \$250 per unit each day until leased.⁹² Thus, units held vacant for longer periods of time would face higher taxes.

A special parcel tax is a logical structure for a Los Angeles Vacant Homes Penalty, because parcel taxes apply to property or property ownership, allow progressive tax rates, and permit the tax revenue to go toward community projects designed to alleviate the housing crisis in Los Angeles.

85. Cal. Const., Art. XIII D, § 3, subd. (a), par. (2).

86. Cal. Const., Art. XIII C, § 2, subd. (b), (d).

87. Constitutional and Statutory Bases for Restrictions 9 Witkin, Summary 11th Tax § 134 (2019); Cal. Const., Art. XIII A, § 1; Cal. Const., Art. XIII A, § 4.

88. Resolution No. 87319. Code of Ordinances for Oakland, Calif., Oakland City Council, 2018, https://library.municode.com/CA/oakland/ordinances/code_of_ordinances?nodeId=930534.

89. For example, Measure B, passed by voters of Los Angeles County in 2002 to pay for emergency medical services, levies a tax of roughly \$0.03 per square foot of structural improvements. See County of Los Angeles, (2018, Jan. 10). Revised Agenda. County of Los Angeles, Measure B Advisory Board. http://file.lacounty.gov/SDSInter/dhs/1036113_MBAB011018.pdf.

90. For example, in 2004, Huntington Park passed a parcel tax with 17 rates for various property uses. Different rates applied to categories such as vacant properties, single-family homes, residential buildings with three units, residential buildings with four units, residential buildings with five or more units, and so on. See Sonstelie, J. (2015, April). *Parcel Taxes as a Local Revenue Source in California*. Public Policy Institute of California. https://www.ppic.org/content/pubs/report/R_415JSR.pdf.

91. *Ibid.*

92. Mojadad, I. (2019, Jan. 23). Tax on Vacant Properties Emerges for November Ballot. <https://www.sfweekly.com/news/tax-on-vacant-properties-emerges-for-november-ballot/>.

E. Revenue from a Los Angeles Vacant Homes Penalty could be devoted to advancing important housing justice objectives.

As a special tax, the revenue from a Los Angeles Vacant Homes Penalty could be designated for many purposes, including projects to advance housing justice, produce and preserve nonprofit affordable housing, and address the harms of speculative investment and gentrification. Although there is broad discretion to select these purposes, once the revenue spending plans are listed in the measure and approved by voters, the city cannot deviate from them.

F. A Los Angeles Vacant Homes Penalty may be placed on the ballot by the City Council or as a citizens' initiative.

The City Council could place a Vacant Homes Penalty measure on the ballot with a majority vote of the council no later than 110 days before the election.⁹³ It could also be placed before voters through the citizens' initiative process,⁹⁴ which would require petitioners to collect more than 60,000 signatures within a 120-day period, with the entire process of signature and petition submission, signature verification, and examination by city officials completed at least 110 days before the targeted election.⁹⁵

A Note on the Legal Framework: Recent litigation has questioned the voter threshold required to pass a special tax measure that is submitted to the ballot by citizens' initiative. In a 2017 case, *California Cannabis Coalition v. City of Upland* ("*California Cannabis*"), the California Supreme Court drew a distinction between city council and citizens' initiative tax measures.⁹⁶ The court held that the California Constitution's requirement that general tax proposals placed on the ballot by "local government" can be voted on only during general elections does not apply to citizen-initiated measures.⁹⁷ Some commentators have argued that the *California Cannabis* ruling could open the door to a broader interpretation of citizen-initiated measures that would relieve them of other legal restrictions—creating the possibility that citizen-initiated special taxes could be passed by only a simple majority.⁹⁸ A clear answer isn't likely in the near future, because the issue is under consideration by numerous California courts.⁹⁹ In the meantime, securing two-thirds voter approval is still an effective method for enacting a Los Angeles Vacant Homes Penalty.

93. Election Code of the City of Los Angeles, Chapter VI, § 601(b), p. 39. Los Angeles City Clerk, <https://clerk.lacity.org/sites/g/files/wph606/f/Election%20Code.pdf>.

94. Election Code of the City of Los Angeles, Chapter VI, § 600, p. 39. Los Angeles City Clerk, <https://clerk.lacity.org/sites/g/files/wph606/f/Election%20Code.pdf>.

