

THE PEOPLE’S PLAN: A MODEL FOR COMMUNITY-LED COMMUNITY
PLANNING AND THE FIGHT AGAINST DISPLACEMENT AMIDST TRANSIT-
ORIENTED DEVELOPMENT

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Housing and stability. Transportation and mobility. These are the associations most people draw from housing and transportation. While seemingly contradictory, these two aspects of daily life are closely related, and both are essential to the wellbeing of individuals and communities. Housing is unequivocally a basic necessity of life, and transportation affects one’s access to jobs, goods and services, and community activities. But the upshot to better transportation systems is improved amenities and quality of life, which often lead to increased cost of living that, without appropriate safeguards, consequently prevents low-income people and communities of color from benefiting from local developments and shuts them out of their own homes and neighborhoods. The necessity for both adequate and affordable housing on one hand, and for adequate and accessible transportation options on the other, pose a problem when the existence of one counteracts the other for a low-income populace that needs both.

This Article examines this issue and considers solutions that subvert this historical trend. It uses the work of United Neighbors In Defense Against Displacement (UNIDAD), a coalition of community organizations in Los Angeles, to demonstrate a communal effort for participatory democracy to address the displacement that has occurred and is likely to occur around transit-oriented developments. It argues that such democratic involvement is both instructive and necessary in addressing the effects of gentrification arising from such developments. To show why this is the case, the Article examines the history of housing and transportation discrimination in and beyond Los Angeles, which shows the repetitive nature of displacement resulting from development; current transportation developments, which signal an imminent need for action; and responses by community members to the threat of displacement in the face of development, as well as former successes resulting from community leadership and involvement. In light of the discrimination and segregation that have historically affected communities of color and low-income people, community participation is essential for cities to effectively address and plan against the inequitable and displacing effects of development, and such involvement has been successfully modeled in the form of a decades-long coalition that has aimed to shift the power imbalance inherent in development projects.

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If you’ve ever been displaced, then you know the agony of losing a place that held your story. And if you haven’t experienced this, then I’m going to ask you to try and imagine your way into it right now. Think about what it would be like to find your favorite local spot, a place where you often went and hung out with the old-timers or your friends, had vanished. And then you get home, and you find a letter from your landlord, saying that your rent’s been doubled. The choice to stay—it’s not yours to make. You no longer belong in your home. And know that this feeling you’re feeling right now, it would be the same regardless of whether or not the person who harmed you meant to do so. Developer Majora Carter once said to me, “Poor people don’t hate gentrification. They just hate that they rarely get to hang around long enough to enjoy its benefits.”—Liz Ogbu, Architect¹

[P]lanning is politics.—William Fulton & Paul Shigley²

INTRODUCTION

Los Angeles is one of the most expensive places to live in the United States.³ Some areas

¹ Liz Ogbu, *What if Gentrification Was About Healing Communities Instead of Displacing Them?*, TEDWOMEN 2017 (Nov. 2017), https://www.ted.com/talks/liz_ogbu_what_if_gentrification_was_about_healing_communities_instead_of_displacing_them/transcript [<https://perma.cc/EL7D-ZYP5>] (then posing an acute question: “Why is it that we treat culture erasure and economic displacement as inevitable? We could approach development with an acknowledgment of past injustices . . . [a]nd make a commitment to build people’s capacity to stay . . . where they feel whole.”).

² WILLIAM FULTON & PAUL SHIGLEY, *GUIDE TO CALIFORNIA PLANNING* 10 (5th ed. 2018).

³ See, e.g., Jonathan Lansner, *Los Angeles Ranked as World’s 14th Most Expensive City*, LOS ANGELES DAILY NEWS (Mar. 23, 2018) <https://www.dailynews.com/2018/03/23/los-angeles-ranked-as-worlds-14th-most-expensive-city/> [<https://perma.cc/V5RC-6UUH>] (“When costs are measured on a global scale, Los Angeles living ranks as the 14th priciest place to live in the world, . . . Los Angeles trailed only New York among the 16 American locales included in this study[.]”); Kerri Anne Renzulli, *10 Most Expensive Cities to Be a Renter*, TIME: EVERYDAY MONEY (Apr. 8, 2016)

in the city, such as Southeast Los Angeles (hereinafter SELA) and South Los Angeles (hereinafter SLA, also commonly referred to as South Central Los Angeles),⁴ have less expensive real estate than others,⁵ in large part due to a history of discrimination and disinvestment. These areas, however, are now experiencing a rise in living costs as large development projects take place—one of which is increased public transit access connecting them to other parts of the county.⁶

The history of residential segregation and disinvestment is nothing new,⁷ but it is a history that must be retraced in light of the changes currently affecting the same communities that have experienced the brunt of this history. Public policies and private actions combined over time have lowered the real estate value of entire neighborhoods,⁸ *infra* Part I, especially those resided in by poor people of color who remained, first when white people left, and then when middle-class black people who could leave also left.⁹ Individual and state-sponsored discriminatory acts and policies, explicitly or otherwise, prevented people of color from accumulating wealth and integrating, oftentimes even when they had the capital to reside in certain areas. Special protections and benefits mostly served white people while solidifying stereotypes, perpetuating generational poverty, and

<http://www.time.com/money/4287132/most-expensive-cities-to-rent/> [<https://perma.cc/HA2R-2ATX>] (listing Los Angeles as the seventh most expensive city to rent in the United States).

⁴ In 2003, the Los Angeles city council voted unanimously to rename the area known as South Central to South Los Angeles “as part of an effort to erase the image” of the district as “the scene of race riots in 1965 and 1992 and the setting for films featuring gangs and drug dealers.” Calvin Sims, *In Los Angeles, It's South-Central No More*, N.Y. TIMES (Apr. 10, 2003), <https://www.nytimes.com/2003/04/10/us/in-los-angeles-it-s-south-central-no-more.html> [<https://perma.cc/J39V-PVSL>]; see also LAURA PULIDO ET AL., A PEOPLE’S GUIDE TO LOS ANGELES 122 (2012) (discussing the authors’ use of “South Los Angeles” instead of “South Central” because the former’s “boundaries include communities that are not typically included in popular understandings of South Central”). This Article will at times address South Los Angeles (hereinafter SLA) as South Central, depending on the source it is engaging with.

⁵ See Steven Lopez, *Finding the L.A. Real Estate Gold Rush – in Compton, Watts and South L.A.*, L.A. TIMES (Dec. 9, 2017), www.latimes.com/local/california/la-me-lopez-housing-compton-20171209-story.html [<https://perma.cc/U2NX-XVVS>] (discussing the work of a real estate broker in SLA, who says that “[t]here is cheap housing in L.A.” and that the “American dream is still affordable in Watts, Compton and all the forgotten ghettos”); Rachel Dovey, *South L.A. Gets a New Blueprint for Fighting Displacement*, NEXT CITY (Nov. 28, 2017), <https://nextcity.org/daily/entry/south-los-angeles-gets-blueprint-for-fighting-displacement> [<https://perma.cc/BL4N-M9GV>] (“South and Southeast L.A. have some of the least pricey real estate in the city, which has worried residents watching market-rate developments being built.”).

⁶ See generally Dovey, *supra* note 5.

⁷ See generally Robert D. Bullard, *The Legacy of American Apartheid and Environmental Racism*, 9 ST. JOHN’S J. LEGAL COMMENT 445, 445, 448 (1994) (explaining that residential apartheid in the United States has been well-documented). It has affected, in particular, African Americans, who are of the most racially segregated group, and is especially apparent in large metropolitan areas. While less true for African Americans, ethnic and racial minority groups have seen a greater decrease in residential segregation with additional education, income, and occupational status. *Id.*

⁸ Bethany Li, *Now Is the Time!: Challenging Resegregation and Displacement in the Age of Hypergentrification*, 85 FORDHAM L. REV. 1189, 1195 (2016) (“Government policies such as redlining, blockbusting, zoning, and tax breaks have contributed to disinvestment in inner-city neighborhoods and the resulting large margins for profit from those areas.”).

⁹ See PULIDO ET AL., *supra* note 4, at 136 (discussing white flight that followed the Great Migration of blacks from the South after WWII and the accompanying legal and social barriers to housing, followed by middle-class African American moves in the 1960s and thereafter to more affluent communities following the enactment of some antidiscrimination civil rights legislation).

marginalizing entire racialized groups. This history of segregation and disinvestment has set the groundwork for the margin of profit that is now being generated as newcomers and developers relocate to and develop these now-cheaper lands and properties.¹⁰

Discriminatory and inadequate housing has historically been closely tied to the inadequacy or unavailability of transportation. The location of one's housing dictates how much and what kind of transportation is needed for one to go to work every day, attend school, or visit the store or doctor. It dictates how much one can be involved in the community or visit family members and friends. Without adequate and accessible transportation options—whether public transit or personal vehicle—one's quality of life, as well as one's means of survival, is likely to decline or be severely restrained. Given the inequities in both housing and transportation long-neglected neighborhoods have experienced,¹¹ we must ask what can be done to prevent such patterns of exclusion and displacement, and to support the communities that have so far invested in these areas called their home—especially at a time when such developments are underway and expected to displace the very people who would most benefit from them.¹²

This contextual backdrop helps explain why residents of historically disinvested neighborhoods at times welcome the long-desired new developments¹³ despite the displacement of low-income residents that often follows gentrification. Mixed responses reflect the inequitable effects gentrification has, first and most severely on the poorest and most vulnerable residents,¹⁴ while homeowners and upper-middle class people are able to remain or newly move in and reap the

¹⁰ See Lopez, *supra* note 5 (discussing the profitable margins in property sales in SLA).

¹¹ See, e.g., James Sterngold, *A Los Angeles Commuter Group Sees Discrimination in Transit Policies*, N.Y. TIMES (Sept. 16, 2001) <https://www.nytimes.com/2001/09/16/us/a-los-angeles-commuter-group-sees-discrimination-in-transit-policies.html> [<https://perma.cc/DH49-WSB5>] (discussing the discriminatory policy by the Metropolitan Transportation Authority (MTA) that would “degrad[e] bus service, which is used heavily by members of minorities and the poor, in favor of rail transit that would have been used by people from the suburbs,” which resulted in a federal suit concluding in a consent decree).

¹² See generally Chiara Valli, *A Sense of Displacement: Long-time Residents' Feelings of Displacement in Gentrifying Bushwick, New York*, INT'L J. URB. REGIONAL RESEARCH (June 2, 2016), <https://onlinelibrary.wiley.com/doi/pdf/10.1111/1468-2427.12340> [<https://perma.cc/6ARK-RPCS>].

¹³ See, e.g., Aaron Wiener, *For Longtime Residents, Sometimes Gentrification Isn't All Bad*, WASH. CITY PAPER (Jan. 22, 2014), <https://www.washingtoncitypaper.com/news/housing-complex/blog/13123903/for-longtime-residents-sometimes-gentrification-isnt-all-bad> [<https://perma.cc/SUB2-RU8T>] (discussing that people in low-income neighborhoods may not want exactly the stores that ride in [with gentrification], but they do want more places to get food and clothes and services,” and further, that they may oppose affordable housing and homeless shelters,” of which there is an “overconcentration . . . in already-poor areas”).

¹⁴ Richard Florida, *The Closest Look Yet at Gentrification and Displacement*, CITYLAB (Nov. 2, 2015), <https://www.citylab.com/equity/2015/11/the-closest-look-yet-at-gentrification-and-displacement/413356/> [<https://perma.cc/WV59-CTLX>] (discussing Lei Ding, Jackelyn Hwang & Eileen Divringi, *Gentrification and Residential Mobility in Philadelphia*, FEDERAL RESERVE BANK OF PHILADELPHIA: DISCUSSION PAPERS (2016)):

Ultimately, the study shows how gentrification's effects ripple through a city and its neighborhoods. The most advantaged residents inhabit the best neighborhoods with the best schools, lowest crime, and the highest quality of life. Middle- and working-class residents either stay where they are and benefit slightly from gentrification or move to more affordable, but still high-quality neighborhoods nearby or in adjacent suburbs. Meanwhile, the most vulnerable groups are shunted into the most disadvantaged neighborhoods across the city.

benefits.¹⁵ The mixed responses also reflect the ways in which gentrification and revitalization are oftentimes conflated in popular understanding.¹⁶ Gentrification, while defined in many ways, can be understood as “a systematic remake of the class composition of urban areas due to the displacement of low-income residents and businesses.”¹⁷ It differs from revitalization in that it “displace[s] . . . low-income individuals, families, and people of people, thereby *changing* the character of the neighborhood, whereas revitalization invests in and enhances the physical, social, and commercial components of neighborhoods.”¹⁸ However, neither definition is static, and the term revitalization can be used to disguise the discriminatory, destabilizing effects and mechanisms of gentrification as new “capital investment in land[] raises the value of land by *devaluing* the people who lived upon it” and “replac[es] one ‘public’ with another, more desirable one.”¹⁹

Truth is, the excitement over these developments is all-too-often accompanied, if not overshadowed, by the anticipated and experienced threat of displacement of low-income, often long-time, residents, as the value of land increases and the neighborhood undergoes changes in character and demographics. Given that the areas in Los Angeles that are currently undergoing gentrification are some of the last places in the city to do so, those experiencing formidable rises in the cost of living face the risk not only of being displaced from their current homes and neighborhoods, but from the city at large. Meanwhile, newcomers who are likely wealthier and more white can afford to move in and enjoy the amenities of a gentrifying, increasingly socioeconomically exclusive city.²⁰ Amidst the seeming perks for newcomers and better-off residents, “[t]he growth of infrastructure . . . occurs through processes in which the promise of profit makes parties, at best, indifferent to the value *lost* by parties in the transfer of resources necessary

¹⁵ See Todd Litman, *Gentrification, for Better and Worse*, PLANETIZEN (May 18, 2017), <https://www.planetizen.com/node/92831/gentrification-better-and-worse> [<https://perma.cc/L5PN-55TU>]; Peter Dreier, *Who Benefits From Gentrification?*, KCET: CITY RISING (Sept. 13, 2017), <https://www.kcet.org/shows/city-rising/who-benefits-from-gentrification> [<https://perma.cc/NVM7-FLBV>].

¹⁶ Aubrey Whelan, *Gentrification vs. Revitalization*, WASHINGTON EXAMINER (July 23, 2012), <https://www.washingtonexaminer.com/gentrification-vs-revitalization> [<https://perma.cc/549L-MB8T>].

¹⁷ Li, *supra* note 8; see also *Health Effects of Gentrification*, CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) (“Gentrification is often defined as the transformation of neighborhoods from low value to high value. This change has the potential to cause displacement of long-time residents and businesses . . . [as] residents move from a gentrified area because of higher rents, mortgages, and property taxes.”)

