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### Revisiting Revitalization: How Municipalities Can Positively Impact Gentrification

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Nathani, Aadil, "Revisiting Revitalization: How Municipalities Can Positively Impact Gentrification" (2020). *UWill Discover Undergraduate Conference*. 105.  
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**Revisiting Revitalization: How Municipalities Can Positively Impact Gentrification**

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UWill Discover 2020

Previously Submitted for: Municipal Law, December 2019

## **Revisiting Revitalization: How Municipalities Can Positively Impact Gentrification**

### **Introduction**

Regent Park is a neighbourhood in Toronto east of the downtown core and Eaton Centre by less than two kilometres. The neighbourhood is home to Canada's first and largest social housing project, created in 1948. To outsiders, the neighbourhood has been synonymous with poor infrastructure, crime, poverty, homelessness and drug abuse. For locals, Regent Park had lively street corners, parks and local shops which created a vibrant, close knit community. However, taking a walk through the Regent Park today would paint a different picture. If you are from a neighbouring region in Toronto, such as the wealthier neighbourhood of Cabbagetown, you might even plan a trip to the local FreshCo supermarket on the corner of Parliament Street and Dundas Street, a trip you would have never imagined taking before. Since 2005, Regent Park has undergone a massive revitalization project, consisting of public-private projects that have cost over one billion dollars.

Regent Park, like many neighbourhoods around the world, has been the target of revitalization and consequently gentrification. This paper will define gentrification then look at the impacts it has on issues of displacement, affordable housing, urban planning and the forgotten, often silenced, voice of marginalized people in community development. This will be an analysis of the impact of gentrification on marginalized communities and the role of the municipality in gentrification. Finally, the paper will analyze the tools that municipalities have at their disposal to make the revitalization process more accessible and reduce the harm caused by gentrification.

## **Defining Gentrification**

Gentrification is a “product of neoliberalism” and is based on redevelopment through free-markets and trickle-down economics.<sup>1</sup> Essentially, gentrification is the idea that rejuvenation of infrastructure and people will lead to an overall recovery of otherwise “failing” neighbourhoods. It is important to note that scholars have spoken about the difficulty of reducing gentrification to one definition due to the unique form it takes in each locale.<sup>2</sup> The definition of gentrification also depends heavily on the perspective of the author. For instance, Adrien Fernandez defines gentrification as the effect of affluent white people using the guise of renovation to move back to the city from the suburbs and as a “whitewashing” of neighbourhoods in his study of gentrification in Chicago.<sup>3</sup> Sharon Kelly discusses the same phenomenon, calling the gentrified city the ‘revanchist’ city where urban space is reclaimed for the middle class through redevelopment.<sup>4</sup>

The term gentrification was coined by Ruth Glass in 1964 who used it to describe the urban renewal projects in London (England) as the transformation of the working class into middle or upper class through reinvestment.<sup>5</sup> In this sense, Glass’ definition is closely aligned to that of Hisham Ashkar, who studied gentrification in Beirut and defines it as “socio-spatial transformation through producing upgraded space using capital investment and changing land users to those with higher socio-economic status.”<sup>6</sup> Ashkar argues that gentrification is developed within the

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<sup>1</sup> Sharon Kelly, “The New Normal: The Figure of the Condo Owner in Toronto’s Regent Park” (2013) 25:2 *City & Soc* 173 at 175; Hisham Ashkar, “The role of laws and regulations in shaping gentrification: The view from Beirut” (2018) 22:3 *City* 341 at 355.

<sup>2</sup> Adrien Fernandez, “Finding Common Ground: Exploring Whether Gentrification and Public Housing Can Co-Exist” (2015) 1 *Loy Public Interest L Reporter* at 27.

<sup>3</sup> *Ibid* at 23

<sup>4</sup> Kelly, *supra* note 1 at 182.

<sup>5</sup> Ute Lehrer & Thorben Wieditz, “Condominium Development and Gentrification: The Relationship Between Policies, Building Activities and Socio-economic Development in Toronto” (2009) 18:1 *Can J Urban Research* 140 at 142.

<sup>6</sup> Ashkar, *supra* note 1 at 344.

framework of legality but can violate the social rights of some, an idea which this paper will discuss at length when looking at the effects of gentrification on marginalized people.<sup>7</sup>

Academics have separated gentrification in North American into three waves. The first wave of gentrification occurred from the 1960s to 1975 where the state actively bought and cleared land.<sup>8</sup> The second wave, in the 1980s, saw the state take a back seat while more private, for-profit companies took up renewal projects.<sup>9</sup> Finally, the third-wave, which we are currently in, has been a neoliberal approach where public-private projects are encouraged.<sup>10</sup> This third wave is intended to turn the city into a global competitor to attract investment.<sup>11</sup> Ute Lehrer and Thorben Wieditz argue that rapid condominium development in Toronto, a phenomenon they dub the ‘condofication’ of Toronto, constitutes the fourth wave of gentrification.<sup>12</sup>

### **Effects of Gentrification**

I worked at the Regent Park Youth Media Arts Centre (RPYMAC) in 2017. In my short time there, I learned a lot through informal conversations and observations about the effects of gentrification on the local people. I learnt how many locals were displaced. I also came to understand how the locals that remained had to adapt to the enforced changes, how the neighbourhood no longer feels the like their home, and how the people were left out of the conversation regarding revitalization. The human element to gentrification is often forgotten,

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<sup>7</sup> Ashkar, *supra* note 1 at 344.