95. Los Angeles City Charter, Vol. I, Article IV, § 452 (b), American Legal Publishing Corp., [http://library.amlegal.com/nxt/gateway.dll/California/laac/charter/volumeigovernance/articleivelections?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc\\$anc=JD_Ch452](http://library.amlegal.com/nxt/gateway.dll/California/laac/charter/volumeigovernance/articleivelections?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc$anc=JD_Ch452).

96. *California Cannabis Coal. v. City of Upland*, 199 Cal. Rptr. 3d 805, 814 (Ct. App.), review granted and opinion superseded, 372 P.3d 903 (Cal. 2016), and *aff'd*, 3 Cal. 5th 924, 401 P.3d 49 (2017), as modified on denial of reh'g (Nov. 1, 2017).

97. *California Cannabis Coalition v. City of Upland*, 199 Cal. Rptr. 3d at 814.

98. San Francisco Office of the City Attorney. (2017, Oct. 17). Memorandum Re: Voting Threshold for Initiative Tax Measures Following *California Cannabis Coalition v. City of Upland*. <https://www.sfcityattorney.org/wp-content/uploads/2015/07/CA-Cannabis-Coalition-Memo.pdf>.

99. Borenstein, D. (2019, Oct. 17). Borenstein: California needs clarity on vote requirement for taxes. East Bay Times. <https://www.eastbaytimes.com/2019/10/17/borenstein-california-needs-clarity-on-vote-requirement-for-taxes/>.

Recommended Policy Tools to Address Speculative Vacancy in Los Angeles

The magnitude of Los Angeles' affordability and houselessness crises requires a significant policy response. This should include multiple, coordinated policies to penalize speculative vacancy and mitigate the intensive housing instability in low-income communities caused by speculative and unaccountable investment. This comprehensive approach should include a Vacant Homes Penalty and complementary anti-vacancy policy tools.

These policies should be grounded in best practices, legally sound, and respond directly to the needs of the communities most affected by Los Angeles' unprecedented crisis. To that end, we offer the following recommendations and considerations, which are informed by the preceding analysis and shaped by the perspectives, priorities, and expertise of low-income L.A. residents and organizations on the front lines of the housing justice movement.

A. Adopt a comprehensive Vacant Homes Penalty measure in Los Angeles.

If structured properly, a Vacant Homes Penalty would help deter speculative vacancy, mitigate the harms of speculative real estate investment, and deliver necessary financial resources for community-centered programs to address evictions, housing instability, and houselessness in low-income Los Angeles communities. To achieve these goals, the Los Angeles Vacant Homes Penalty measure should be crafted with the following in mind:

1. Apply the penalty citywide.

Granting exemptions for certain neighborhoods would be unfair and unworkable, and it might simply concentrate speculation in exempt areas. Accordingly, citywide application is a common feature of a vacancy tax. Oakland's vacancy tax is citywide, and British Columbia designed its Speculation and Vacancy Tax with a broad geographic scope to prevent pushing speculators into neighboring real estate markets.

2. Apply the penalty to rental unit vacancies and ownership unit vacancies.

As described in this report, problematic vacancies are prevalent in both rental and condominium buildings, necessitating a penalty that covers both types of housing tenure. Other cities have pursued vacancy tax policies with broader coverage. For example, Oakland's applies to both residential and commercial property. San Francisco's proposal would impose a fee on vacant storefronts and an ongoing fee on residential properties.

3. Apply the penalty to undeveloped vacant properties that are zoned to allow housing and have had rental housing on site in the previous 10 years.

Owners of long-term undeveloped vacant property may face challenges in converting to residential use, and some undeveloped vacant properties may face physical or legal limitations that prevent development. It would be reasonable, therefore, to exclude such undeveloped properties from a penalty. But intentionally holding properties undeveloped after evictions and/or demolition of rental (often rent-stabilized) units is a harmful product of real estate speculation, and such practices should be covered by the penalty.

4. Apply the penalty to units that are unoccupied by residents for more than 90 days annually.

A Vacant Homes Penalty should be imposed on an annual basis, with the penalty applying to any unit that was unoccupied for more than 90 days during the previous year and does not qualify for an exemption.

5. Create a rebuttable presumption that units are vacant and subject to the penalty using DWP metering information and other best available data.

