

2

THE URBAN COMMONS

Our approach to the study of the urban commons began with the same question that Elinor Ostrom asked in her groundbreaking studies of natural resource commons (Ostrom 1990): are there groups of residents and/or resource users who are willing and able to organize themselves, work together to establish rules for sharing resources, and monitor themselves in the absence of an external authority or externally imposed regulations? From our observations and empirical research drawing from case studies in over two hundred cities around the world, the clear answer is yes. From community gardens to mesh wireless networks, there are plenty of examples of self-organized groups of users and residents that collectively or collaboratively construct and then manage shared resources. Some of these *urban commons* even share many of the features of Ostrom's natural resources commons governance scenarios. They are often small-scale resources such as a vacant lot, an empty building, a neighborhood park, or wireless infrastructure that rely on the self-organizing efforts of resource users who establish rules of access, use, and distribution of goods or services produced by the resource. Some are larger-scale, more complex resources such as a neighborhood, a large urban park, an urban village, or a large broadband network that local users or communities must work with other public and private actors to construct and collaboratively govern.

Yet, although some urban commons share much in common with the natural resources that were the subject of Ostrom's work, there are facets of collectively governed urban resources that are notably distinct. In this chapter, we tease out and illustrate some of the key distinctions. We first offer a basic introduction to Ostrom's framework for analyzing common resources and the assumptions and principles that are the foundation of that framework. We also look briefly at the application of her analytical framework to urban *green* resources in cities as an indication of how well her framework might travel or translate in an environment vastly different from the communities she studied. Our bottom-line assessment is that Ostrom's framework offers a great deal to the study of common resources in cities. Indeed, we understand why it is tempting to apply Ostrom's design principles for user-managed resources to the management of many kinds of public and shared resources in the city. For many reasons, however, we think that Ostrom's principles do not work in the city exactly the way that they do in nature. Ostrom's framework needs to be adapted to the reality of urban environments that are often crowded, congested, socially diverse, economically complex, and heavily regulated. As such, we highlight some characteristics of *constructed* urban commons that are not captured well in Ostrom's design principles for user-governed natural resource commons.

Ostrom believed that there is no one model of resource management that is applicable to all common pool or shared resources. In some cases, collective or community governance is not the right solution at all and should give way to more traditional forms of state control or private property regimes. In her early Nobel Prize-winning work, she found that collective governance of shared resources is possible and even sustainable under certain conditions or when specific factors are present—what she called “design principles” (Ostrom 1990). Collective governance of shared resources is particularly successful for resources with clearly defined boundaries and in communities where it was clear who was “in” and who was “out”—that is, who had access and who could be excluded (principle 1). Ostrom's study of successful common pool resource institutions focused mainly on close-knit communities that share similar beliefs and a history or expectation of continued interaction and reciprocity. In actual field settings where these conditions are present, Ostrom observed that

communities were able to develop and enforce rules as well as conflict resolution procedures that govern the use of the resource. She found that these communities had put rules in use that were well matched or adapted to local needs and conditions (principle 2). For this reason, she observed that rules of cooperation among users were written or modified by those entrusted with both the duty to obey them and the responsibility to enforce them (principle 3).

Collective structures and rules were premised on the assumption that communities' rights to self-govern the resource and to devise their own rules would be recognized and respected by outside central authorities; such recognition also made the rules easier to monitor and enforce (principle 4). For these communities, social control/monitoring and social sanctioning were two central pillars of Ostrom's design principles for the governance structure that communities often put in place to manage a common pool resource (principles 5 and 6). She observed that conflicts might arise because even the most united communities have internal fractures, and therefore communities require accessible, low-cost tools to solve their own disputes (principle 7). Ostrom found, however, that for more complex resources, its users were able to enforce and monitor the rules that they created only with the help of external agencies. Thus, the governance responsibility or decision-making power over the resources was shared with other actors to form so-called nested enterprises (principle 8). That is, the rules, procedures, monitoring, and sanctions put in place along with other governance activities are organized in a nested institutional structure with layers of activity by different actors. This nesting might occur between user groups using the same resource and/or between user groups and central authorities (e.g., local or regional governments). The involvement of central authorities is more likely for large-scale and complex resources. These are the basic design principles that for years have been driving the multidisciplinary study and observation of common, shared resources, namely, scarce, congestible, renewable natural resources such as rivers, lakes, fisheries, and forests (Poteete et al. 2010).

Many of Ostrom's cases studies documented the existence of wholly internal solutions to natural resources management. Ostrom identified a number of these self-organized resource governance regimes, including common lands governed by local village communities in Switzerland and

Japan (Ostrom 1990, 61–69), irrigation communities in Spain and the Philippines (Ostrom 1990, 69–88), and other examples of fisheries and irrigation projects managed communally in Turkey, California, and Sri Lanka (Ostrom 1990, 144–178). Many of these have survived for multiple generations and involved the investment of significant resources by participants to design basic rules, create organizations to manage the resources, monitor the actions of each other, and enforce internal norms to reduce the probability of free riding. Importantly, these groups successfully established and enforced their own rules without resort to external public agencies (Ostrom 1990, 59).

Ostrom's findings are consistent with similar research by others, such as legal scholar Robert Ellickson, highlighting the ability of small or "close-knit" communities to solve disputes over land use through a system of informal social norms (Ellickson 1991). Ellickson's study of ranchers and landowners in Shasta County, California, found that in spite of a well-developed system of legal rules that governed straying cattle and land disputes, the community had developed its own system of informal norms governing disputes and that the system was self-reinforcing. Ellickson's findings further support the idea that, at least in small homogeneous communities, the existence of strong cooperative norms allows communities to govern themselves in the face of conflict without the aid of the state or other central coordinator. How much the size of a community of users and its homogeneity affect the ability to organize and to self-manage a resource system is uncertain and requires more theoretical and empirical observation (Poteete and Ostrom 2004b).

For more complex and larger resources, however, Ostrom found that central regulators played a key role in helping to coordinate the interdependencies of smaller units of community-based governance (Ostrom 1990). Ostrom's study of a series of groundwater basins located beneath the Los Angeles metropolitan area is illustrative (Ostrom 1990, 103–142). In her findings, groundwater producers organized voluntary associations, negotiated settlements of water rights, and created special water districts to monitor and enforce those rights with the assistance of county and state authorities. State legislation authorizing the creation of special water districts by local citizens was a crucial element in encouraging users of

groundwater basins to invest in self-organization and the supply of a local institution. Once a special district was created, it possessed a wide variety of powers. Those powers included the ability to raise revenue through a water pump tax and, to a limited extent through a property tax, to undertake collective actions to replenish a groundwater basin. Without such legislation, a similar set of users facing similar collective action challenges might not be able to supply themselves with transformed “micro institutions” (Ostrom 1990, 135). Ostrom viewed the relationship between the private water associations, public agencies, and special districts as illustrating how a governance system “can evolve to remain largely in the public sector without being a central regulator” (Ostrom 1990, 135). The basins became managed as a *polycentric* public-enterprise system that is neither centrally owned nor centrally regulated. As such, and in contrast to self-managed community resource use systems that operate mainly with social sanctions, resources that traverse many communities and/or heterogeneous user groups may require more complex institutional structures, often involving government coordination and enforcement (Ostrom 1990, 1994).

OSTROM IN THE CITY

For our study of constructed urban commons, many of Ostrom’s design principles and observations are clearly applicable, and others are of limited utility or need to be modified to the urban context. For instance, we observe that, as in Ostrom’s examples, the ability of communities to collectively manage a shared resource and to do so sustainably over time can very much depend on community size and cohesion, shared social norms/social capital, community homogeneity, resource scale, and recognition and support of central authorities and external actors. Similarly, collaboratively managed urban resources typically have clear boundaries and rules that are collectively created, adopted, and enforced through either informal or formal mechanisms. Unlike many of Ostrom’s case studies, however, collective governance of urban resources does not occur only (or mostly) in small, homogeneous communities with stable membership and high levels of social cohesion. Many small and large-scale

urban resources ranging from large urban parks to community gardens to wireless broadband networks are being collectively managed by heterogeneous groups of users who access and depend on the shared resource.

In addition to high group heterogeneity, many urban commons are accessible and open to transient users who are not part of a stable group of resource users who may be more geographically tied to the resource by virtue of their proximity to it. As Amanda Huron has noted, urban commons emerge in “saturated” spaces and often are constituted by the coming together of strangers (Huron 2015). Relatively high densities of population in a relatively small amount of space means that people are forced to either share or compete for resources, as Huron argues, making the process of urban “commoning” more challenging than in rural and small-scale environments. This is even more so in huge urban agglomerations that comprise growing core cities and expanding peripheries, including both formal and informal settlements.

As such, the role of central authorities or the state is even more present in the creation and sustainability of the urban commons and for reasons that differ in the natural resources context. As Ostrom argued, the effort by user groups to create new institutions for resource governance is a second-order collective action dilemma. In addition to overcoming any obstacles to cooperation to create rules of access and use, resource users must invest tremendous resources to design institutional arrangements that incorporate the new processes and rules that will govern the resource over the long run (Ostrom 1990, 136). This is why a small homogeneous community is more likely to succeed at managing a commons than a larger and more diffuse one. Apart from Ostrom’s study of collective management of groundwater basins and the special water districts created to manage them, far less attention has been paid to the role of the state in the creation and support of user-governed or collectively governed resource regimes. As we noted in chapter 1, Ostrom’s own work, as well as the work of others, suggests that central governments can play a significant role in supporting and potentially lowering the costs of user-managed resources.

