Without a right to remain: Property’s limits on Portland’s self-governing houseless encampments

Stephen Przybylinski
Uppsala University, Uppsala, Sweden

Abstract
With the rise of organized houseless encampments or “tent cities” around the U.S., scholars have begun to address the social-spatial effects of encampments on houseless peoples’ lives. This scholarship has primarily explained the development of organized encampments as an effect of neoliberal modes of governance as municipalities have sought to offload responsibility for caring for the houseless or to discipline houseless people by containing them through the regulative force of the state. Such explanations address the culpability of the state in relation to capital which shapes houseless peoples’ lives. Yet, they leave unaddressed one critical component of houseless encampments: that relations surrounding property ensure that houseless encampment residents remain property-insecure and without a guaranteed right to remain. Through a case study of self-governing houseless encampments in Portland, Oregon, the article advances a relational analysis of property and citizenship to show how self-governing houseless communities are denied key privileges of citizenship that democratic self-governance is intended to realize. In doing so, the case study examines the very tradeoffs houseless encampment residents must make when living in an encampment. The paper ends suggesting that Portland’s encampment model allows us to more clearly see the consequences of establishing collective rights to access property within liberal property systems, and from this, where political and scholarly attention ought to be placed to better protect houseless people through a more democratic right to remain.

Keywords
Property, citizenship, liberalism, Portland, Oregon, houseless encampments

Introduction
One influential definition of homelessness is “to not be protected by a property right.” Scholars have argued that unhoused people have nowhere that they can be, except for through the permission of some other property owner (Waldron, 1993; Mitchell, 1997; Blomley, 2009). The rise of sanctioned
houseless encampments in a number of U.S. cities, however, belies that argument. Today, in at least some houseless encampments, particularly the self-governing model developing in Portland, Oregon, unhoused people possess certain rights to access property. Yet, despite being “protected by a property right,” houseless encampment residents there nonetheless remain insecure in their access to shelter. As this article will show, although self-governing encampments provide unhoused individuals with an uncommon set of access rights to property, the type of property rights conferred on encampments matters significantly for how residents are able to collectively govern and secure safer and more private spaces of respite within them.

Recent scholarship on sanctioned encampments has been rightly critical of this alternative form of shelter. Focusing on the responsibilities of the state for providing houselessness services, Herring and Lutz (2015) argue that the sanctioning of encampments by municipalities extends neoliberal approaches to policy-making, through which encampments become “appendages of a growing shadow state” (p. 697). In this way, organized encampments are seen as “a spatial tool of containment for the local state” which help displace and thus lessen the “threat” of visible houselessness throughout urban landscapes (Herring, 2014: 306). Speer (2018) argues that some organized encampments function akin to “tent wards,” as spaces of carcerality, whereby the surveillance and discipline of the state is ever present through encampment regulations. Here, the sanctioning and regulation of houseless encampments is another means of further pathologizing contemporary approaches to poverty management by municipal and state governments.

Others emphasize the role of encampments in facilitating opposition to the iniquitous effects of urban housing markets and political marginalization. Referring to unsanctioned encampments, Mitchell (2013) argues that tent city encampments provide a model for a more “just” city in that they stand as a “non-commodified and cooperative form of property and social relations” (p. 82). Such encampments do so by satisfying individuals’ basic need for security in establishing “domestic” space, spaces producing a sense of “home” by whatever means are available (Speer, 2017). As a result of the relative stability of sanctioned and self-governing encampments in particular, houseless individuals are able to realize claims for rights to space not widely available for unhoused communities. Przybylinski (2021a) shows, for instance, how one self-governed encampment organizing around the right to be centrally located within the city successfully made claims for and won legal rights to operate on municipal property. Such stability enables encampment residents a means of political autonomy. As Sparks (2017: 93) argues, the political organization of self-governing encampments allows residents to realize citizenship “not as a formal relationship between sovereign individual and state, but as a set of practices of agency, belonging, and governance within the informal terrain of the camp itself.” Although ultimately limited by the sovereignty of municipal and state governments which permit them, sanctioned and self-organized encampments can provide houseless individuals degrees of autonomy often not enjoyed when living in traditional shelters or on the street.

Accepting that sanctioned houseless encampments may be a result of urban governments offloading responsibility for houseless care services while at the same time spaces which provide a sense of security, dignity, and political association for individuals, this article seeks to build on these perspectives. With more municipal governments turning to this alternative form of shelter, I suggest that the rise of sanctioned self-governing encampments merits further examination. For, the more these types of land uses are regularized within urban landscapes, the more widely they come into social and political conflict. In particular, the article advances houseless encampment scholarship by concentrating on the role of property in shaping the political rights and privileges of encampment residents. Insufficient attention has been given within this scholarship explaining how property affects encampment residents, particularly with a concern as to how property shapes political subjectivity and citizenship more broadly (see Sparks, 2017 for an exception). Examining the property rights and relations of encampments illustrates the ways in which houseless people are
protected by property rights and what is made possible by those rights, while at the same time, illuminating how residents are political constrained by those use rights to property.

To illustrate how tensions surrounding property and citizenship affect encampments and their residents, the article draws from a case study of four sanctioned and self-governing houseless encampments in Portland, Oregon. It presents a telling example of how collectively governed properties by unhoused communities simultaneously benefit and constrain their residents given the ways in which property envelopes the social and political relations of encampments. While something like a “commons,” Portland’s encampments are not commonly owned. Rather, they are collectively governed properties, land uses permitted by the municipality through conditional use rights. As such, the Portland encampment model functions somewhat similarly to a common use-right to property, which in theory allows for unhoused individuals a right not to be excluded. As this paper will show, however, given that encampments lack rights of possessive interest—a legal right to exclude—individual residents’ rights not to be excluded paradoxically presents a situation where they have no guaranteed right to remain either. As such, the article analyzes not whether self-governed encampments can protect citizenship privileges for their residents but the extent to which these privileges are constrained by nature of their relation to property. In ending, I argue that Portland’s encampment model allows us to more clearly see the consequences of establishing collective property uses within liberal property systems, and from this, where political and scholarly attention ought to be placed to better protect houseless people through a more democratic right to remain.