The Vacant Homes Penalty should establish a rebuttable presumption of vacancy using metering information from the DWP, evidence of homeownership exemption, and other available data. If metering information shows that water and power is not connected or that certain utility thresholds are not met for more than 90 days, or if a unit has not been claimed under the homeownership exemption, the unit should be presumed to be vacant and subject to the penalty, with the property owner having the burden to prove otherwise.

6. Create a progressive structure that penalizes speculative vacancies and maximizes revenue for community-centered housing justice programs and enforcement.

As described in Section III, a Vacant Homes Penalty can be progressively structured in several ways, including as a flat fee per vacant unit regardless of the unit's size, or as a fee per square foot of vacant unit. Fee amounts could escalate based on housing tenure, duration of vacancy, or overall building vacancy rate, although the fee amounts may not be based on property value.

7. Include reasonable exemptions.

Exemptions to the penalty should be granted to certain units or property, such as those:

- owned by low-income individuals (using metrics adjusted for Los Angeles wages);
- owned by a government or nonprofit organization;
- having physical or legal limitations that prevent the owner from building on the property;
- covered by an active permit for renovations;
- in the process of ownership transfer;
- actively being marketed in good faith for lease or sale;
- whose owner or lessee is recently deceased;
- whose owner or lessee is in a hospital or supportive care facility;
- whose owner or lessee is in the military or a service program;
- whose owner or lessee is taking an extended vacation but has demonstrated an intent to return to the residence

All of these exemptions are found in other cities' vacancy tax programs and together will promote fair application of the Los Angeles Vacant Homes Penalty.

8. Allocate the penalty revenue exclusively to community-serving uses that advance housing justice.

Revenue should be deposited in a special fund dedicated to (a) constructing and improving nonprofit deeply affordable housing and social housing; (b) providing services to the unhoused; and (c) preventing displacement and eviction, particularly for low-income tenants, students, the disabled, and the elderly. Penalty revenue should not be available to any program that involves "blight elimination" or the criminalization of low-income and houseless Angelenos.

9. Include registry, audit, and enforcement procedures; and ensure appropriate data management practices.

Property owners, even if exempt from the Vacant Homes Penalty, should be required to register vacancy status with the city. For example, Vancouver's policy requires residential property owners to annually declare their property's vacancy status to the city government, whether or not they think the tax applies to them. A city department should perform random audits to determine and penalize inaccurate reporting from property owners. In addition, the responsible agency should maintain this registry of vacant units and properties to be made available to policymakers and the public, to burnish data access and disclosure as called for in subsequent recommendations.

10. Ensure comprehensive community oversight of program implementation.

The Vacant Homes Penalty measure should also include the creation of an oversight commission comprising community members affected by the affordable housing and eviction crisis, including at least 50% current or former houseless residents. This commission should be empowered to review citywide and building-level vacancy data and receive periodic progress reports from city staff on implementation, enforcement, and spending of program revenue. The commission should also be empowered and appropriately staffed to produce and present an annual report to the City Council with an assessment of the program's impact on advancing housing justice and recommendations for improvements. Taking a similar approach, Oakland's Vacant Property Tax established a Commission on Homelessness that meets at least four times annually and reports on the status of the tax's implementation and impact on houselessness.

B. Adopt complementary anti-vacancy policies.

Additional policies can augment a Vacant Homes Penalty and provide greater checks on the rampant speculation that is accelerating the affordability and houselessness crisis. The following complementary policies should be considered alongside a Vacant Homes Penalty to form a comprehensive city response.

1. Municipal Requirements for Disclosure of Beneficial Ownership

We recommend that the city require disclosure of beneficial ownership interests as part of the property registration. A "beneficial owner" is the natural person who reaps the rewards associated with owning a corporation. When companies are not required to disclose this information, the window for harmful activity is left wide open.

More and more, property owners hide their identities by owning property in the name of shell corporations or shell LLCs (Limited Liability Corporations). A shell corporation is one designed to shield its owner from liability, but it also makes owners of property anonymous in the public records. These companies depend on, and profit from, municipalities' protection of property rights and publicly financed amenities. Yet their beneficial owners are not required to identify themselves to the public. To unveil these actors, jurisdictions around the world have mandated the disclosure of beneficial ownership in companies, real property, or both.

