Contestations/ Desire Lines: An Exploration of Regulation and Resistance in Public Space

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Abstract

"Contestations/ Desire Lines: An Exploration of Regulation and Resistance in Public Space" is a major portfolio that investigates the purpose and meaning of public space through the lenses of law, urban design, and urban activism. Public space in cities conjures images of shared urban spaces like parks, squares, plazas, streets, and sidewalks. These are spaces where public life plays out and are in theory, accessible to all. In practice, access to various public spaces, whether they're publicly or privately owned and/or operated depends on the regulatory regime of the space. Regulatory regimes are made up of a variety of practices which include laws, regulations, urban design, surveillance, and policing (Ruppert, 2006). Informed by the components of my Plan of Study- public space, community planning, and land ownership and governance- my work seeks to understand how public space is produced and contested by multiple actors. Each chapter takes public space as a starting point. The first chapter, "Rejecting the Revanchist City" is an academic paper that outlines how municipal bylaws are used to regulate and "reclaim" public space by restricting behaviours considered to be conflictual to public order. The second chapter, "Design Paranoia: Defensive Urban Design and Public Space," is a paper produced for a design and planning professional audience. It investigates how the use of defensive urban designs changes the experience of Toronto's public spaces for groups of people who are targeted (like youth and people who are homeless), as well as the general public. The third chapter, "Who's Streets? Our Streets! The Transformative Potential of Small-Scale Urban Interventions" looks at small-scale urban interventions as a way for artists and activists to disrupt, challenge, and reimagine how we use and plan our public spaces. Like desire lines,

(unplanned paths created by foot or bicycle traffic usually representing the shortest or most desirable routes) community-led urban interventions can inform urban designers and city planners of the desires of the community in shaping their public spaces.

Figure 1- Desire lines, York University, Toronto, 2016

Acknowledgements

I would first like to thank my advisor and supervisor Professor Roger Keil from the Faculty of Environment Studies at York University. He not only provided guidance and support during my time in FES, but challenged me to look beyond the obvious. I also enjoyed playing music with Roger, Patricia Wood, and Gail Fraser in preparation for our performance at the City Institute's 10th Anniversary event. Next, I would like to thank CITY coordinator Sara Macdonald and everyone else I had the pleasure of meeting during my time as a graduate assistant at the City Institute at York University. Sara's support, advice, and friendship was a constant during the turmoil of developing proposals and approaching deadlines. Thank you also to Ute Lehrer who instructed the Critical Urban Planning Workshop in Shanghai, China. The experience was transformative on a personal, professional, and academic level. I would like to acknowledge my research participants for taking the time to answer my sometimes difficult questions. Their insights informed a large portion of my research on the use of defensive urban design in Toronto. Finally, I would like to thank my family, friends, and partner Rowan, for their love, support, and inspiration as I worked my way through the program.

Foreword

The work contained in this portfolio is informed by a combination of work done in class, in the field, and through qualitative research methods. It demonstrates the fulfillment of section 2.2 of my learning objectives, which is "to obtain knowledge and skills necessary to meet the program requirements of the Canadian Institute of Planners and Ontario Professional Planners Institute for candidate membership." Furthermore, each chapter takes public space as a starting point, in order to develop a "comprehensive understanding of the importance of public space and the role it plays in urban life" (Plan of Study objective 1.1). In May of 2015, I participated in Ute Lehrer's Critical Urban Planning Workshop which took place in Shanghai, China. The public spaces I observed in Shanghai, and later on my own in Beijing, were both highly regulated and informal. Spaces that were meant for tourist consumption were kept clean by an army of street cleaners and orderly by regularly stationed security forces. These regulated areas contrasted with high levels of informality in streets and alleyways with unpermitted street vendors selling prepared food, produce, consumer goods, and a variety of services. Activities usually confined to the private realm of the home, workplace, or restaurant became public on the sidewalks and streets. Residents socialized, worked, exercised, prepared food, and played on the sidewalks, streets, and alleyways surrounding their homes, blurring the divide between private and public space. I came to realize the amount of regulation of public space plays an important role in how public life is conceived and enacted. My participation in Don Mitchell's International Political Economy and Ecology Summer School course in the summer of 2015 further transformed my views on public space. The course, entitled "Mean Streets:

Class Struggle, Capital Circulation and Public Space," introduced me to theories of political economy and ecology. I was also introduced to the concept of "broken windows" and order maintenance policing, igniting my interests in defensive urban design. Through this, I learned that public space is made public, not through state ownership, but through the everyday practices, struggles, customs, and conventions of the citizenry.