¹⁸ Li, *supra* note 8, at 1196.

¹⁹ K-Sue Park, *Dispatches from the Other Side of Development*, UCLA L. REV. DISC.: LAW MEETS WORLD (Nov. 2018), https://www.uclalawreview.org/dispatches-from-the-other-side-of-development/#_ftnref10 [<https://perma.cc/NYM5-QQKX>]; see Alex Scott, *Los Angeles, Displacement, and the Rise of Airbnb*, UCLA L. REV. DISC.: LAW MEETS WORLD (Nov. 2018), <https://www.uclalawreview.org/los-angeles-displacement-and-the-rise-of-airbnb/> [<https://perma.cc/X3JQ-MY6J>]; Gillian B. White, *The Steady Destruction of America’s Cities*, THE ATLANTIC (Mar. 9, 2017) (discussing Peter Moskowitz’s book, *How to Kill a City*, *infra* note 30), <https://www.theatlantic.com/business/archive/2017/03/gentrification-moskowitz/519057/> [<https://perma.cc/6DJA-ZJNA>].

²⁰ Nicolas Fequiere, *The Difference Between Gentrification and Revitalization*, THE ODYSSEY (Aug. 1, 2016), <https://www.theodysseyonline.com/difference-between-gentrification-revitalization> [<https://perma.cc/LDN7-FBCT>] (“People with high incomes have been afforded the privilege and ability to move into these low-income neighborhoods without giving a second thought to the rising property values that eventually drive these families from the homes they’ve built over the course of years. . . . whereas it’s [sic] a necessity and a matter of survival for the black and brown families that are displaced by these negligent actions.”).

to initiate building projects,” and “[a]t worst, parties recognize that a greater loss will magnify their gain” through the greater “projected profit margin.”²¹

Land value increases through a variety of mechanisms. One way neighborhood values go up is through the “flipping” of homes, by which investors, individual or backed by real estate investment companies, purchase homes to renovate and resell at higher prices.²² A combination of these individual home sales and large developments, such as the Rams stadium in Inglewood²³—a neighborhood “considered a haven for the Black middle-class” but which has also seen a doubling of apartment rent price since 2012²⁴—leads to increased cost of living and a shift in demographics. Against this backdrop, landlord-friendly laws—ones that allow no-fault evictions with notice, allowing landlords to evict tenants from rent-controlled apartments if the owners convert them to condominiums,²⁵ and that limit municipal rent control ordinances,²⁶ among others—threaten the livelihood of poor and low-income Angelenos whose homes and histories are tied to increasingly

²¹ Park, *supra* note 19.

²² See Podcast, *They Want My House*, NPR (Oct. 10, 2017), <https://www.npr.org/podcasts/555340969/there-goes-the-neighborhood> [<https://perma.cc/PRN9-QYJ4>]; see also R. Daniel Foster, *Meet a New Breed of Hipsters: Flipsters, Millennials Who Flip Homes*, L.A. TIMES (Apr. 21, 2017) (describing the process of flippers borrowing money to purchase and renovate houses they intend to sell), www.latimes.com/business/real-estate/hot-property/la-fi-hp-flipsters-2017-0422-story.html [<https://perma.cc/5CYG-V5PQ>].

²³ See NPR, *supra* note 22; see also Op-Ed, Erin Aubry Kaplan, *Can Inglewood Survive the NFL and Gentrification?*, L.A. TIMES (Jan. 12, 2015), www.latimes.com/nation/la-oe-kaplan-inglewood-nfl-gentrification-20150113-story.html [<https://perma.cc/URJ4-VXBR>].

²⁴ Jacob Woocher, *Los Angeles Is Quickly Becoming a Place Exclusively for the White and Rich*, MEDIUM: KNOCK (Nov. 7, 2017), <https://knock-la.com/los-angeles-is-quickly-becoming-a-place-exclusively-for-the-white-and-rich-c585953e0614> [<https://perma.cc/2LAK-WG8L>]; see also Laylaa Abdul-Khabir, *From Chavez Ravine to Inglewood: How Stadiums Facilitate Displacement in Los Angeles*, UCLA L. REV. DISC.: LAW MEETS WORLD (Nov. 2018), <https://www.uclalawreview.org/from-chavez-ravine-to-inglewood-how-stadiums-facilitate-displacement-in-los-angeles/> [<https://perma.cc/7JTM-ERET>].

²⁵ The Ellis Act of 1986 allows a landlord to evict tenants if they decide to leave the rental business. See *Removal From Rental Market – Property Owner*, LOS ANGELES HOUSING AND COMMUNITY INVESTMENT DEPARTMENT, <https://hcidla.lacity.org/Removal-From-Rental-Market-Owners> [<https://perma.cc/G5T5-AH2P>]. See also Erin McElroy, *Mapping Ellis Act Evictions Throughout California*, KCET: CITY RISING (Sept. 20, 2017), <https://www.kcet.org/shows/city-rising/mapping-ellis-act-evictions-throughout-california> [<https://perma.cc/D5L8-B76T>] (explaining that in Los Angeles, Ellis Act evictions, which allows evictions of tenants for no fault of their own, “are overwhelmingly a real estate speculation tool used by investors rather than the last resort of longtime small landlords”); Biana Barragan, *The Number of Ellis Act Evictions in LA Rose Again in 2016*, CURBED (Mar. 9, 2017), <https://la.curbed.com/2017/3/9/14876814/ellis-act-rent-control-number-los-angeles-2016> [<https://perma.cc/5YML-SZPM>].

²⁶ Rent Control in Los Angeles is “limited by the 1995 Costa-Hawkins Rental Housing Act, which restricts local rent control ordinances by permitting vacancy decontrol (allowing landlords to raise rents to market rate when tenants move out), preventing cities from imposing rent control on properties built after 1995, and also prohibiting rent control for condos and single-family homes.” Scott L. Cummings, *Living Poor in the Affluent City*, UCLA L. REV. DISC.: LAW MEETS WORLD (Nov. 2018), https://www.uclalawreview.org/living-poor-in-the-affluent-city/#_ftn18 [<https://perma.cc/QB5X-SBGW>]; see Cal. Civ. Code §§ 1954.50-1954.535 (West 2018). But see Andrew Khouri, *With Housing Costs Skyrocketing, Rent Control Is on the Docket Again in Sacramento*, L.A. TIMES (Mar. 17, 2017), www.latimes.com/business/la-fi-costa-hawkins-repeal-20170314-story.html [<https://perma.cc/G5G4-CSUP>] (discussing current momentum towards rent control after decades of the Costa-Hawkins Act, which “ban[s] single-family houses from caps and put[s] restrictions on what sort of apartments can be covered”).

desirable neighborhoods.

A long history of discriminatory policy and practices thus synchronize with market forces to force up the cost of living and to facilitate evictions that make room for wealthier newcomers. This demographic shift is especially apparent when gentrifying neighborhoods experience “a historic influx of public and private investment in major mixed-use commercial projects and multi-model transportation infrastructure.”²⁷ One such investment is a current Metro transit expansion project throughout Los Angeles County, *infra* Part II. In 2016, Los Angeles residents voted to pass Measure M, a sales tax to fund the expansion project.²⁸ On its face, the transit development is a long-awaited victory for low-income communities that need more and better transportation options in a sprawling region. But in reality, the development correlates with the expectation that hundreds of billions of dollars in land value changes will result from these and other developments permitted in the City’s community plans, which consist in two parts of policy documents and Community Plan Implementation Overlay Districts (CPIO) ordinances.²⁹ The rise in land value, applied to one of the most expensive cities where 58 percent of its residents spend more than one-third of their income on housing,³⁰ will enable the displacement of the most vulnerable populations from rapidly changing neighborhoods.

Put another way: The development of transportation is once again acting as a mechanism by which poor people are displaced from their homes, repeating a history in which those who would most benefit from the improvements are shut out from enjoying them, once or even before the developments reach them. Within this historical and present context, community organizations and members in Los Angeles have actively involved themselves in the planning process to have their voices and needs heard, first with private developers and more recently with the city council in the context of land use laws, *infra* Parts III and IV. The coalition presents a model for how this historical pattern can be acknowledged and subverted through democratic participation. The current struggle against inequitable transportation and development-based displacement, thus, is part of the history of systemic racial and class-based discrimination, an attempt to write a new reality that envisions development without displacement (and the resulting destabilization and exclusion), and, finally, a model for future efforts to democratize city planning processes.³¹

This Article aims to show that development without displacement is a possibility that must be fought for with the involvement of community members who are directly affected, and that there are successful methods and models of inclusion that can help facilitate long-term growth that is

²⁷ THE UNITED NEIGHBORS IN DEFENSE AGAINST DISPLACEMENT (UNIDAD), THE PEOPLE’S PLAN 5, www.unidad-la.org/wp-content/uploads/2017/06/peoples-plan-report-FINAL.pdf [<https://perma.cc/JV8C-TTWD>].

²⁸ *See id.*

²⁹ *See id.* at 3. “Community Plan Implementation Overlay (CPIO) Districts are a specialized zoning tool designed to carry out the goals and objectives of newly updated Community Plans,” and can “help reinforce existing community character while directing new density to neighborhoods [sic] that can accommodate growth.” LOS ANGELES CONSERVANCY, <https://www.laconservancy.org/community-plan-implementation-overlay-district> [<https://perma.cc/B6JD-39JC>].

³⁰ Elijah Chiland, *Report: 58% of LA Tenants Are Spending Too Much on Rent*, CURBED (Nov. 13, 2017), <https://la.curbed.com/2017/11/13/16635946/rent-cost-los-angeles-income-percent> [<https://perma.cc/Z8UL-LX8H>].

³¹ *See* UNIDAD, www.unidad-la.org [<https://perma.cc/A6PE-KNY8>]. The United Neighbors In Defense Against Displacement (UNIDAD) is a coalition of community members in South Central Los Angeles that fights to prevent gentrification and support the health and economic well-being of families of color.

equitable and fair. Part I provides a brief overview of the history of housing and transportation discrimination in Los Angeles that contextualizes the need for such inclusive decisionmaking. Part II then discusses the present context for the current fight for equitable transportation systems and affordable housing with the recent passing of Measure M. Part III will highlight the work of United Neighbors In Defense Against Displacement (UNIDAD), a coalition of community members and organizations that successfully mobilized over a decade and recently contributed to a historic legislative passing of the City's new community plans for SLA and SELA, which incorporated most of the coalition's recommendations in a process in which land developers and investors typically wield great influence on elected officials who hold the voting power.³² Finally, Part IV examines the foundational work community members engaged in by mobilizing to negotiate with private developers using community benefits agreements (hereinafter CBAs), which provided the expertise and community base needed to attempt and succeed in broader systemic changes at the legislative level using community-driven recommendations.

The dual need for affordable housing and accessible transportation, and the apparent contradiction in their coexistence—evident in the diminishing of affordable housing as transportation developments lead to the increased cost of living—should be addressed through the very community such contradiction threatens to displace—those whose stories, like those previously displaced through other mechanisms now generally agreed as unjust and inhumane, would be erased amidst stories of urban development and success.³³ Given these erasures, the ways in which a city addresses the displacing effects of gentrification would not be sufficient to merely reflect political aspirations and economic ingenuity in pursuit of a lofty ideal; they would need to reflect the material needs and experiences of a city as an inclusive, humane place where people can live, create, and build supportive relationships over time. Such a city would stand in contrast to one valued for expedient financial investments by which investors and developers hold increasingly greater sway over the priorities of a diverse public, including those whose presence is not perceived to generate the desired financial profit for the city.³⁴

³² Los Angeles has “thirty-five discrete Community Plans to implement the goals and policies of the General Plan at a local level. In this context, a ‘community’ generally means an area of multiple neighborhoods, which can encompass a range of residential, commercial, transit, and industrial uses.” *Los Angeles’ Community Plans*, LOS ANGELES CONSERVANCY, <https://www.laconservancy.org/los-angeles-community-plans> [<https://perma.cc/XX5E-64MD>]; see also FULTON & SHIGLEY, *supra* note 2, at 97-99 (“The principal difference between the private real estate industry and private citizen groups . . . is that the real estate industry can afford to spend money on the planning process as a business investment.”); Patrick Range McDonald, *Developers Spend Big Bucks on Lobbyists to Influence L.A. Politicians*, PRESERVE LA (Aug. 29, 2017), www.2preservela.org/developers-spend-big-bucks-lobbyists-influence-la-politicians/ [<https://perma.cc/P6NW-7ULP>]. But see Elizabeth Chou, *Garcetti Signs Order to Limit Developer Influence at LA City Hall*, L.A. DAILY NEWS (Oct. 30, 2018), <https://www.dailynews.com/2017/03/09/garcetti-signs-order-to-limit-developer-influence-at-la-city-hall/> [<https://perma.cc/8E35-7JNQ>].

³³ PETER MOSKOWITZ, HOW TO KILL A CITY: GENTRIFICATION, INEQUALITY, AND THE FIGHT FOR THE NEIGHBORHOOD 215 (2017), at 215 (“This country was founded on displacement – on the idea that white men have a greater right to space, and even to people’s bodies, than anyone else. That’s taken the form of slavery, segregation, the genocide of Native Americans, and now, to a certain extent, gentrification.”).

³⁴ Moskowitz discusses that, while “[g]entrification may provide a new tax base, . . . it also reshapes what cities are, . . . reliant on [inequality] to self-fund, yet still unable to meet the needs of their poor,” and argues for a broader and more complex approach that includes “more taxes, more laws, more intervention from the federal government.” *Id.* at 82. While this Article focuses on how local government and community members can subvert the historical trend of

But cities can avoid this bifurcation once and for all. Development without displacement is possible. Democratic participation is not a panacea to the long history of housing and transportation discrimination and the neoliberal policies that have shaped cities for decades. It is, however, a necessary starting point to honestly confront the inequitable and devastating effects of these historical tides, in all their complexities and simplicity.

I. HISTORY OF TRANSPORTATION AND HOUSING DISCRIMINATION

A. A Historical Overview

To understand why a community-led participatory model for addressing present transit-oriented development is necessary, we must first understand the historical context in which transportation-related developments have intertwined with housing-related exclusion. A survey of the history of housing and transportation shows that racial and class discrimination and segregation have persisted throughout the history of the United States, and that stable, albeit segregated, havens of communities of color have often been deprioritized and even demolished for nationally funded transportation projects. The racialized and class-based nature of these discriminatory projects now take different forms, with gentrification as one of the prevalently discussed mechanisms by which well-funded projects have disparate effects on low-income individuals and communities of color.³⁵ Because of the apparent and oftentimes devastating effects that follow the rapid influx of capital in historically disinvested neighborhoods, gentrification is at times even referred to as “a new form of colonization,” inflicting “emotional distress” on people who “come from a colonized background” and deep “trauma” against those who are “pushed out of what [they have] tried to make [their] own,” essentially disinvesting communities of “emotional investment,” as of necessary infrastructure and capital.³⁶

Throughout the latter part of the twentieth century, transportation development played a major role in shaping the landscapes of entire regions.³⁷ In 1956 the federal government enacted the

undemocratic displacement through long-term neglect of public needs and inequitable development, such broader interventions are also justified by the nationwide history of housing- and transportation-based discrimination.