<sup>8</sup> R Alan Walks & Richard Maaranen, “The Timing, Patterning, & Forms of Gentrification & Neighbourhood Upgrading in Montreal, Toronto, & Vancouver, 1961 to 2001” (2008) Centre for Urban and Community Studies: University of Toronto at 5.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Kelly, *supra* note 1 at 182; Breanna Keatinge & Deborah Martin, “A ‘Bedford Falls’ kind of place: Neighbourhood branding and commercial revitalisation in processes of gentrification in Toronto, Ontario” (2016) 53:5 Urban Stud 867 at 872.

<sup>12</sup> Lehrer & Wieditz, *supra* note 5 at 143.

especially to outsiders who did not reside in gentrified neighbourhoods before revitalization. Therefore, in this section, we will highlight some of the many ways in which revitalization and gentrification impact the lives of vulnerable people.

### **Displacement, Alienation and Exclusion**

Before revitalization, Regent Park was home to roughly 7500 people living in 2083 subsidized units but condominium development in the area has displaced long-term residents as many of the new rent-geared-to-income buildings were built outside of the boundaries of Regent Park.<sup>13</sup> Furthermore, of the new units being built, 3000 are condominium units and only 200 are affordable rental units.<sup>14</sup> The situation is even worse in Parkdale, where there are no affordable units in new developments.<sup>15</sup> I witnessed the effect of displacement first-hand as three of the at-risk youth I worked with travelled over an hour using transit to come to RPYMAC and volunteer in a comfortable environment. They had all lived in Regent Park their whole lives until the revitalization began in 2005 and were forced out due to the lack of available social and affordable housing.

Displacement is done with the aim of sanitizing the urban locale and re-branding the neighbourhood.<sup>16</sup> This removes some of the older history and lifestyles which the middle class do not find palatable.<sup>17</sup> For instance, low-income housing and government housing is not looked upon favourably by the middle class due to the impression that it brings crime and drugs into the neighbourhood. In this regard, the condominium owner is seen as the opposite of the person on social housing and is meant to be the agent of social change, therefore, the interests of the

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<sup>13</sup> Kelly, *supra* note 1 at 192.

<sup>14</sup> *Ibid* at 178.

<sup>15</sup> Liam Barrington Bush, "Toronto's many faces of gentrification", *NOW* (17 Oct 2018), online: <<https://nowtoronto.com/news/gentrification-toronto-pakdale/>>.

<sup>16</sup> Keatinge & Martin, *supra* note 11 at 869.

<sup>17</sup> *Ibid*.

condominium owner dominate over the person on social housing.<sup>18</sup> To complete the process of gentrification, displacement has to occur.

### **The Myth of ‘Social Mix’ and Impacts of Segregation**

Proponents of gentrification believe that gentrification has potential to increase social mixing.<sup>19</sup> Social mixing is the key to revitalization. Social mix is intended to stabilize the neighbourhood and reduce sprawl, both of which are positive impacts.<sup>20</sup> Urban intensification is key to managing population growth without sprawl and will inevitably lead to social mix. However, social mix is forced in gentrified neighbourhoods and leads to the loss of the sense of community. Forced social mix is superficial or hostile and people of different classes do not interact as much as proponents social mix aspires for them too.<sup>21</sup>

Forced social mix is ineffective because of social and spatial processes of exclusion and alienation in gentrified neighbourhoods.<sup>22</sup> Replacing low-income housing with new retail spaces can make long-time residents feel uncomfortable. I saw this occur first-hand at the FreshCo in Regent Park. Residents of the downtown core or Cabbagetown frequent the FreshCo for their groceries due to the lower prices. This attracts ‘outsiders’ into the neighbourhood, while excluding low-income residents as they cannot afford the supermarket. To complicate things further, there was a high police presence in and around FreshCo to limit trespassing, loitering, and stealing, even in the harsh winter. Residents also noted their discomfort in entering the new coffee shops that line the streets. In the past, local residents and youth would be able to use the urban spaces freely but they are now alienated and excluded from the newly built commodities.

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<sup>18</sup> Kelly, *supra* note 1 at 176, 190.

<sup>19</sup> Anthony Hommick, *Comparing Gentrification in Montreal and Toronto* (Degree of Master of Urban and Regional Planning Thesis, School of Urban and Regional Planning – Queen’s University, 2012) [unpublished] at 1.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid* at 13.