The supportive or enabling role of government in the collective management of shared resources is unavoidable on some level in the urban context. Many urban resources that residents or communities want to share

and manage together are, at least formally, under the control of the state. In many cases, the local government typically retains regulatory control and, in some cases, proprietary ownership of these resources. Communities and other private actors are motivated to claim, use, or preserve abandoned or underutilized urban resources as assets that can provide urban residents with essential resources such as affordable housing or commercial space, open and green space, and other goods. However, given that most of these resources are under government control and regulatory authority, users eventually need government consent and often government aid and financing to fully utilize the property. Thus, even for community-driven, constructed urban commons the state role can be essential to the creation and sustenance of these user-managed resources.

Because of the way that urban resources are controlled and regulated by central authorities, creating urban commons also depends on a level of legal and property adaptation above and beyond what is required to collectively manage or govern natural resources. In Ostrom's case studies of collectively governed natural resources, communities were managing true "commons" or common property alongside some private property rights to access those resources. Those common property rights in many cases were centuries old and coexisted with the development of private rights to those resources over time (Ostrom 1990, 63). Ostrom made clear that the common property being managed by communities is not the same as the "commons" open to everyone (*res nullius*) as conceived by many scholars since publication of Hardin's "Tragedy of the Commons." Rather, the common property regimes she observed existed "where the members of a clearly demarcated group have a legal right to exclude non-members of the group from using a resource" (Ostrom 2000, 335–336). These communities utilized natural resources and created the rules or conditions of access for themselves and others with built-in incentives for responsible use and sanctions for overuse.

Most urban commons are constructed from urban infrastructure as opposed to pre-existing resources from which users subtract (e.g., water or fish or wood). Cities are highly proprietary environments in which land and resources are often enclosed by ownership and exclusion rights that tolerate empty, abandoned, and unproductive "surplus" property to

sit unutilized or underutilized for long periods of time. Creating urban commons most often requires changing or tweaking the way that public or private property is held and shared. In some instances, they require changing local laws to recognize or allow urban land and infrastructure to be used in common or creating new institutions that disaggregate and redistribute property rights and entitlements. As such, collectively governed, shared resources emerge as sites where self-organization takes place through “experimenting with rules by which to govern particular pieces of land and tinkering with the possibilities made available by existing laws and the features of private property” (Ela 2016).

In addition to the role of central authorities and property or legal adaptation, many kinds of urban commons are a product of what we call social and economic *pooling*. Scholars of the commons most often use the term “common pool resource” to denote the characteristics of an open access, depletable resources (Ostrom 1990). In this conception of a commons, the pool is the sum of the units that constitute the resource—for example, fish in a fishery or trees in a forest—and typically those units are limited and exhaustible. In economic terms, a common pool resource can be shared by many users simultaneously, but the amount or availability of the resource diminishes by every unit that an individual user subtracts. The pool is thus depleted or exhausted when too many unconstrained users have taken from it, leading to the classic *tragedy of the commons* scenario.

Our use of the term *pooling* is not to denote existing, open-access, non-renewable units. Rather, pooling is the combined effort and associated resources of different actors to construct and share common goods. Community gardens, wireless networks, co-housing, and land trust arrangements are most often the result of pooling human capital, social networks, and existing urban infrastructure or public resources to create and or construct shared resources. These resources are then made available and accessible to a broader class of urban inhabitants, many of whom are on the social and economic margins of growing cities. Resources become an urban *commons* or part of a common *pool* through these collaborative practices and ventures aimed at sharing existing urban resources, generating new resources, producing new public services, and coordinating urban networks across the city.

GOVERNING GREEN URBAN COMMONS

One entry point in assessing whether and how Ostrom's approach applies in the urban context is to ask whether natural ecological resources are being collectively governed or managed in cities under conditions like those found in Ostrom's case studies of traditional common pool resources. These urban ecological resources or "urban green commons," which include lakes, parks, and urban gardens, can provide critical resources such as food and recreational spaces for urban populations that live near them (Colding et al. 2013). They can also be important spaces that strengthen social networks and facilitate social integration in dense, diverse, and often socially stratified urban environments. These resources can be as vulnerable and endangered as natural resources in rural environments and perhaps even more so because of urbanization patterns. For instance, urban green commons are frequently privatized, converted to built spaces, degraded, or polluted (Unnikrishnan and Nagendra 2015; Mundoli et al. 2015). Like traditional common pool resources, they are also subject to rivalry and conflicts with respect to their use, management, and ownership in urban environments characterized by rapid urbanization, migration, and landscape change (Unnikrishnan et al. 2016).

Collective action to manage these resources in cities can mimic, at least at first glance, similar resources in the natural world or in rural areas. To test this, researchers have applied Ostrom's framework for the study of the commons in cities by examining ecological resources such as lakes, rivers, and forests accessed by urban local communities for traditional cultural and livelihood uses and/or by recent urban migrants for aesthetic and recreational purposes (D'Souza and Nagendra 2011). Ostrom developed an institutional analysis and development (IAD) framework to analyze collective action situations with a focus on institutions in which multiple actors are interacting (Ostrom 2005a, 2011). The IAD framework includes both *endogenous* (internal) and *exogenous* (external) variables that can influence how well a particular resource is being collectively managed by a local community (Ostrom 2005a). These include the biophysical characteristics of the resource, attributes of the community, rules in use, the action area or arena where participants interact and solve problems (or not), and information about specific actions situations and specific actors (Ostrom 2005a). The IAD framework was later expanded into Ostrom's

social-ecological system (SES) framework involving a set of ten variables that include the size of the resource system, number of actors, leadership, social capital, importance of the resource, existence of operational-choice rules, and existence of informal mechanisms for monitoring (Ostrom 2007, 2009a). The IAD and SES frameworks have been used by scholars to examine case studies of lobster fisheries, forests, irrigation systems, grazing pastures, and other scarce, congestible, nonrenewable natural resources (Poteete and Ostrom 2004a). It has also been used and adapted to study collective governance arrangements for other kind of resources such as knowledge and cultural commons (Frischmann et al. 2014).

In the first robust application of Ostrom's approach to natural resources in urban areas, Harini Nagendra and Elinor Ostrom examined the challenges of collective governance of urban lakes on the periphery of Bangalore, India, using the SES framework's social-ecological variables associated with self-organization in previous studies of traditional commons (Nagendra and Ostrom 2014). These variables were applied to lakes of varying size and ecological quality (from lightly to very polluted) located on Bangalore's urbanizing peripheral areas to diagnose why some water bodies had been effectively restored and managed by newly forged collaborations between citizens and local government locations, whereas others had become ecologically deteriorated and/or failed to generate sufficient levels of collective action. Consistent with Ostrom's observations of traditional common pool resources, the study of urban lake commons found that endogenous factors were very important to the presence of collective management. Specifically, collective action was present in six of the seven lakes studied, where the following variables were present: a small or moderate number of actors, the presence of local leadership, relatively high levels of trust and social capital, lack of exclusion of socioeconomic groups, high resource importance to residents, and the presence of operational community rules and informal norms for monitoring the resources. Yet, those collective efforts alone were unlikely to have improved the ecological condition of the lakes, some of which were very polluted. Rather, the study found that it was the *combination* of endogenous and exogenous factors that correlated with a high level of collective action *and* high ecological performance. Notably, only two of the six lakes were characterized by *both* collective action and improved ecological conditions.

Most important for our purposes is the authors' conclusion that the challenge of cleaning up an urban lake in a quickly urbanizing area on the periphery of Bangalore required effective interaction or collaboration with various governmental units and other actors (Nagendra and Ostrom 2014). Collaboration and networking with others are critical in the urban context, the study stressed, because of the complex legal, technical, and political environment in which these lakes are located. For instance, lake restoration requires technical, financial, and manpower resources necessary for the tasks of dredging, bund building, and other cleanup activities that are beyond the scope of local resident groups to manage alone. Local resident groups must work with government agencies as well as technical experts (e.g., researchers and naturalists) to successfully restore the resource to a level that can meet their local needs. At the same time, although government agencies have the legal authority to prevent unwanted activities and harmful use of the lake, they must rely on information from local residents to detect these activities and intervene in a timely manner. Collective action by local groups is not only critical in monitoring the process of restoration and ensuring that the lakes remain in healthy conditions after rejuvenation. Such collective action is critical also, the authors conclude, in strengthening downward accountability (ensuring the effectiveness of monitoring against infractions and sanctioning of repeat offenders) because local officials are not always accountable to the residents they serve given the economics of urbanization and the imperatives for growth in many cities. As the authors note in this context, "local officials are often subject to governance incentives as well as incentives of political economy and rent-seeking that ensure that they are primarily accountable to higher officials or vested interests such as real estate agencies, rather than downward accountability to local communities or marginalized groups" (Nagendra and Ostrom 2014, 76).