Legislators addressed corporate transparency in October 2019, when the Corporate Transparency Act of 2019 (the Maloney bill) passed the U.S. House of Representatives with bipartisan support. The bill would require LLCs and corporations to disclose their real owners to the Financial Crimes Enforcement Network, an arm of the Treasury Department, at the time of company formation. According to Rep. Carolyn Maloney, "[T]his bill will also help to crack down on New York's real estate being used to park illicit money, driving up housing costs and limiting availability."¹⁰⁰ In addition, New York City,

100 Story, L., & Saul, S. (2015, February 7). Towers of Secrecy. *New York Times*. <https://www.nytimes.com/news-event/shell-company-towers-of-secrecy-real-estate>

the European Union, and the United Kingdom are considering legislation requiring transparency in property ownership.¹⁰¹

Implementing municipal disclosure would be simple. The Los Angeles County Recorder's Office could require the disclosure of real ownership with the recording of deeds. To support code enforcement and regulatory efforts, a registry of properties by ownership should be created. It is also critical that this information be made available to the public.

2. Prohibit Condominium Conversions and Demolitions of Rent-Stabilized Units Until Vacancy Monitoring Procedures Are in Place.

The Ellis Act, harmful though it is, does not prevent the City from adopting and enforcing certain tenant protections. In fact, the Ellis Act explicitly provides that it “is not otherwise intended to ... interfere with local governmental authority over land use, including regulation of the conversion of existing housing to condominiums” or “preempt local ... controls that govern the demolition and redevelopment of residential property.”¹⁰² The City of Los Angeles has already elected to use this discretion, at least with respect to condominium conversions. When evaluating applications for condominium conversions, the Department of City Planning assesses the vacancy rate in the applicable community plan area, denying the application if the vacancy rate is 5% or less and the cumulative impact of successive conversions is significant.¹⁰³ But as described in this report, Los Angeles hasn't produced an accounting of vacancy rates for a planning area. Currently, then, L.A.'s entire condominium conversion regulatory framework is predicated on data the city does not have.

The city can take several immediate steps to ensure proper implementation of existing code sections and reduce speculative vacancy created by evictions and demolitions. We suggest that the city:

- a. Create a way to deny demolition permits for rent-stabilized units when the vacancy rate in the community plan area is 5% or less, similar to existing policy for condominium conversions.
- b. Limit the annual number of demolition permits and condominium conversions.
- c. Prohibit any condominium conversion or demolition of rent-stabilized units until such time that the city can determine vacancy rate for community plan areas.

101. Barbanel, J. (2019, Oct. 8). Secret Manhattan Condo Purchases Are Dead, Thanks to a Suburban Squabble. *Wall Street Journal*. https://www.wsj.com/articles/secret-manhattan-condo-purchases-are-dead-thanks-to-a-suburban-squabble-11570557635?mod=article_inline; Office Journal of the European Union. (2015, May 20). *Directive of the European Parliament and of the Council of 20 May 2015*. www.eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849&from=EN; Helen Burgaff. (2018, May 2). New Register to Require Public Disclosure of Identity of 'Ultimate Owners' of UK Properties. *International Investment*. www.internationalinvestment.net/regions/uk/new-register-require-public-disclosure-identity-ultimate-owners-buyers-uk-properties/.

102. California Government Code Section 7060.7(a)-(b).

103. Los Angeles Municipal Code Section 12.95.2.F.6.

3. Demand Publicly Accessible Data on Vacancy

Los Angeles agencies have historically used data based on metering information from the DWP to measure vacancy rates. This data set samples every residence in the city on a daily basis. Unfortunately, in recent years, city agencies have often been unable to acquire this data from DWP, and recent estimates, from 2017, have been deemed too inaccurate to be used in decision making by those agencies.¹⁰⁴ In response to a public records request we submitted to access this data, the Los Angeles Department of City Planning (DCP) provided us with its most recent Community Plan Area vacancy calculation. For this it relied on ACS 2017 data, indicating that DCP has yet to secure updated and accurate vacancy information from the DWP. A report from the DCP to the City Council indicates that it considers ACS data the second-best source for vacancy data, behind DWP data,¹⁰⁵ which makes it troubling that DWP has yet failed to provide metering-based data to city agencies. Even when vacancy data from DWP were available, city agencies did not calculate and use vacancy information for individual buildings, another shortcoming that should be addressed.