<sup>22</sup> Keatinge & Martin, *supra* note 17.

Segregation is heightened in gentrified neighbourhoods as well. Gentrification leads to large income polarization and further segregation.<sup>23</sup> While boundaries in the past used to run between neighbourhoods, Sharon Kelly argues that there is now a vertical invisible line in Regent Park segregating the condominium owners from the rest of the people.<sup>24</sup> New condominium-dwellers live above the low-income individuals still in the neighbourhood and they have their own programs and events set up in the condominium. The community feeling in Regent Park has been replaced by isolation and segregation. This is why Joscelin Higgins asserts that forced social mix is not ideal as a principle of urban planning.<sup>25</sup>

### **Environmental Concerns: Intensification, Sprawl, Congestion and “Greening”**

Urban revitalization projects have become popular in the world of urban planning due to their effect of increasing intensification and reducing sprawl. The environment is a growing concern as the impact of climate change can be seen in all facets of public and private life. Using the environment as a core concern in planning, the goal has been to reduce urban sprawl in an effort to preserve farmlands and forestry, as well as to lower carbon emissions.<sup>26</sup> There are two ways in which environmental justice and gentrification intertwine, and both have consequences for the local community.

First, there is the concern of the most vulnerable people getting most impacted with environmental issues. Increased development in the inner-city leads to a loss of communal outdoor

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<sup>23</sup> Hommik, *supra* note 19 at 25. Hommik finds that the average household income in gentrified neighbourhoods have more than doubled in 30 years.

<sup>24</sup> Kelly, *supra* note 1 at 186.

<sup>25</sup> Hommik, *supra* note 19 at 9.

<sup>26</sup> Catlyne Haddaoui, “Cities Can Save \$17 Trillion by Preventing Urban Sprawl” (15 November 2018), *World Resources Institute (blog)*, online: <<https://www.wri.org/blog/2018/11/cities-can-save-17-trillion-preventing-urban-sprawl>>.



spaces, increased congestion and increased pollution.<sup>27</sup> Second, even if revitalization is done in an environmentally conscious, forward thinking manner, the effects still disproportionately harm vulnerable people as they are displaced from their neighbourhoods. An improvement in the environmental aesthetics of a neighbourhood is often used as a tool to attract the middle class.<sup>28</sup> Ann Dale and Lenore Newman found an inverse relationship in Toronto between the “greening” of a neighbourhood and affordability.<sup>29</sup> This is not to undermine the positive environmental impacts of densification but to understand the different ways in which “greening” can be used to gentrify neighbourhoods.

### **Impact on Public Spaces**

Gentrification commodifies public and urban spaces in an attempt to keep the streets clear and suitable to the middle-class lifestyle. Poorer neighbourhoods and their residents used communal outdoor spaces, either in the form of parks or in the form of vacant and derelict land, in a recreational and agricultural manner.<sup>30</sup> Through conversations at Regent Park, I learnt how important these public spaces are to the community. Elders in the community recall being able to trust their children playing outdoors because of the communal feel and the others who would be outside keeping an eye on the children. These spaces were also used for people to gather, tell stories and enjoy food together. Jo Williams writes that social interaction leads to social capital which in turn leads to trust between citizens, the creation of social networks, and the establishment

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<sup>27</sup> Riel Hishon, “Can Law be used to Combat the Negative Effects of Gentrification” (3 December 2018), *Environmental Justice and Sustainability Clinic – Osgoode Hall Law School*, online: <<https://ejsclinic.info.yorku.ca/2018/12/can-law-be-used-to-combat-the-negative-effects-of-gentrification/>>.

<sup>28</sup> Juliana Maantay & Andrew Maroko, “Brownfields to Greenfields: Environmental Justice Versus Environmental Gentrification” (2018) 15 *Intl J Environmental Research & Public Health* at 4.

<sup>29</sup> Ann Dale & Lenore Newman, “Sustainable development for some: green urban development and affordability” (2009) 14:7 *Local Environment* 669 at 679.

<sup>30</sup> Maantay & Maroko, *supra* note 28 at 1.

of common practices and norms.<sup>31</sup> With the commodification of property and space, and a decrease in open spaces, the communal feeling of a tight-knit neighbourhood is lost and this causes a loss in social capital of the neighbourhood's residents. Thus, the new residential design directly impacts resident behaviour negatively in gentrified neighbourhoods.

Mariana Valverde notes that the Corporation of the City owns public spaces and parks, and has the legal right to exert control over them.<sup>32</sup> In the gentrification project, urban spaces are no longer seen as places for people to gather as this gives the neighbourhood the wrong image. Therefore, the *Trespass to Property Act* is used by officers whenever they find people "loitering".<sup>33</sup> Specifically in North America, public spaces are places to pass through rather than places to use recreationally. We rarely see areas in our cities where people of all backgrounds and socio-economic can gather like the *piazza's* in Italy or like the "Lighthouse" region in Mombasa, Kenya. Our idea of public space is more of a commuter space, with the notion of "move along" guiding our way of thinking.<sup>34</sup> Public spaces are characterized this way as part of urban planning and municipal policy, and this has diminished the community-feel in gentrified neighbourhoods.