During this time, I enrolled in field experience with Toronto non-profit the Laneway Project, an initiative working to expand the city's public realm by transforming neglected and underused laneways into vibrant, people friendly places. I conducted outreach for the project's laneway naming campaign and developed a pitch deck for the project's consultation services. I also took notes for two meetings held to discuss one of the Laneway Project's two pilot projects, CCBG lane. CCBG lane is located in Toronto's West Queen West neighbourhood and was picked to be a demonstration project funded by a Trillium grant. The organizers worked with stakeholders adjacent to the laneway to develop a master plan containing details for greening, safety, beautification, and community activation projects that can be undertaken by the neighbourhood. Through observation and practical experience, I developed insight into how organizations like the Laneway Project work to expand Toronto's public realm through bottom-up community projects. This can only be done by empowering communities to undertake their own projects, making these projects public and visible, and advocating for dialogue and civic change to allow for communities to have more power and control over the development of the public realm.

The research component of my work includes a review of relevant literature, key informant interviews, and observation. A review of legal geography literature as well as court cases dealing with the rights of homeless people to public space in British Columbia informed Chapter 1 "Rejecting the Revanchist City." This chapter satisfies learning objective 3.1, "to gain a fundamental knowledge of Canada's land use regime," and learning objective 3.2, "to critically engage with political economy theories of land and distribution." This chapter was accepted to be a part of "Challenging Traditional Notions of Property in Land Use Planning," a two day interdisciplinary workshop held at Osgoode Law School from June 9-10, 2016. The paper was presented as a part of a thematic panel with feedback given from faculty discussants. Chapter 2 was largely informed by key informant interviews. The semi-structured interviews were conducted in person or over the phone, recorded, and transcribed over the months of March and April, 2016. The participants were selected based on their expertise and professional experience in their respective fields. The information gathered on urban design and Toronto's public spaces guided the development of "Design Paranoia" which was accepted for publication in the September/ October issue of the *Ontario Planning Journal*. The research also informed a paper I presented at the *Historical Materialism Conference* held at York University in May 2016, entitled "Creating a Brutal Cityscape: Defensive Architecture and the Right to the City." This research and the resulting paper fulfils my Plan of Study objective 2.2, "to gain a basic understanding of how the design of public spaces influences their use and accessibility." Finally, my interest in small scale urban interventions championed by artists and activists has been ongoing since my first exposure to it moving to Toronto over a decade ago. I have had the privilege to

observe interventions spanning from billboard takeovers, critical mass bike rides, artist squats, impromptu street parties, and laneway crawls, in Toronto, Europe, and China. These experiences have provided me with insight into the political possibilities of small-scale urban interventions which guided my work in Chapter 3 "Who's Streets? Our Streets!" This chapter, which looks at traditional and innovative approaches to community planning, satisfies learning objective 2.1, "to gain a fundamental knowledge of community planning practices."

Figure 2- "Mickey Mao," public art in Beijing, China, 2015

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* All photographs are taken by the author unless otherwise specified.

Chapter 1

Rejecting the Revanchist City

Who are the undesirables? For most businessmen, curiously, it is not muggers, dope dealers, or truly dangerous people. It is the winos, derelicts who drink out of half-pint bottles in paper bags- the most harmless of the city's marginal people, but a symbol, perhaps of what one might become but for the grace of events.