³⁵ This Article does not address the important topic women being affected by housing discrimination and eviction. Matthew Desmond wrote powerfully that “[i]f incarceration had come to define the lives of men from impoverished black neighborhoods, eviction was shaping the lives of women.” *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* 98 (2016), at 98. While studies support the gendered impact of evictions, this Article discusses how gentrification more broadly affects poor people and communities of color.

³⁶ Sarah Hotchkiss, *We Have a Right to Live Here’: Stories From San Francisco’s Evicted*, KQED: ARTS (June 29, 2016), <https://www.kqed.org/arts/11740971/we-have-a-right-to-live-here-personal-stories-from-san-franciscos-evicted> [<https://perma.cc/22F2-RE9A>] (discussing personal experiences of people who have been evicted as a result of the Ellis Act); see also Warrant Szewczyk, *‘Root Shock’ and the Psychological Toll of Displacement*, KCRW (Nov. 6, 2017), <https://curious.kcrw.com/2017/11/root-shock-and-the-psychological-toll-of-displacement> [<https://perma.cc/NN7N-SCVX>] (discussing the mental health effects of displacement, which one homeless interviewee describes as “mental torment” and is termed and defined by Dr. Mindy Fullilove as “*root shock*, or the ‘traumatic stress response to losing all or part of one’s emotional ecosystem’” after one has invested in a place he or she inhabits and is attached to, and then is suddenly forced to leave, leading to a cascade of anxiety, depression, and anger).

³⁷ See, e.g., ERIC AVILA, *FOLKLORE OF THE FREEWAY: RACE AND REVOLT IN THE MODERNIST CITY* (2014); Richard A. Marcantonio, et al., *Confronting Inequality in Metropolitan Regions: Realizing the Promise of Civil*

Interstate Highway and Defense Act, which funded the construction of highways and accelerated suburbanization by providing a practical means for whites to flee the “urban core.”³⁸ Easy transportation on highways made it possible for suburban commuters to leave the cities in which they worked and retreat to their suburban homes, while the highways led to greater “air and noise pollution in downtown areas” and a disinvestment in those areas as living spaces.³⁹ But the troubles did not end with white flight leaving cities dilapidated and severely lacking in necessary amenities. Highways also cut through neighborhoods inhabited by communities of color that were deemed slums⁴⁰—having been stripped of the kind of capital that mixed-income and integrated neighborhoods would have allowed—leading to the displacement of entire communities and the demolition of “hundreds of acres” at a time.⁴¹ In 1964 the federal government passed the Urban Mass Transportation Act to fund rail projects as well, but this paled in comparison with the funding for highway construction, making apparent the government’s prioritization for highways and spurring sprawling networks of suburbia for decades to come.⁴²

Transportation discrimination exacerbated and was enabled by the discriminatory housing

Rights and Environmental Justice in Metropolitan Transportation Planning, 44 *FORDHAM URB. L.J.* 1017, 1026–27 (2017); Gracie McKenzie, *Your Stories: How Urban Freeways Divided America’s Neighborhoods*, *DIANE REHM BLOG* (May 24, 2016), <https://dianerehm.org/2016/05/24/how-highway-construction-has-affected-listeners-lives> [<https://perma.cc/9F6P-M6LC>].

³⁸ See, e.g., Alana Semuels, *Highways Destroyed America’s Cities*, *THE ATLANTIC* (Nov. 25, 2015), <https://www.theatlantic.com/business/archive/2015/11/highways-destroyed-americas-cities/417789/> [<https://perma.cc/K4N-L-F8Z2>]; PETER DREIER, JOHN MOLLENKOPF & TODD SWANSTROM, *PLACE MATTERS* 115-17 (2nd ed. 2004) (discussing the funding that “ensured that the freeways would be self-propagating, because more freeways encouraged more automobile travel, generating more gasoline revenue that could only be used to build more highways,” and the ways in which the car-dominated transportation system has limited personal choice) (citing HOWARD P. CHUDACOFF & JUDITH E. SMITH, *THE EVOLUTION OF AMERICAN URBAN SOCIETY* 260 (4th ed. 1994)).

³⁹ See *id.*

⁴⁰ See, e.g., Ashley Halsey III, *A Crusade to Defeat the Legacy of Highways Rammed Through Poor Neighborhoods*, *WASH. POST* (Mar. 29, 2016) https://www.washingtonpost.com/local/trafficandcommuting/defeating-the-legacy-of-highways-rammed-through-poor-neighborhoods/2016/03/28/ffcfb5ae-f2a1-11e5-a61fe9c95c06edca_story.html?utm_term=.3c7db574597a [<https://perma.cc/6ULP-SY2L>] (covering President Obama’s Transportation Secretary Anthony Foxx, an African American man, describing his own experience with highways growing up in a “neighborhood walled in by three highways,” where “businesses did not invest . . . [and] [g]rocery stores and pharmacies didn’t take the risk.”) Foxx said, poignantly, “It became clear to me only later on that those freeways were there to carry people *through* my neighborhood, but never *to* my neighborhood.” *Id.*

⁴¹ McKenzie, *supra* note 37 (illustrating that Sugar Hill of Los Angeles was one such neighborhood: “In the 1950s, wealthy African Americans began moving into a white middle-class neighborhood.” After multiple attempts by the neighborhood association to buy out prospective black homeowners, white residents eventually left, leaving the neighborhood to be a segregated African American neighborhood. The city council then rezoned the area for multiple-family housing, and over time, the area became a slum. This shift provided justification for the Santa Monica Freeway to be built to clear the slum for the sake of what was called urban renewal – a policy that was common throughout the nation as cities sought to build their highways.)

⁴² See Sean B. Seymore, *Set the Captives Free – Transit Inequity in Urban Centers, and the Laws and Policies Which Aggravate the Disparity*, 16 *GEO. MASON U. CIV. RIGHTS L.J.* 57, 72 (2005) (“UMTA provided a 50:50 capital fund match to cities and states for the construction of rail projects. Many states decide to spend their *own* money on highways because federal fund matching was higher for highway construction (80:20).”).

practices that shaped the make-up of communities for centuries, and which have been thoroughly documented by historians.⁴³ In the late nineteenth century, as new industrial factories burgeoned and cities grew, housing became part of a new urban real estate market in which it would exist as a consumption commodity, privy to market forces.⁴⁴ The market forces were, of course, not immune to the ideologies and practices of racism and classism, and these combined to segregate cities and regions, one of the methods exemplified by exclusionary zoning laws that separated single-family residential areas from multi-family residential, commercial, and industrial areas. To illustrate, in 1904, Los Angeles used zoning to restrict Chinese laundries in which Chinese Americans worked and lived, physically segregating them from white neighborhoods in single-family residential areas.⁴⁵ In 1917, the U.S. Supreme Court struck down racial zoning in *Buchanan v. Warley*,⁴⁶ but homeowners and neighborhoods continued to segregate using racial private restrictive covenants, which were not ruled unconstitutional until 1948 in *Shelley v. Kraemer*.⁴⁷ Even with private restrictive covenants struck down, however, facially neutral exclusionary zoning practices remain today as “standard in almost all communities,” despite its origins in attempting “to prevent racial and ethnic minorities from moving into middle- and upper-class neighborhoods.”⁴⁸ Since the failed facial challenge to exclusionary zoning in the U.S. Supreme Court in 1926,⁴⁹ courts have continued to sanction and normalize its use, essentially codifying the right of single-family residences that excludes all other uses, including multifamily housing, regardless of its discriminatory effects and role in assisting white flight to suburbs.⁵⁰

The New Deal of the 1930s, for all its undertakings to relieve and reform, aggravated racially segregated geographies as individuals benefited from the federal government’s loan guarantees and capital investment into homeownership, further fostering the growth of sprawling networks, excluding minorities, and solidifying the ideal of the single-family suburban homes.⁵¹ Neighborhoods were redlined as ineligible for federal benefits intended to support and increase

⁴³ See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993).

⁴⁴ Jan Breidenbach, *Land, Justice and a Place to Call Home*, 5 L.A. PUB. INT. L.J. 1, 9–10 (2014–15).

⁴⁵ *Id.* at 12.

⁴⁶ 245 U.S. 60, 82 (1917) (“We think this attempt to prevent the alienation of the property . . . to a person of color was not a legitimate exercise of the police power . . . and is in direct violation of the fundamental law enacted in the Fourteenth Amendment of the Constitution preventing state interference with property rights except by due process of law.”).

⁴⁷ 334 U.S. 1 (holding that the enforcement of private racial restrictive covenants by a state court amounts to state action in violation the Fourteenth Amendment right to equal protection).

⁴⁸ WIKIPEDIA, *Exclusionary Zoning*, https://en.wikipedia.org/wiki/Exclusionary_zoning.

⁴⁹ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926) (holding that zoning ordinances dividing the village into six classes of use districts, justified by police power, do not per se constitute an unconstitutional taking by devaluing owner’s land when they are and asserted for the public welfare).

⁵⁰ Cummings, *supra* note 26 (“This suburban ideal was built around deliberate exclusionary local law and policy, buttressed by zoning restrictions, discrimination, and sometimes violence.”) (citing DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 103).

⁵¹ See Breidenbach, *supra* note 44, at 15–17; see also Rothstein, *supra* note 43; DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 126–27.

homeownership using color-coded words such as “homogeneous” and “undesirable population.”⁵² The national policy also favored funding and offered tax incentives for suburban housing rather than renters, furthering the rift between homeowners and less privileged residents.⁵³ What little public housing and federally subsidized low-income housing existed were racially and economically segregated, and they “exacerbated the concentration of poverty among blacks, creating new ghettos.”⁵⁴ In the prosperous postwar years of 1950s, urban renewal projects⁵⁵ then resolved the consequences of federally funded segregation and disinvestment of entire communities by clearing the neighborhoods that had, unsurprisingly, fallen to poverty to make way for government-sponsored projects. Cities used “their eminent domain authority to purchase and assemble large tracts of land and sell them to developers at bargain-basement prices” in coordination with highway construction, destabilizing and displacing “blighted” neighborhoods despite resistance movements in the late 1960s.⁵⁶

Thus, even after a series of civil rights legislation in the 1960s that outlawed overt racial discrimination in housing, transportation, and other facilities,⁵⁷ the effects of residential segregation continued, and persist today in the form of de facto segregation.⁵⁸ Exclusionary zoning, as discussed, continues to be one of the primary ways by which racially neutral laws have the effect

⁵² See Breidenbach, *supra* note 44, at 18; *Testbed for the Redlining Archives of California’s Exclusionary Spaces, Residential Security Map*, T-RACES, <http://salt.umd.edu/T-RACES/colormap.html> [<https://perma.cc/2J8Q-Y5U8>]; see also ROTHSTEIN, *supra* note 43, at 61.

⁵³ See Breidenbach, *supra* note 44, at 18; DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 122-23.

⁵⁴ DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 128-29 (discussing resistance against public housing by the real estate industry and the voluntary nature of local participation, effectively encouraging the exclusion of public housing from suburban areas).

⁵⁵ See Breidenbach, *supra* note 44, at 18, 26; see also Alexander von Hoffman, *A Study in Contradictions: The Origins and Legacy of the Housing Act of 1949*, 11 HOUSING POLICY DEBATE 299 (2000) (discussing the conflicting nature of the Housing Act of 1949, which “provided housing for low-income families” while simultaneously “clearing slums and destroying affordable housing units” through its urban redevelopment program).

⁵⁶ DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 130-32.

⁵⁷ Despite the passing of the Fair Housing Act of 1968, the act “did not promote racial integration in middle-income areas” and “its enforcement mechanism was glaringly weak.” DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 124.

⁵⁸ See, e.g., Daniel T. Lichter, Domenico Parisi & Michael C. Taquino, *Toward a New Macro-Segregation? Decomposing Segregation Within and Between Metropolitan Cities and Suburbs*, 80 AM. SOC. REV. 843 (2015) (discussing how macro-segregation between places is most pronounced and increasingly most rapidly among blacks); Alana Semuels, *White Flight Never Ended*, THE ATLANTIC (Jul. 30, 2015), <https://www.theatlantic.com/business/archive/2015/07/white-flight-alive-and-well/399980/> [<https://perma.cc/4MKY-2TLD>] (discussing that even though cities are “more diverse overall today, . . . people of different races still don’t live near each other”); Francie Diep, *The New Housing Segregation in America*, PACIFIC STANDARD (Aug. 4, 2015), <https://psmag.com/news/housing-segregation-america> [<https://perma.cc/H9TQ-CM7T>]. See also William H. Frey, *Census Shows Modest Declines in Black-White Segregation*, THE BROOKINGS INSTITUTION (Dec. 8, 2015), <https://www.brookings.edu/blog/the-avenue/2015/12/08/census-shows-modest-declines-in-black-white-segregation/> [<https://perma.cc/3GAD-B8TR>] (discussing that some of the “modest decline in black-white segregation across most large U.S. metropolitan areas” may be attributable to “recent population shifts of blacks and the growth and dispersion of Hispanics and other minorities”).

of “separat[ing] homeowners from renters, whites from minorities, and the rich from the poor.”⁵⁹ After-the-fact compensatory programs of recent decades have had “only marginal effects” as they have not “recalibrate[d] the institutional arrangements and incentive systems that promote economic segregation and suburban sprawl.”⁶⁰ Local and national laws, based largely on neoliberal ideologies that gained traction in the 1970s and prioritized the maximization of profit,⁶¹ have combined with the inadequately addressed history of segregation to reproduce contemporary segregation, which continues to occur in all facets of society including schools, neighborhoods, and jobs. This present segregation results in poor people of color—especially black and Latinx people, broadly speaking—being isolated from social networks and amenities, and lacking transportation options to areas with jobs and economic opportunities.⁶² Racial segregation is not a historical remnant that is fast fading away; some areas are even seeing a trend back toward de facto resegregation.⁶³ There is evidence of resegregation in Los Angeles as well,⁶⁴ with some studies pointing to individual preference for racial homogeneity as one factor in this phenomenon.⁶⁵ Despite such findings, structural forces, in

⁵⁹ See Breidenbach, *supra* note 44, at 20.