### **The Role of Municipal Law**

Municipal law and urban planning play an instrumental part in the revitalization of neighbourhoods. This is not to discount the impact of federal policies and provincial laws on gentrification, however, the municipality is the jurisdiction most involved in planning. In this article, we will analyze the role of Official City Plans and other city documents, zoning regulations,

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<sup>31</sup> Jo Williams, "Designing Neighbourhoods for Social Interaction: The Case of Cohousing" (2005) 10:2 J Urban Design 195 at 195.

<sup>32</sup> Mariana Valverde, *Everyday Law on the Street: Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012) at 32 ["Valverde 2012"].

<sup>33</sup> *Ibid* at 40.

<sup>34</sup> *Ibid*.

and building safety laws in the gentrification process. It is important to highlight that decisions at the provincial and federal levels of government also impact revitalization plans. Two examples of the Province of Ontario being involved include through the Provincial Policy Statement in 2005 which focuses on growth, vitality, regeneration and intensification<sup>35</sup> or the *Tenant Protection Act* (1998) which eliminated rent control on vacancy units making landlords less likely to negotiate with low-income persons if they fall into arrears.<sup>36</sup> The relationship between all levels of government and private development interests is vital in understanding the depth of the issue, however, this paper will only look at examples where the municipality is involved.

### **Official City Plan and Other City Documents**

Every municipality is required to provide an official city plan under section 16 of the *Planning Act*. We can gather insight a municipality's planning strategy and goals by looking at official plans, other city reports, vision statements and neighbourhood plans. Lehrer and Weiditz find that the State has become more engaged in facilitating gentrification by rewriting their policies.<sup>37</sup> New municipal policies in Toronto are aimed at redirecting growth to already built areas, particularly the inner city, by rejuvenating social housing projects and focusing on urban intensification.<sup>38</sup> Lehrer argues that urban intensification has been used as the main tool in the challenge of managing the increasing population.<sup>39</sup> These policies and plans are touted as forward thinking and aim to bring investors to the municipality, often forgetting – or ignoring – the impact of investments on residents. The interests of investors and real estate developers are placed to a higher regard than residents.

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<sup>35</sup> Lehrer & Wieditz, *supra* note 5 at 151.

<sup>36</sup> Tom Slater, "Municipally managed gentrification in South Parkdale, Toronto" (2004) 48:3 *Can Geographer* 303 at 319.

<sup>37</sup> Lehrer & Wieditz, *supra* note 5 at 143.

<sup>38</sup> *Ibid* at 144.

<sup>39</sup> *Ibid*.

Starting with city plans, we turn to the Official Plan of Toronto in 2002. The 2002 Official Plan lays out the new strategy of the newly amalgamated City until 2031.<sup>40</sup> The 2002 Official Plan prioritized “urban reform” through re-urbanization and intensification, which can be done through redevelopment.<sup>41</sup> However, as Adrian Blackwell and Kanishka Goonewardena find, the plan fails to consider the negative consequences of redevelopment and fails to provide a substantive affordable housing strategy.<sup>42</sup> Blackwell and Goonewardena assert that this has led to gentrification and displacement.<sup>43</sup>

Moving to other city reports, the 1997 report titled *Ward 2 Neighbourhood Revitalization* provides a glimpse into the priorities of the City of Toronto during their revitalization of South Parkdale. In the report, the City of Toronto pointed to single-person dwellings as the main issue in the area and aimed to change this.<sup>44</sup> The goal was to bring family dwellings into the neighbourhood. This seems like a good piece of planning until one realizes that the reason for single-person dwellings in South Parkdale was the closure of the Queen Street Centre for Addictions and Mental Health (“CAMH”).<sup>45</sup> The closure of the nearby CAMH, at the time the largest such centre in Canada, led to the release of thousands of patients into South Parkdale who were forced into bachelorette apartments or rooming houses. Instead of recognizing the particular vulnerabilities of this community, the report considered them to be the problem.

The *Toronto Economic Development Strategy* in 2000 (“2000 strategy”) relied on a private consultation report by ICF Consulting. The strategy relied heavily on trickle-down economics as

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<sup>40</sup> Stefan Novakovic, “What You Need to Know About Toronto’s Official Plan” (3 November 2015) *Torontoist*, online: <<https://torontoist.com/2015/11/what-you-need-to-know-about-torontos-official-plan/>>. Note: The 2002 Official Plan was not accepted by the OMB until 2008, almost a decade after amalgamation.

<sup>41</sup> Lehrer & Wieditz, *supra* note 5 at 150.

<sup>42</sup> *Ibid* at 151.

<sup>43</sup> *Ibid*.