-William H. Whyte, *The Social Life of Small Urban Spaces,* 1980

On October 14, 2008, the British Columbia Supreme Court ruled to strike down the City of Victoria's bylaw prohibiting homeless people from erecting temporary shelters in public spaces overnight. This is significant because although the municipality did not restrict people sleeping in public spaces at night, it prohibited the erection of shelter, something that is necessary for the health and wellbeing of people who are exposed to the elements. At the heart of the case is a struggle over competing uses of public land. The Union of British Columbia Municipalities, an intervenor in the appeal of Victoria (City) v. Adams argues public parks have no history of being temporary abodes for homeless people and that this use is incompatible with other accepted park uses (2009). Although public parks are not the preferred site for homeless encampments, people who have no shelter or private space of their own must rely on public spaces to fulfil their basic needs. In this paper, I will outline how law and spatial design have been used to prevent people experiencing homelessness from using public spaces by

targeting the activities they must do to survive like sleeping and panhandling. Next, I will connect how anti-homeless laws and designs perpetuate Neil Smith's notion of the revanchist city. Finally, I will conclude by looking at two British Columbia Supreme Court cases, Victoria (City) v. Adams and Abbotsford (City) v. Shantz that promote the rights of homeless people through the decriminalization of behaviours they must do to survive.

Law has been used to filter users of public space through prohibiting certain uses like sleeping in public, loitering, and panhandling. Mariana Valverde argues municipal law tends to regulate space through categories of use rather than users. Although governing through uses differs from governing through users, "authorities can still easily govern both individuals and types of persons through regulations targeting uses and activities" (Valverde, 2005, p. 35). Since municipal law generally governs spaces and things through categories of use and activity, it is separated from the notion of liberal rights and claims of personhood (Valverde, 2005 and Blomley, 2007). This makes the translation of rights based arguments into the domain of municipal law difficult. For example, issues surrounding urban homelessness are turned into issues around urban uses. The question becomes not about the right of the poor to public space or a safe space to sleep, but about the legality of the activity of sleeping in public (Blomley, 2007). Nicholas Blomley argues rights-based arguments around anti-homeless laws are usually negated by the counter-argument that law does not regulate persons, but regulates actions and spaces. This means laws that prohibit the erection of shelters and sleeping in public spaces are not overtly intended to discriminate against people experiencing homelessness, but treats sleeping in public as a spatial activity that must be balanced with other activities according to the function of a particular space

(Blomley, 2007). All users are treated equally in regard to uses, which means that all citizens are forbidden to sleep in public spaces, not just people experiencing homelessness. Thus, "The majestic equality of the law forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread" (France as cited in Blomley, 2007, p. 1706). Intolerances against the presence of people experiencing homelessness and the oppression it entails is masked through liberal notions of equality and mutual respect (Blomley, 2007).

Figure 3- Public space regulations, Toronto, 2016

Valverde argues municipal law is built upon the premise that different uses of the same urban space are incompatible. This is seen in Toronto's Nathan Phillips Square where anything other than unobtrusive walking is prohibited:

> Releasing a helium balloon is prohibited; so is speaking through a megaphone without a permit; so is being on skates anywhere except on a skating rink. Skateboarding of course is also banned, as is climbing trees…Selling anything (except for newspapers) is prohibited except by special occasion permit (Valverde, 2005, p. 50).

The exclusionary nature of the public ream illustrates how urban space is a struggle (Mitchell, 2015). It is both a site of struggle and something that is struggled over. Within public spaces, multiple groups of people struggle to make themselves visible, demand inclusion as part of the public, and claim a right to occupy urban space. There is also a struggle over the purpose of public space. This struggle is a dialectic between what Henri Lefebvre calls representational space and representations of space (Mitchell, 2015). Representational spaces are appropriated, lived spaces. In this sense, public space is a site for politics, social struggle, and everyday life, actively constructed and shaped by the citizenry. Representations of space are spaces that are ordered, planned, and controlled, presenting public space as a landscape of leisure and retreat to be passively enjoyed and consumed (Mitchell, 2015). "Landscape" is a framework for seeing the world where order and control are paramount over the imperfect realities of everyday life. It is a "scene" that can be possessed and controlled for comfort, retreat, and leisurely consumption detached from the drudgery of work and the discomfort of poverty and social struggle (Mitchell, 2007). Recreating urban spaces as landscapes

reflects an ideology of comfort or what Richard Sennett calls "freedom from resistance."