⁶⁰ DREIER, MOLLENKOPF & SWANSTROM, *supra* note 38, at 150.

⁶¹ A report on gentrification and displacement in the San Francisco Bay Area discusses the neoliberal program, which began in the 1970s, that has led to the shrinking of public funding and privatization of public programs, reliance on the private sector as the primary driver of economic and urban development, increasing militarization in cities, and weak democratic processes and practices. CAUSA JUSTA :: JUST CAUSE (CJJC), DEVELOPMENT WITHOUT DISPLACEMENT: RESISTING GENTRIFICATION IN THE BAY AREA 30–35 (2015), <http://ejjc.org/wp-content/uploads/2015/11/development-without-displacement.pdf> [<https://perma.cc/7W8H-VEYT>].

⁶² Elizabeth S. Anderson, *Racial Integration as a Compelling Interest*, 21 CONST. COMMENTARY 15, 16 (2004).

⁶³ Tony Samara, *Resegregation and the Rise of Suburban Poverty*, KCET: CITY RISING (Oct. 11, 2017), <https://www.kcet.org/shows/city-rising/resegregation-and-the-rise-of-suburban-poverty> [<https://perma.cc/J7PA-ESRA>]; (discussing the link between gentrification-led displacement and the resegregation and increasing disparity along racial and class lines); Emmanuel Felton, *The Department of Justice Is Overseeing the Resegregation of American Schools*, THE NATION (Sept. 6, 2017), <https://www.thenation.com/article/the-department-of-justice-is-overseeing-the-resegregation-of-american-schools/> [<https://perma.cc/2BDK-JM9J>] (discussing an Alabama State Department of Education and U.S. Department of Justice study that shows that southern schools are more segregated today than they were forty years ago); Michelle Chen, *Our Schools Are Actually Resegregating* THE NATION (June 20, 2017), <https://www.the-nation.com/article/our-schools-are-actually-re-segregating/> [<https://perma.cc/2L6K-4MCF>] (discussing an audit by the Government Accountability Office in 2016 that revealed dramatic growth in segregated schools nationwide).

⁶⁴ Esther Kavekes, Michael Bader, & Maria Krysan, *Realizing Racial and Ethnic Neighborhood Preferences? Exploring the Mismatches Between What People Want, Where They Search, and Where They Live*, 35 POPULATION RESEARCH & POLICY REV. 101 (2016); Michael Bader, *L.A. Is Resegregating -- and Whites Are a Major Reason Why*, L.A. TIMES (Apr. 1, 2016), www.latimes.com/opinion/op-ed/la-oe-bader-resegregation-los-angeles-20160401-story.html [<https://perma.cc/YJ5C-LDLP>] (“The data show that vast portions of south and east Los Angeles are slipping from mixed populations toward single race populations. And the change has not just occurred in formerly white areas. One of the trajectories that we identified followed a similar pattern in neighborhoods that were once black.”).

⁶⁵ Krysan et al., *Does Race Matter in Neighborhood Preferences? Results From a Video Experiment*, 115 AM. J. SOC. 527 (2009); *but cf.* David Leonhardt, *Middle-Class Black Families, in Low-Income Neighborhoods*, N.Y. TIMES (June 24, 2015) (stating, in reviewing a study showing that middle-income black Americans tend to live in poorer neighborhoods than middle-income white and Asian Americans, that “[m]any Americans, of all races, prefer to live among people who are similar to them” and that “[f]or African-Americans, such a choice often means living in lower-income areas”).

the form of historical and modern-day racism and discrimination in public policy, have undeniably played a key role in both permitting, incentivizing, and shaping these persistent compositions.

B. New Urbanism and Its Challenges

Today, the decades-long preference for suburbs is shifting.⁶⁶ Some cities are going as far as to tear down urban highways and replace them with boulevards, streets, and other neighborhood features.⁶⁷ As early as the late 1980s, the City of San Francisco, for example, tore down the Embarcadero Freeway and made the waterfront more pedestrian-friendly after it was damaged by an earthquake, despite initial disapproval by the public.⁶⁸ Urban freeway removal projects are currently seen as a means of economic development by which cities can engage in beautification, increase businesses and jobs, and provide mixed-use opportunities to increase tax revenues.⁶⁹ “New urbanists”—those who favor the return to the city rather than continue the pattern of suburban sprawl—see the many benefits of living in the city and view the tearing down of highways in a favorable light.⁷⁰ Even in regions where the highway system has shaped the sprawling landscape and limited the development of public transit, there is a move towards connectivity through public transit and remobilization from the suburbs to the city.⁷¹ This is the case in Los Angeles County as well, where residents passed Measure M to fund transit development and expansion through a sales tax increase discussed in the next Part.

However positive and encouraging some of the changes might be in reinvesting in cities—such as better public transportation, more amenities, better quality of housing, and even improved environmental sustainability—this trend also raises serious concerns for the people who inhabit or have long resided in the cities’ most neglected neighborhoods.⁷² As the city or region continues to

⁶⁶ See STEWART STERK, EDUARDO PENALVER & SARA BRONIN, *LAND USE REGULATION* 3-4, 93-96 (2nd ed. 2016) (discussing the principles motivating new urbanism, including anti-sprawl, mixed use over exclusionary use, and community concerns).

⁶⁷ See, e.g., Robert Cervero, Junhee Kang & Kevin Shively, *From Elevated Freeways to Surface Boulevards: Neighborhood and Housing Price Impacts in San Francisco*, 2 J. URBANISM 31 (2009) (“The surgical removal of freeway links in recent years is in keeping with today’s smart-growth movement. Freeway demolition can viewed as a ‘de-mobilization strategy’ – redesigning the city to reduce car travel and promote more sustainable forms of movement [in line with] pedestrian-friendly principles of New Urbanism.”); Steven Kurutz, *Once So Chic and Swooshy, Freeways Are Falling Out of Favor*, N.Y. TIMES (Oct. 21, 2017), <https://www.nytimes.com/2017/10/21/style/the-end-of-freeways.html> [<https://perma.cc/CKX3-8FSZ>]; Leanna Garfield, *American Highways Are So Expensive That Cities Are Tearing Them Down—Here’s What They’re Turning Into*, BUSINESS INSIDER (May 6, 2018), www.businessinsider.com/highway-closing-city-transformation-2018-5 [<https://perma.cc/724P-42VK>].

⁶⁸ See Semuels, *supra* note 38.

⁶⁹ *Id.*; see also *Our Mission*, HOLLYWOOD CENTRAL PARK (discussing current project to raise funds for a park that would cover a portion of the Hollywood Freeway), <https://hollywoodcentralpark.org/about/mission-statement> [<https://perma.cc/2YTP-QSYP>].

⁷⁰ See Semuels, *supra* note 38. See also Eric Jaffe, *Is Gentrification the Result of Rich People’s Quest for Shorter Commutes?*, THE ATLANTIC (Nov. 19, 2015), <https://www.theatlantic.com/business/archive/2015/11/shorter-commutes-gentrification/416646/> [<https://perma.cc/748Y-8SKT>].

⁷¹ See, e.g., Derek Hyra, *The Back-to-the-City Movement: Neighbourhood Redevelopment and Processes of Political and Cultural Displacement*, 52 URBAN STUD. J. 1753 (2015).

⁷² See Richard Florida, *The Downsides of the Back-to-the-City Movement*, CITYLAB (Sept. 29, 2016)

develop, will its living costs increase to such levels that long-time inhabitants will no longer be able to afford to live in the newly improved area—an unfortunate but inevitable result of market forces guided by individual choices? Or, as transportation options become more advanced and numerous, will long-time residents be able to reap the benefits, secure jobs, and stay in their homes? Further, who are these community members? What have they endured before the newfound interest and investment in their neighborhoods, and what of their existing communities must be preserved? What part can they play in ensuring that the changes benefit rather than displace their community? And finally, who is best equipped to address these questions?

As the trend back to the city continues, and as displacement becomes ever more prominent among citizens' concerns in areas experiencing new capital investment and development, cities must honestly contend with their history to prevent it from repeating. They must take affirmative steps to protect low-income households and communities of color from displacement as the market values of homes increase, excluding them from being able to benefit from the touted developments. With outward improvements in amenities and urban infrastructure, the internal demographics are likely to shift, with many people being pushed further out from the new centers of economic activity and opportunity at a time when these centers become more connected to neighboring areas that would provide additional opportunities. This historical trend must not be seen as inevitable; it must be resisted, all the more for its persistence. In order to prevent this seemingly individual but actually mass, collective, racialized, and class-based experience of displacement, public and private actors should approach the issue not simply with the goal of economic profit (which, so often cloaked in neutral terms, hides and perpetuates racialized and inequitable outcomes as was discussed in this Part in the context of New Deal policies and exclusionary zoning). Rather, governments and developers should make decisions based on principles of equity and community, with a long-neglected focus on preexisting communities and low-income residents who have legitimate hardships, concerns, contributions, and invaluable ties to their homes that do not necessarily translate to financial profit.

Development projects are not inherently evil; in fact, they have the potential to create local jobs and produce benefits such as improved infrastructures and amenities. The problem lies not with the investment of resources, money, and construction in disinvested neighborhoods per se, but rather, with the ways in which certain voices get considered and prioritized in the facilitation of the development, and how those voices dictate the allocation of resources once the projects produce more value and opportunities to the detriment of those whose voices and interests are marginalized. In Los Angeles, community members have made their needs known as essential stakeholders in development projects for the sake of protecting themselves, their families, and neighbors as will be discussed in Parts III and IV. But first, we turn to the context of transit-oriented development in Los Angeles, in which these voices prove all the more essential and consequential.

(discussing that “the back-to-the-city movement has been overwhelmingly driven by affluent and highly educated whites,” causing “growing inequality and spatial segregation as the less advantaged are pushed out of the urban core and into either suburbs or less advantaged and more economically isolated areas of the city”), <https://www.citylab.com/equity/2016/09/downsides-of-the-back-to-the-city-movement/501476/> [<https://perma.cc/WM93-V8HP>].

II. CURRENT TRANSPORTATION DEVELOPMENTS IN LOS ANGELES

A. Measure M: Expanding Transportation Options

In November of 2016, Los Angeles County voters voted in favor of Metro’s transportation ballot measure by 71.15 percent,⁷³ approving to fund a major expansion of the public transit system by imposing on the county a half-percent increase in sales tax (to increase up to one percent by the time another existing tax expires in 2039).⁷⁴ The annual revenue of \$860 million is expected to “dramatically transform the region, including a rail line to LAX, a subway under the Sepulveda Pass, and a Purple Line extension to Westwood” toward the coast, as well as pay for “much-needed sidewalk improvements, pothole repairs, cycling infrastructure, bike share expansion, and a network of greenways.”⁷⁵ The project is expected to double Metro’s rail system over the next forty years.⁷⁶ The measure was especially supported by Latinx residents and millennials, both groups having voted in favor of the measure by a supermajority, while those who opposed tended to be fifty years or older or living in the wealthiest and most isolated cities, such as on the Palos Verdes Peninsula.⁷⁷

On one hand, these expansions are likely to bring Metro’s services to a community in which “[p]eople [have felt] out of the loop and inconvenienced” due to increased car traffic and provide easier means to other parts of the city.⁷⁸ On the other hand, however, some long-time residents “fear the new developments will drive up housing costs and lead to displacement,” and that there are not enough protective safeguards in place to protect struggling residents.⁷⁹ These concerns are far from unfounded, not only because of the history of housing and transportation, but also because of local experiences that have validated these historical patterns. Contemporary research shows that the impact of public-transit investment in Los Angeles County has already led to a demographic shift, with “increases in white, college-educated, higher-income households,” and “decreases in low-income households and residents with less than a high school diploma.”⁸⁰

⁷³ See Metro, *Measure M: Metro’s Plan to Transform Transportation in L.A.* (2018), <http://theplan.metro.net> [<https://perma.cc/A2MG-S6UA>].

⁷⁴ See BALLOTEDIA (Nov. 2016), https://ballotpedia.org/Los_Angeles_County,_California,_Sales_Tax,_Measure_M_ [<https://perma.cc/5AMS-LY4D>].

⁷⁵ Alissa Walker, *Measure M: Angelenos Vote to Tax Themselves for Better Public Transit*, CURBED (Nov. 9, 2016), <https://la.curbed.com/2016/11/9/13573924/measure-m-los-angeles-public-transit-results> [<https://perma.cc/796T-2QWU>].

⁷⁶ Joe Linton, *Coalition Celebrates Measure M Passing by Nearly 70 Percent*, STREETS BLOG (Nov. 10, 2017), [https:// la.streetsblog.org/2016/11/10/coalition-celebrates-measure-m-passing-by-nearly-70-percent/](https://la.streetsblog.org/2016/11/10/coalition-celebrates-measure-m-passing-by-nearly-70-percent/) [<https://perma.cc/BH8L-FG6K>].

⁷⁷ Editorial Board, *Measure M Voters Map L.A. County’s New Route*, L.A. DAILY NEWS: OPINION (Nov. 22, 2016), <https://www.dailynews.com/2016/11/22/measure-m-voters-map-la-countys-new-route/> [<https://perma.cc/5BTE-4KMF>].

⁷⁸ Courthouse News Service, *South L.A. Transit Expansion Sparks Residents Hopes, Concerns*, COMPTON HERALD (Apr. 18, 2018), comptonherald.org/south-l-a-transit-expansion-sparks-residents-hopes-concerns/ [<https://perma.cc/N22V-6BSU>].

⁷⁹ *Id.*

⁸⁰ Editorial Board, *Will Measure M Lead to Gentrification and Displacement Across L.A. County?*, L.A. TIMES (Nov. 12, 2016), <http://www.latimes.com/opinion/editorials/la-ed-measure-m-gentrification-20161110-story.html>

After the measure passed, Metro attempted to address the spatial and environmental dimensions of multimodal transportation, as well as the inequitable distribution of resources in the implementation of transportation projects, by approving guidelines to direct the measure's spending.⁸¹ One of the motions that passed shifted the methodology for evaluating project impacts, from level of service (LOS) to vehicle miles traveled (VMT).⁸² The VMT methodology logically allows the consideration of the capacity of vehicles, which differs in terms of environmental impact and cost-effectiveness, and takes account of the positive outcomes of increasing the prevalence of public transportation use.⁸³ This replacement of methodology for evaluation allows for "funds . . . [to] be spent on operational improvements for movement of people traveling on foot, by bike, or by transit, in addition to automobile travel, in order to optimize the movement of people by all modes, not just vehicular travel," a timely move given car ownership continues to increase even among lower-income residents and immigrants, those thought to use public transportation the most.⁸⁴ At this meeting, the board also discussed and ultimately disapproved of an annual floor for local return funds to municipalities for their transportation projects; an annual floor would have allowed cities with small populations (such as Vernon, Hidden Hills, and Irwindale) to receive a minimum allocation each year instead of basing the allocation on the proportion of the city's population. The board opted instead for a straightforward per capita allocation.⁸⁵ These guidelines, alongside other protective measures it later committed to, revealed that the Metro board was to some extent committed to and cognizant of its obligation to serve the broader community.⁸⁶

Investing in Place, a research and advocacy organization that carefully watched Measure

[<https://perma.cc/DN7R-TURY>]; see Miriam Zuk Et Al., *Gentrification, Displacement and the Role of Public Investment: A Literature Review* 32–33 (Mar. 3, 2015), http://iurd.berkeley.edu/uploads/Displacement_Lit_Review_Final.pdf.