<sup>44</sup> Slater, *supra* note 13 at 314.

<sup>45</sup> Tom Slater, “Toronto’s South Parkdale Neighbourhood: A brief history of development, disinvestment and gentrification” (2005) Centre for Urban and Community Studies [“Slater 2005”].

it aimed to reconcile liveability and quality of life with economic growth through the idea that higher quality jobs and more wealth would lead to the strategic well-being of the city.<sup>46</sup> The 2000 strategy also highlighted revitalization as the key to growth and advocated for development ready sites and renovations to increase investment from private partners in strategic areas.<sup>47</sup> Thus, the City of Toronto reframed its image to appeal to investors and gave investors the green light to start buying property and building operations in the inner-city.

In 2003, the city of Toronto released the *Toronto Culture Plan for the Creative City* (“2003 plan”) which advocated for a post-industrial image of the everyday Torontonians. The 2003 plan further pushed the City of Toronto’s agenda of attracting people in a higher economic class in an attempt to make life better for all citizens through trickle-down economics.<sup>48</sup> The 2003 plan also mentions the “kind of people Toronto wants to attract” on the first page.<sup>49</sup> This rhetoric is deeply problematic as the vulnerable people already living in the city are left out of the conversation and instead the municipality’s foremost concern is with further investment and economic growth. This approach to urban planning has led to terrible consequences for low-income communities.

Finally, in 2008 the City of Toronto replaced their 2000 strategy and also released their *Creative City Planning Framework*. These plans emphasize the goal of making Toronto a “world city”.<sup>50</sup> The reports conclude that there is a need for Toronto to continue building vibrant neighbourhoods to attract investment and talent from all over the world through tools such as tax increment financing for developers without even noting the need for affordable housing.<sup>51</sup> These

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<sup>46</sup> Lehrer & Wieditz, *supra* note 5 at 147.

<sup>47</sup> City of Toronto Economic Development Office, *Toronto economic development strategy*, 2000 at 93.

<sup>48</sup> Lehrer & Wieditz, *supra* note 5 at 148.

<sup>49</sup> City of Toronto Culture Division, *Toronto’s culture plan for the creative city*, 2003 at 1.

<sup>50</sup> Lehrer & Wieditz, *supra* note 5 at 150.

<sup>51</sup> *Ibid.*

plans are therefore essential in laying the groundwork for neighbourhood rejuvenation and are responsible for the displacement of vulnerable people from the inner-city.

### **Zoning Regulation and Building Safety Laws**

The municipality can guide gentrification through zoning by-laws and building safety by-laws. Gentrified neighbourhoods have experienced a withdrawal of cheaper accommodates from the market,<sup>52</sup> and this happens due to many calculated policy choices. The city of Toronto's new zoning system in 1997 prohibited small apartments and there were plans to close other properties through health and safety standards.<sup>53</sup> The *Ward 2 Neighbourhood Revitalization* plan for the South Parkdale states the following:

“[We will] deal fairly with properties that already contain bachelorettes and rooming houses, so that the credibility of the City's Zoning By-law is not diminished, the properties are maintained at, or above, minimum health and safety standards and, over time, **these small units are gradually replaced with larger units and the tenants are relocated.**”<sup>54</sup> [Emphasis added]

In 1996 there was a ban on rooming houses and conversions in the city of Toronto without a licence.<sup>55</sup> The new licensing requirement also mandated that new units should be larger than 200 square feet, effectively eliminating the creation of new affordable bachelorette units.<sup>56</sup> Requiring all buildings to meet the stringent new safety codes pushes older, more affordable buildings to close down and be replaced by newer, more expensive buildings. This sanitizes the neighbourhood and is a tool for the municipality to fulfill broader policy objectives, as noted by Ray Forrest and Alan Murie.<sup>57</sup> Policies like this allow for neighbourhoods to gentrify and poor communities to be

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<sup>52</sup> Slater, *supra* note 13 at 308.

<sup>53</sup> *Ibid* at 315.

<sup>54</sup> City of Toronto Urban Development Services, *Ward 2 Revitalization Proposals: Draft for Discussion*, 1997 at 17.

<sup>55</sup> Lisa Freeman, “Governed through ghost jurisdictions: Municipal Law, inner suburbs and rooming houses” (2017) *Intl J Urban & Regional Research* 298. Note: Rooming houses were also banned through municipal zoning by-laws and the city plan in Kitchener, Ontario (Cedar Hill neighbourhood). This was found to be a violation of human rights by the OMB.

<sup>56</sup> Slater, *supra* note 13 at 316.