The basis of my analysis stems from 10 months of ethnographic work in Portland, Oregon in 2017–2018. There I interviewed 28 houseless individuals who were residing in one of four self-governed houseless encampments in Portland: Dignity Village (DV), Right 2 Dream Too (R2DT), Hazelnut Grove (HG), and Kenton Women’s Village (KWV). While Portland’s encampments do not keep demographic data, those that I interviewed shared with me their demographic information. Out of the 28 people I interviewed, the ages ranged from 19 to 70 years old; all but three identified as white; and there was an equal number of individuals self-identifying as female and male. Interview participants were selected only if they had been living within the encampments for more than 2 weeks, though the average length of time interviewees had been living within these encampments was roughly 8 months. The semi-structured interviews inquired into residents’ experience and thoughts on the self-governing model; the benefits and limitations of encampments as modes of shelter; and the politics of the encampment’s property relations between the city government and surrounding neighbors.

Interviews were coupled with participation observation, recorded in notes from when I attended general assembly meetings at three of the encampments: HG, R2DT, and DV. Between the three encampments, I attended 80 general assembly meetings throughout my period of fieldwork. The assemblies covered a range of issues. Often concerned with the stuff of everyday life, the meetings covered what the weekly divisions of labor were, for example, who was doing dishes in the kitchen or who was running security on a given night. But the assemblies also addressed more serious matters. For instance, I attended meetings when there were collective decisions to vote out and remove members; meetings that addressed and mediated conflicts among residents; and meetings that discussed relations with the City staff or the Joint Office of Homeless Services, Portland’s central entity for delivering houseless services in the city. General assembly meetings provided insight not only into how the self-governance process functioned for residents but provided different perspectives from those of individual interviews.

These primary data were then analyzed thematically for insights into how encampments residents operated as a political community, how the encampments residents understood their rights to use the property, and how collective decisions were affected because of property regulations or restrictions. Finally, I analyzed secondary data, such as media reports, City Government use-of-space
agreements, and State legislation pertaining to encampments to help illustrate the context behind encampment and government politics.

The Portland model of houseless encampments

Like many west coast U.S. cities, Portland, Oregon’s unsheltered houseless population has increased in recent years. As of 2022, 3057 of Portland’s estimated 5228 houseless people go unsheltered on any given night (Multnomah County, 2022), more than doubling the city’s unsheltered population since 2007 (Smock, 2015). In response to the increasing unsheltered houseless population, coupled with steadily increasing rents and lack of affordable housing options in the city, Portland’s government declared a State of Emergency on Housing and Homelessness (S.O.E.) in October 2015. Six months into the S.O.E., the City’s “Safe Sleep” policy was implemented which eased zoning restrictions and allowed for self-organized, sanctioned houseless encampments to set up on City-owned property (VanderHart, 2016). Although the Safe Sleep policy was disbanded within 6 months, the continuing S.O.E. allowed the existing organized encampments to remain operating throughout the city. As a result, the City of Portland and Multnomah County Governments now officially recognize self-governing encampments as “alternative shelter types” within the government’s larger shelter strategy (Multnomah County, 2018).

Portland’s self-governing encampments are unique compared with traditional modes of houseless shelter. All but one of the region’s six self-governing encampments hold “conditional use” or “use of space” agreements with the municipal government. While not termed “illegal,” Hazelnut Grove (HG) is an outlier among the encampments in that it does not enjoy a land use agreement and is instead merely tolerated by the City. For the encampments that do hold use of space agreements, the terms provide residents with rather basic use rights to the properties. R2DT’s land use agreement, for instance, stipulates simply that the “User is allowed to enter and use the [encampment] and those City-owned amenities placed in the Use Area, for the sole purpose of operating a temporary rest area” (City of Portland, 2017). Here “User” refers to the encampment itself as understood through their non-profit status and not to individuals themselves. The use of space agreements also demarcate the length of time encampments enjoy use rights to the property, usually for 2 years. The majority of the contract, however, protects the City against liability, by stipulating limitations on improvements to the property, waiving the City Government’s liability for damage or injury caused by encampment residents’ use of the properties, and requiring that expenses for property maintenance to the sites are self-incurred by the encampments themselves (City of Portland, 2017). Because of their simplicity, the use rights in these agreements are also vague. Residents’ rights to property are less defined than those traditionally held by property owners or lessees.

In addition to the land use agreements, most encampments are contracted by the City of Portland to provide certain services on the encampment site. Primarily, this means the encampments are responsible for managing temporary shelter services that they provide other houseless individuals. And unlike most legally sanctioned encampments around the U.S., most of Portland’s encampments are organized through self-governance and operate on municipally owned properties which serve no other government purpose. This contrasts with many sanctioned encampments across the country which are run top-down, guided by a strong regulatory state which does not allow for residents to collectively manage their own affairs (Speer, 2018). And the few encampments that are collectively organized outside of Portland have traditionally been mobile. Seattle, for example, originally regulated the siting of encampments through temporary use permits, allowing groups to occupy one site for 90 days before moving to another site (Sparks, 2017).

Portland’s encampments can be understood then as both legal entities unto themselves as well as collectives of individuals committed to their own social security and political agency. The self-
governing model thus lies in contrast to the majority of houseless encampments in U.S. cities which are unsanctioned, deemed illegal by municipalities, and that face constant threats of being disbanded. Portland’s encampments benefit as legal entities in that the encampments are parties capable of contracting with the city government, enabling them to secure use rights to municipal properties. In turn, these use rights allow the collectives to govern the operations of these spaces themselves.