⁸¹ Joe Linton, *Metro Approves Multi-Modal Metric for Measure M Guidelines*, STREETS BLOG (June 23, 2017), <https://la.streetsblog.org/2017/06/23/metro-approves-multi-modal-metric-for-measure-m-guidelines/> [<https://perma.cc/QTA6-D62D>].

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*; Laura Bliss, *Why Is L.A. Expanding Transit—and Losing Riders?*, CITYLAB (Feb. 1, 2018), <https://www.citylab.com/transportation/2018/02/why-la-is-expanding-transit-and-losing-riders/551960/> [<https://perma.cc/23PY-VUFF>].

⁸⁵ See Linton, *supra* note 76 (further noting the board approved a motion to allow private organizations to receive Visionary Project seed funding, which would fund consultants to develop innovative conceptions into actionable projects); see also Joe Linton, *Metro, Cities Already Jockeying Over Measure M Local Return Funds*, STREETS BLOG (Mar. 24, 2017), <https://la.streetsblog.org/2017/03/24/metro-cities-already-jockeying-over-measure-m-local-return-funds/> [<https://perma.cc/7ANA-TZ7Y>]; Memo, Metro, *Visionary Project Seed Funding Memo*, http://media.metro.net/about_us/committees/images/visionary_project_seed_funding.PDF [<https://perma.cc/H4AD-MXC6>].

⁸⁶ In addition to the Master Guidelines, Metro is helping to build or preserve more affordable housing through the MATCH Loan Program, which is "providing \$9 million to developers at a low interest rate to build affordable housing within a half mile of transit lines." *Affordable Housing: A Next Frontier for Transit?*, TRANSITCENTER (Feb. 6, 2018), <http://transitcenter.org/2018/02/06/a-next-frontier-for-transit/> [<https://perma.cc/EW9J-9A95>] (stating that the program responds to the "evidence that transit makes an area more desirable and potentially displaces folks."); Rachel Dovey, *L.A. Transit Agency Is Investing in Affordable Housing*, NEXT CITY (Sept. 27, 2017), <https://nextcity.org/daily/entry/los-angeles-transit-agency-loan-fund-affordable-housing> [<https://perma.cc/XVE7-8GZC>] (noting that this program follows an already existing requirement for developers "building on Metro property to put aside 35 percent of new units for low-income households," though admittedly Metro does not own much land).

M's progress, approved of the Master Guidelines adopted at the meeting, noting that many of the changes the group advocated were represented in the revisions.⁸⁷ For example, the group had recommended against the local return floor, which would have been a “fund transfer from lower-income areas to wealthy suburbs and industrial tax havens.”⁸⁸ However, it also noted areas that could be improved or further developed. One of the recommendations the group made was for the board to “[c]larify eligibility of Local Return for Transit Oriented Communities (TOC) investments by referencing existing Metro policies and programs,” and to “[e]xplicitly support local return investments into not just the creation but the preservation of existing affordable housing” so that “existing transit dependent residents can remain in TOCs.”⁸⁹ The board’s guidelines initially referenced a Transit Oriented Communities Program but needed “[a]dditional work . . . [to] ensure that it includes the most effective strategies for increasing housing affordability near transit and reducing displacement.”⁹⁰ Since then, however, Metro has adopted the TOC Policy, “a first-of-its kind policy for a transit agency” that “recognizes the neighborhood destabilization transit projects can cause and commits LA Metro to . . . achieving housing affordability and economic vitality in transit hubs.”⁹¹ This new policy attempts to realize the potential for a more multimodal future that acknowledges both the inequitable distribution and implementation of transportation developments and the inequitable effects of displacement that could result with increased mobility.

B. Measure JJJ: Increasing Density and Affordable Housing in Transit Areas

In addition to Measure M, Los Angeles City voters approved of Measure JJJ in November 2016, which would allow for more affordable housing to be built around transit stations by local residents at living wages.⁹² Advocates expected that the new law created through Measure JJJ will “safeguard families at risk of displacement by preserving the City’s affordable housing stock through replacement of rent stabilized units”⁹³ while also requiring “hiring restrictions favoring

⁸⁷ INVESTING IN PLACE, POLICY BRIEF: MEASURE M GUIDELINES – ANALYSIS OF BOARD-ADOPTED GUIDELINES 2 (June 22, 2017), <https://investinginplace.org/wp-content/uploads/2017/06/MeasureMGuidelines-June2017AnalysisofBoard-AdoptedGuidelines-1.pdf> [<https://perma.cc/QXP4-EFZ3>].

⁸⁸ *Id.*; see also Joe Linton, *Metro, Cities Already Jockeying Over Measure M Local Return Funds*, STREETS BLOG (Mar. 24, 2017), <https://la.streetsblog.org/2017/03/24/metro-cities-already-jockeying-over-measure-m-local-return-funds/> [<https://perma.cc/T2EH-U2NS>].

⁸⁹ INVESTING IN PLACE, *supra* note 87.

⁹⁰ *Transit Oriented Communities Policy Approved by Metro Board of Directors*, ACT-LA (June 28, 2018), <http://allianceforcommunitytransit.org/transit-oriented-communities-policy-approved-by-metro-board-of-directors/> [<https://perma.cc/6M8Y-9PYN>].

⁹¹ INVESTING IN PLACE, *supra* note 87.

⁹² See LOS ANGELES, CAL., INITIATIVE ORDINANCE JJJ (2016); Joe Linton, *Election 2016: Measure M Passing, Local and CA Silver Linings*, STREETS BLOG (Nov. 9, 2016), <https://la.streetsblog.org/2016/11/09/election-2016-measure-m-passing-local-and-ca-silver-linings/> [<https://perma.cc/6BYX-UEGN>]; Joe Linton, *Livability Proponents Split on Measure JJJ, the Build Better L.A. Initiative*, STREETS BLOG (Oct. 18, 2016), <https://la.streetsblog.org/2016/10/18/livability-proponents-split-on-measure-jjj-the-build-better-l-a-initiative/> [<https://perma.cc/U7ML-GDNX>].

⁹³ ACT-LA, *Affordable Housing and Good Jobs*, <http://allianceforcommunitytransit.org/what-is-prop-jjj/> [<https://perma.cc/3NB3-34ME>]; see also Alissa Walker, *Why Aren't Some Housing Advocates Supporting Measure JJJ?*, CURBED: LOS ANGELES (Nov. 7, 2016), <https://la.curbed.com/2016/11/7/13553776/why-aren-t-some-housing-advocates->

local laborers on residential projects.”⁹⁴ Measure JJJ would ensure that the City promotes affordability and benefits for low-income residents in three main ways. First, JJJ required that, to qualify for a general plan amendment that would allow a project to build taller structures or less parking than permitted by the current zoning, the projects must provide affordable housing—whether by building affordable housing on-site or nearby or by paying a fee to L.A.’s Affordable Housing Trust Fund—as well as meet employment standards.⁹⁵ Second, JJJ provided another path for aligning density with affordable housing called the Transit Oriented Communities (TOC) incentive program, which allows for greater density within the current zone if a project includes affordable housing.⁹⁶ Finally, JJJ included standards for community plan updates, requiring that the City, when updating its community plans, include a program to create and monitor the inventory of affordable or rent-controlled housing units.⁹⁷ SLA and SELA became the first to pass community plans after Measure JJJ, and thus included the program directly into their plans, using it as a basis for the No-Net-Loss Policy that would require the City to adequately respond and direct resources to the loss of affordable housing revealed by the data gathered each year.

Measure JJJ, like Metro’s Master Guidelines, shows a clear awareness by voters and decisionmakers alike that safeguard measures must supplement transit-oriented developments to protect low-income households. However, Measure JJJ had prominent critics before its passing, including the *Los Angeles Times*, which asserted that the measure would increase construction costs and disincentivize investors and lenders from building, a problem that could be resolved by putting the burden on the public at large as Measure M has done through its sales tax increase.⁹⁸ Other critics pointed to loopholes in the measure’s language that would allow developers to undo their promises of affordable housing or local hiring, and the City to use the Affordable Housing Trust Fund for other purposes.⁹⁹ However, despite these pre-election concerns, Measure JJJ has already had a significant impact on affordable housing production. Within the first fifteen months of

supporting-measure-jjj [https://perma.cc/37A6-GRFG] (“JJJ would require . . . up to 40 percent in condo projects and 20 percent for rentals [] to be priced for low- to moderate-income residents. . . . [and] [a]t least one-third of the workers would have to be Los Angeles residents, and 10 percent of the workers would have to be ‘transitional[.]’”).

⁹⁴ Elijah Chiland, *Measure JJJ Triggers New Incentives to Encourage Affordable Housing Near Transit*, CURBED (Mar. 14, 2017), <https://la.curbed.com/2017/3/14/14928306/los-angeles-incentives-affordable-housing-transit-jjj> [https://perma.cc/T3QR-5DHS].

⁹⁵ See Linton, *supra* note 92 (Livability Proponents) (noting that the measure created zones within a half-mile radius of major transit stops that “includes incentives for affordable housing, increased density, and decreased parking requirements”).

⁹⁶ The City further detailed the measure’s implementation in its Transit Oriented Communities (TOC) Affordable Housing Incentive Program Guidelines, effective in September 2017. LOS ANGELES DEPARTMENT OF CITY PLANNING, TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM GUIDELINES (TOC GUIDELINES) (Sept. 22, 2017), <https://planning.lacity.org/ordinances/docs/TOC/TOCGuidelines.pdf> [https://perma.cc/X2KB-W2HT] (stating that the purpose of the “Guidelines [is to] provide the eligibility standards, incentives, and other necessary components of the TOC Program consistent with” the ordinance resulting from Measure JJJ).

⁹⁷ See LOS ANGELES, CAL. *supra* note 92, at 42.

⁹⁸ See Walker, *supra* note 93.

⁹⁹ Jill Stewart, *Top 5 Reasons! You Must Vote No on the “Not Affordable Housing” Measure JJJ on Nov. 8*, CITY WATCH (Oct. 20, 2016), www.citywatchla.com/index.php/the-la-beat/12000-top-5-reasons-you-must-vote-no-on-the-not-affordable-housing-measure-jjj-on-nov-8 [https://perma.cc/8LH5-QGRK].

operation, the TOC program has already resulted in over 2,300 new affordable housing units near transit, with a significant number of those units affordable to extremely low-income households.¹⁰⁰

C. Going Beyond Measure M and Measure JJJ

Regardless of the extent to which Measure JJJ will help the affordable housing crisis that currently exists and is likely to be exacerbated by the upcoming transit developments, the debates surrounding Measure M and Measure JJJ make clear that creating a net gain of affordable housing opportunities is an essential component of preventing displacement and protecting the existing community in the affected areas. In South Central Los Angeles, nearly 60 percent of the residents are already rent-burdened,¹⁰¹ and in Historic South Central Los Angeles, 42.2 percent of units are overcrowded, making it the most overcrowded neighborhood in the nation.¹⁰² These material conditions have a profound impact on the physical and mental wellbeing of people who live in these areas, and, as discussed, “place them at higher risks of displacement when property values rise in connection with transit investment and new development along transit.”¹⁰³ In order to address the impending changes, community plans and local laws regarding the ongoing and proposed transit developments must account for the need to “produce new affordable housing,” “preserve existing affordable housing,” and “enhance and protect the rights of low-income tenants.”¹⁰⁴ Measure JJJ is one effort aimed at complementing Measure M and its likely ramifications on residents in affected areas. However, it will be necessary to build from this policy and tailor its equity standards to meet neighborhood-level needs and priorities to meet the needs of current residents, especially in light of the deep-rooted nature of disinvestment and discrimination that many communities of color and poor people have experienced under the guise of neutral terms such as urban renewal.

Measure M’s mission to build a “balanced transportation system”¹⁰⁵ that improves freeway traffic flow, expands the rail and rapid transit system, creates jobs, reduces pollution, and generates local economic benefits,¹⁰⁶ is important, overdue, and necessary. The history of housing segregation and transit discrimination, however, makes it imperative that Metro and the City take special care to affirmatively create jobs, reduce pollution, and generate local benefits in areas that have

¹⁰⁰ L.A. DEP’T OF CITY PLANNING, HOUSING PROGRESS REPORT 2, 4 (2018), https://planning.lacity.org/Documents/ExternalAffairs/HousingProgressRpt/2018_Q4.pdf [<https://perma.cc/7KJK-V4F4>]. Cf. Dennis Lynch, *Is LA’s Big Plan for More Affordable Housing Development Just a Mirage?*, THE REAL DEAL: LOS ANGELES REAL ESTATE NEWS (Mar. 12, 2018), <https://therealdeal.com/la/2018/03/12/is-las-big-plan-for-more-affordable-housing-development-just-a-mirage/> [<https://perma.cc/Z83D-27EU>].

¹⁰¹ See UNIDAD, *supra* note 27, at 9. Tenants are considered rent-burdened if they spend more than 30 percent of their income on rent. Aratani, et al., *Rent Burden, Housing Subsidies and the Well-being of Children and Youth*, NATIONAL CENTER FOR CHILDREN IN POVERTY (Nov. 2011), www.nccp.org/publications/pdf/text_1043.pdf [<https://perma.cc/J6MR-25WT>].

¹⁰² UNIDAD, *supra* note 27, at 8.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ See Linton, *supra* note 76.

¹⁰⁶ LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, PROGRAM MANAGEMENT PLAN 3 (2016), http://theplan.metro.net/wp-content/uploads/2016/11/report_prgm_mgmt_2016_11.pdf [<https://perma.cc/8R4V-ZXYF>].

historically most lacked these improvements through government funding and policy. Measure M, with its expected generation of \$79.3 billion in economic output in Southern California¹⁰⁷ and its potential to make Los Angeles County a more connected place, presents both challenges for low-income community members as well as an opportunity to build infrastructure in communities of need. Despite the substantive steps voters and decisionmakers have taken to make the implementation of the measure more equitable, it is not enough that these goals and guidelines are put into writing; the direction and implementation of projects must continually center and be checked by the very people who are being materially affected and thus can most realistically weigh the significance of each land use decision.