<sup>57</sup> *Ibid* at 318.

pushed out of their homes under the guise of building safety standards and zoning regulations. The aim for the City of Toronto to improve living conditions and safety standards is amicable, yet the City never considered the negative consequences that this would have on poor individuals who cannot afford paying more on rent. It is also possible that the City of Toronto did consider the impact of these policies but decided that gentrification is more in line with their goals than truly improving low-income housing standards and maintaining the same demographic in gentrifying neighbourhoods.<sup>58</sup>

It is impossible to pick out one by-law, provincial or federal law, policy decision or municipal plan that is responsible for the gentrification of revitalizing neighbourhoods and the displacement of the poor communities from within the inner-city. Instead, gentrification occurs in a complex system driven by multiple levels of government, corporate interests from developers and real estate companies, and interests from middle/upper-class investors. Thousands of people who end up displaced or homeless are left out of these conversations.

### **How Municipalities Should React**

The municipality has the tools to minimize the negative effects of gentrification. Urban revitalization and densification are an important part of urban planning and are inevitable given how cities are getting older, populations are rising and environmental concerns regarding sprawl are getting more attention. However, there are ways in which the municipality can act in a more responsible manner towards the residents of gentrified neighbourhoods. This section will look at how sections 10(1) and 11(1) of the *Municipal Act* and section 37 of the *Planning Act* can be used

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<sup>58</sup> Slater, *supra* note 13 at 318.

by the municipality, as well as the role community consultations and Community Land Trusts could potentially have in fixing our current issues with gentrification.

### *Using the Municipal Act*

Sections 10 and 11 of the *Municipal Act* grants municipalities the power to provide any service deemed necessary or desirable for the public.<sup>59</sup> This is a broad power given to municipalities in Ontario. The *Municipal Act* can be used in multiple ways to assist with the issue of displacement. This paper will analyze two ways in which the *Municipal Act* can be used: lodging house by-laws and the implementation of policies to reduce displacement.

First, we look at by-laws which control lodging houses or rooming houses, such as the Etobicoke Lodging House by-law. In Toronto, lodging houses must be licenced by the City and are only legal in York, Toronto and Etobicoke.<sup>60</sup> By-laws like this aims to uphold the standard of living in lodging houses, but the consequences include the closing of lodging houses if they do not meet the rigorous conditions, leaving vulnerable people without a home of last resort. Furthermore, lodging houses are not permitted but still exist in other parts of Toronto where gentrification is also occurring, such as Scarborough. This has two consequences. First, landlords can be abusive towards their tenants by telling them not to file for taxes, not keeping the building up-to code and threatening eviction.<sup>61</sup> Illegal rooming houses have been characterized as “systemic discrimination” against people who cannot afford other housing options.<sup>62</sup> Second, the government loses tax money from landlords who do not pay their taxes on tenant income.<sup>63</sup> This tax money

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<sup>59</sup> *Municipal Act*, SO 2001, c 25, ss 10(1), 11(1).

<sup>60</sup> City of Toronto, “Multi-tenant Houses (Rooming Houses)”, online: <<https://www.toronto.ca/city-government/public-notices-bylaws/bylaw-enforcement/multi-tenant-houses-rooming-houses/>>.

<sup>61</sup> Mike Adler, “Scarborough needs rooming houses, but they must be legal, advocates say”, *toronto.com* (13 February 2019), online: <<https://www.toronto.com/news-story/9165764-scarborough-needs-rooming-houses-but-they-must-be-legal-advocates-say/>>.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*



could be collected and recycled into affordable housing initiatives. One way to rectify the issues caused by illegal rooming houses is by expanding the lodging house permits to cover the entire City of Toronto using the powers in the *Municipal Act*. Furthermore, any existing or proposed lodging house legislation should take a holistic view and incorporate the needs of the people having to live in them.

Next, municipalities can use section 10 or 11 of the *Municipal Act* to enact by-laws and policies which preserve the positive existing nature of gentrifying neighbourhoods. This can be done through by-laws which support the maintenance of pre-existing businesses, as noted by Alan Walks and Martine August.<sup>64</sup> Furthermore, Walks and August argue that policies should be in place to maintain working class employment in the gentrifying inner-city.<sup>65</sup> Implementing by-laws or policies to these ends would ensure that some of the residents of the gentrifying neighbourhood would be able to support themselves if they remain in the neighbourhood. These are not perfect solutions as they do not help those who are unable to work. However, gentrification is a complex, multi-layered problem which requires many different solutions to tackle the issue from every possible angle. The municipality should take every step possible to mitigate displacement.

### ***Using the Planning Act***

Section 37 of the *Planning Act* has been referred to as a solution for displacement in many secondary city plans for the neighbourhoods in the City of Toronto.<sup>66</sup> Through section 37, the municipality is authorized to increase the height or density through the zoning by-law in exchange for “community benefits” that align with the policies in the Official Plan.<sup>67</sup> Therefore,

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<sup>64</sup> Hommick, *supra* note 19 at 13-14.

<sup>65</sup> *Ibid.*

<sup>66</sup> For an example, see the Secondary Plans for the *Downsview* or *Warden Woods* neighbourhoods.