ENABLING URBAN COMMONS

Much like ecological commons such as lakes and rivers, constructed green commons such as neighborhood parks, community gardens, or urban farms must account for the political, economic, and legal complexity of the urban environment in which they are located. Endogenous efforts alone

are rarely enough to maintain or sustain over the long run collective efforts to manage or govern even small resources such as community gardens and urban farms. These collective efforts of local users ultimately depend on some cooperation with central authorities—that is, local government officials, administrative agencies, and others responsible for managing and governing different kinds of urban infrastructure. At the same time, local collective efforts to manage these resources are vulnerable to the larger urban political economy in which these efforts are situated. For these reasons, the economic and political complexity of cities, including rising social and economic inequality, means that governance of urban commons is often not just about communities governing themselves. Rather, the creation of new urban commons almost always involves some form of enabling or support from the local government or state and, in most cases, cooperation with other urban actors and sectors. However, what degree of state enabling is necessary for sustainable collective governance of shared urban resources and how vulnerable these resources are to capture by a narrow set of interests that are not fully accountable to the surrounding community or to co-optation by extractive market forces or private actors, are heavily dependent on local context.

Consider the example of community gardens, one of the most ubiquitous kinds of urban commons in cities around the world. The transformation of vacant or abandoned land into productive urban resources is initially an endogenous effort in which residents self-organize and self-manage these spaces as shared community resources (Foster 2011). Residents manage to come together, clean up or restore the lots, and construct and maintain fully functioning urban gardens and farms. Local users collectively formulate their own rules of use and allocate resource units (e.g., plots of land) and shared infrastructure (e.g., water connection or greenhouse) without a formal organizational structure (Rogge and Theesfeld 2018). Constructing and maintaining community gardens and farms often depends upon and fosters collaborative relationships and social ties among residents of different neighborhoods and racial and generational groups (Foster 2006). This social capital and the norms that they generate enable residents to cooperatively work toward common neighborhood goals and a shared desire that the space serve the needs of local residents—whether providing fresh vegetables, green space, or recreational amenities. Moreover,

there is evidence that these self-organized efforts tend to spread throughout urban areas through a “social influence” or “social contagion” process (Shur-Ofry and Malcai 2019). In other words, the creation of community gardens at the micro level or sublocal scale enables and supports the diffusion of these efforts on a larger scale on a citywide basis. This diffusion and contagion occur through the interactions among individual participants or players from different community gardens facilitated by enabling nudges—positive reinforcement or supportive programs—from central authorities.

The role of central authorities or regulators can be important in both enabling and sustaining locally organized efforts both by providing modest support and assistance to these users (Lehavi 2008; Foster 2011). Abandoned, vacant and underutilized spaces on which community gardens or urban farms are constructed, for example, are most often under the control of central authorities. They can operate long term as community gardens or urban farms only with the implicit or explicit consent of the local government. Sometimes city officials may passively allow the group to utilize land under the city’s control and refrain from interfering in the group effort. Other times, city officials might transfer land to the group either for a nominal fee or for a contractual term and may even provide materials and other critical resources to the gardeners, such as access to gardening equipment through city gardening programs. New York City’s GreenThumb Program is an example of this kind of support, providing residents with technical support and materials (Foster 2011). Local land use rules and zoning might have to be changed to allow for a change in the use of land from a former residential or commercial use to its current agricultural use. Residents might also need to take advantage of local rules and regulations on access to local water supply and other urban services or infrastructure required to engage in urban gardening or farming (Ela 2016).

This enabling role grows more significant with the scale and complexity of the resource, involving the need for much more legal authority and/or financial entanglement than smaller resources require for collective management. A stronger state role is required when resources are not only larger but involve more heterogeneous users and involve more legal or regulatory complexity. For instance, as with community gardens, collective efforts to revitalize and manage neighborhood urban parks are largely

endogenous efforts undertaken by abutting park neighbors or frequent users who lend their time, give money, or help raise funds to recover and maintain the park. These groups consist of volunteers, typically referred to as Friends of Park [X], who provide labor for park maintenance and assist in community outreach and park programming. They organize park cleanups and community events, build or donate simple infrastructure or facilities for community activities (e.g., small pools or sand pits), and patrol the park as a way of deterring criminal and other undesirable activities (Madden et al. 2000). Many of these groups remain an informal collection of volunteers, whereas others have become more formal. The more formal groups establish themselves as a membership organization, elect board of directors, write bylaws, and apply for nonprofit status (Lehavi 2004).

These community-based Friends of Park [X] groups tend to rely heavily on government assistance, and in some instances collective efforts are very much dependent on the government to coordinate, establish, and sustain these efforts. Local governments help to develop and nurture these groups by providing them with technical assistance, training, and funding (Madden et al. 2000). An example is New York City's Partnerships for Parks, a joint venture between the New York City Parks Foundation and the New York City Department of Parks & Recreation, which encourages the formation and nurtures the development of neighborhood parks groups across the city. The provision of training, materials, and financial support to local groups willing to assume some responsibility for some park management functions can provide a powerful signal and incentive for individuals to pool and coordinate their efforts as well as sustain the enterprise over time. Like community gardens, this state enabling role is crucial even when there are strong endogenous factors at play that enable communities to engage in collective action to care for a shared urban green resource. These efforts may not be successful nor sustainable over the long run, despite strong social ties and cooperative action, were they not assisted by local governments through local programs like those mentioned.

In our previous work we have observed that state enabling of self-organized, collective governance of shared urban resources exists along a spectrum (Foster 2011). Enabling mechanisms range from offering de

minimis support to largely endogenous collective efforts, as in the examples of community gardens and small neighborhood parks, to more significant support in which central authorities are essential to the formation of collective efforts. At the de minimis end of the spectrum, central authorities allow, either explicitly or implicitly, the collective to exercise management prerogatives over the resource and may offer them material support to start and sustain their efforts. The government has virtually no affirmative role in coordinating the collective effort or in establishing the group, although it may provide them with financial or other incentives to sustain their efforts. Further along the spectrum, there can be a closer relationship between central authorities and the collectivity in which the government shares its resources with the group and exercises some degree of oversight of the group's activities. Government enabling is an important stabilizing force for the group, and the group works closely with government officials. However, the relationship between the government and the group falls short of a fully realized partnership. On the far end of the spectrum are collective efforts that are very much dependent on the government to coordinate, establish, and sustain them. That is, the group takes its form only as a result of government support and entanglement, and government support is a precondition to the existence of collective action.

Two examples of the latter kinds of larger-scale state-enabled, sublocal governance arrangements are park conservancies and business (or community or neighborhood) improvement districts. *Park conservancies* are constituted of public and private stakeholders who maintain and manage, in partnership with city government, large urban parks. In contrast to park "friends" groups formed to support small neighborhood parks, park conservancies are nonprofit entities that raise significant amounts of money and co-manage large urban parks in partnership with the local government by collaborating on planning, design, and implementation of capital projects as well as sharing responsibility for park maintenance and operations and in some cases revenue (Taylor 2009; Murray 2010). The prototype for park conservancies is the Central Park Conservancy in New York City, which was founded by several local leaders and groups that initially established the Central Park Task Force, an organization that began to encourage direct involvement of the public as park volunteers

and donors but later incorporated itself as the Conservancy. In a groundbreaking power-sharing arrangement, the Central Park administrator was appointed to serve as the chief executive officer of both the park and the Conservancy, signaling the important role that the Conservancy would have in the restoration and maintenance of the park. The Conservancy is run by a board of trustees, which includes city officials and representatives from nonprofit organizations and private corporations, among other interests. It combines donations from individuals with corporate donations and government funding to fulfill its budgetary needs and build its endowments. A variety of public bodies have oversight over the Conservancy's management decisions, including the Art Commission of the City of New York, five neighborhood community planning boards in the city, the Landmarks Preservation Commission, and the city council. Although Central Park Conservancy may be the most widely known of park co-managers, its model has been widely replicated with varying success in large urban parks around the US (Taylor 2009, 350; Rosenzweig and Blackmar 1992, 524).

Agreements or partnerships between local governments and park conservancies serve an important coordinating and stabilizing function that enables disparate sectors and groups to cooperate to undertake significant responsibility for park management. Private involvement in the management of urban parks is a phenomenon stretching back to the early twentieth century (Kinkead 1990). Neighbors that live near urban parks, as well as wealthy donors and residents, have long exerted some power over park management by providing donations, labor, advocacy efforts, and planning ideas. Often, however, these efforts have suffered from a lack of coordination and efficiencies of scale; without leadership to harness these private efforts, they often falter over time as old groups fade and new ones appear to renew the effort to resuscitate and improve park management (Murray 2010). Agreements such as the one between the city of New York and the Central Park Conservancy serve both to establish important norms regarding the limits of the group's responsibility for the resource—that is, reverse crowd-out protection that ensures public funds will not be replaced by private donations—and to formalize the contours of the conservancy's responsibility for the day-to-day management of the park. These park conservancies have been widely credited for the revitalization

of urban parks at a time when some cities had “all but abdicated their role as stewards of the public parks” (Taylor 2009, 346–347). They have the virtue of being able to avoid the red tape, bureaucracy, and inaction in which city parks departments often become mired; they can make decisions faster, raise funds, save money, and serve as effective advocates for urban parks.