III. GRASSROOTS-BASED COMMUNITY PLANS

A. The People's Plan: A Plan for the People, by the People

In this context of increasing development, a grassroots coalition called United Neighbors in Defense Against Displacement (hereinafter UNIDAD) has been working with local residents—not only recently, but for a decade—to create the People's Plan. The creation of the People's Plan began in 2007 through the efforts of many local community organizations that mobilized and gathered community members, concurrently with outreach that the City had begun that year to update its plans.¹⁰⁸ Through popular education, community leaders and organizations involved residents as well as local businessowners in learning about land use law and policy, capitalizing on the opportunity to “organize around a forward-looking, proactive vision for their communities and not just advocate against eviction or development on a site-by-site basis,” as important as those means of advocacy are.¹⁰⁹ In November of 2017, the People's Plan made a historic contribution to the revised community plans for South Los Angeles and Southeast Los Angeles when the city council unanimously approved community plans for these two districts after a ten-year process.¹¹⁰ The new community plan included about 80 percent of the suggestions that UNIDAD had compiled into the People's Plan, according to a councilmember speaking of its passing.¹¹¹ While the approved

¹⁰⁷ *Id.* at i (Program Management Plan) (“Based on the latest economic forecast by the Los Angeles Economic Development Corporation, [Measure M] would add 465,690 new jobs across the region, stimulate \$79.3 billion in economic output in Southern California, and fund 40 major highway and transit projects in the first 40 years.”).

¹⁰⁸ See UNIDAD, *supra* note 27; Sunjana Supekar & Jason Lawler, *Episode 4.1: Reclaiming Land Use Law: Using People Power to Guide Development*, UCLA L. REV. DIALECTIC, <https://www.uclalawreview.org/category/dialectic/> [<http://perma.cc/J75Z-RTJQ>].

¹⁰⁹ Supekar & Lawler, *supra* note 108.

¹¹⁰ UNIDAD, *supra* note 27. See also Sahra Sulaiman, *People's Plan Helps Shape South and Southeast L.A. Community Plans*, STREETS BLOG (Nov. 22, 2017), <https://la.streetsblog.org/2017/11/22/peoples-plan-helps-shape-south-and-southeast-la-community-plans/> [<https://perma.cc/GD64-FGLP>]; Steven Sharp, *A Look at the New South L.A. Community Plans*, URBANIZE LOS ANGELES (Dec. 19, 2017), <https://urbanize.la/post/look-new-south-la-community-plans> [<https://perma.cc/X5TL-Q8ZL>]; *Plan Status*, CITY OF LOS ANGELES, SOUTH LOS ANGELES, <https://sites.google.com/site/southlaplan/plan-status> [<https://perma.cc/6MZ5-V5VX>].

¹¹¹ See Josie Huang, *City Council Approves Plans Aimed at Halting South LA Gentrification*, KPCC RADIO (Nov. 22, 2017), <https://www.scpr.org/news/2017/11/22/78027/new-development-plans-coming-to-south-la/> [<https://perma.cc/T797-D5RA>].

plan also left out some significant recommendations, such as having “caps on how many apartments could be either converted into condominiums or demolished each year,”¹¹² its incorporation of most of the community’s feedback was a major victory for grassroots organizing, participatory democracy, and the empowerment of concerned community members. Given the broader historical patterns of discriminatory effects of public and private investments, the efforts and successes of UNIDAD provide a blueprint for community-led efforts to combat the displacing effects of gentrification at the local and legislative level.¹¹³ Furthermore, UNIDAD’s victories provide hope for a present—and future—in which cities center and prioritize the voices of community members, especially those who are most vulnerable to the harmful effects of gentrification, when updating and passing land use laws and policies.

The People’s Plan presents a neighborhood plan that has as its foundation “countless contributions from hundreds of residents of South Central Los Angeles who have brought with them the lived experience and wisdom derived from struggle, survival and thriving in response to the many beauties and atrocities that have made South Central ground zero for movements of Black liberation, Immigrant rights and Indigenous sovereignty.”¹¹⁴ By drawing from and centralizing the voices of those who have invested their lives into the communities before new development projects gained traction, the People’s Plan paints a picture not merely of a space, but of a community, where people have both struggled and rejoiced—where people have lived and built their lives. This people-oriented approach honors the material existence and history of the 550,000 residents, mostly Black and Latinx, of SLA and SELA whose lives will be affected by the new community plans.¹¹⁵ It honors not only the pain, but also the civil rights struggles and the visionary community organizing that have responded to racist real estate practices, over-policing, deindustrialization, environmental racism, and the uprisings of 1965 and 1992 that drew nationwide attention.¹¹⁶

Rooted in this community and history, the residents of SLA and SELA who have played a direct role in crafting the many components of the People’s Plan¹¹⁷ are aware of the intrinsically

¹¹² *Id.*

¹¹³ A similar grassroots effort at community planning has, for instance, emerged in Historic Filipinotown, Los Angeles, where community members have “formed the North Westlake Community Plan Advisory Committee (CPAC) to have community members come together to write a community-focused plan as an alternative to the city-written plan.” Ysabel Jurado, *Losing Historic Filipinotown*, UCLA L. REV. DISC.: LAW MEETS WORLD (Nov. 2018), https://www.uclalawreview.org/losing-historic-filipinotown/#_ftn45 [<https://perma.cc/2ZSV-5QD5>]. Jurado discusses the success of the People’s Plan in SLA and SELA in Supekar & Lawler, *supra* note 108 (discussing that the People’s Plan showed “how communities can really work together and figure out the system” to voice their opinions).

¹¹⁴ *See* UNIDAD, *supra* note 27, at 3.

¹¹⁵ *Id.* at 4.

¹¹⁶ *See* PULIDO ET AL., *supra* note 4, at 120–22.

¹¹⁷ *Popular Education*, SAJE, <http://www.saje.net/popular-education/> [<https://perma.cc/Y5BN-95V4>] (“For the past decade SAJE,” a non-profit organization in South Los Angeles that advocates for economic justice in the community, “has conducted People’s Planning Schools to give community members the tools necessary to participate in the planning decisions that affect their lives,” with a curriculum that covers topics such as “the governance structure, the relevance of urban planning to [residents’] lives, and how to advocate for changes that will prevent poor planning and displacement in the future,” and provides the participants the opportunity to form focus modules to address areas such as “affordable housing preservation, affordable housing creation, equitable development, equitable transit-oriented development, healthy housing, integrated pest management, environmental health, environmental justice, and community

personal nature of the plans and their accompanying ordinances, the history of segregation and disinvestment undoubtedly shaping their personal understanding of the impact of these plans. Community plans, states the People's Plan, "govern much more than building specifications; they touch all aspects of how land is used," "impact the socio-economic composition of a community by prescribing the nature and mix of an area's housing stock," and "shape a community's character and economy by dictating the kinds of businesses that are allowed."¹¹⁸ The participatory process by which the People's Plan was created and then subsequently included into the official plans thus represents a significant step towards creating a plan based on the lived experience of people, whose pain, grit, and love have formed the fabric of their communities. The community-driven process and the substantive aspects of the People's Plan, which demonstrate attention to the community's concerns, embody the conviction that community-led efforts must guide and at times counteract market forces which, left alone, perpetuate the power imbalance accumulated over hundreds of years.

The current demographics of SLA and SELA make a people-centered city plan that addresses both economic revitalization and anti-displacement all the more imperative. In both neighborhoods, residents currently face overcrowded housing and poor access to healthy retail food.¹¹⁹ They have life spans that are up to twelve years less than those of residents in wealthier parts of the city, and face greater economic hardships than anywhere else in the city.¹²⁰ Half of the community's children lives in poverty, and more homeless men and women live there than in any other parts of the city.¹²¹ And now, with the transit-oriented developments that are expanding into these neighborhoods, many residents must face the likelihood that the cost of living will become increasingly less affordable just as material conditions begin to improve.

B. Platform Set Forth in the People's Plan

With these statistics and concerns in mind, the People's Plan presented a community-centered land use policy platform organized in four broad categories: (1) to create a net gain of affordable housing and stop displacement, (2) to promote inclusive economic development that supports local workers and businesses, (3) to prioritize environmental justice and enhance community health, and (4) to strengthen community leadership in the land use planning process.¹²²

In the first category, the People's Plan made several policy recommendations for the neighborhood regarding the creation of affordable housing.¹²³ One suggestion was the CPIO

plans.”).

118 UNIDAD, *supra* note 27, at 3.

119 *Id.* at 4.

120 *Id.*

121 *Id.*

122 *Id.* at 5.

123 The recommendations regarding affordable housing in the People's Plan are guided by four policies: “one for one” (the principle that the number of units must be retained with new development), “right to return” (the notion that one has the right to return after housing has been redeveloped), “no net loss” (requiring an inventory to determine the number of units occupied by lower-income households, and “value capture zoning” (the principle that the City should require some of the development to be set aside for affordable housing). Supekar & Lawler, *supra* note 108 (discussing said policies

Affordable Housing Incentive Program, which would identify sites “eligible for density increases contingent upon the provision of specific levels of affordable housing and other community benefits,”¹²⁴ one of the main components in Measure JJJ, discussed above. In other words, rather than allow development to take its course without regard to the rate at which affordable housing is keeping up, the program would permit density to be increased based on the accompanying level of affordable housing the project would provide. The People’s Plan also urged the City to establish inclusionary requirements for for-sale housing development so that a percentage of the units are affordable to low- and moderate-income households and to enhance opportunities for affordable housing developers to acquire property.¹²⁵ The Plan further made proposals to preserve existing affordable housing.¹²⁶ For instance, the Plan directly referenced Measure JJJ again in recommending a “No-Net-Loss Program,” or “Displacement Free Zone,” which would require the City to keep an inventory and submit annual reports on existing affordable housing in order to track any reduction of affordable housing in designated areas.¹²⁷ Finally, the Plan stressed the need to enhance and protect the rights of low-income tenants by establishing a low-income renter advisory commission and enhancing rent stabilization ordinances.¹²⁸ These recommendations reflected many of the People’s Plan’s eleven equitable-development principles, including but not limited to principles to “do[] no harm,” “support[] housing as a human right,” and “captur[e] land value for community benefit.”¹²⁹

Transit-oriented developments also change communities by changing the landscape for jobs and businesses. Areas that undergo heavily-funded developments are likely to displace some long-standing businesses and jobs, including street vendors and other low-income entrepreneurs, while also presenting the opportunity for the creation of others. The People’s Plan urged equitable policies that require developers to “hire locally and from disadvantaged populations, . . . pay living or prevailing wages, . . . [and] ensure that residents could share in the [new] opportunities.”¹³⁰ This would involve creating pipelines to good local jobs, such as by providing incentives for projects that adhere to the labor standards already delineated in Measure JJJ,¹³¹ and creating and protecting opportunities for local small businesses that serve low-income communities of color by, for example, incentivizing reduced rent for community serving businesses.¹³² Another way the People’s Plan recommended that businesses could serve the local population and disadvantaged residents is to “[p]romote land use that supports inclusive, sustainable economic growth,” such as by regulating predatory lending institutions and payday lender facilities, and protecting industrial and manufacturing zoning from conversion to other uses.¹³³ These recommendations reflected the belief

with Doug Smith).

¹²⁴ UNIDAD, *supra* note 27, at 11.

¹²⁵ *Id.* at 12.

¹²⁶ *Id.* at 13–14.

¹²⁷ *Id.*

¹²⁸ *Id.* at 14–15.

¹²⁹ *Id.* at 6–7.

¹³⁰ *Id.* at 16.

¹³¹ *See infra* Part II.

¹³² UNIDAD, *supra* note 27, at 17–18.

¹³³ *Id.* at 18.

that economically and otherwise vulnerable community members could not only eschew displacement, but that they can also achieve stability and wealth through work in or near their areas of residence.

The third category of Plan's recommendations addressed environmental justice and the enhancement of community health and wellness. Within California, which houses seven of the ten most ozone-polluted cities in the country, SLA and SELA are "among the top 10% of communities in the state . . . that are disproportionately burdened by multiple sources of pollution" due to "disproportionate proximity . . . to high-density freeways and . . . pollution-emitting factories and industries."¹³⁴ The resulting health issues are compounded by the fact that residents in these neighborhoods are underserved by healthcare professionals, having been historically disinvested of medical service facilities, and have less access to parks and amenities that contribute to mental, physical, and social health compared with other parts of the city.¹³⁵ To address these concerns, the People's Plan recommended that the City "prohibit oil extraction," "protect air quality by limiting truck activity," and "develop policies that reduce residential/industrial land use conflicts" that lead to health problems for "residents [who live] adjacent to noxious land uses."¹³⁶ These recommendations can prove useful in guiding construction projects related to transportation expansion and accompanying developments. Public transportation expansion also poses both a challenge and an opportunity to address these environmental damages by reducing the daily use of vehicles and upgrading to more sustainable technology.

Finally, the People's Plan advocated for the strengthening of community leadership in the land use planning process, and in fact exemplified such inclusion through its own coalition and community organizing. Guided by the principles of "institutionalizing the genuine participation of low-income communities in decisionmaking, policy implementation and monitoring" and "advancing the people's control of the land,"¹³⁷ the People's Plan uplifted the people who would bear the effects of the new community plans. It proposed practical ways for local stakeholders to stay involved: "enhanc[ing] language access of all planning documents," "hold[ing] community planning meetings" at practical times and locations for working people, and "pac[ing] the planning process according to community needs."¹³⁸ While these recommendations seem to derive from common sense, history paints a picture in which low-income individuals and people of color are repeatedly excluded from decisionmaking processes and bear the cost of displacement without reaping the benefits of investment. These recommendations may appear idealistic, but the city council's receptivity and adoption of most of the recommendations, as well as the decade-long grassroots organizing and participation of diverse stakeholders involved in crafting them, shows that they are far from premature or quixotic. As SLA and SELA experience transit-oriented developments, these recommendations provide guiding principles and mechanisms by which residents can have a permanent place at the table and ensure that decisions reflect the needs and interests of the existing community.

¹³⁴ *Id.* at 19 ("The SLA and SELA CPAs are bound by three freeways and contain over 30 major commercial corridors serving as a 'pass through' for vehicular and commercial traffic traveling north-south and east-west.").

¹³⁵ *Id.* at 19–20.

¹³⁶ *Id.* at 21–22.

¹³⁷ *Id.* at 7.

¹³⁸ *Id.* at 24.