The built environment is designed to facilitate not only the movement of capital, but also

of citizens who claim a right to move through urban space without obstruction, effort, or

engagement (Mitchell, 1997). The struggle over the purpose and meaning of public

space is illustrated in Mitchell's account of the redevelopment of Berkeley's People's

Park. Before redevelopment, the park was used as place of refuge for the city's

homeless and marginalized populations. This use conflicted with the University of

California's and the local Business Improvement District's vision of the park as an asset

for nearby businesses rather than a haven for what was perceived to be the criminal

element (Mitchell, 2015). The consulting firm hired to redesign the park echoed this

sentiment, "In its current state, the delivery in the park of food and social services for at-

risk populations is incompatible with the broad objective of making this space enjoyable

for community members" (Mitchell, 2015, p. 10). Thus, the park's traditional use as a

place frequented by marginal populations conflicted with the nearby property owners'

desire to transform the park into a landscape to be passively enjoyed by tourists and

local consumers.

The filtering of users in urban space is done not only through the rule of law but

also through defensive urban design. Defensive urban design, also known as defensive

or hostile architecture, prevents unwanted uses of property or street furniture by using

specifically-engineered shapes and materials in the design process (Mitchell, 1997).

The use of defensive urban design creates what Steven Flusty refers to as interdictory

spaces. Interdictory spaces are designed to intercept, repel, and filter would-be users

through a variety of exclusionary design strategies (Flusty, 1994). These design

strategies create spaces featuring one or more of the following defensive characteristics that Fusty categorizes as stealthy, slippery, crusty, prickly, and jittery. Stealthy spaces discourage public use because they are difficult to find. They are often hidden, camouflaged, or concealed from view through design features like grade changes and lack of signage. Slippery spaces are spaces that have no obvious entrance, restricting users to "insiders" who have knowledge of how to access these spaces. Crusty space is space that cannot be accessed because it is enclosed by walls, fences, or gates. Jittery space is space that is actively monitored by security guards or surveillance cameras. This ensures users of the space police their own behaviour because they believe they are being watched. Finally, prickly space is space that cannot be comfortably occupied. It aims to control space by restricting its use. Space can be made prickly through the removal or the addition of specially designed amenities (Flusty, 1994). The removal of amenities like benches, public restrooms, and structures that shelter from the elements creates spaces that are inhospitable to both marginalized groups as well as the general public. The addition of features that prevent loitering like sprinkler systems designed to go off at night or the playing of a high pitched tone that only young people can hear, effectively removes targeted populations. Space can also be made prickly through the addition of design features like bars that segment benches to prevent lying down, metal spikes and protrusions installed in doorways, ledges, and railings to deter loitering and skateboarding, and the installation of "bag-lady proof" enclosures around restaurant dumpsters (Bickford, 2000). Thus, as Davis writes, "urban form obediently follows repressive function" (Davis, 1992, p. 156).

Figure 4- Defensive urban design, Toronto, 2016

The idea that urban design could be used to police the built environment was introduced in Oscar Newman's 1973 publication, *Defensible Space*. Newman describes defensible space as "a surrogate term for the range of mechanisms- real and symbolic barriers, strongly defined areas of influence, and improved opportunities for surveillance- that combine to bring an environment under the control of its residents" (Newman, 1973, p. 3). Influenced by Jane Jacobs' work on natural surveillance (eyes on the street) and territorial identity (delineation between private and public space), the goal of defensible space is to "enable residents to take control of their neighbourhoods,

to reduce crime, and to stimulate private investment" (Newman, 1996, p. 9). His work was influenced by his observations that common spaces in public housing complexes in the United States lacked clear ownership and that was the source of danger, disorder, and crime. He also urged communities to take ownership and responsibility over their residential spaces. These ideas perpetuated the perception that public spaces were places of crime and disorder, private ownership of communal space was the solution to these problems, and individual pathology, not government disinvestment, was responsible for making public spaces unsafe and disorderly. Newman's ideas laid the groundwork for the philosophy of Crime Prevention through Environmental Design (CPTED). The concept of CPTED was developed by C. Ray Jeffrey in his book of the same title and "expands upon the assumption that the proper design and effective use of the built environment can lead to a reduction of fear of crime, and to an improvement in the quality of life" (Crowe, 2000, p. 1).