The determination of accurate vacancy rates is critical. Vacancy rates are used to determine whether to approve condo conversions and to evaluate the impact of new developments on the housing market. These determinations are crucial in the context of L.A.'s ongoing eviction crisis, as an Oct. 15, 2018, motion from Councilman Mike Bonin's office makes clear.¹⁰⁶ The motion calls for the DCP to "cease issuing Ellis Act clearances" until the vacancy rate can be determined and is above 5% in a Community Plan Area. The Ellis Act, as we have discussed, is a major driver of displacement and tool of speculation in Los Angeles. Bonin recognizes the importance of this lack of data in multiple motions that are working through council,¹⁰⁷ and the motion includes a plea to the HCIDLA for better vacancy data.¹⁰⁸ We applaud the councilman and his colleagues for trying to get reliable vacancy data, but the data should be made publicly accessible to all interested residents and published online.

104. City of Los Angeles, Department of City Planning. (2017, Sept. 21). *Supplemental Report Relative to Strengthening Enforcement of the Rent Stabilization Ordinance and Ellis Act Provisions*. https://clkrep.lacity.org/onlinedocs/2017/17-0480_misc_09-21-2017.pdf.

105. Ibid.

106. City of Los Angeles, City Council. (2019 October 15). *Motion*. http://clkrep.lacity.org/onlinedocs/2019/19-1246_mot_10-15-2019.pdf

107. City of Los Angeles, City Council. (2019, June 11). *Motion: Empty Homes Penalty*. http://clkrep.lacity.org/onlinedocs/2019/19-0623_mot_06-11-2019.pdf.

108. City of Los Angeles City Council Housing Committee. (2019, Aug. 28). *Housing Committee Report Relative to Vacant, Habitable Housing Units and a Potential Empty Homes Penalty Structure in the City of Los Angeles*. http://clkrep.lacity.org/onlinedocs/2019/19-0623_rpt_hsg_8-28-19.pdf.

4. Real Estate Transfer Tax

Real estate transfer taxes are a promising tool to reduce speculation and raise funds to be used at the local level. California imposes a tax of \$1.10 per \$1,000 of value (0.11%) of the purchase price on all property sales.¹⁰⁹ Cities and counties are free to impose higher rates. Los Angeles, for example, imposes an additional tax of \$4.50 per \$1,000 of net value (0.45%) on property sales.¹¹⁰

This tax could be made still more progressive. San Francisco, Oakland, and Berkeley have imposed higher rates for more expensive transactions. In 2016, San Francisco voters approved Proposition W, which increased the real estate transfer tax to 2.25% for properties sold for \$5 million to \$10 million; 2.75% for properties sold for \$10 million to \$25 million; and 3% for properties sold for above \$25 million.¹¹¹ The city's Office of Economic Analysis estimated the measure would raise an average of \$44 million in additional revenue each year.¹¹² In November, 2018, voters in Oakland overwhelmingly approved Measure X to implement a tiered transfer tax.¹¹³ It increased the previous flat transfer tax of 1.5% to 1.75% for transfers of \$2 million to \$5 million, and 2.5% on real estate value over \$5 million.¹¹⁴ In the same election, 72% of voters in Berkeley approved Measure P, which increased the 1.5% flat transfer tax to 2.5% for sales over \$1.5 million.¹¹⁵ The measure also required the city to create a Homeless Services Panel of Experts to advise the City Council on how and to what extent the city should establish and/or fund programs to end or prevent homelessness in Berkeley.¹¹⁶

Los Angeles should consider a similar real estate transfer tax that imposes higher rates on more valuable properties. Revenue should go toward building and improving nonprofit affordable housing; providing services to the unhoused; and preventing displacement and eviction, particularly for low-income tenants, students, the disabled, and the elderly.

109 Tannenbaum, L., and Pfaff, S. (2014, April 28). Watch Out for California Transfer Taxes in Transactions Involving Real Estate Holdings. DLA Piper. <https://www.dlapiper.com/en/us/insights/publications/2014/04/watch-out/>

110. Ibid.

111. San Francisco, California, Real Estate Transfer Tax Increase, Proposition W. (2016, November). Ballotpedia. [https://ballotpedia.org/San_Francisco_California_Real_Estate_Transfer_Tax_Increase,_Proposition_W_\(November_2016\)](https://ballotpedia.org/San_Francisco_California_Real_Estate_Transfer_Tax_Increase,_Proposition_W_(November_2016)).