Similarly, partnerships between local businesses, property owners, and local governments are established to manage the neighborhood commons—that is, streets, sidewalks, parks, and playgrounds. Business improvement districts (BIDs) are enabled by state and local legislation that allows a majority of commercial property owners in a defined neighborhood to vote to form a BID, agree to pay special assessments, and assume (at least partial) control and management (maintenance) of the neighborhood commons. BIDs are governed by local property owners in partnership with representatives from businesses, local governments, and sometimes neighborhood resident non-property owners. The key features of BIDs are that (1) they cover a defined (and limited) geographic territory in which commercial property owners or businesses in the area are subject to additional assessments or taxes; (2) they typically fund supplemental street-level services and small-scale maintenance and capital improvements (e.g., street cleaning, garbage collection, landscaping, sidewalk widening, and security patrols) over and above those offered by city government; and (3) they are granted the limited authority by legislation (Briffault 1999). Similar districts have been established as community improvement districts (CIDs) or neighborhood improvement districts (NIDs), mostly to encourage and fund economic development and public improvements in defined neighborhoods through collecting special assessments from property owners or imposing special sales or license taxes in the district. These special districts are now a ubiquitous feature of urban governance in many cities across the world, with varying governance and financial arrangements.

Because BIDs exist only by virtue of specific legislative authority, enabling legislation is what allows local commercial business and/or property owners to minimize free-rider and coordination problems in order to provide neighborhood services beneficial to the local environment. BID legislation (and similar legislation authorizing NIDs or CIDs) lowers collective action

costs by arranging for the municipality to collect the mandatory assessment from property owners who then use the funds to provide services. The impetus for a BID creation typically arises from a significant portion of the property owners or businesses in the neighborhood, or representatives of one or more of those groups, that organize the BID and agree to assess themselves or impose a sales tax or other tax in order to fund the activities and services provided by a BID. BID formation is often costly in terms of time, energy, and money to coordinate and prepare the necessary groundwork, and it can take years before the process is complete (Briffault 1999). BID legislation can enhance the capacity to achieve collective outcomes among diverse actors, even in the private sector, whose interests may not appear at first to be well aligned.

These special institutional arrangements mimic to some extent Ostrom's findings on management of regional water basins through special water districts. Special water districts were legislatively enabled to make possible collaborative water governance involving groundwater producers, residents, and state and county authorities. As in her findings, the state or central authorities play a key role in helping to enable and coordinate these nested units of resource governance for larger and more complex resources. In the case of park conservancies, the local government helps to establish them and becomes part of a formal partnership to collectively manage the resource with private and (sometimes) community-based actors. In the case of BIDs, the state must enact special enabling legislation to establish them, including defining their authority and fiscal responsibility over common shared neighborhood resources. However, one difference between the natural and the urban environments is the political and economic context in which state enabling occurs. In urban environments, they occur in an often highly unequal context that includes race, ethnicity, and/or class segregation and stratification. As such, although the role of the state in enabling collectively managed large parks and neighborhood common spaces is largely seen as a positive, it has also come under criticism for the ways that these nested institutions exacerbate distributional inequalities in public goods and services.

Our view is that these kinds of self-professed *public-private partnerships* can carry costs for urban communities least able to participate in the stewardship of these common resources that they manage. Park conservancies,

for example, have been criticized for imposing many of the costs that attend to the (at least partial) privatization of any public good—that is, enabling gentrification, exacerbating ethnic and class tensions, and creating a two-tiered park system that disadvantages parks in less affluent neighborhoods (Taylor 2009; Murray 2010). Enabling the partial privatization of large urban parks or entire neighborhood common areas might result in the creation of different tiers of common resource stewardship, depending on the demographics of those who live closest to the resource and/or frequent it the most. Although local government enabling is available to any group of private actors able to overcome free-rider and other collective action obstacles, the scope and success of the management or stewardship effort will depend in no small part on the assets of those individuals involved (as well as their ability to attract additional assets). Although park conservancies are celebrated for raising and dedicating private funds toward the improvement of larger prominent city parks, they often create a two-tiered park system that disadvantages parks in less affluent neighborhoods. One cost of their success is that parks and playgrounds in poorer neighborhoods are often left underfunded and relatively unattended (Taylor 2009, 302).

In a similar vein, BIDs are widely credited with making small-scale improvements to streets, parks, and other common areas that have led to the revitalization of once deteriorated urban commercial areas like New York City's Times Square. However, BIDs raise concerns about the extent to which they exacerbate the uneven distribution of public services. BIDs in low-income neighborhoods tend to have less fiscal and human capital (because of lower property values) to dedicate to street-level services and capital improvements than do those in high-income neighborhoods (Gross 2005, 184). Less central or popular parts of the city, without the support of wealthy private partners or commercial businesses paying premium tax rates, suffer from underfunding because of the success of other, more visible areas of the city. The result is that the BIDs in these neighborhoods provide a very limited range of services that tend to address the most visible aspects of urban decay (e.g., graffiti, sanitation, and sidewalk maintenance) and fall far short of the kind of major capital improvements that characterize BIDs in central downtown or wealthier neighborhoods. The governance structure of BIDs has also been challenged,

both in academic commentary and in the courts, for lacking democratic accountability and in part for its exclusion of non-property-owner residents from participating in BID management of their neighborhood (Foster 2011). Moreover, once they are established, there is in fact very little oversight of them, even though most BID legislation provides the authority for oversight by politically accountable government officials (Briffault 1999).

BOTTOM-UP VERSUS TOP-DOWN URBAN COMMONS

Park conservancies and BIDs are one form of urban commons, or collectively governed shared urban resource. They represent, however, a top-down, institutionalized, state-enabled form of collective resource governance. They are top down because they are initiated and come into being only through government authority or action, as is the case of large park conservancies and BIDs. On the other hand, many other kinds of urban commons emerge from bottom-up efforts of residents or resource users who are motivated to overcome traditional collective action problems and to collaborate to construct new goods and services that many urban communities lack or find inaccessible to them. The issue for bottom-up urban commons is not only determining what is the best way to manage or govern existing resources like parks, land, or existing urban infrastructure. Rather, the greater issue is how new forms of urban commons can emerge from those resources that are already under some form of legal ownership and control, whether public or private. The challenge is how communities can access and utilize existing resources and urban infrastructure to *construct* new resources and goods that respond to community needs but that are under neither exclusive public nor private control.

Cities are highly proprietary environments, as we have previously noted. Land and structures that are not privately owned are public property of some sort, meaning that they are under the control of the state (local government or higher levels of authority). Public property can include streets, roads, squares, parks, cultural institutions, and other structures dedicated to public use. However, one question that arises in cities all over the world is whether private or public property that is abandoned or vacant should be potential sites for urban commons. As we mentioned in the

previous chapter, cities and neighborhoods characterized by growth and those characterized by shrinkage and decline contain significant amounts of vacant land and empty or underutilized structures. Land or structures in cities can become vacant or underutilized for many reasons, depending on whether the resources are public or private property. In some cases, public buildings owned by the state may fall into disrepair or disuse due to lack of public moneys to take care of them. In addition to underutilized or vacant public land and structures, private land and structures can end up in the public domain when owners default on their tax obligations or otherwise abandon the obligations of property ownership. Local governments in many cities assume responsibility over these parcels, sometimes actively through tax foreclosure and sometimes by default. They become, at least temporarily, a form of public property while in the public domain.

In this transitory state of moving away from a past use and toward a future use that is unknown and unplanned, vacant land and structures are quite vulnerable to contestation of uses. Conflicts often emerge regarding present vs. future uses and different possibilities for future use. These conflicts exist between present owners of the land and the local government, and between the surrounding community and the local government, which may be hoping to sell abandoned property to private developers or investors. There are also conflicts among various users who have or gain access to the property and who may have in mind competing uses for the property. In some communities, residents are treating vacant land or abandoned structures as an open access resource to be shared broadly and utilized to produce goods for the community. As such, community members may begin to treat the property as an open access resource, utilizing it in ways that add value to the surrounding community and/or which produce goods for that community (as in the case of community gardens or urban farms or using abandoned homes to house the homeless). In other instances, public users conduct illegal activities such as dumping or crime, which clearly does not add value to the surrounding community. In fact, as we have previously argued, the rivalry in these spaces could lead to an urbanized version of “tragedy” in which open access leads inevitably to further degradation or destruction of the shared resource.

Pushing against this tragedy narrative for vacant and abandoned spaces is another narrative rooted in the language of the commons. Unlike

Hardin's tale of tragedy in these spaces, opening up access to abandoned or vacant property instead can enhance and capture positive value for the community by virtue of using the property to create goods (both tangible and intangible) that can be shared. This narrative or argument characterizes several social movements in the US and abroad in which activists occupy vacant, abandoned, or underutilized land, buildings, and structures. These movements are responding to what they view as market failures and the failures of an urban development approach that has neglected the provision of goods necessary to human well-being and flourishing. The tactic of occupation is a form of resistance against the enclosure, through private sale or public appropriation, of these assets or property in transition. Occupation is also a way of asserting that the occupied property has greater value or utility as a good either accessible to the public or preserved and maintained as a common good.

