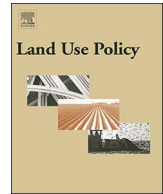




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# Municipal management of residential collectively owned open space: Exploring the case of Israel

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## ABSTRACT

Collectively owned open spaces are an integral feature of the urban residential landscape. While scholarly attention tends to focus on the management of shared spaces *within* buildings, management of collectively owned *open* spaces, which make up large percentages of the outside residential lot serving as gardens or courtyards, has been limited. The dual nature of these urban environments, considered as hybrid public-private places, might lead to a responsibility vacuum where residents feel these territories are not fully private, and municipalities argue they are not fully public. Although these spaces are considered common, often highly visible and affect many residents; in the case of Israel, the management strategies currently in practice are not adequate in creating useful, safe and aesthetic places. In order to identify the main factors contributing to the neglect of these spaces, our work draws on the study of three major cities in Israel, and applies a number of different methods, including interviews, document analysis and on-site visits. In addition, we explore local governments' response to the management of these spaces, which consist of various intervention paths including management-based, community-oriented, and planning-focused. The analysis suggests that the case of collectively owned open spaces offers a cautionary tale on the potentially far-reaching effects of insufficiently thought-out planning, and illuminates possible solutions.

## 1. Introduction

In the last decade, a growing body of literature has discussed the challenges and opportunities of condominium living (Rosen and Walks, 2013; Pow, 2015; Lippert and Steckle, 2016; Webb and Webber, 2017). Condominium is a legal regime in land tenure in which a parcel of property is divided horizontally and vertically into units that are each privately owned (Skaburskis, 1988; Lehrer et al., 2010). Common areas, varying in scale and scope, are jointly owned and managed by members of the condo corporation, which is the governing body responsible for property maintenance and management (Harris, 2011; Van der Merwe, 2015). Condominium buildings are another manifestation of a more recognized detached form of common-interest housing and of their governance, also known as club realms and economies (McKenzie, 1994; Webster, 2002; LeGoix and Webster, 2006).

Although separate ownership of individual property in apartment buildings has existed since ancient times (Van der Merwe, 2015); the seeds of modern condominium legislation are rooted in article 664 of the Code Napoleon of 1804 in France, which later spread across Europe and other parts of the world (Cribbet, 1963; Moriarty, 1973). The introduction of condominium legislation has often reflected central and

local government agendas, e.g. urban densification and revitalization, particularly near centers of economic activity and in land scarce regions such as Singapore and Hong Kong (Pow, 2009; Chen, 2010; La Grange, 2014). Ultimately, condominiums are an instrument to promote general objectives such as economic growth and political stability (Van der Merwe, 2016).

The mushrooming of condo-living across the world in the past two decades is bound with the challenge of sustainably managing extended collectively owned spaces in residential environments, and preventing their deterioration (Blandy et al., 2010; Low et al., 2012; Lippert and Steckle, 2016; Garfunkel, 2017). While attention has focused mostly on the management of shared spaces within buildings, such as roofs, external walls, foundations, staircases, elevators, gyms, and meeting rooms; less attention has been given to the management of collectively owned open spaces (COOS), which make up large percentages of the outside residential lot serving as gardens or courtyards. These spaces are usually highly visible, whether from the street or from private residents' homes, and can be shared by a number of adjacent buildings, thus creating a large ownership pool. This situation creates a hybrid space combining public and private characteristics, which may lead to a responsibility vacuum; residents feel the space is not fully private, while

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municipalities assert that the space is not fully public.

In Israel, the prevalent housing form has historically been low and mid-rise condo-buildings (Ginsberg and Churchman, 1985; Gonen, 1995; Hananel, 2016), most often built with varying forms of open space between the buildings and the plotlines (Shadar, 2013; Naor-Wiernik, 2014). Consequently, collectively owned open spaces are an integral feature of the country's urban residential landscape. Although these spaces affect many residents, as well as their surrounding environments, it seems that the management strategies currently in practice for these spaces are not adequate in creating useful, safe and aesthetic places. Whereas much research has been devoted to formal management practices in common usage, such as condo-boards or homeowners associations; far less study exists on informal systems, which are the prevailing management system in the Israeli case – the 'building committee', a voluntarily run committee, generally appointed in an ad-hoc manner, with little legal standing. The efficiency of this management model has eroded over time due to changes in the scale of housing projects and their design, as well as more general changes in Israeli society (Kneset Research and Information Unit, 2007). Indeed, in new high rise buildings the voluntary arrangement is in fact less prevalent and professional management systems, often created by the developers, are frequently the norm (Alterman, 2010). Considering the complex challenges of self-governing private-common-property (Lehavi, 2008; Garfunkel, 2017), the informal voluntary-based management system represents a less effective system, particularly for collectively owned open spaces, which are currently considered to be in a suboptimal state countrywide (Farhi-Tzafrir Architects, 2011). This mismatch between the prevailing model and the needs and challenges of effectively managing COOS presents a real challenge to local communities. Not only do COOS not serve local residents as intended, but in many cases, they have become a liability – legally, aesthetically, functionally and financially.