The “institutionalization” of the encampments in this way has its benefits relative to unsanctioned encampments which are more ubiquitous throughout Portland’s landscape. Not only do sanctioned encampments enjoy a legal right to use the city’s property, they can receive small amounts of funding from the city government for sanitation and maintenance. However, the limited extent of the use rights the encampments enjoy creates certain problems for the encampments.

Along with the relatively undefined set of use rights for Portland’s encampments, there is one key use right which the encampments do not enjoy. The encampments lack possessory rights. In general, possessory rights to property allow tenants the right of “exclusive possession,” meaning that “tenants have the right to exclude all others, including the landlord (except for rights under the lease to inspect or repair) from the land” (Williams and Robson, 2014: n.p.). Usually, lessees have that right of exclusive possession for their own security and privacy. And although the restriction on encampments’ rights of exclusive possession in Portland was always limited in practice, it became formalized into law in summer 2019. It was then that the State of Oregon passed House Bill 2916 which mandated that encampments not be subject to the state’s landlord-tenant protections (Oregon State Legislature, 2019).2 As will be shown throughout the paper, the inability of encampments to legally exclude others presents a set of challenges for residents within the encampments reflecting tensions central to property relations within liberalism more broadly.

Propertied citizenship, self-governance, and the right not to be excluded

Within the American liberal tradition, citizenship is predominantly realized through the protection of individualized rights (Marshall and Bottomore, 1992). Primary among these rights is that of property ownership and the pursuit to acquire property (Janoski and Turner, 2002: 18). Historically, American citizenship was constituted through property ownership itself (Woods, 1992; Alexander, 1997), though this right was available only for elite, white males (Marston, 1990). Property ownership was politically significant for how it engendered an individuals’ self-governance and autonomy more broadly (Nedelsky, 2011). While property ownership itself no longer defines citizenship, property rights and the liberal values associated with ownership remain prominent factors in shaping citizenship privileges in liberal-democracies today.

What follows from the notion that property remains closely connected to liberal citizenship is that claims for rights and privileges typically are not protected outside of ownership or access to property. Without a secure interest in property—that is, by not having the legal rights to access propertied space—houseless people are denied citizenship privileges essential for securing their livelihoods. Such a model of “propertied-citizenship” enables those with secure interests in property to leverage their power against those without secure interests in land through economic, political, and legal means (Przybylinski, 2021b). As Roy (2003: 475) argues, the American liberal “paradigm of propertied citizenship” recognizes only the formal rights of property to which all informal claims to space are deemed illegible and thus outside of proper citizenship. Thus, to benefit from propertied-citizenship is to have one’s political and economic interests protected, if not promoted, over those lacking a secure interest right to property.

We ought not to think of citizenship and thus propertied-citizenship as merely a rights-bearing status, however. Citizenship encompasses more than a legal status alone (Staeheli, 2010); citizenship is also an “active process of being and becoming political” (Ehrkamp and Jacobsen, 2015: 155). As Isin (2008) notes, citizenship is not a pre-determined status but, rather, it is “enacted”
Unevenly over time and through various relations of power and domination. Enacting citizenship is a means by which individuals are able to claim rights they believe they should, but perhaps do not, have. To thus examine citizenship practices relationally helps move beyond an emphasis on legal status alone to incorporate the broader political relations of how individuals make claims to rights, are denied protection from rights, and how laws regulating and ordering citizens within a given polity are reworked in relation to these political actions (Staeheli et al., 2012; Neveu, 2015). Examining how citizenship is enacted in relation to property illustrates the intricate ways in which political subjectivity is bound up within property relations.

Such an approach is useful particularly when examining how liberal property rights enable citizen self-determination and autonomy. As C.B. MacPherson noted long ago, the primary contradiction of liberal-democracies concerns “reconciling the liberal property right with that equal effective right of all individuals to use and develop their capacities” (1978: 199). To move beyond the individualized and exclusionary nature of private property rights, he noted, necessitated a more democratic right, a common property right not to be excluded (p. 201). Such a right would enable the property-insecure a right not to be denied access to necessary resources. The right not to be excluded is a powerful conceptual counter to private authority in liberal property systems. But few case studies explore how individuals who access a collectively governed property functions in practice. The sections hereafter thus detail the benefits and limitations to the self-governing model which are then analyzed in context to a common property right.

**Enacting citizenship through self-governance**

Every individual whom I interviewed residing in an encampment articulated how the process of self-governance has benefitted them throughout their struggles with housing precarity. Most immediately, encampments provide a sense of security that housed people often take for granted. Feeling secure that you will still have your belongings at the end of the day, as one HG resident put it, “gives you the one thing that everyone else in society gets to have, which is a sense of ownership over something.” The relative security and stability that encampments provide for their residents inspires a sense of dignity that is often lost in traditional shelters. As one KWV resident noted, the village helped her reconnect with her sense of self again. “Once you feel like you are nothing, it is hard to get your sense of worth back,” she said. She noted that often when women would come into the village, many of them seemed to be down on themselves, feelings, she said, which “stem from relationships, abuse, from being on the streets and feeling and looking like crud.” However, the encampments enable people “to be together in a situation which gives them strength.”

Although encampment residents use these spaces primarily for their own grounding and stability, the longer that residents reside there, the more likely it is that they will become involved in actively shaping the conditions of their own environment. When individuals were introduced into the self-governing model, they often felt a sense of agency in the collective participation of the group. One DV resident recalled seeing a chronically houseless person come into the village and eventually gravitate toward participating in the governing process. The individual was “houseless for 22 years prior to coming to [DV],” he said. “They went from not trusting or speaking to anyone, to conversing and participating within the village before he obtained his housing.” To this resident’s eye, the self-governing model helped to ensure that even the most housing-precarious were able to “have a place … that they are counted and that they are seen.” In this way, the self-governing model was praised for how it was able to draw in individuals who generally have had no voice in shaping their living environment.