For example, in many parts of the US as well as in countries such as Brazil and South Africa, individuals occupy and squat in foreclosed, empty, often boarded-up homes and housing units (including public housing units) as a means to convince municipalities to clear title and transfer these homes and units to limited equity forms of ownership in order to provide long-term affordable housing for neighborhood residents (Alexander 2015). This "occupy" or "take back the land" movement is a response to the displacement of homeowners and tenants brought on by the confluence of the housing/mortgage crisis and the forces of gentrification. Rather than leaving these homes vacant and blighted, local public officials often condone the occupation and transformation of these structures by community members who aim to return the asset to productive use in ways that beautify and improve the properties and by extension the surrounding neighborhood (Alexander 2015, 271).

In a similar way, the Italian movement for *beni comuni* (common goods) has used occupation to stake public claim to abandoned and underutilized cultural (and other) structures in an effort to have these spaces either retained as or brought back into public or common use (Bailey and Mattei 2013). The most famous of these occupations occurred when a collection of art workers, students, and patrons occupied the national Valle Theatre in Rome (Bailey and Marcucci 2013). The theatre had become largely defunct as a result of government cuts for all public institutions,

and the Italian cultural ministry transferred the management of the theater to the city of Rome. Out of fear by many that the city would then sell it to a developer as part of a larger project for a new commercial center, a collection of art workers, students, and patrons occupied the theater. This occupation was followed by similar occupations of theaters and cultural institutions that were subject to privatization in cities all over Italy. In each case, the occupants' aim was "to recover people's possession of underutilized" structures and "open up" these spaces for the flourishing of common goods like culture (Bailey and Marcucci 2013, 997).

Although not explicitly using the language of the "commons," these contemporary "property outlaws" (Peñalver and Katyal 2010) were very much staking claim to vacant, abandoned, and underutilized land and to structures as common goods that should be accessible to urban dwellers to create essential resources for their communities. As Peñalver and Katyal's work has demonstrated, those excluded from property often respond in ways that end up reshaping legal norms on property ownership and use. From "illegal" lunch counter sit-ins during the civil rights movement to selective online copyright infringement, "property outlaws" often strengthen the role that property should and can play in changing the legal and social order. Although the creation of urban commons does not turn per se on outlaw activity, the claiming of underutilized land, structures, and other urban assets challenges the public/private binary of property ownership in which either the state or private actors have sole and exclusive dominion over urban property. In other words, occupation becomes part of an effort to transform a strictly private or public good into a *common* good, made accessible for sharing and possession by a group of local inhabitants.

Consider the way that a collective group of artists in Milan has drawn public attention to the amount of unused and underused spaces in the city and helped to push the city council to recognize the value of utilizing abandoned private and public property to meet community needs (Delsante and Bertolino 2017). By squatting in abandoned property and remaking those spaces for everyday cultural and artistic activities, this collective has advanced its underlying goal to "promote a dialogue with institutions to recognize the process by which an abandoned space could be considered a common-pool resource and thus be made available to

the community” and “directly managed by self-organised groups of what it calls ‘active citizens’ through processes of participatory democracy” (Delsante and Bertolino 2017, 53). On the heels of these occupations, and following substantial political debate, the city provided the collective access to some vacant properties and issued a larger call for proposals to temporarily use available spaces around the city. This was a precursor to the passage in 2012 of a city ordinance setting out criteria allowing the “re-use of vacant spaces” and unused buildings, both public and private, for “for the development of artistic, social and economic activities.” A broad class of users, both public and private, could take advantage of this ordinance. The ordinance specifically identified on an “experimental basis” a list of spaces proposed by any citizen or group of citizens to be used in the public interest free of charge for a maximum of three years with the possibility of renewal (Delsanti and Bertolino 2017, 52). What happened in Milan is reminiscent of Ostrom’s observation that successful user-managed or collective governance of a shared resource is recognition and respect by higher-level authorities.

As we discuss in the next chapter, several cities have adopted policies or regulations that acknowledge or even enable the use of publicly controlled or owned land or buildings for the creation of common goods and services by a collective group of citizens or users. This willingness is particularly evident in Italian cities but is spreading to other cities on the European continent through policy diffusion—learning from the experience of Italian cities and adapting those policies within their own legal, social, and economic contexts.

COMMONING IN THE CITY

Policies such as the one developed in Milan recognize that those involved in the creation of urban commons are not simply creating new kinds of resources but also new community-based institutions for sharing those resources. In this respect these policies recognize, at least implicitly, the value of what many scholars refer to as *commoning*. As prominent commons theorists David Bollier and Silke Helfrich argue, the commons is not only about resources, goods, and things but also about an ongoing social process and practice involving human interaction and social relations

within communities—whether they be physical or digital communities (Bollier and Helfrich 2015). Bollier and Helfrich understand commons, as we do, as a blend or co-mingling of a physical (or digital or natural) resource with “social practice and diverse forms of institutionalization” (Bollier and Helfrich 2015, 6).

Creating new commons, or *commoning*, is about a set of practices and sometimes institutions that aim to decommodify resources and resist traditional norms through collaborative organization and decision making (Bunce 2015). Commoning thus describes the bottom-up practice of collectively creating or constructing resources that can be shared with others and that meet concrete user needs. It requires not only a resource around which to common but also a community that has access to and can take care of, manage, and steward the resource over the long run. Commoning begins with the internal work that a community of users must do to create new common goods and then expands to develop the capacity for collective management of existing resources on the basis of strong cooperative norms and shared goals. In this sense, commoning is highly pragmatic, involving the establishment of rules and conditions and in some cases institutions for collectively sharing resources among a defined social group or group of users. The practices and patterns of commoning vary, of course, depending on the resource, the nature of the community of users, and the social or cultural context.

We caution that it is easy to romanticize the idea of commoning and of communities coming together to form relationships or build on existing relationships and to collaboratively create and then govern resources they require to flourish and improve their communities. This is time-consuming and hard work, sometimes exceeding the capacity and/or the desire of communities and users to undertake it. As Ostrom’s research demonstrates, commons are not solutions for all social problems, nor can they exist or function sustainably under all circumstances. As her design principles reflect, the hard work of commoning may be possible only under certain conditions such as small homogeneous communities and resources with clear boundaries. Even with state enabling, as we have described, local actors need incentives and sometimes significant external support to engage in collective governance, constructing and creating new resources out of existing ones, and then managing them sustainably over

time. This can seem even more daunting, but not impossible, in urban environments that are large, dense, socially heterogeneous, and economically competitive.

Nate Ela's sociolegal mapping of community gardens in Chicago also reminds us that commoning in urban environments occurs in a particular legal context that shapes how commons institutions are constituted (Ela 2016). His study of how people in two neighborhoods on Chicago's South Side gained access to and sought to govern land for community gardens and urban farms reveals that self-organizing occurred in relation to the rules created by state and local government. In the case of gardens, Ela emphasized the ways that individuals and small groups were iteratively searching for ways to secure use and ownership rights over land and its products. Claiming access rights to a particular space or plot of land and governing its use requires more than strong social norms between strangers. It also can mean navigating a thick layer of laws and regulations that need to be realigned with recognition of the commons as a form of property stewardship in order to institutionalize collective governance of those resources.

Amanda Huron's rich account of tenant organizing in Washington, DC, to create limited-equity cooperatively owned housing is another example of some of the dynamics involved in urban commoning. Huron recounts the story of hundreds of residents across the city who found themselves faced with eviction notices to make way for the razing of their structures in order to build tall luxury condominium apartment buildings in a quickly changing city. The DC residents, mostly low- or moderate-income African Americans and other minorities, were vulnerable to eviction at a time when middle-class residents were returning to centrally located, historic city centers (Huron 2018). For years, tenants across the city worked together to fight their evictions, to pool their money to purchase their apartment buildings and remain in place, and to exercise control over the increasingly scarce resource of affordable housing. To ensure the affordability of these buildings for future low- and moderate-income persons, the current residents created limited-equity cooperative ownership structures. This structure allows apartment dwellers to purchase shares in the co-op for little money, to pay low monthly co-op fees, and then to sell their shares for the same amount that they paid for it plus a small amount

of interest. To create and sustain this collectively owned and controlled resource, however, residents who were often strangers to each other (and did not even speak the same language) had to create their own governing structures, negotiate with city officials, find financing, work together to repair and remodel their buildings, write bylaws for making decisions, and decide on house rules and rules of access and exclusion (i.e., who is and is not allowed to buy into the co-ops). Despite the seeming barriers of culture and language, these “strangers” were able to claim and create a common resource together—in some instances, even holding their meetings in as many as three languages (Huron 2018, 87).

