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## Viewpoint

## Rethinking public land ownership and urban development: A Canadian perspective

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## ABSTRACT

Traditionally, scholars of urban development have focused almost exclusively on the behaviour of private landowners, on the assumption that private developers invariably dominate urban politics and governance. Yet a closer look at the Canadian experience reveals that public property in Canada's cities is abundant, and that public landowners often have a defining impact on urban development outcomes. What is lacking are systematic analyses of the relationship between public land ownership and urban development, and the forces that shape the behaviour of public landowners.

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## 1. Introduction

We know surprisingly little about patterns of public land ownership in cities, and even less about the forces that shape the behaviour of public landowners. How much land in cities is publicly owned? How are these lands managed? For what purposes? Why do some public authorities choose to sell public lands for profit, while others harness these assets for community purposes, such as parks or housing? And what happens when public interests conflict? These are questions that have rarely been asked, let alone answered, within the urban literature. The vast urban political economy literature, for example, has long emphasized the dominance of private landowners in urban development, but says little about the prevalence and impact of public landowners in cities – a missed opportunity of enormous scale.

In Canada alone, urban land covers nearly 2.3 million ha, an area half the size of Switzerland (Matier, 2008). Much of this land is publicly owned, but exactly how much remains unknown. A comprehensive inventory has never been attempted, let alone published. The federal government claims to own over 4700 properties – port facilities, railway yards, military installations, post offices, and administration buildings – in cities across the country, covering over 740,000 ha.<sup>1</sup> Provincial and municipal governments likely control similarly extensive land holdings, in the form of parks and conservation areas, universities and colleges, streets and public spaces, and public housing projects.

But the full extent of these properties remains unclear, the product of inconsistent recording-keeping and reporting practices and standards.

Public land ownership is a universal feature of all cities, not only in Canada. Yet scholarly debate among urbanists, particularly within political science, has not tuned into this reality. This paper calls attention to the importance of public land ownership in processes of urban development, raising questions about the motives, rationales, and behaviours of public landowners by examining the scope and characteristics of public land ownership in Canada's cities. I proceed in three parts. First, I dispel the notion that land ownership falls within a rudimentary spectrum from private to public, instead offering a more practical definition of public land ownership. Next, I demonstrate that many urban scholars overlook the relationship between public land ownership and urban development. Finally, I survey the extent of public land ownership in Canadian cities based on data gleaned from available government reports and academic case studies. The picture painted is incomplete, highlighting the paucity of published data sources and the glaring need to begin compiling more systematic and reliable data on urban land ownership.

## 2. Defining public land ownership

Land ownership refers not to ownership of a physical good, but ownership of a bundle of enforceable rights.<sup>2</sup> These rights vary according to three separate categories of property: private, common, and state

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<sup>1</sup> Based on a search of “crown owned” land located in “urban” census subdivisions, as reported in the Government of Canada's Directory of Federal Real Property (see Canada, 2015).

<sup>2</sup> Land, or *real* property, is unique in that it cannot easily be created or destroyed. Except in rare cases, a parcel of land is permanent, immovable, irreplaceable. As a result, it is often considered separate from other types of property, imbued with political meaning by early theorists such as Locke, Rousseau, Bentham, and Marx (see Brace, 2004).

(Macpherson, 1978). Private property concerns an individual's (or individual legal entity's) *exclusive* rights to make use of a *private* good, such as a parcel of land. Such rights are typically allocated via markets, and may be shared among individuals, as is the case with condominiums and co-operatives.<sup>3</sup> Common property refers to *non-exclusive* rights held by any individual to make use of a *public* good, such as the right to occupy a city street. State property captures aspects of both private and common property, albeit in peculiar form. Here, the state, acting as an individual legal entity, exercises *exclusive* rights over a *public* good, enabling it to buy, sell, protect or dispose of property held in the public trust as if it were a private good.

Rights of land ownership therefore do not fall within a simple spectrum from private to public. Land designated as “public” may involve elements of state, common, and even private property rights.<sup>4</sup> Though many assume that public land is always held “for the benefit of the community as a whole” (Dowrick, 1974, p. 10), “open to, or shared by, the people” (Pearson, 1973, p. 290), in reality, this is not necessarily the case. Public land ownership may involve any number of land uses, not all of them collective (think of land assets managed by a state-owned enterprise). A practical definition of public land therefore need not include intended land uses or specific communities of users. Instead, public land is best defined in plain terms, as real property in which any arm of government (ministry, department, agency, board, corporation, commission, or special purpose body) or parastatal authority holds full or partial ownership rights, in title or material interest.