In these ways, the self-governing process is a means to collectively express social and political concerns relevant to those who are property-insecure. As Sparks (2017: 88) observes about the self-governing process in Seattle’s encampments, residents there were able “to produce localized
practices of informal citizenship and governance that simultaneously rejects and seeks to remedy homeless stereotypes of pathology and dependence.” Such informal enactments of citizenship, he suggests, work to “resist stereotypes of homeless unfitness for rational self-governance by producing a self-consciously democratic and collectively operated space” (2017: 91).

Similarly, the capacity for self-governance within Portland’s encampments affords individuals a sense of agency. As one HG resident noted, “we dictate ourselves how the daily [routine] goes and how things are run. The people living here are deciding what directions their lives are going to take. And it’s not some outside source dictating that you have got to do A, B, and C to stay here, and if you don’t, well, good luck finding your way otherwise.” Instead, many encampment residents felt that being part of the collective inspires cooperation. For instance, a resident at DV noted his purpose at the village was “not so much to do what is good for you, but for the community. I never thought that way before [coming to DV]. Everything that I do now is based around what’s good for the village. It’s all about what is good for the village.”

Tasting notice of the ways in which encampments expand our understanding of houseless peoples’ political agency is important. Yet, houseless people’s political agency is not relegated to the spaces of encampments alone. Particularly as self-governing encampments become more ubiquitous and permanent throughout urban landscapes, it is important to understand how encampment residents necessarily engage politically throughout the larger community. For, residents “enact” their citizenship—making claims to unrealized rights and privileges—through their relations with individuals and entities outside the spaces of the encampment as well. Indeed, it is through interactions with neighbors, neighborhood and business associations, and local government that houseless encampment residents in Portland make claims to and are denied privileges of citizenship.

Due to the relative stability of life in Portland’s houseless encampments, many residents have become politically active within their neighborhoods and throughout the city more broadly. As one R2DT member noted, participating in the decision-making process within the encampments whet her appetite to engage in politics outside of the encampment. This change, she said, came about because of the interactions she had during the encampment’s weekly meetings, which eventually led to her becoming a board member. During her early time at R2DT, she said that she “was the quiet type, just doing what I was supposed to do” as an encampment resident. “As far as talking with the City,” she said, “I didn’t think I would ever speak at City Hall or go and meet the mayor. But here I am, [going to] City meetings, to good neighbor agreement meetings, neighborhood association meetings, meetings with the police. I would have never done that before.” Doing so, she reflected, “opened me up and I have found my voice to say, ‘hey, you know what? This is wrong.’” The very process by which encampments democratically organize themselves empowers many residents to want to change the inequities they see within the broader community.

Actively engaging in wider community or city affairs is difficult to do when houseless. Despite the barriers, many in the encampments practiced some level of civic or political engagement outside of the spaces of the encampments themselves. One resident of R2DT, who has since moved into traditional housing, was motivated by the R2DT mission to effect social and political change outside of the encampment as well. He recalled that living at R2DT opened his eyes to “want to do more to help people in the similar situations.” Thus, while staying at R2DT, he began organizing with the national Poor People’s Campaign, was active in organizing at the state capital for Oregon’s Homeless Bill of Rights and supported local groups in Portland advocating for the rights of houseless people, such as Sisters of the Road. Another resident of HG was voted in as a board member at the neighborhood association nearby her encampment. Her initial reason for running for a board position was to defend the right of the encampment to exist against a neighborhood association that was largely hostile to its existence. However, as a voting member of the neighborhood association, she advocated for houseless peoples’ rights beyond those concerned directly with her own encampment and tried to shape the neighborhood planning process more broadly.
The practice of citizenship for many encampment residents meant pursuing and advocating for rights that they felt were not forthcoming for their encampment and for houseless individuals more generally. For HG particularly, the only encampment in Portland that was not officially sanctioned but still tolerated by the City, there was a general desire among its members to exist peacefully within the neighborhood. Residents there dedicated time engaging with the neighborhood association and municipal government to advocate for their right to remain in the space. One particular event saw HG residents showing up to a neighborhood association meeting in which the association was attempting not only to ban encampment residents from participating within the association, but to remove the encampment from the neighborhood entirely (Hewitt, 2017). With these types of political engagements in mind, one HG resident later was able to see how the encampment could act as “a stepping stone for those who have never had a say.” The benefit of resident participation, they noted, was that it introduced some residents to political discourse and the practice of claims-making. Without having had that encampment experience, they said, “I wouldn’t have had that opportunity to participate with [the neighborhood organization].”

Encampment resident participation often meant defending not only the validity of the encampment at neighborhood association meetings, however. It also meant promoting a positive image of and rhetoric about the encampment model to neighborhood residents not necessarily affiliated with the neighborhood association itself. To do so, HG residents and some activists formed a houseless outreach committee, an official part of the neighborhood association, to initiate wider community conversation about self-governance and the struggle of houselessness broadly. The point of the outreach committee, as one neighborhood resident put it, was to “improve communication, build relationships, and maybe kind of challenge the neighborhood association” on their initial position regarding HG and houseless issues more generally.

Beyond enacting citizenship informally within the spaces of the encampments, residents struggled for recognition by making claims to those outside the encampments who did not necessarily see the self-governing model as legitimate. Indeed, encampment residents engaged in political work at the neighborhood and City levels as a way of justifying their right to exist in the encampments. Even though the encampments were formally allowed to operate due to land use agreements, many residents still felt it necessary to make claims for their right not only to exist in particular encampments, but also to advocate for the larger rights of self-governance that the Portland encampment model is intended to provide. In this way, encampment residents represent less so the “passive” recipient of citizenship rights, but, rather, were active in making claims to realize the expected benefits of the self-governing encampment model guaranteed by the municipal government.