Huron describes the creation of these urban commons as “unintentional” in the sense that the residents involved were not seeking to create common-interest communities nor to create a new institution to democratically govern themselves and their shared resource. These were essentially strangers coming together—tenants who happened to live in the same community—who were compelled to respond to a housing crisis under intense pressures of time and money. “It is about creating spaces not just for the people members know and love—though, as seen, this is certainly an important part of it—but for people they don’t yet know, perfect strangers tossed their way by the currents of urban life” (Huron 2018, 160). They did not start out necessarily wanting to engage in commoning or even appreciating what would be involved. They came together for pragmatic reasons and sustained the practice out of collective need. Commoning is one option among a limited array of options, Huron argues, in cities that have become sites of intense capital accumulation. Traditional home ownership is not an option for this class of residents. As such, she argues, for people without access to capital, commoning is rational economic behavior. Although, clearly, LEC members are benefitting financially, their economic self-interest is not driving the creation of the commons. Rather, constructed commons like these create and support economies that are collaborative in the sense that community stability, control, and affordability are important elements as well.

The Bin-Zib co-housing communities in Seoul, South Korea, similarly illustrate the dynamics and work of creating urban commons in dense and heterogeneous environments as opposed to the small homogeneous environments that were the focus of Ostrom’s studies. It also hints at the

potential for urban commoning to scale across a city through networks of strangers motivated to work together toward a more collaborative and regenerative social and economic system in their city. Founded in 2008 by three people in their early thirties, Bin-Zib started as a communal living experiment in a three-bedroom apartment open to share with other “guests” for any length of stay (Han and Imamasa 2015). After purchasing the apartment, the founders invited others to live there; they disavowed any “ownership” in the house but accepted contributions by those who passed through according to their ability to pay (although everyone paid an equal amount for shared living expenses). There were no rules for membership in Bin-Zib, allowing people to come and leave as they wanted for any length of stay. As the number of guests increased, so did the number of rented houses that became part the Bin-Zib network of houses, which grew to over twenty houses over the years (although many of these have been disbanded) (Han 2019). The Bin-Zib has grown not only in size but also in its impact. The inhabitants open new houses when the existing ones become congested, and each house is managed or governed according to the social norms and relations of its occupants.

Bin-Zib is a unique and potentially replicable example of commoning in a heterogeneous, congested urban environment. Because these houses are open to anyone, they attract a cross-section of people with different motivations, ideologies, and sensitivities. There is documented conflict but also “convivial socialization,” including frequent online discussions, parties, and collective events that promote relations between community members and allow for the constant re-articulation of what Bin-Zib means to the community (Han and Imamasa 2015). Notably, Bin-Zib has no articles of association, maintains a flexible structure in which everything is decided by discussion, and intentionally keeps the community as open and heterogeneous as possible to further the aim of preserving its egalitarianism (Han 2019, 181–182). Bin-Zib’s development has been a process of trial and error in which “[t]he community has changed through solving specific problems residents have encountered, and the ways of solving problems were, in many cases, spontaneous” (Han 2019, 177). Bin-Zib has grown into a network of houses around Seoul, and it also includes a community café and a community bank that supports Bin-Zib communities and several other co-housing communities around the

country (Han and Imamasa 2015; Han 2019). In some of the communities where Bin-Zib exists, its residents actively network with other local actors such as individual artists, religious groups, and merchants' committees to support the emergence of a more collaborative and regenerative local economy (Han 2019, 186–187).

The Bin-Zib example highlights another unique aspect of urban commoning, what we refer to as social and economic *pooling*. Pooling recognizes the capacity of multiple urban and local actors—for example, city inhabitants, civil society organizations, local businesses, social innovators, and knowledge institutions—to access and use existing urban infrastructure to generate new resources (goods and services) that meet community needs (Iaione and De Nictolis 2017). By mixing and matching social and economic resources dispersed across the city, pooling expands the capacity of these existing resources and of the participants involved in sharing them. Social and economic pooling blends individual and organizational capabilities and occurs across economic and institutional boundaries, often filling the spaces or voids in the access and delivery of essential goods and services. Further along in the book, we return to the ways that pooling can be supported and enabled by city policies.

LEGAL AND PROPERTY ADAPTATION

What ultimately makes the creation of new forms of shared and collectively managed urban goods challenging is the cost and access to urban land and infrastructure. Urban land and various kinds of urban infrastructure are increasingly a vehicle for high investment returns and the target of public and private efforts to capture and exploit their market value. Gaining and/or retaining access to these resources often involves a struggle or effort to recognize something akin to a collective property right to those resources for the urban poor (Blomley 2008). As the opening anecdote in chapter 1 on the vulnerability of community gardens reveals, rising land and real estate values threaten to displace longstanding communities from the material and immaterial resources, such as social networks, on which they depend. This threat looms even for newly constructed communities like Bin-Zib that are beginning to see rising rents in their neighborhoods (Han 2019, 186). The same pressures face a group of local

residents in Dublin who have collectively acquired buildings to facilitate affordable “independent spaces” for work, art, or socializing, which are “frequented by a wide variety of people, from trendy artists to asylum seekers, from working class ravers to anarcho-punks, and from community activists to isolated young people and those with mental health difficulties” (Bresnihan and Byrne 2015, 8). These spaces, acquired in part as a response to rapid urban development, increased rents, the commercialization of street life, and the privatization of public space, are now vulnerable to those same forces.

As a response to gentrification pressures, urban communities and “commoners” are pushing to transform the legal status of the land and buildings they utilize and/or occupy to place them under community control through legal and property mechanisms such as limited-equity cooperatives (LECs) or community land trusts (CLTs), which are mentioned in chapter 1. LECs and CLTs are designed to allow communities to self-govern and steward urban land and buildings and to keep them affordable and accessible to future users. Land and buildings managed and governed as an LEC or CLT are dedicated to low-cost housing and commercial spaces as well as urban farming or community gardens. LECs, for instance, differ from traditional housing cooperatives in that they ensure long-term affordability by removing the housing from the speculative market, limiting the resale amount, and collectively subsidizing low-income owners.

CLTs operate most uniquely as a steward of shared resources by removing land from the speculative market and separating land *ownership* from land *use*. The original CLT was created to be “a legal entity, a quasi-public body, chartered to hold land in stewardship for all mankind present and future while protecting the legitimate use-rights of its residents” (Swann et al. 1972, 10). The CLT operates as a nonprofit entity that holds legal title to the land and enters into long-term “ground leases” with those who utilize the land for apartments, homes, commercial buildings, or green space. In some cases, instead of ground leases, land users receive a warranty or surface rights deed that secures their right to use the land and to pass it along to their heirs. However, the CLT maintains ownership of the land underneath any building or structure and thus controls the future use of that land, including its affordability. Individual users own the buildings or structure on top of the land and enjoy all the benefits

of that ownership—including using, improving, excluding others from it, and mortgaging it. The buildings on top of land can also be transferred or sold by users for an amount determined by the resale formula set forth in the ground lease or deed, allowing a small profit to be made from the sale but otherwise keeping the land affordable for the future purchasers. The CLT may also retain a first right of refusal to purchase the building or unit whenever it is being sold. The terms of the ground lease and all other conditions of land ownership/use are set by a tripartite board of directors, which governs the CLT.

CLTs and LECs resonate with what property scholars refer to as *governance property*. Governance property characterizes many (if not most) forms of private property ownership today in that such property is shared with multiple owners or users collectively making decisions and rules about access, use, enjoyment, and transfer of property (Alexander 2012). Governance property is a departure from the prevailing property ownership model, characteristic of Western legal culture, which aggregates all legal rights and entitlements in one owner. As property scholars have begun to recognize, the dominant Western model of property and resource ownership—the *fee simple*—looks more and more ill-fitting for the urbanized, interdependent world in which most people live. Endowing owners (public or private) with a monopoly on urban land and resources, this form of legal ownership “misses most of how urban property creates value” through spatial relationships that result from the density and proximity characteristic of urbanization (Fennell 2016, 1460–61).

To meet the demands of contemporary urban land use requires instead a mix of approaches to mediate access to resources, particularly for those who have much less access to them. It requires, at the very least, embracing approaches that recognize relational property interests and resource governance in ways that advance access to urban resources for the most vulnerable and marginalized communities facing resource uncertainty and precarity. More to the point, it is possible to adapt and unbundle the legal entitlements to access and use property to fit the normative aims of the commons that satisfies various commitments to social inclusion and distributive justice (Marella 2017). Those legal entitlements can be re-allocated to different owners or users and/or limited through legal restrictions that make possible the inclusion of different classes of rights

holders. In other words, the bundle of legal entitlements or rights need not be aggregated in one owner (or even a collection of owners) and need not be without internal limits or restriction.

LECs and CLTs place internal limits on the right to hold and sell property, limits that go against the rights that owners would have in traditional private property arrangements in which the owner or owners have total freedom in regard to how to use, sell, or transfer property subject only to external constraints such as zoning or environmental regulations. In return, limited-equity owners gain sustainable wealth building opportunities and lasting affordability. CLTs are governed collaboratively by the users of the property, typically low-income residents, along with the larger community and representatives from government and often the private sector to construct and sustain the buildings, infrastructure, and maintenance over the long term. The traditional governing board of a CLT is *tripartite*—that is, it comprises an equal number of seats represented by users or people who lease the land from the CLT, residents from the surrounding community who do not lease land from the CLT, and the public, who are represented by a variety of stakeholders such as public officials, local funders, and nonprofit providers of housing or social services. CLTs are rooted in a desire to exercise community control over land, to remove land from the speculative market, and to facilitate sustainable uses that benefit disadvantaged communities (DeFilippis et al. 2018).