From this basic definition, we quickly see that public land is commonplace in cities around the world, and comes in many forms. In Sweden, Stockholm Municipality once owned roughly three-quarters of all land within its boundary, a virtual monopoly that the city leveraged to direct housing construction and manage urban development (Strong, 1979, Chp. 2). In Canberra, Australia, all land is considered Commonwealth land, issued to landowners via 99-year Crown leases administered by the Australian Capital Territory Planning and Land Authority (Neutze, 1989). In Singapore, where 85% of the population lives in public housing, and in Hong Kong, where all property is leased from the government, public land is treated as a private commodity, with leaseholds sold and allocated through market mechanisms (Haila, 2000). While in Manchester, approximately 65% of urban land was once publicly owned, acquired by the local government as early in the 1920s for housing, education, and recreational projects (Kivell & McKay, 1988). Indeed, across the UK, it is estimated that 38% of all vacant or derelict urban land, totalling roughly 25,000 ha, is in public ownership (Dixon, 2009, p. S49).

### 3. Public land ownership and urban development

Why do governments and public authorities own land? Presumably, for one of two reasons: to carry out a public objective or to deliver a public service (McLaughlin, 1987, p. 4). But what do these objectives and services entail? It is easy to grasp the purported benefits of public land banks for the construction of affordable housing. So too the utility of acquiring land for school, community centres, and parks. But not all public lands are so obviously tied to the public interest. Many government (and quasi-government) bodies own vast swaths of often under-utilized, vacant, or desolate property for reasons that appear purely speculative or strategic — or worse, reasons entirely unknown.

How, then, might we understand the motives, rationales, and behaviours of public landowners? Drawing from the Canadian experience, how might one explain, for instance, that provincial governments in

<sup>3</sup> Such rights, it should be noted, are never completely free from state interference. The state regulates the use of private property via statutory planning regimes, and ultimately retains powers of expropriation.

<sup>4</sup> Indeed, some types of land appear to defy any basic categorization. Lands which may appear to be common property, such as public squares, may in fact be privately owned. Conversely, spaces such as community gardens, typically established on state property, are often partitioned into private plots.

Ontario and British Columbia have recently initiated programs to sell public properties in major urban centres (Morrow, 2014; Shaw, 2013); while in the nation's capital, Ottawa, the federal government has opted to redevelop federal lands near the downtown core for residential and commercial uses (Curry, 2012)? Or that in Toronto, the local school board has begun selling off portions of school playgrounds to pay for building renovations and repairs (Shen, 2014); while in Edmonton, surplus school lands are being repurposed for seniors' housing and affordable housing for first-time buyers (Tumilty, 2014)? Neither the Canadian literature nor the broader comparative urban literature offer many meaningful insights.

The few academic debates that do draw direct links between land ownership and urban development tend to be distinctly normative, in the critical traditions of urban geography and sociology. Most challenge the ostensibly pernicious influence of private capital and property interests in the development process. The dominant perspective is that property relations are best understood in Marxian terms. Conventional Marxist analysis — inspired by the work of Manuel Castells and David Harvey, among others — suggests that the state seeks to own land only when necessary to maintain the conditions for capitalist accumulation. This viewpoint underpins the bulk of research on land ownership published in the 1970s and 80s, particularly in Britain and the United States.

Massey and Catalano (1978), for example, classified private land ownership in the UK based on its role in the capitalist system of production. Goodchild and Munton (1985) outlined a similar analytical framework to understand private landowner behaviour in capitalist land markets. Neither discuss state-owned property other than to point out its use as a potential subsidy to private developers. In the US context, Logan and Molotch's (1987) seminal study of growth machines and property development generally ignored the possibility that governments themselves can be active participants in land markets. As they put it, the principal role of the state is to “sustain the commodity status of land” in the service of a rentier class of private land-owning elites (Logan & Molotch, 1987, p. 27). In later studies, Molotch acknowledged that growth machine dynamics may not dominate in urban settings with high rates of public land ownership, as in Italy or Japan (Molotch & Vicari, 1988). But these suspicions were never thoroughly investigated.

Studies that touch on public property as part of broader discussions of urban development tend to examine the behaviour of public landowners in relation to private developers and private sector interests. Fainstein's (2001, p. 4) widely-cited study of property developers in New York and London, for example, rests on the assumption that private landowners constitute “the main progenitor” of urban development. Altshuler and Luberoff's (2003, p. 268) exhaustive account of public infrastructure investments and urban mega-projects still emphasizes the driving influence of business-led development coalitions. Likewise, Erie's (2004, p. 46) impressive study of government-led port, rail, and airport infrastructure projects in Greater Los Angeles notes that such projects have long been rooted in the idea that “public investments were an essential precondition to private development.”

Generally speaking, only a handful of scholars have paid attention to the political significance of public land ownership in its own right. Few, for example, investigate how and why public lands are acquired, managed, or disposed of. Eminent domain and compulsory purchase are common topics in the fields of law and economics. But much of this work concentrates on how expropriation powers are exploited for private ends, or affect private investors and land markets (see, for example, Pritchett, 2003; Rajack, 2009). The literature on public housing, social housing, community housing, and affordable housing is equally vast. But the bulk of this research tends to focus on the social causes and consequences of public housing, such as racial segregation, concentrated poverty, and gentrification (see Goetz, 2013). How often do governments acquire land from other public owners? What happens when the property rights of one public authority conflicts with legal

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