To the extent that claims for citizenship privileges and political recognition was enabled by Portland’s self-governing encampments, the model allowed for houseless groups to actively shape the discourse around how they benefited from this type of shelter. Indeed, the very reason that Portland’s government began sanctioning encampments was due to the rights-claims of houseless individuals who demanded not only a place to exist, but a place in which other houseless individuals could collectively manage day-to-day affairs themselves. As one DV resident noted, encampments like Dignity Village “started as civil disobedience … it was a political movement. Hazelnut [Grove] was a political movement. We and the other newer camps are saying ‘look, we’re here. We have the same rights as everyone else. Listen to us.’”

At the same time, the social-political privileges deriving from self-governance do not necessitate that residents are guaranteed the right to any specific place; the capacity of self-governance merely allows self-organization and decision-making to remain within the collective purview of its residents. While the right to self-governance for houseless encampment residents provides a degree of autonomy, therefore, it does not provide the right to use property. Instead, the right to use property is
given to the encampments as collective, legal entities. And it is here, in between the legal and political space of encampment relations, where houseless individuals’ citizenship is constrained.

**Constraining self-governance through property**

While self-governance is of clear value to residents, some noted that the process was constrained in particular ways. What was presented as the most intractable issue residents face in the self-governing process was figuring out how to remove unwanted residents from the community with due compassion and safety. The process of evicting or banning residents can be emotionally strenuous and sometimes physically dangerous for both the residents being removed as well as for those remaining in the encampment. And the lack of the right to exclude—a limiting of property rights structured into the encampment model—exacerbates these problematic relations. As mentioned, the property rights for Portland’s encampments are held by entities (non-profits) representing the encampments and not by specific individuals residing there. An encampment residents’ ability to use these spaces is dependent upon residency-by-majority consensus rather than a legal right like that of a tenant. The fact that encampments do not enjoy rights of exclusive possession means that when residents are out-voted, evictions are enacted through reasoned discourse, and at times, physical removal, rather than legal eviction. That there is no legal right to exclude for encampment residents means not only that these communities must negotiate evictions on their own terms, but, significantly, that they have no enforceable right to exclude.

Short-term bans and permanent removals or evictions from encampments happen for various reasons. Exactly how the process of evicting or banning members happens is different for each encampment based on their bylaws. For instance, bans that I observed at R2DT were somewhat routine. There I observed both overnight guests as well as resident members receive bans from the space. Bans were brought up at weekly meetings, which were led by a small board comprised of resident members and volunteers and guided by well-established bylaws. When a ban was enacted, a board member would read off anonymously written “incident reports” that the encampment had received from residents or other guests pertaining to the actions of a particular person or set of persons. The process was deliberative and the highlighted person was expected to describe their understanding of the situation. In turn, discussion would proceed from residents and then collective votes would be taken on whether to ban or allow that person to stay.

Those who were banned were given the opportunity to appeal, and after a certain amount of time, depending on the severity of what had happened, perhaps be allowed to return. At R2DT, 24-h bans were common. At HG, where there were fewer bans and more evictions, the individual who was being voted out was given a certain amount of time to leave the site. Transition times were often 30 days, but depending on the severity of the “charge,” an individual could be asked to vacate within a day or two. These processes were often “smooth” and individuals generally accepted the reasons why they were being asked to leave.

Although bans were somewhat commonplace at R2DT, given the number of overnight guests staying at the site each night, conflicts did occur. Mostly, this took the form of people shouting and pointing fingers and sometimes contesting what they felt were misaccusations. But there were times when individuals refused their eviction or ban which complicated the decision-making process. One HG resident detailed how such situations were handled. “We have come up with a methodology to ask people to leave,” he said. “It’s been dicey and kind of hard. Ultimately, when a person’s behavior becomes more dissatisfactory to the entire group, it wells and wells and wells. And eventually something will happen that, by itself, wouldn’t be that big of a deal. But after months and months of continuously sustained behavior, it’s just like the final ‘Fuck you. You need to leave.’” To actually enforce evictions was hard, he noted, “because we don’t have the ability to pressure people out of the space really, because we don’t own the property. So, we can’t trespass them.”
When residents refused their eviction, they contested it by simply remaining at the site or returning to it frequently. In this situation, as one HG resident noted, there are two options: “shaming” individuals into leaving or physically removing them. Ruminating on these options, he indicated that “you can just make them go and physically handle them out. But at that point, you are no worse than some of the people we rally against the hardest.” The result, he lamented, is often “a group shaming.” And that was unfortunate, he said, because “there is a lot of resentment by the end of it.” Shaming involves continually reminding a person of the reasons why they were voted out and ultimately not wanted in the community any longer. Ideally, he said, the “person who is getting mobbed realizes, ‘oh, well I don’t really fit in here and I don’t want to be here. So maybe I should just leave.’” Continued discussions do help convince someone of why they are no longer welcome. And sometimes an ex-member will line up another option for a place to stay during these periods and use this to negotiate remaining on site until they can go to the next place.

Reasoning with an individual does not always work, however, and highly disputed refusals led to extended conflict and even violence. One eviction I observed at HG was representative of the incredible difficulty and stress that encampment collectives can experience as a result of being left on their own to see out evictions. The situation involved a man in his early twenties who had been living in the encampment for approximately 2 months. Around the time of his eviction, he had just started full time work and was unable to complete his required weekly labor hours for the encampment. He was also beginning to be verbally combative with residents who were making note of his absence from the encampment. Because he worked on the weekends, he stopped coming to the general assemblies on Saturdays. As a result of his extended absence and his inability to contribute to the collective, the rest of the residents decided to give him his first warning, per the encampment’s bylaws, reminding him that he needed to complete his labor hours. He was not at the assembly the day this was decided but he did show up shortly after the meeting had finished. Upon hearing that he was on “probation” and may need to leave, he became upset. He began verbally attacking certain residents, which escalated into a larger physical confrontation with a few of the residents. The fight was eventually broken up but left the evicted resident severely injured. Based on the violent interactions of that day, the collective decided to give him an expedited removal from the encampment. The rest of the residents declared this his actions were indicative of the violence prohibited in the encampment and worried for their safety that if he were to remain in the encampment others may be attacked.