112. Office of Economic Analysis. (2016, June 29). *Transfer Tax Increase on Properties Over \$5 Million in Value: Economic Impact Report*. http://sfcontroller.org/sites/default/files/160604_economic_impact_final.corrected.pdf.

113. *Oakland, California, Measure X, Graduated Real Estate Transfer Tax*. (2018, November). Ballotpedia. [https://ballotpedia.org/Oakland_California_Measure_X_Graduated_Real_Estate_Transfer_Tax_\(November_2018\)](https://ballotpedia.org/Oakland_California_Measure_X_Graduated_Real_Estate_Transfer_Tax_(November_2018))

114. City of Oakland. (2018, Nov. 6, p. 1). *City of Oakland Measure X*. https://www.acvote.org/acvote-assets/02_election_information/PDFs/20181106/en/Measures/20%20-%20Measure%20X%20-%20City%20of%20Oakland.pdf.

115. Berkeley Hills Realty Office. (2018, Dec. 14). *What You Need to Know About the New Property Taxes and Laws Going into Effect in the East Bay*. *Bay Area Living*. <https://berkhills.com/bay-area-living/what-you-need-to-know-about-the-new-property-taxes-andlaws-going-into-effect-in-the-east-bay>.

116. *Berkeley, California, Measure P, Real Property Transfer Tax Increase*. (2018, November). Ballotpedia. [https://ballotpedia.org/Berkeley_California_Measure_P_Real_Property_Transfer_Tax_Increase_\(November_2018\)](https://ballotpedia.org/Berkeley_California_Measure_P_Real_Property_Transfer_Tax_Increase_(November_2018)).

5. Flipping Tax

A variation of a transfer tax that more effectively targets rent-seeking speculation is a flipping tax. This would target investors who sell properties shortly after buying them, quickly cashing in on rising property values. Both the Sen. Bernie Sanders campaign¹¹⁷ and the Homes Guarantee platform released by People's Action¹¹⁸ have proposed a tax of 25% of the purchase value on non-owner-occupied properties that are sold within five years of the last purchase. A flipping penalty similar to those described above should be built into an increased real estate transfer tax in Los Angeles.

6. Out-of-State Transaction Tax

The city should also consider a tax that targets investors living outside California. In Los Angeles, speculators (often tied to Wall Street financial institutions or global investment pools) tend to have deep pockets and no stake in the communities where they are buying land. Targeting these individuals and corporate entities that seek to profit from our housing crisis could raise much-needed revenue for affordable housing and other services needed by unhoused and rent-burdened Angelenos.

British Columbia incorporated a tax on foreign investors into its Speculation and Vacancy Tax.¹¹⁹ It imposes a vacancy tax of 0.5% on the assessed value of the residential property for British Columbians and other Canadian citizens or permanent residents, but 2% for foreign owners and "satellite families"¹²⁰—that is, individuals or spousal units who do not report most of their income on a Canadian tax return.¹²¹ B.C.'s government adopted the tax in response to nonresident real estate speculation. A similar provision in the Los Angeles Vacant Homes Penalty could reduce housing speculation and also raise significant revenue.

7. Increased Gross Receipts Tax

The city should consider increasing the gross receipts tax to ensure that the largest landlords and largest perpetrators of speculative rent increases and vacancy pay their fair share for their role in the housing crisis.

117. Sanders, B. (n.d.). Housing for All. <https://berniesanders.com/issues/housing-all/>.

118. People's Action. (2019). *A National Homes Guarantee*. https://homesguarantee.com/wp-content/uploads/Homes-Guarantee_-_Briefing-Book.pdf.

119. British Columbia. (n.d.). Tax Rates for Speculation and Vacancy Tax. <https://www2.gov.bc.ca/gov/content/taxes/speculation-vacancy-tax/how-tax-works/tax-rates>.

120. Ibid.

121. Ibid.

8. Explore Other Mechanisms For Using Perpetually Vacant Properties to House the Unhoused Immediately and Advance Community Control of Land

Los Angeles should also consider allowing unhoused people to live in perpetually vacant properties and transferring properties to community ownership models, such as a community land trust. This kind of policy could take the form of seizing tax-delinquent vacant properties for use as social or community-controlled housing; using eminent domain to take the property of the worst offenders, who leave units vacant for unconscionable lengths of time; and any other mechanism that might bring long-vacant properties under the control of community or local agencies.