This paper examines this phenomenon and explores local governments' response to managing COOS in the Israeli context. Contrary to the popular neoliberal truism holding that privatization is the ultimate solution for most forms of public failure; public intervention may be called upon to deal with management problems originating in club realms – i.e. ineffective management by a collective group of private property owners. This study addresses the underlying factors causing the failure of COOS, and identifies the major mechanisms and strategies local authorities apply to manage these spaces. The case of COOS illustrates the crucial role of local government in city management, especially in the face of problematic planning. As such, we suggest that COOS offer a cautionary tale on the potentially far-reaching effects of insufficiently thought-out planning, as well as possible avenues for local governments to explore when applying public solutions to private space. We would argue that future management of planning outputs should be an issue that is integral to planning thought, lying at the heart of long-term planning success.

In terms of urban theory, our study engages with the recent work of Nicholas Blomley (2016a,b) who suggests that the territorial dimensions of property have been largely understudied. This paper examines the interplay between property and space as manifested through the management of COOS, as well as engaging with the idea of club realms (Lehavi, 2004; McKenzie, 2005; Low et al., 2012; Lippert and Steckle, 2016; Lippert and Treffers, 2016; Webb and Webber, 2017). Our work corresponds with Blomley's (2016b) argument that property should not be reduced to its economic dimensions, but should also include a territorial dimension, thus highlighting social relationships as well. Property therefore is a product of complex interrelations between a legal regime, economics and specific cultural and historical settings (Lehavi, 2015; Blomley, 2016b). With the rise of condominiums worldwide and the deepening understanding that "...the business of cities is property, its development, its use, and its servicing" (Harris and Reynolds, 2017, p. 885), it is essential to explore the ways local governments engage with the management of residential collectively

owned open space.

Empirically, the study examines three cities in the Greater Jerusalem metropolitan area, in which collectively owned open spaces in residential areas have been identified as a significant phenomenon. These include the city of Jerusalem – the capital and largest city in the country – and two midsize cities in the region: Ma'ale Adumim and Modi'in, planned and built from the early 1980's and 1990's respectively. As mentioned, a common feature of these cities is the considerable scope of COOS in their jurisdictions. However, they differ in several significant variables including scale, socioeconomic ranking and location in the general metropolitan area. While Jerusalem enjoys its status as a large and well-established city with a venerated historical and religious reputation, it ranks only four on the socioeconomic index of municipalities and local councils in Israel that ranges from a low-1 to a high-10. Modi'in, centrally located between Jerusalem and Tel-Aviv, ranks in the eighth cluster among the affluent municipalities, as compared to Ma'ale Adumim, a peripheral city-suburb located at the edge of the Judean Desert in the West Bank, ranked in cluster six. Equally important is the institutional context: Jerusalem and Modi'in each belong to different planning districts (the Jerusalem and Central Districts respectively), while Ma'ale Adumim is governed by the Civil Administration, a parallel authority which oversees planning in the West Bank (Khamaisi, 1997; Alterman, 2005). These differences render a comparison instructive in terms of municipal response to local problems, enabling this research to present a wide array of interventions.

Our analysis draws on a number of different methods, including interviews, document analysis and on-site visits. The bulk of the research relies on thirty-one recorded and transcribed semi-structured interviews with relevant stakeholders, held between 2014 and 2016. Most interviews lasted approximately an hour and a half. The focus of this research is municipal intervention; therefore relevant interviewees were identified as municipal workers of various levels. These interviewees included higher-level officials who were able to present a top-down policy view, as well as various lower-level municipal employees, including community workers, who were able to provide perspectives from the field. Although they are formally municipal employees, community workers engage intensively with neighborhood residents and they are intimately familiar with local issues, with a broad perspective gained through work on many different COOS. This work often places their sympathies with the residents, representing their interests and lobbying on their behalf at higher municipal levels, thus allowing them to represent residents' views as well for the purposes of this research. The list of interviewees included senior department heads – including those of Planning Policy, Strategic Planning, City Planning and City Beautification – as well as city engineers, architects and landscape architects, municipal legal advisers, municipal district managers, community planners, community workers and branch managers for the Association of Better Housing. Nineteen of these interviews were held with interviewees from the city of Jerusalem, four from the city of Ma'ale Adumim and four from the city of Modi'in. Additional interviews, providing a broader context, were held with the Jerusalem district deputy planner, former senior department heads from the Ministry of Construction and Housing (MOCH), and an advocacy planner from a third sector organization. In addition, a number of supplementary sources were examined and analyzed, including protocols of relevant planning committees, court verdicts, portrayals in media outlets and various documentation provided by interviewees themselves, such as municipal reports and forms. In the case of Jerusalem, a database of 70 major plans was assembled out of which 12 plans including COOS were given an in-depth analysis including examination of protocols of local and district committees, allowing a thorough comprehension of municipal and district attitudes towards these spaces. Municipal and government GIS datasets were also accessed for examining the statutory land uses of selected sites in all three cities. Last, numerous on-site visits were conducted in all three cities, in order to gain a firsthand impression of the types of sites studied in this research.

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