Violent conflicts are exceedingly rare in the encampments. What should be distilled from this situation is that the evicted resident felt he was being “ganged up on,” that the other residents could not empathize with his situation, and ultimately, that he had no recourse for being removed from the only space that he had any sense of “ownership” over at that time. And it was exactly these unpredictable situations that residents mentioned distress them the most about the self-governing process.

The fact that the encampments are managed as residency-by-majority contributed to differing levels of precarity and risk for residents and guests of the encampments when such decisions were made. And this power was not lost on encampment residents. As one longtime resident of DV lamented, “To pass a sentence on someone is hard. Not that that sentence doesn’t need to be passed. But it is very difficult.” To use such a power could be emotionally challenging for encampment residents. “[The police and the courts] don’t know the person involved in eviction proceedings,” he said, “it makes it easier for [the legal system] to come and do these hard things. But that doesn’t help the person who it is being done to.” In comparison with the process at DV, he said, “at least we think about the person who we are passing judgment on. Like, how is this going to affect them?”

Making judgments on evictions or bans was therefore divisive for the residents remaining in the encampment. While many admired that the self-governing process enabled extended discussion over removals, the process was nonetheless imperfect. Speaking on the finality surrounding group
consensus, one resident of R2DT stated that there is “a double-edged sword to the self-governing process. And that is, that anyone can say anything [about one another].” He noted the example of the way in which the encampment brings up problems with guests or members. “Some of us have been victims of incident reports. That can be misdirected in a certain way. And it has been in the past. It could be simply that ‘I want to alienate someone ... or point fingers at someone.’ There is that aspect [to self-governance]. But then, it is brought into a group setting where everyone gets to make their claim.” With a certain disquietedness, he concluded, “Majority rules. Right or wrong.”

The sense of unease felt by many reflects how inadequate the process could potentially be for residents and the evicted alike. For, the evictions sometimes were not handled entirely within the space of the encampment itself. One KWV resident recalled that a younger woman was voted out of the encampment because of her “behavior” toward the others. She said that when the young woman who was being asked to leave was finally told she was being voted out, “she responded ‘you have to give me an eviction notice because you are essentially my landlord.’” The young woman being evicted felt that she had a right to stay and that the community had no grounds to remove her. Given that this was the will of the remainder of the community, this resident said, the non-profit managing the encampment “had to go find a lawyer to figure it out and say it was okay for us to kick her out.” Reflecting on using legal support for a removal, the resident stated, “if you just don’t get along with the girls or you have a completely different idea about ... not caring what other people think, you aren’t going to last long.” The decision reinforced the reality that removals were not always to be settled with the self-governing process alone.

For some residents, however, the fact that encampments struggled to enforce evictions was not due to deficient self-governance, but to the lack of a right to evict. As one DV resident complained, “We can vote [someone] out, but if the person won’t leave, the police won’t help us remove them.” The encampments “can’t evict people because that would mean, for the City, that we are defined as an intentional community... and the City doesn’t want that.” Therefore, he noted, “we have to resort to strong arming people if it should come to it. And I think that sucks. That the people who know they are not supposed to be here won’t just up and remove themselves because they know that nothing is going to happen [if they do not physically remove them].”

It is worth noting that nearly all encampment residents adamantly wish to avoid involving the police with encampment evictions and do not desire the potential violence of state-backed evictions. Whether or not encampments had police support for seeing out contested removals from these sites, encampment evictions are still difficult processes for residents. For, the difficulty lies in the fact that encampments operate as collectively managed living situation whereby enforcing evictions bring risk and personal hardship into this process. As one DV resident reflected, “I once had to look a friend of mine in the eye and say ‘you cannot live here anymore. You cannot come through the gates. You’re barred forever.’” He continued, “The village has done me so much good ... I hate having to do that.” Beyond lacking a legal right to exclude, then, the constraints of collective property use within liberal property systems disrupt the ways in which such communities may prosper through self-governance.

**From the right to exclude toward a right to remain**

As we have seen, the lack of a right to exclude impacts the self-governing process particularly when evictions become contentious. It is in these moments that encampment communities cannot ensure safe and peaceful living conditions within these spaces. The ability to self-govern is therefore constrained by a lack of the right to exclude, given that an encampment’s limited property right affects decision-making processes concerning removal of members. That property rights constrain self-governance in this way does not mean that the benefits of self-governance are fully eradicated.
Instead, they limit residents’ basic individual liberties by taking away the ability to enforce their own decisions on how best to ensure safety, privacy, and stability in their living environment.

It should not be seen as coincidence, then, that residents of Portland’s self-governing houseless encampments depicted these spaces as those which help realize rights-claims for a secure and dignified living environment while, at the same time, stressed how this security was compromised through the eviction process. These seemingly disparate concerns embody contradictions central to liberal property systems. As previously noted, C.B. MacPherson (1978) argued that the private property form within liberalism is difficult to reconcile with individual rights due to how the right to exclude is prioritized. Exclusion is a property entitlement which remains one of the most powerful, legally binding entitlements available to property owners (Merrill, 1998; Blomley, 2004). To avoid excluding individuals from access to property, MacPherson argued for a more democratic property right: “an individual right not to be excluded by others from the use or benefit of some thing” (MacPherson, 1978: 201). This right to property, MacPherson noted, was essential for protecting individual liberties while seeking less exclusionary relations among society. The right not to be excluded was ideally to be an individual right, not a collectively held right.