C. Translating Community-Driven Principles Into Legal Language

The People’s Plan brought together the visions, demands, and interests of diverse community members over a decade. The People’s Plan was originally crafted as a broad policy platform. However, for the city council to more likely consider and implement those visions, those familiar with the language of the law eventually needed to translate the community-driven principles and goals into “legally enforceable technical language that would be embedded within the legal structure of a formal community plan document,”¹³⁹ the CPIO ordinance.¹⁴⁰ In order to operationalize the principles and goals in the People’s Plan, lawyers thus played an important role in converting the language into the CPIO ordinance, the land use ordinance document that would dictate the zoning of the land—the ways in which people could use the land, parcel by parcel, to bring the principles to fruition.¹⁴¹ The collaboration between community members and legal practitioners merged the visionary People’s Plan with the practical steps needed to transform the policy recommendations into law.

A community plan generally has two components. The first is the policy document, which “will likely include a narrative about the community, and policy language to guide city decisions” and which includes specific and “aspirational” language, as was evident in the People’s Plan.¹⁴² The policy document “presents numerous opportunities to craft a framework for equity and inclusion,” as well as provide direction on broad questions such as “how the city will allocate resources” in consistency with the community plan.¹⁴³ The second component is the zoning ordinances, or CPIO ordinance, which specifies the changes in land use by creating “distinct districts, with additional zoning regulations overlaid on certain properties” such as those specifying “design standards, use restrictions, and review procedures”—essentially, “where rubber meets the road.”¹⁴⁴ After the City had released public drafts of these two elements of the community plans, coalition lawyers then partook in translating the People’s Plan principles into technical amendments and redline edits to the City’s draft plans so that the community’s recommendations to the city council could be readily adopted and implemented. This took the form of inserting direct edits to the City’s draft policy documents and CPIOs,¹⁴⁵ such as by writing into the ordinance the steps by which to implement

¹³⁹ Telephone Interview with Doug Smith, Staff Attorney, Public Counsel (June 1, 2018), on file with the author.

¹⁴⁰ See *supra* note 29 and accompanying text.

¹⁴¹ PUBLIC COUNSEL & ALLIANCE FOR COMMUNITY DEVELOPMENT PROJECT (ACT-LA), PLANNING FOR AN EQUITABLE LOS ANGELES: A GUIDE TO SHAPING LA’S NEW COMMUNITY PLANS 3 (2018) [<https://perma.cc/S8MK-KAYL>] (stating that in California, “the General Plan [which includes the community plans] . . . defines how a city’s physical and economic resources are to be managed and utilized over time”).

¹⁴² *Id.* at 4.

¹⁴³ *Id.* at 4-5.

¹⁴⁴ *Id.* at 4-5 (including the “‘up-zoning’ program that grants additional density and parking reductions or projects that include affordable housing and other community benefits”).

¹⁴⁵ Letter from The People’s Plan Coalition and UNIDAD Coalition, to City Planning Commission (June 16, 2017), <http://www.unidad-la.org/wp-content/uploads/2017/08/UNIDAD-policy-recommendations-and-redlines-for-South-Southeast-LA-Community-Plans-6-16-2017.pdf>. [<https://perma.cc/39LD-L78E>] (“The attached table provides specific recommended ‘redline’ edits and inserts to the current Plans and CPIOs. We believe these proposed changes will [sic] advance the People’s Plan principles and enhance the housing, health, and economic livelihood of our communities.”).

Measure JJJ's No-Net-Loss Program to gather an inventory on the loss of affordable housing and mandating a recovery plan when there is a loss. Its inclusion provided an additional means to legally enforce the systematic and data-based approach to tracking and demanding affordable housing. At the end of this process, the People's Plan consisted of two elements: a vision document with a comprehensive policy platform for equitable and inclusive development, and a technical document with redline edits to the City's draft community plans that would embed this policy platform in the City's land use law and implement its objectives.

The combination of community leadership and community-focused lawyering was likely instrumental to the city council's eventual support for the adoption of most of the People's Plan's recommendations. Rather than creating a dichotomy between community organizing and the legal practice, the lawyers played a necessary role as allies and legal translators, supporting the grassroots efforts by community members to "lead and be at the center of efforts seeking to improve their lives."¹⁴⁶ The collaboration among lawyers, organizers, and community members—none of them necessarily mutually exclusive of the other—provide an example of the role lawyers can play in legislative and policy efforts to update and change policy, particularly when driven by the communities being affected by them. It shows that lawyers can help successfully advance a social justice cause through a model of community lawyering that prioritizes grassroots organizing and community leadership, and recognizes that "legal strategies are ancillary strategies that, while at times provide necessary and effective support to organizing campaigns, do not result in meaningful long term social change by themselves."¹⁴⁷ The role that lawyers played in People's Plan shows that, in grassroots campaigns that center the involvement of impacted community members, they can partake in "advancing policy change" by providing a multitude of legal skills such as "draft[ing] statutory language for new bills or amendments," "conduct[ing] background research," and providing helpful analysis to support legislative and policy changes.¹⁴⁸ This supportive yet crucial role reflects the fact that, although attorneys come from "a place of privilege" with "expertise and education to bear on a problem," that expertise is complementary to the deep expertise of "folks who have been living in these communities and building power in these communities"¹⁴⁹ and are directly experiencing the threat of displacement. In the People's Plan campaign, the legal expertise was deployed in service of a bigger movement led by the community experts.

D. Permanent Community Involvement as a Necessary Mechanism for Equitable Development

"Done correctly, public and private investments can be used as a tool to raise the standard of living for existing residents."¹⁵⁰ Growth, in multiple senses of the word, cannot happen through

¹⁴⁶ Betty Hung, *Essay—Law and Organizing From the Perspective of Organizers: Finding a Shared Theory of Social Change*, 1 L.A. PUBLIC INTEREST L.J. 4, 6 (2009); see also GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* 320 (1992) (discussing the relationship between lawyers and clients as "co-eminent problemsolvers").

¹⁴⁷ *Id.* at 7.

¹⁴⁸ ALAN K. CHEN & SCOTT L. CUMMINGS, *PUBLIC INTEREST LAWYERING: A CONTEMPORARY PERSPECTIVE* 256 (2012).

¹⁴⁹ Supekar & Lawler, *supra* note 108 (discussing the role of the lawyer in community-led land use planning with Doug Smith, attorney and one of the authors of the People's Plan).

¹⁵⁰ UNIDAD, *supra* note 27, at 25.

market forces alone; while the market value of land may surely increase, an approach to development that overly relies on the market is consistent with the view of “housing primarily as a financial instrument or investment vehicle, [rather than] as a basic human right,” and thus is unlikely by itself to be “responsive . . . to local conditions.”¹⁵¹ Such an approach would likely result in thousands of people being displaced from their homes and communities. By incorporating most of the recommendations in the People’s Plan into its newly passed community plans for SLA and SELA, the city council took an important step in the direction of responding to and prioritizing people and communities—especially those living in one of the most economically disadvantaged areas in the city. The adoption of the recommendations was a testament to the possibility of incorporating not only substantively equitable measures for the community, but also of procedurally incorporating democratic participation and grassroots involvement in the local legislative process as a baseline.

This step is no doubt a victory for the people of Los Angeles, but there is still more work needed to make this event the norm rather than an exception to the rule. In order to truly reverse the tide of socioeconomic disadvantage that has affected communities of color and poor people throughout the city’s entire existence, the city council must continually centralize and protect the concerns of existing community members, involving them in every stage of decisionmaking as possible. The council must also negotiate with private developers as affected residents themselves would, and vigorously support its residents’ efforts to negotiate conditions that preserve the community and reflect a humane approach to development. While permanent changes still remain to be seen, the People’s Plan and the adoption of many of its recommendations set an example of democratic participation and the consideration of people over profit, especially in light of the “anticipate[d] drastic federal cuts to social programs and protections vital to our most marginalized populations” in the current political climate, as well as the increased risk of displacement in the context of transit-oriented development.¹⁵² Other historically disinvested and recently transit-served Los Angeles neighborhoods in Boyle Heights, Chinatown, and Downtown will be facing community plan updates in the near future, and a coalition-based model to organize and democratize the community planning process is already underway.¹⁵³

Given its success so far, the People’s Plan can be a model for other neighborhoods, cities, and counties attempting to develop their land without jeopardizing the livelihood of entire communities, families, and individuals who have deep ties to one another and the land they inhabit. It can be used as a model to inclusively create community plans that help stabilize communities at

¹⁵¹ Richard Florida and Benjamin Schneider, *The Global Housing Crisis*, CITYLAB (Apr. 11, 2018), https://www.citylab.com/equity/2018/04/the-global-housing-crisis/557639/?utm_source=atfb [<https://perma.cc/M7J2-LZPU>].

¹⁵² UNIDAD, *supra* note 27, at 5.

¹⁵³ See *Draft Community Plan*, BOYLE HEIGHTS COMMUNITY PLAN, <http://www.bhplan.org/draftplan.html> [<https://perma.cc/8A7L-KF24>] (discussing that the draft plan will be showcased in October 2018, twenty years after the last updates to the community plan); *Resources: Draft Documents*, DTLA 2040, <https://www.dtl2040.org/draft-documents.html> [<https://perma.cc/5W8F-U7MR>] (presenting plan drafts and strategies for Downtown Los Angeles and Chinatown, among others); Avishay Artsy, *A Proposed Design District for Historic Filipinotown*, KCRW: LOS ANGELES (Jan. 31, 2018) (discussing coalition-based community meetings held to discuss how a proposed community plan of an area encompassing Historic Filipinotown would lead to “the displacement of low-income tenants in the historically immigrant community”), <http://blogs.kcrw.com/dna/proposed-design-district-historic-filipinotown> [<https://perma.cc/35G8-XLES>].

the very time they have the necessary access to improved and affordable transportation options that expand their options for socioeconomic opportunity—without repeating unfortunate historical pattern of displacement and exclusion under broad strokes of development.

IV. COMMUNITY BENEFIT AGREEMENTS, LED BY THE COMMUNITY

A. Setting the Foundation for Community City Planning

Before the hard-won victories achieved through the community plans, UNIDAD was involved in the negotiation and implementation of site-by-site community benefits agreements (CBAs) in Los Angeles, which laid the groundwork necessary to codify and enact broader policy changes at the legislative level. The recent history of CBA campaigns in the community established the knowledge and organization base needed for community members to engage in the more comprehensive land use policymaking and push for standards not commonly included in land use policies. A CBA, which may include conditions that cannot be included in land use plans, is “a contract signed by community groups and a real estate developer that requires the developer to provide specific amenities [or] mitigations to the local community or neighborhood.”¹⁵⁴ Los Angeles was the site of the first CBA named as such, and thus is seen as a leader in using CBAs to achieve greater accountability and equitable planning in development projects.¹⁵⁵ One notable example is the Staples Center CBA in 2001, which was a contract between the Figueroa Corridor Coalition for Economic Justice (FCCEJ, the former name for the coalition now known as UNIDAD)¹⁵⁶ and the developer, Anschutz Entertainment Group (AEG). It achieved, among others, increased affordable housing requirements in the housing component of the project.¹⁵⁷ Out of the negotiation also stemmed the coalition’s role in monitoring the implementation of the contract,¹⁵⁸ which allowed community members to convey the community’s needs and enforce agreed-upon

¹⁵⁴ *Policy & Tools: Community Benefits Agreements and Policies*, PARTNERSHIP FOR WORKING FAMILIES, <http://www.forworkingfamilies.org/page/cba-10> [<https://perma.cc/5JYW-8ERL>].

¹⁵⁵ Benjamin S. Beach, *Strategies and Lessons from the Los Angeles Community Benefits Experience*, 17 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 77, 79, 96 (2008) (explaining that Community Benefits Agreements (CBAs) fall into one of three categories of tools for shaping development). The first category includes “[a]dopting, strengthening, and enforcing legal protections for low-income individuals,” such as through tenant rights organizing. The second category includes “[t]aking land off the speculative market and controlling land use decisions through community ownership.” Finally, community members may “[e]xtract[] community benefits from development” through the use of conditions imposed by the City, conditions negotiated by local groups, or by settlement agreement enforceable by a court of consent decree. CBAs fall into this last group. *Id.*

¹⁵⁶ The Figueroa Corridor Coalition for Economic Justice (FCCEJ) initially evolved from the Coalition for a Responsible USC but expanded as its members became concerned with other projects occurring throughout the city. FCCEJ now continues the work for equitable development under and name UNIDAD, discussed at length in Part III about the People’s Plan. Pastor et al., *Planning, Power, and Possibilities: How UNIDAD Is Shaping Equitable Development in South Central L.A.*, USC DORNSIFE – PROGRAM FOR ENVIRONMENTAL AND REGIONAL EQUITY 11 (2015).

¹⁵⁷ See PARTNERSHIP FOR WORKING FAMILIES, *supra* note 154. See also Beach, *supra* note 155, at 98.

¹⁵⁸ See Pastor et al., *supra* note 156, at 11 (stating that FCCEJ “used its strength in numbers and leveraged the [Staples] project’s dependence on land variances and city subsidies to negotiate a substantive CBA,” and integrated itself into the monitoring process by negotiating it into the development agreement).

provisions. Many CBAs have followed since across the country.¹⁵⁹ These agreements have and continue to shape developments according to the needs of the community into which they are entering, especially considering development projects may be owned by people from different parts of the country, and to establish collaborative relationships that ensure that the projects are able to continue but also serve and cooperate with, rather than exploit and displace, existing communities.

Nonetheless, CBAs differ from the approach UNIDAD took at the legislative level in that they address developments parcel by parcel and require immense community will and resources for each negotiation that takes place. Further, despite the promising nature of CBAs, some scholars have cited the shortfalls of CBAs by pointing out that the effectiveness of the agreements are inherently unstable because they are based on whether the local government controls or has a major stake in the land at question. They insist, instead, that community members and other advocates seek “zoning-type provisions and other comprehensive, broadly, applicable legislation” to achieve long-lasting resolutions,¹⁶⁰ as accomplished through the People’s Plan. Such criticisms emphasize that local governments should bear the responsibility of “balancing community needs with economic priorities” and implement “stronger[] model[s] of participatory democracy, . . . not through legally uncertain private contracts,” but through the very structure of the government itself.¹⁶¹

B. Limiting the Use and Definition of CBAs to Avoid Litigation

Additionally, some have pointed out that local governments are made subject to potential litigation due to the takings jurisprudence when they condition approval of projects on certain provisions¹⁶² or directly negotiate with developers to include certain community-benefiting provisions. These criticisms, while well-founded, also rely on the assumption that CBAs do in fact involve significant roles for the local government. They reflect an expanded understanding of CBAs as “includ[ing] agreements where local government officials replace the coalition as the negotiating party.”¹⁶³ In response to these concerns, Edward De Barbieri has argued that “CBAs should refer only to a limited category of agreements entered into between a developer and a coalition of community groups concerning a single development” in order “to achieve terms that rarely occur elsewhere in land use law.”¹⁶⁴ Such atypical terms might include funding the construction of childcare facilities, a study to assess the parks and recreational facilities in the area, or the construction of a recreational center or a resident parking program.¹⁶⁵ This narrow approach to

¹⁵⁹ See, e.g., Brian D. Feinstein & Ashley Allen, *Community Benefits Agreements With Transit Agencies: Neighborhood Change Along Boston’s Rail Lines and a Legal Strategy for Addressing Gentrification*, 38 *TRANSP. L. J.* 85 (2011).