The traditional governance structure of the typical CLT notably differs from the kind of closed, private governance of condos, co-ops, and other *common interest communities*. LECs, by contrast, are in many ways akin to common interest communities like condominiums and traditional co-ops. A cooperative is governed by a board but consists exclusively of private property owners. Unlike in a traditional co-op, however, in an LEC the owners can restrict the resale and equity gains to keep the housing affordable. They do so by private agreement among private property owners. Those owners can change this agreement at any time to make private gains from speculation, as occurred in the hundreds of cooperative agreements in NYC that converted to market rate units. CLTs, on the other hand, transform what might otherwise be a collection of individuals owning property, as in a traditional housing cooperative, into a collaboratively governed

nonprofit institution that creates a form of collective ownership for the common good through its democratic governance structure.

Both CLTs and LECs are conceived as a way to ensure that critical urban resources remain accessible to individuals and communities by adapting private property entitlements to the norms of a common good. They maintain affordability and hence accessibility of the resource by limiting the amount of equity that can be extracted from these goods so that future generations can share in their use and by creating stable property rights for those who occupy and use the good; they accomplish this through a governance structure that maintains control over the good or service within the community served. As Lisa Alexander has written, property stewardship is created by removing the profit motive and by allocating rights and responsibilities in a way that gives stewards decision-making control over resources in a manner similar to ownership but without the emphasis on sole dominion and the individual exchange value of property (Alexander 2019, 402). In other words, stewardship grants control of and access to resources without formal fee simple title and without wealth maximization as a goal of property access, and it “connects stewards to economic resources and social networks that maximize their self-actualization, privacy, human flourishing, and community participation” (Alexander 2019, 404).

Stewardship encourages co-management, co-development, and construction for the common good. It is not antidevelopment nor anti-wealth-building. It discourages economic development in the absence of community building. It privileges the right to be included in community over the right to exclude from collective resources. It favors collective, community wealth building over individual wealth maximization, although it can create a path for both. Consider a recent 2019 study of fifty-eight shared-equity homeownership programs and 4,108 properties over the past three decades in the US that analyzed the characteristics of households owning shared-equity homes and the performance of these forms of property ownership across the nation (Wang et al. 2019). The study focused on the three most common types of these programs—CLTs, LECs, and deed-restricted homes. The study found that limited-equity models of homeownership serve predominantly first-time homeowners who tend to be members of vulnerable populations, particularly low-income racial and

ethnic minorities, and female-headed households. Limited equity homeownership not only provides stable and affordable housing across generations, but it also provides for financial security and mitigates risk during times of economic turmoil (e.g., fewer home foreclosures). More specifically the study found that this form of homeownership can be a pathway to entry to the larger market for homeowners. Six of ten limited-equity homeowners used their earned (though limited) equity to eventually purchase a traditional market-rate home.

To appreciate the potential of CLTs as a stewardship model, a closer look at the famous Dudley Street experiment, discussed in chapter 1, is instructive. Dudley Street, located in Roxbury, Massachusetts, was one of the most economically distressed neighborhoods in the Boston metropolitan region in the late 1980s and early 1990s. After cleaning up many of the vacant lots that littered its neighborhood (a mix of city-owned and privately owned parcels), Dudley Street residents incorporated as a nonprofit (DSNI) and embarked on an ambitious plan to create an “urban village” that would develop the neighborhood without resulting in any displacement of the existing residents (Medoff and Sklar 1994). To do this, DSNI, along with its community partners, approached the Boston Redevelopment Authority and requested eminent domain authority, which was granted by the city of Boston with the support of the newly elected mayor of Boston, Ray Flynn. With this authority, the DSNI assumed control of over 1,300 vacant parcels and created a community land trust, Dudley Neighbors, Inc., that would own and secure that land for long-term affordability.

The once vacant land has been transformed into more than 225 new affordable homes, a 10,000 square foot community greenhouse on the site of a former auto body shop, two acres of community farms, playgrounds, gardens (that today total more than seventy), commercial space, and other amenities of a thriving urban village (Smith and Hernandez 2020, 288). The housing now includes ninety-seven homeownership units, seventy-seven limited-equity cooperative units, fifty-five rental apartments, and ninety-six individually owned homes. Consistent with its neighborhood plan, the majority of housing units are targeted for families making between 30 and 60 percent of the area’s median income, which equals approximately \$30,000–\$60,000 for a family of four. Individuals or families who wish to purchase one of Dudley’s affordable homes participate in a lottery system

in order to ensure equal and fair access to the homes that become available. After a purchase, the homeowner pays a small lease fee for the land on which the house sits; the land continues to be owned by the CLT. The homeowner also agrees that if the home is ever sold, which is rare in the Dudley area, the home must be sold at a cost determined by the formula used by DSNI's CLT. The sustainability of the Dudley model has been proven in part by the fact that during the economic crisis in the period 2008–2013, there were no foreclosures of DNI homes even as the surrounding neighborhood had more than two hundred foreclosures (Smith and Hernandez 2020, 290).

The DSNI CLT is democratically governed, organized, and run so that each cultural-ethnic grouping present in the Dudley community gets an equal voice. The Board has thirty-five seats, twenty of which are reserved for community residents including an equal number of representatives of the four main ethnic groups inside the community. Of the twenty community seats, four seats are for Black residents, four are for Latinos, four are for residents with a Cape Verdean heritage, four are for white residents, and four are for youth (ages 15–18) living in the community. Of the remaining seats, two are for community development organizations, two for local religious organizations, seven for partner organizations, and two for small businesses in the community. Once in place, these thirty-three members then elect two additional members from those who wanted to participate on the board but were not elected, for a total of thirty-five. Residents alone vote on who gets to serve on the two-year board term. Campaigns are door to door and face to face so that all residents have the opportunity to meet the members of their board. Once elected, the board approves all decisions made by DSNI. All projects and campaigns must be vetted and approved by the board, but such decisions are always open to community input and participation.

The Caño Martín Peña CLT in Puerto Rico, which includes more than 270 acres of land across eight neighborhoods in an informal settlement, has a slightly different governance structure that is smaller but equally as representative of the collective interests in the land stewarded by the CLT. The CLT was enabled by the Public Authority, which facilitated the financing of the project, and supported by the creation of the Martín Peña Canal Special Planning District, a district of two hundred acres of public

land transferred to the project for the creation and management of a CLT. The governance structure of the Caño CLT was collectively decided upon by representatives from the eight Martín Peña neighborhoods in a participatory process that resulted in a local regulation that established the legal basis for the CLT, including its governance, rules, and procedures, and community stewardship of the land in perpetuity (Hernández-Torrales et al. 2020, 198–199).

The local law provides that at least 45 percent of the CLT board must be composed of the district’s own residents, giving the communities a strong governing role. The eleven-member board of trustees consists of representatives of CLT users, the larger community, private entities, and state and local government. Of the eleven members, four are residents whose homes are located on the land owned by the CLT (elected by an assembly of trustees), two are residents of the surrounding communities (designated to serve by the eight organizations that formed the CLT), two are nonresidents of the district and selected by CLT board members on that basis of the skills and knowledge they can contribute to the CLT, and the remaining three seats are occupied by representatives of state and local government consisting of appointees from the local development corporation, the mayor of San Juan, and the governor of Puerto Rico (Algoed et al. 2018).

CLT members are also in charge of spreading the concepts of “collective ownership” and work closely with professionals, professors, experts, and students and are invited to take part in workshops and meetings in order to share their experiences (World Habitat 2015; Bernardi 2017a). The CLT also supports residents with financial education and specific programs to promote citizens’ participation and critical awareness in order to address and improve social justice, affordable housing, food security, violence prevention, youth leadership, adult literacy, and local entrepreneurship (Bernardi 2017).

NESTED URBAN COMMONS

One question raised by CLTs is whether and how much they can *scale* from a site or location to a citywide or even regionwide network of stewarded and co-governed land and resources. Recently, we have begun to see that they can scale through networking and with the support of local

policies and public resources. The use of community land trusts to protect and sustain access to affordable urban goods such as housing, commercial space, and green resources is expanding to protect these resources at the neighborhood level and even across an entire city and region. For instance, building on its successful model, Dudley Street Neighbors and ten other neighborhood groups from across Boston in 2015 launched the Greater Boston Community Land Trust Network to expand the CLT model even at a time when acquisition of urban land has been made more difficult because of rising land values and rapidly gentrifying cities. This network has supported and seen the rise of five new CLTs—the Chinatown CLT, Somerville CLT, Boston Neighborhood CLT, and Urban Farming CLT—across the Boston metropolitan area, and it is beginning to push for municipal policies and public resources to support their expansion and growth (Smith and Hernandez 2020, 294).