The right not to be excluded constitutes a positive right which is offered as a general good to citizens. But in general, a right not to be excluded would not necessarily apply to any one particular propertied-space, but, rather, it simply provides an opportunity to access properties somewhere. Noting this in response to MacPherson, Blomley (2016: 100) suggests that a right not to be excluded would not necessarily require establishing a “fixed” territorialized space—the commons—but, rather, a common or collective right to access some property, as this would allow individuals the collective ability to access and benefit from a resource. From this view, a positive, common right not to be excluded would be a relational privilege, allowing for an individual to access propertied-space broadly, given that it applies to no particular property, but simply properties in the abstract.

This shift in thinking about property relationally—from a right to exclude toward a right not to be excluded—is useful for analyzing Portland’s encampment model. For, it illustrates not only how the Portland model is enacting a type of collective right to property, but, crucially, that consequences remain when a collective property right is applied in practice. As mentioned, Portland’s encampments hold singular property rights in that the rights-holder is the non-profit representing the encampment. But the encampments do not enjoy rights of exclusive possession, a right normally enjoyed by property owners or lessees. As such, by nature of their restricted property rights, Portland’s encampments cannot exclude individuals legally; they do so only in a socially negotiated manner. In this way, the Portland model is premised on a social (positive) right not to be excluded; however, what enables that social right is the encampments’ limited legal (negative) rights of property use. In other words, it is only due to the fact that the government has restricted each encampments’ rights of exclusive possession that encampments enjoy this type of collective property right—a right not to be excluded.

The examples in the study suggest that the specific type of property right that Portland’s encampments hold matters to the organization of encampment communities. They illustrate that there are necessary trade-offs to be made by residents choosing to live in encampments, a choice between political agency and the right to access propertied-space. For, on the one hand, the fact that there are no legal rights guaranteeing that individuals can stay on site means that residents do not actually enjoy a right not to be excluded. The correlate of this is that individuals are not guaranteed a legal right to remain either. Again, an individual’s right to remain in Portland’s encampments is premised not on a legal right but on social rights and relations. And as we have seen, the potential for conflict in contested evictions can create long-lasting problems for residents. Without an individually held, legal right not to be excluded from property, there exists no legal recourse for re-entry into an encampment when removed, placing certain individuals further into housing precarity if they are unable to access other properties. Further, given that the right to remain is socially mediated, not
legally backed, *all* residents, not only those who are banned or evicted, are not guaranteed an individually held right to the space.

On the other hand, to suggest that legal rights to property alone are the glue which solidifies an individuals’ tenure within an encampment denies the value and potential of self-governing communities such as those found in Portland. For although encampment residents do not enjoy a legal right not to be excluded, the social right of individuals to remain which is negotiated through the self-governing process is not merely capable of maintaining order, security, and privacy for its residents. It may also better accommodate the more democratically made decisions of houseless communities, decisions crafted by unhoused people for unhoused people premised on their collective lived experience. As noted above, most encampment residents found the self-governing process effective and felt that their participation positively impacted the environments in which they lived.

The analysis herein, therefore, suggests that there are necessary consequences to the operation of collective property uses within liberal property models. Although residents may benefit from encampments and experience a greater sense of agency organizing within them, the lack of an individually held property right ultimately cannot protect residents’ right to remain. This would be a problem if, for example, the municipal government forces the encampments to close down, a possibility that is never far off. The upshot of having no legal, personal right to common property, is that there is no legal mechanism for houseless residents to guarantee themselves a propertied-space in which to reside. In this way, the lack of a property right for houseless encampment residents ties into struggles for affordable housing more broadly, where exclusion from the real estate market is also predicated on private use rights.

It is necessary to explore, then, how actually enforcing an individually held right not to be excluded would protect encampment residents or other houseless people within a larger system of private, singular property rights. Answers to such a question can only be realized in practice. The evidence from Portland’s encampments indicates that a property right that is not individually held, but, rather, collectively held at the level of the encampment, cannot ensure an enforceable right to remain within such collectively organized spaces which could become an issue through the proliferation of encampments developed on this model.

**Conclusion**

Missing from much of the discussion around houseless encampments is how property forms which are alternative to the private, singular-owner model enhance or detract from residents’ political autonomy and livelihood. I have tried to show that when we direct attention to the relations of property in which encampment residents are precariously placed, we are able to better understand how property shapes their livelihoods and political privileges. The study demonstrates that self-governing encampments provide a necessary means of social security and political organization for its residents. But the benefits derived from this democratic model become necessarily constrained from the rights of property which enable encampments to flourish in the first place, making the current lack of right to remain difficult reconcile.

The analysis heretofore has not been overly optimistic. To suggest that conferring rights of exclusion on Portland’s self-governing encampments is the legal move to end the hegemony of liberal propertied-citizenship is wishful thinking. Private property rights remain fundamental to liberal democracies which ensures there will be uneven power relations between those that have and do not have access to property. The social-legal system producing and maintaining this private property form seems to hold little space for adaptations such as communally organized encampments that do not reinforce private, marketized property forms. There is no reason to suggest, however, that providing legal property rights for encampments would do anything other than protect

**Przybylinski** 1723
for individuals the benefits that derive from this democratic model. The significance of a right to access property for encampment residents is that it would ensure that individuals are able to continue producing these spaces according to their own particular needs throughout their time of housing precarity. An individually held property right—a right not to be excluded—would not be a panacea, but it could provide a floor of protection for the most precariously housed and is worth striving for. The Portland encampment model exemplifies what such a right could look like in practice.

Critical attention ought to remain focused on how liberal property rights and relations limit not only the precariously housed, but all citizens who struggle to secure stable housing. Research at the nexus of property and citizenship is needed to provide further insight into what a right to remain, or a right not to be excluded, looks like in practice for collectives like those of Portland’s encampments. This may come through rights discourse surrounding rights to collective property use or through property scholarship seeking to develop alternatives to private property models. An anti-houselessness politics which seeks to move beyond the confines of the private property form essential to liberalism is likely to be located within the democratic principles practiced by self-governing encampments, but attention must be directed at how and to what extent these rights and privileges of citizenship are mediated by property.