<sup>67</sup> City of Toronto, “Section 37 Benefits”, online: <<https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/section-37-benefits/>>.

theoretically, the municipality can work with both private interests from developers and investors and with the interests of vulnerable communities in gentrifying neighbourhoods to come up with viable solutions for displacement through maintaining affordable housing.

Ute Lehrer and Thorben Weiditz found that public art projects (not affordable housing units) have been the main trade-off between developers and the city in exchange for additional height and density allowances.<sup>68</sup> Critiques have dubbed the use of Section 37 as “cheque book planning” because of the \$35 million worth in Section 37 deals between the City of Toronto and private developers from 1998 to 2009.<sup>69</sup> This works against vulnerable communities, as the benefits from public art development do not assist the people already living in the community. This occurs in two ways. First, Section 37 allows developers to provide community benefits anywhere, without a jurisdictional boundary. Therefore, the benefits are often not in the direct vicinity of the development.<sup>70</sup> Second, public art projects are used to attract the middle-class as they look to live in ‘hip’ neighbourhoods. This feeds back into the idea of Toronto going through an urban renaissance which will attract a different type of people to the city.<sup>71</sup>

A different use of Section 37 by the City of Toronto would yield different results. First, the City of Toronto should take the position that if developers are using Section 37 in revitalizing neighbourhoods, then they ought to provide community benefits to local community directly. This can be done in many ways, including but not limited to the building of affordable housing units and recreational facilities open for use by all. This has been implemented successfully in Vancouver and the use of Section 37 for affordable housing units has been seen in Toronto as well. However, while many secondary plans for neighbourhoods in Toronto mention that the priority

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<sup>68</sup> Lehrer & Weiditz, *supra* note 5 at 149.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid* at 148.

for Section 37 benefits are to be given on-site, there is leeway for developers to produce benefits elsewhere.<sup>72</sup> Instead of using Section 37 in this manner, the municipality, which profits from Section 37 deals, should hold public sessions and ask the people of each community what would benefit them. This would make the process democratic and allow for the voices of vulnerable communities to be heard in urban planning.

### ***Substantive Community Engagement & Community Land Trusts***

Fruitful community engagement is the best way to combat the negative impacts of gentrification. Marginalized people who are long-time residents of gentrifying neighbourhoods want to have their voices heard on development in their neighbourhood. This paper will discuss ways in which meaningful community engagement can occur, rather than just a community consultation. First, we must understand the current framework in which community consultations occur and why this is problematic. The city, in conjunction with developers, will hold community meetings to discuss the future of a neighbourhood and receive input from the current property owners and sometimes residents. However, sometimes no consultations are held.<sup>73</sup> When consultations occur, they are attended by middle-aged, middle class, educated people, who are home owners, not by the people most impacted by gentrification.<sup>74</sup>

The first way to improve community engagement is to focus on engaging the right people. The municipality should make a concerted effort to ensure that the voices of the marginalized are amplified in this discussion. Municipal law operates through the relationships between property owners and the city, leaving tenants (especially marginalized tenants) in an especially vulnerable

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<sup>72</sup> City of Toronto, *Warden Woods Community Secondary Plan*, 3.1.7 at 12.

<sup>73</sup> John Lorinc, "Final Phases of Regent Park redevelopment to be open to tender" *The Globe and Mail* (16 May 2018), online: <<https://www.theglobeandmail.com/real-estate/article-final-phases-of-regent-park-redevelopment-to-be-open-to-tender/>>.

<sup>74</sup> Mariana Valverde, "How to consult in gentrifying neighbourhoods" (17 November 2015), *Spacing Toronto*, online: <<https://spacing.ca/toronto/2015/11/17/consult-gentrifying-neighbourhoods/>>.

position.<sup>75</sup> Valverde asserts that on this basis, municipal law is unconstitutional as it gives little regard to property-less people.<sup>76</sup> However, this can be changed if municipalities use a rights discourse when looking at land-use planning. Using a rights-based lens, we can place limits on the exclusionary use of land-use planning and move towards inclusive diversity.<sup>77</sup>

This rights-based discourse can be actualized by placing residents in a proactive rather than a reactive role in development planning. The Affordable Housing Office in Toronto provides an example on how this can be done with their consults in South Riverdale.<sup>78</sup> Prior to redevelopment in South Riverdale, the Affordable Housing Office went into the community and held meaningful conversations with current residents (not just property owners) about what they would and would not like to see in the redevelopment project.<sup>79</sup> The meeting was led by a community group instead of developers or municipal councillors (although they were present).<sup>80</sup> This is one example of true community engagement and it is a method that should be replicated.

In this regard, it is important to note that community groups are key to meaningful engagement. The municipality could turn to community groups for assistance in working with the community rather than to developers. Community groups are the driving force working to preserve and support economic and social diversity in gentrified neighbourhoods.<sup>81</sup> As such, community groups have a better understanding of the community interests at stake. Even small groups like RPYMAC have far reaching networks in the community and can mobilize residents. As I learnt during my time in Regent Park, residents trust long-standing community establishments, but have

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<sup>75</sup> Valverde 2012, *supra* note 32 at 32.