The citywide NeighborSpace land trust in Chicago is another example of this kind of scaling. NeighborSpace is an independent, nonprofit land trust that preserves urban land throughout the city of Chicago for community gardens and open space. Created in 1996 by three government entities—the city of Chicago, the Chicago Park District, and the Forest Preserve District of Cook County—NeighborSpace now oversees a water-based project and 129 land-based sites located in thirty-three wards across the city, many of which are involved in community gardening projects. NeighborSpace's primary goal is to preserve and protect community-managed open spaces, particularly in areas where open space is lacking or vanishing, which tends to be the case in underserved areas. The idea for NeighborSpace grew out of the city space plan. City leaders became increasingly concerned about the lack of open space in Chicago and the vanishing number of vacant plots being bought by private developers. In 1994, a consortium of the three government entities named previously brought together community leaders, residents, and nonprofit organizations to brainstorm possible solutions to this ever-growing problem. From these efforts, they created NeighborSpace, inspired by a recognition that many community members were, on an informal and ad hoc basis, already working together to revive, enjoy, and preserve vacant or blighted land in their communities. In an example of social and economic pooling, NeighborSpace continues to receive the active support of the city

government, the broader Chicago community, the many foundations and philanthropists that provide donations, and the teams of gardeners, composters, and other community actors that perform the day-to-day work on the land. Because of such support, NeighborSpace continues to grow in scope and impact; indeed, each year, it acquires between three and five new land plots, on behalf of dedicated community members and groups that maintain them.

NeighborSpace is unique among land trusts because it represents the kind of nested and multilevel governance structure, as previously mentioned in chapter 1, that Ostrom and others have found can constitute a *polycentric* system of governance that can be more effective than a monocentric system in efficiently delivering local goods and services. Ostrom's work on user-managed common pool resources similarly found that, for large scale resources, higher level public authorities played an essential role in supporting resource users in the management of these resources. NeighborSpace is thus a separate public enterprise operating as a sublocal layer of governance "nested" within the county and city government, and which is supported by those higher levels of government. Managing shared resources at a complex (in this case, citywide) scale can involve self-organized small units or groups of users acting relatively autonomously but within a federated system that links them together.

Once a land grant is established, NeighborSpace generally relinquishes operational control to the land trust, which transfers most of that control to the local gardeners and community groups that act as stewards over the land. In effect, NeighborSpace operates as a higher-level authority, whereas the real control and management over day-to-day affairs is handled by local members and groups in the community in which the land is located. NeighborSpace, the land trust, handles the land purchases; performs environmental assessments and title work; holds the titles, easements, or leases that it acquires; provides liability insurance and legal defense; and works to secure a dedicated water line for every parcel of land that it obtains. It also provides some guidance and other forms of support, "including a signage template, a list of gardeners' rights and responsibilities, and a tool lending library," and it acts as the liaison between the government and the participating community groups.

However, NeighborSpace is not involved in the day-to-day management of the land plots, which is left to the community, and plot users, in what is described as a “nonhierarchical” governance structure that prevents the centralization of power in any one individual’s (or one group’s) hands. Although most of the gardens are not “allotment” gardens, in that they don’t always have plot holders (both rather plot users), communities nevertheless have created an array of garden types, ranging from vegetable gardens to riparian habitats. For whatever type of garden is created, the rules of the land trust require collective governance over the acquired plots. Moreover, governance rules prohibit a single lead gardener or overseer and instead require multiple leaders overseeing the land’s development, as well as community support and buy-in.

NeighborSpace is unique among land trusts in another way. It is distinguishable, for example, from the kind of *community* land trusts previously mentioned in this chapter and chapter 1. The land managed by NeighborSpace is a mix of land owned by the trust itself and that owned by other governmental and private entities. Approximately 20 percent of the lots managed by NeighborSpace are leased or utilized with permission from government units and private entities that maintain ownership of that land. This raises another concern expressed by some in regard to what is lost when community-stewarded resources are managed at a larger scale, such as a city-wide urban land trust in the case of NeighborSpace. There are similar land trusts emerging at the city-level, most often focused on developing affordable housing on a city-wide scale, which are controlled almost exclusively by local public officials. Some, like the Atlanta Land Trust, created to maintain affordability in neighborhoods at risk of gentrification and displacement, emerged after an attempt to establish a community land trust fell short for lack of resources and capacity to organize the community. Establishing the land bank as a more public-oriented, versus community-oriented, entity can bring crucial funding and support. On the other hand, some bemoan the loss of “community” in these land trusts and the loss of community control of land and resources (DeFilippis et al. 2018).

As some have noted, the traditional “tripartite governance” governance structure is not always followed when new land trusts are created in cities (Miller 2013, 5). Many newer city-wide land trusts and community land

trusts may be falling prey to the danger of “capture” in which land use and development decisions are made by a group of elites that invest in projects serving a narrow set of interests and which do not always align with the community’s desire or needs. As DeFilippis et al. note, the “community” part of CLTs was originally conceptualized as a nested set of relations, involving a resident community living in the trust, a wider community of residents and others who represent the broader community that would benefit from a restructuring of land ownership practices. Today, however, some CLTs have moved away from these overarching aims and have simply become a tool to provide affordable individual homeownership in expensive markets. The focus on individual ownership, however, detracts from the attention on using CLTs to empower disadvantaged communities and for community control of land and neighborhoods (DeFilippis et al. 2018).

Some of these drawbacks, however, may have less to do with scale than with the conditions under which a distributed, polycentric system of co-governance can flourish. In other words, the design of well-structured governance institutions at various scales can prevent some of these drawbacks through clear governance rules to ensure strong representation from the most vulnerable stakeholders, procedures for entry and exit of governing stakeholders, and establishing clear normative values (such as permanent affordability and community control) that guide these institutions. For this reason, the Dudley Street CLT has been held up as a model of what legal scholar Anna di Robilant has called “democratic deliberative” property (di Robilant 2014). This form of governance property promotes its public-oriented character through decision making, enforcement, and monitoring by “multiple actors affected by the use of resources that implicate public values and collective interests” (di Robilant 2014, 306). The idea of democratic deliberative property maps nicely onto the notion of resource stewardship in that “decisions concerning the use and management of resources that implicate fundamental public interests” are not made by a single owner, even if the owner is a public official or agency, but rather “through a more deliberative democratic process in which representatives of affected parties participate as equals and give one another reasons that are mutually acceptable” (di Robilant 2014, 304–305). The challenge, however, is how to manage the design or co-design processes so that the dangers and risks attendant to allowing these autonomous

institutions to flourish and govern common resources reflect deliberative democratic values and accountability to the communities that they are set up to benefit.

What stabilizes the kind of distributed co-governance ecosystem that we envision in the next few chapters is the role of the public authority, which become the enabler and facilitator of the creation and maintenance of urban commons and ultimately of political and economic redistribution. In the next chapter, we turn to the emergence of city policies that enable, facilitate, and support urban commons and allow them to nest within the governance infrastructure of the city. Whereas communities and other stakeholders organize themselves autonomously as potential partners that can collectively manage urban resources, city officials and staff are tasked to assist, collaborate, and provide technical guidance (such as data, legal advice, communication strategy, design strategies, and sustainability models) to those efforts. The governance output that emerges from implementation of these policies is the co-design of a variety of urban commons as well as the co-production of community goods and services at the city and neighborhood level. These very sophisticated processes and institutional architectures are new and complex to design, as we discuss in the following chapters, and they do not always function as they should in an ideal world. However, these policies are windows into an alternative vision of city governance in which heterogeneous individuals and institutions can come together to co-create or co-govern the city, or parts of the city, as a commons.

This is a section of [doi:10.7551/mitpress/11702.001.0001](https://doi.org/10.7551/mitpress/11702.001.0001)

Co-Cities

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Citation:

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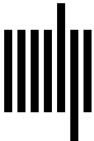
DOI: [10.7551/mitpress/11702.001.0001](https://doi.org/10.7551/mitpress/11702.001.0001)

ISBN (electronic): 9780262369930

Publisher: The MIT Press

Published: 2022

The open access edition of this book was made possible by generous funding and support from MIT Libraries



The MIT Press

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The open access edition of this book was made possible by generous funding from the MIT Libraries.

The MIT Press would like to thank the anonymous peer reviewers who provided comments on drafts of this book. The generous work of academic experts is essential for establishing the authority and quality of our publications. We acknowledge with gratitude the contributions of these otherwise uncredited readers.

This book was set in Stone Serif and Avenir by Westchester Publishing Services.

Library of Congress Cataloging-in-Publication Data

Names: Foster, Sheila R., 1963– author. | Iaione, Christian, author.

Title: Co-cities : innovative transitions toward just and self-sustaining communities / Sheila R. Foster and Christian Iaione.

Description: Cambridge, Massachusetts : The MIT Press, [2022] | Series: Urban and industrial environments | Includes bibliographical references and index.

Identifiers: LCCN 2021062248 (print) | LCCN 2021062249 (ebook) | ISBN 9780262539982 (paperback) | ISBN 9780262361910 (epub) | ISBN 9780262369930 (pdf)

Subjects: LCSH: City planning. | Civic improvement. | Commons. | Municipal government. | Infrastructure (Economics) | Public-private sector cooperation.

Classification: LCC HT166 .F675 2022 (print) | LCC HT166 (ebook) | DDC 307.1/216—dc23/eng/20220519

LC record available at <https://lcn.loc.gov/2021062248>

LC ebook record available at <https://lcn.loc.gov/2021062249>