Acknowledgments

Big thanks go to Don Mitchell for discussion on this paper. And for conversations on this research more broadly, I am appreciative for the insights of Jamie Winders, Erin Goodling, Trevor Widman, and Nick Lombardo. I am incredibly grateful to the anonymous reviewers who provided insightful and constructive comments on the drafts of this paper.

Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

ORCID iD

Stephen Przybylinski  
https://orcid.org/0000-0002-1618-2772

Notes

1. Like many large U.S. cities, people of color in Portland are overrepresented in the houseless population. As of January 2019, people of color made up 38.1% of the city’s total houseless population while constituting only 29.5% of the general population of Multnomah County (A Home For Everyone, 2019: 7). Houseless people of color who are designated as “unsheltered” make up 36.1% of that subgroup, while those identifying as non-Hispanic white make up 59% of the unsheltered population (p. 15). In regard to gender identity, in 2019, 34.7% of the total houseless population identified as female with specifically unsheltered females making up 29.3% (A Home for Everyone, 2019: 23). This is compared with the total houseless population identifying as male at 62.8%, and unsheltered males at 68.5% (ibid). Those identifying as transgender or no gender each constituted 1% of the total houseless population.

2. The primary purpose of HB 2916 was to retract the State’s two-parcel-per-municipality limit on “transitional housing accommodations,” or encampments. The bill now authorizes municipal governments to demarcate the number of encampments they feel is necessary (Oregon State Legislature, 2019).

3. I use the terms “encampment” and “village” interchangeably.
4. Intentional communities can be broadly defined as residential communities that organize themselves around shared values and intend on maintaining themselves in perpetuity (Sanford, 2017). The City of Portland cannot allow self-governing encampments to operate in perpetuity because encampments are legally considered “transitional housing accommodations” under Oregon Revised Statute 446.225 (Oregon Revised Statute, 2020). This means that encampments can be only temporary places of respite for individuals.

5. As relational property scholars have since stressed, the right to exclude is not the only entitlement of property ownership nor does this right remain untouchable (Singer, 2000; Dagan, 2021).

References
A Home For Everyone (2019) 2019 Point-In-Time: Count of Homelessness in Portland/Gresham/Multnomah County, Oregon. Portland: Portland Housing Bureau.
Alexander G (1997) Commodity and Propriety: Competing Visions of Property in American Legal Thought, 1776-1970. Chicago: University of Chicago Press.
Blomley N (2016) The right to not be excluded: common property and the struggle to stay put. In Amin A and Howell P (eds) Releasing the Commons. Abingdon: Routledge, 89–106.
Blomley N (2009) Homelessness, rights, and the delusions of property. Urban Geography 30(6): 577–590.
Blomley N (2004) Unsettling the City: Urban Land and the Politics of Property. New York: Routledge.
City of Portland (2017) Space use agreement. PDF available here: http://www.portlandmercury.com/images/blogimages/2017/04/12/1492012174-useagreementexecutedr2dtoo.pdf
Dagan H (2021) A Liberal Theory of Property. Cambridge: Cambridge University Press.
Ehrkamp P and Jacobsen M (2015) Citizenship. In: Agnew J, Mamadouh V, Secor A, et al. (eds) The Wiley-Blackwell Companion to Political Geography. West Sussex, UK: John Wiley and Sons, 152–164.
Herring C (2014) The new logics of homeless seclusion: homeless encampments in America’s West Coast cities. City & Community 13(4): 285–309.
Herring C and Lutz M (2015) The roots and implications of the USA’s homeless tent-cities. City 19(5): 689–701.
Hewitt L (2017, August 12) Overlook Neighborhood Association Looks to Exclude Homeless from Membership. Portland Tribune. https://pamplinmedia.com/pt/9-news/368865-251428-overlook-neighborhood-association-looks-to-exclude-homeless-from-membership
Isin E (2008) Theorizing acts of citizenship. In: Isin E and Nielsen G (eds) Acts of Citizenship. London: Palgrave Macmillan, 15–43.
Janoski T and Turner B (2002) Political citizenship: foundations of rights. In: Isin EF and Turner BS (eds) Handbook of Citizenship Studies. London: Sage, 13–52.
MacPherson CB (1978) Property: Mainstream and Critical Positions. Toronto: University of Toronto Press.
Marshall T and Bottomore T (1992) Citizenship and Social Class. London: Pluto Press.
Marston S (1990) Who are ‘the people’?: gender, citizenship, and the making of the American nation. Environment and Planning D 8: 449–458.
Merrill T (1998) Property and the right to exclude. Nebraska Law Review 77(4): 730–755.
Mitchell D (2013) Tent cities: interstitial spaces of survival. In: Brighenti A (ed) Urban Interstices: The Aesthetics and the Politics of the In Between. London: Routledge, 65–85.
Mitchell D (1997) The annihilation of space by law: the roots and implications of ant-homeless laws. Antipode 29(3): 303–335.
Multnomah County (2022) Tri-county point in time count numbers, shared regionally for first time, show shifts in homelessness. News Release, Multnomah County, OR, May. Available at https://www.multco.us/multnomah-county/news/news-release-tri-county-point-time-count-numbers-shared-regionally-first-time
Multnomah County (2018) Joint Office of Homeless Services FY 2019 Proposed Budget. Report, Multnomah County, OR, May.
Stephen Przybylinski is a Post Doctoral researcher in the Department of Social and Economic Geography, Uppsala University, Uppsala, 752 38, Sweden. His research interests are in houselessness, property, democratic theory, and spatial justice. Stephen.przybylinski@kultgeog.uu.se.