¹⁶⁰ Naved Sheikh, *Community Benefits Agreements: Can Private Contracts Replace Public Responsibility*, 18 *CORNELL J.L. & PUB. POL’Y* 223, 245 (2008).

¹⁶¹ *Id.* at 246.

¹⁶² See Beach, *supra* note 155, at 96.

¹⁶³ Edward W. De Barbieri, *Do Community Benefits Agreements Benefit Communities?*, 37 *CARDOZO L. REV.* 1773, 1780 (2016).

¹⁶⁴ *Id.* at 1782.

¹⁶⁵ Leland Saito & Jonathan Truong, *The L.A. Live Community Benefits Agreement: Evaluating the Agreement Results and Shifting Political Power in the City*, 51 *URB. AFFAIRS REV.* 263, 275 (2015); see also Julian Gross,

CBAs can help counter an overbroad reliance on CBAs, which could undermine the local government's responsibility to continually involve the public in its legislative process, and can also protect the agreements from legal challenges based on arguments of state overreach. The government is still able to play a part in supporting community-led agreements by being the source of approval and subsidies for developers, who would benefit from the support of the government as well as the public.¹⁶⁶

CBAs, as defined by De Barbieri, provide benefits for both parties. For local community members, CBAs, in the process of securing terms that benefit the community such as living wages, local hiring, and affordable housing and commercial spaces, also “effectively resolve disputes around a project's approval,” helping to avoid the cost and time associated with lawsuits over disagreements.¹⁶⁷ They further increase civic participation in land use decisionmaking, making a process that is often preempted by county, state, federal, or special authority approval¹⁶⁸ into a more democratic process inclusive of interests that have historically been neglected. Additionally, CBAs “protect taxpayers by valuing a project's approval and negotiating an enforceable set of benefits”¹⁶⁹ outside of government intervention—essentially creating multiple layers for enforcement, both at the private level, as well as the electoral level, the latter by which voters can elect out representatives who are unwilling to enforce agreements or are unsympathetic to grassroots efforts to impact land use laws and deals.¹⁷⁰

When community groups negotiate directly with developers and the government plays a supportive but not direct-party role, the use of CBAs can “avoid[] state action and the trappings of constitutional protections for developers.”¹⁷¹ On one hand, community groups are able to seek legal enforcement of agreements and avoid their suit's being invalidated due to state involvement.¹⁷² On the other hand, the developer is able to work with the public and thus significantly decrease the likelihood of being sued in the first place. While the extent to which government officials can be involved in CBA negotiations without constituting state action¹⁷³ extends beyond the scope of this

Commentary on Community Benefits Agreements in a Value Capture Context, in VALUE CAPTURE AND LAND POLICY 229, 230–31 (Gregory K. Ingram & Yu-Hung Hong eds., 2012).

¹⁶⁶ De Barbieri, *supra* note 163, at 1784.

¹⁶⁷ *Id.* at 1812.

¹⁶⁸ See Vicki Been, *Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme?*, 77 U. CHI. L. REV. 5, 16–17 (2010) (“When . . . local government's normal processes are preempted . . . , the processes for approval often do not provide the local community an opportunity to participate that the community finds satisfying.”).

¹⁶⁹ De Barbieri, *supra* note 163, at 1812.

¹⁷⁰ *Id.* at 1812, 1816.

¹⁷¹ *Id.* at 1812.

¹⁷² One developer, G.H. Palmer Associates, involved with a luxury housing complex around USC, for example, successfully sued the City for mandating developers of new buildings to include a certain percentage of units for low-income residents or to pay a fee. See generally *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, 175 Cal. App. 4th (2009). However, the developer realized in the process of trying to break ground of its new project at USC that “it could not rely on a purely adversarial process,” especially evident after the successful Staples Center CBA. This eventually led to a successful negotiation between G.H. Palmer Associates and UNIDAD, supported by private resources and funding. Pastor et al., *supra* note 156, at 23–24.

¹⁷³ *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825, 837 (1987) (ruling in favor of certain protections

Article, a plethora of examples indicate that at least some supportive involvement of the local government is possible without implicating overreach or impinging on the community's role and self-determination in setting the terms of negotiation, such as "by providing grants, enforcing exactions, offering legal resources, and incentivizing developers' participation through subsidies and grants."¹⁷⁴

The fact that CBAs may be an effective tool for developers to avoid later litigation could be especially relevant for Metro (formerly known as L.A. County Metropolitan Transit Authority, or MTA¹⁷⁵), as it may be intent on avoiding a lawsuit similar to one filed against it in 1994 regarding violations of Title VI of the Civil Rights Act for using disproportionately more funding on the rail system with a wealthier, whiter, and more suburban ridership, compared with the bus system, which transported largely minority riders.¹⁷⁶ The suit was contextualized within "decades-long pattern of discrimination in city transit programs," and eventually ended with a consent decree that "requir[ed] the MTA to improve service and control fares for its bus network."¹⁷⁷ A CBA can also be effective in guiding what community plans¹⁷⁸ do not or are not able to address, both as a supplement to more equitable legislative plans and as a means for community participation in negotiating with and keeping accountable the developer that will profit in that community.

Metro is such a party and is now broadly involved in the shaping of the material conditions made possible by Measure M's funding stream. While the Metro board has shown willingness to incorporate guidelines and policies that address the need for affordable housing along its lines, an affirmative mechanism (similar to CBAs, independent lawsuits, or both) for keeping the party accountable over the next decades may be necessary to further buttress the newly passed land use laws Metro must abide by to avoid litigation.

C. The Complementary Roles of Community Plans and CBAs

CBAs have been a crucial tool by which UNIDAD has achieved more equitable development and community involvement. UNIDAD's successes with CBAs have undoubtedly set the foundation for its historic involvement in the new community plans in SLA and SELA. The coalition, comprising various organizations that represent diverse interests,¹⁷⁹ trained local residents

against government conditions and exactions, requiring that a condition has an "essential nexus" to a legitimate state interest,"); *see also* Dolan v. City of Tigard, 512 U.S. 374, 391 (1994) (holding that the conditions have "rough proportionality" to the extent and impact of the proposed development). *See also* De Barbieri, *supra* note 163, at 1820.

¹⁷⁴ Pastor et al., *supra* note 156, at 14; *see also* Patricia Salkin and Amy Lavine, *Understanding Community Benefits Agreements*, PRACTICAL REAL ESTATE LAWYER 19, 19–34 (2008).

¹⁷⁵ WIKIPEDIA, *Los Angeles County Metropolitan Transportation Authority*, https://en.wikipedia.org/wiki/Los_Angeles_County_Metropolitan_Transportation_Authority [<https://perma.cc/66RP-WDBX>].

¹⁷⁶ David R. Rice, *The Bus Rider's Union: The Success of the Law and Organizing Model in the Context of an Environmental Justice Struggle*, 26 ENVIRONS ENVIRONMENTAL L. & POL'Y J. 187, 194–95 (2003).

¹⁷⁷ Beach, *supra* note 155, at 89.

¹⁷⁸ *See* Part III, discussing the People's Plan.

¹⁷⁹ *Who We Are*, UNIDAD, www.unidad-la.org/who-we-are/ [<https://perma.cc/S4NB-63AZ>] (showing that UNIDAD includes but is not limited to the following organizations: ACT-LA, Black Workers Center, Blazers, CD Tech, Dignity and Power Now, Esperanza Community Housing Corporation, LA County Bicycle Coalition, Los Angeles Neighborhood Land Trust, PV Jobs, SAJE, St. Mark's Lutheran Church, St. Francis Center, T.R.U.S.T. South LA, Women

in The People's Planning School of CBA campaigns,¹⁸⁰ building up a base of members and expertise that grew over decades around a unified message that "development without displacement [is] possible and critical to community health."¹⁸¹ UNIDAD's victories with CBAs¹⁸² showed that it is possible to "tilt the balance of power" using even "more pro-active strategies . . . like shaping Community Plans,"¹⁸³ *supra* Part III, by "building a base of community residents, nurturing relationships with local politicians and business representatives, and harnessing strategic research."¹⁸⁴ And in fact, the shortcomings of CBAs, such as their individual-based and resource-intensive nature, explain community members and organizers' consideration of tools beyond CBAs to create more standardized guarantees for community benefits in land use documents, the community plan. The different legal frameworks of contracts on one hand, and of land use on the other, provide related yet separate strategies by which community members can voice their needs and partake in development processes. In SLA and SELA, CBAs can complement the newly passed land use laws—which have incorporated the principles and policies central to each negotiation that would have taken place—on matters the plans do not or cannot address, may subject the local government to lawsuits, or require more flexibility than ordinances allow.

The materialization of codifying community benefits into legislation in SLA and SELA should not go unnoticed. The successful effort provides a model for ongoing efforts across the nation to establish more inclusive representation and equitable policies in land use and local developments. UNIDAD's successes so far show that its vision has clout that could persist for decades, and that further successes are possible both at the public, legislative level and the private, contract-based level. These levels of advocacy reinforce and complement each other, and they have the potential to involve and empower community members in a domain that oftentimes remains behind doors and in the hands of those deemed experts or sufficiently resourced—at the expense of those who are directly and most profoundly affected by them. Furthermore, the very centering of community members, particularly those most vulnerable to the displacing effects of gentrification, has the potential to shape the principles by which a city operates and envisions itself, as a humane, inclusive space where people live, raise their families, and build communities. It can, perhaps, mean that homes—sacred in others arenas in the U.S. legal system—can be seen as sacred and unquantifiable by profit alone in the realm of urban growth and development.¹⁸⁵

in Non-Traditional Employment Roles, Watts Labor Community Action Committee).

¹⁸⁰ Pastor et al., *supra* note 156, at 3.

¹⁸¹ *Id.* at 4.

¹⁸² See generally Pastor et al., *supra* note 156.

¹⁸³ *Id.* at 4, 33; see also FULTON & SHIGLEY, *supra* note 2, at 13 ("Despite the expansive involvement of citizen groups, the pendulum of power has swung toward the landowners. . . . Today, with local governments hungry for any revenue that developers might provide to help keep the lights on at city hall, citizen groups might argue that the pendulum has swung too far.").

¹⁸⁴ *Id.* at 6.

¹⁸⁵ Boyd v. United States, 116 U.S. 616, 630 (1886) (showing that U.S. Supreme Court rulings on the Fourth Amendment, for instance, often reiterate the idea of the "sanctity of a man's home and the privacies of life.").

V. CONCLUSION

"The aggregated effect of . . . various actions gives the process of development the character of collective action. All, though with different degrees of force, push toward the same general goal of raising the value of real estate. To transform a city, many, many actors must work in concert, in the service of a common interest. . . . [A]ny response must to some degree mirror this specific characteristic of development: the way it constitutes an array of tools and strategies, which contribute in myriad ways toward a singular goal. That is, the movement to preserve homes and communities through the provision of stable housing must be as diverse as the forces pushing against people's ability to stay at home, while also holding as singular a common purpose as the other side." – K-Sue Park¹⁸⁶

Whether UNIDAD's hopeful message that development without displacement is possible is an achievable reality or not is presently indeterminable and, unfortunately, not yet a reality. Nonetheless, its achievements over the past few decades are remarkable, particularly for its ability to mobilize public participation to such an extent that developers and the city council alike have listened and made changes accordingly. Even if not every unjust displacement can be prevented from the changes that occur amidst the transit-oriented developments occurring in the gentrifying areas of SLA and SELA, the involvement of community members is likely to shift the balance toward protection of vulnerable community members. It is likely to continually reframe the issue so that the historical context of discrimination and disinvestment supports strong measures that counteract the harmful trend that excludes low-income individuals and people of color in disinvested neighborhoods from the benefits of new developments. Further, citizen education and participation in public decisionmaking can have far-reaching implications in improving voter turnout at local elections, further amplifying the political clout of marginalized populations and changing the very value system by which a city runs.¹⁸⁷

UNIDAD's message has undoubtedly been consistent and strong enough to retain and grow its force and traction through many phases of influence, from forming CBAs with large-scale developments to significantly influencing outdated community plans in historically disinvested parts of Los Angeles. Its social-movement lens has been able to bring together various community groups representing various interest groups who are "rooted in shared values and narratives" to "aim[] at long-term transformation in systems of economic and political power,"¹⁸⁸ beyond individual projects and political goals. Community-led CBAs and land use laws and policies that center and are led by marginalized community members disturb the discriminatory effects of market reliance that continues to advantage developers who have political and economic power, by making

¹⁸⁶ Park, *supra* note 19.

¹⁸⁷ See, e.g., ALEXA KASDAN ET AL., URBAN JUSTICE CTR., A PEOPLE'S BUDGET: A RESEARCH AND EVALUATION REPORT ON PARTICIPATORY BUDGETING IN NEW YORK CITY, 16 (2015), available at http://cdp.urbanjustice.org/sites/default/files/CDP.WEB.doc_Report_PBNYC-cycle3-FullReport_20141030.pdf [<https://perma.cc/3M89-VZKF>].

¹⁸⁸ Pastor et al., *supra* note 156, at 27. See also Manuel Pastor and Rhonda Ortiz, *Making Change: How Social Movements Work – and How to Support Them*, USC PROGRAM FOR ENVIRONMENTAL AND REGIONAL EQUITY (2009).

their power contingent on the will and determination of people who would otherwise more easily be priced out by supposedly inevitable and neutral forces. The People's Plan—which made the voices of the communities heard and democratic participation a necessary part of city planning—exemplifies the practice of leveling out the playing field and forming collaborative relationships that provide benefits to all stakeholders, including the developers who will eventually benefit from such communal involvement on levels beyond monetary, as well as city council members whose positions depend on their constituents. The coalition's ability to move between tools, from private contracts to legislative advocacy, illustrates what is possible amidst the current transit-oriented developments: to simultaneously improve transportation options and ensure affordable housing for those who would most benefit from their coexistence, but who, otherwise, would be forced to choose one over the other.