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid* at 138.

<sup>78</sup> *Ibid* at 134-136.

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid* at 109.

a deep mistrust with the City or developers. Therefore, municipalities should turn to community groups to bridge the gap.

The second way the municipality can assist with community engagement is through the promotion of community land trusts (“CLTs”) over public-private partnerships (“P3s”). P3s are partnerships between the government and large firms, which are often transnational, making accountability an issue.<sup>82</sup> On the other hand, CLTs are non-profit organizations which obtain land for the community. Using CLTs, the community can band together and have their voice heard by the city and developers. Through CLTs, the power is placed back in the hands of the community, leading to a more inclusive process than private or public-private redevelopment.

Municipalities could encourage CLTs by partnering with community groups in purchasing land or expropriate buildings and gift it to CLTs to maintain affordable housing in gentrifying neighbourhoods. For instance, the Balmoral and Regent Hotels in Vancouver were expropriated by the City for social housing.<sup>83</sup> There have been calls by activist groups calling for the City of Toronto to do the same.<sup>84</sup> While none of these calls for expropriation mention CLTs as the next step, they would be the logical move forward as they would allow the community to be involved in the planning and not follow a top-down approach. Another approach would be municipally-run CLTs which have worked extremely well in minimizing the negative impact of gentrification on marginalized residents in cities like Chicago.<sup>85</sup>

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<sup>82</sup> Valverde 2012, *supra* note 32 at 13.

<sup>83</sup> Simon Little, “Vancouver council votes to expropriate ‘blighted’ Downtown Eastside hotels for \$1 each” *Global News* (6 November 2019), online: <<https://globalnews.ca/news/6136734/vancouver-council-votes-to-expropriate-blighted-downtown-eastside-hotels-for-1-each/>>.

<sup>84</sup> Joshua Freeman, “Group calls on city to expropriate lands for affordable housing proposal” *CP24* (3 July 2019), online: <<https://www.cp24.com/news/group-calls-on-city-to-expropriate-lands-for-affordable-housing-proposal-1.4492289>>.

<sup>85</sup> Lisa Alexander, “To Save Neighbourhoods, Get Creative With the Law” *The New York Times* (15 April 2014), online: <<https://www.nytimes.com/roomfordebate/2014/04/13/the-pros-and-cons-of-gentrification/to-save-neighborhoods-get-creative-with-the-law>>.

Municipalities should adopt a redevelopment system where the primary focus is on the impacted community. The municipality should provide pathways for the community to have their voice heard through community engagement or CLTs. However, in the current municipal law structure, some people have too many rights while others do not have enough rights or cannot exercise their rights.<sup>86</sup> This gap leads to marginalized communities being an after-thought in revitalization projects.

### **Limitations & Conclusions**

This paper has several limitations. First, this paper failed to grapple with the space municipalities occupy in the settler-colonial project. Indigenous people, whose territorial land municipalities sit on, are often among the first people displaced by gentrification.<sup>87</sup> Furthermore, the impacts of politics of race and discriminatory policies, as well as discriminatory policing, is a harsh reality which marginalized communities in gentrifying neighbourhoods live with. While this paper touched on this briefly at different points, it did not do justice to the issue as a whole. Finally, to achieve a holistic snapshot of gentrification, this paper could have looked at examples of gentrification in the global south<sup>88</sup> and in rural communities.<sup>89</sup> Ultimately, it is recognized that using Toronto as the primary example throughout the paper limited the analysis as the issues and potential solutions were targeted at Toronto.

In conclusion, it is undoubtedly a mammoth task to balance the need for municipal revitalization with the needs of the vulnerable communities living in run-down neighbourhoods.

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<sup>86</sup> Valverde 2012, *supra* note 32 at 138.

<sup>87</sup> Cynthia Spring, "Gentrification and Displacement in Toronto's Downtown East" (13 November 2015), *The Media Co-op*, online: <<http://www.mediacoop.ca/story/gentrification-and-displacement-toronto%E2%80%99s-downtown/34119>>.

<sup>88</sup> Askhar, *supra* note 1.

<sup>89</sup> Lehrer & Weiditz, *supra* note 5 at 43.

Growing concerns of urban sprawl and its impact on the environment are underlying factors in the task of changing cities as we know them. Municipal government and law are most implicated in these processes of change, however, the lack of a rights-based lens in municipal law has ultimately led to disproportionate consequences for marginalized communities; gentrification and displacement being at the forefront of these consequences. Windsor city councillor Rino Bortolin stated that “everyone has a stake in what is going on” in municipal politics.<sup>90</sup> Therefore, this paper advocates for substantive community engagement between the municipality and its marginalized residents to tackle the issues that arise as a result of gentrification.

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<sup>90</sup> Municipal Law Lecture, University of Windsor (24 September 2019).