Mitchell argues concerns for "livability" in the city is a pretext for making urban centers attractive for capital investment and the consuming middle class. Both municipal law and defensive urban design focus on alleviating fears of crime and improving the "quality of life" of the community. Mitchell argues fear is a structuring force. This fear is not only of potential violence from "criminals" and the state, but also of space itself. The fear of urban public space comes from a sense of "vulnerability to unknown forces" (Mitchell, 2010, p. 26). Thus, space must be controlled to keep out people who provoke fear like racialized youth, the mentally ill, and people experiencing homelessness. Mitchell argues, "fear is precisely a means to make urban space productive not of use-values, but of order, and of exchange" (Mitchell, 2010, p. 27). It is also used as a pretext

for re-ordering social interactions where public space is restricted and behaviours within must be disciplined. The policing of "disorderly" behaviours is often referred to as zero-tolerance, order-maintenance, or quality of life policing which focuses on addressing real and perceived crime by targeting minor offences (Katz, Webb, & Schaefer, 2001). The origins of this type of policing comes from James Wilson and George Kelling's broken windows thesis. It is believed "that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken" (Kelling & Wilson, 1982). According to this line of thought, if small crimes and signs of disorder are left unpunished or unattended, more serious crime will flourish. Examples of physical disorder are abandoned buildings, litter, and graffiti while social disorder is considered to be nuisances like sleeping in public spaces, panhandling, prostitution, and drug use. Cities that are concerned with making their urban centers attractive to capital investment and middle class consumption are doing everything in their power to rid their urban spaces from these signs of disorder by outlawing behaviours that marginalized people must do in public spaces to survive (Mitchell, 1997). In other words, "Investments- dead labour- must therefore be protected at all costs. If a built environment possesses use value to homeless people (for sleeping, for bathing, for panhandling), but that use threatens what exchange value may still exist, or may be created, then these use values must be shed." (1997, p. 316).

The social cleansing of the streets and urban spaces from perceived symbols of disorder is what Neil Smith calls the revanchist city. The concept originates with the revanchists in nineteenth century France who were a group of radical right French nationalists that formed in the aftermath of the Franco- Prussian war. Embracing a

politics of "revanche" (revenge), they advocated for the reclamation of status and territories lost during the war. As the movement evolved from its left-republican origins, they became increasingly antiparliamentary, antisocialist, and anti-Semitic (Rutkoff, 1981). Smith's notion of the revanchist city, like the revanchists of the nineteenth century, embraces a politics of territorial reclamation. Revanchist city policies work to salvage the city from an urbanism defined by danger and disorder (Smith, 2007). The villainization of the city and its inhabitants is influenced by how the urban is portrayed in popular culture. From postwar portrayals of the city as wild, violent, and disorderly to everyday news reports highlighting danger and crime in urban areas, the city is portrayed as a battleground (Smith, 2007). The revanchist city works to "reclaim" the city from those who have "stolen" it. People experiencing homelessness are the most visible signs of perceived disorder on North American streets. Due to their visibility, many North American cities have developed policies aimed at eradicating homelessness, not by addressing the problem, but by criminalizing the actions homeless people must do to survive. Anti-homeless and anti-squatter policies were developed by many municipalities to "take back" urban space from crime and disorder. This meant spaces like parks, abandoned lots, and underneath bridges that functioned as a workplace, play space, living room, and bathroom for hundreds of people must be made off limits to the people that use them. The rhetoric of "theft" and the "reclaiming" of urban space portrays people using urban spaces for uses other than legal work, circulation, and leisure as immoral criminals. For example, New York City's homeless policies in the early 1990s under mayor David Dinkins led to the eviction of a homeless encampment in Thompkins Square Park in the Lower East Side under the strategy of

reclaiming the park for the public. The mayor is quoted as saying "A park is not shantytown. It is not a campground, a homeless shelter, a shooting gallery for drug addicts or a political problem" (Smith, 2007, p. 214).

New York City's revanchist anti-homeless policies were amped up under the Giuliani administration in the mid-1990s. Not only were more actions of homeless survival outlawed like squeegee windshield washing and panhandling, but the city ran a subway poster campaign aimed at humiliating panhandlers and intimidating passengers with the message, "Don't give them your money" (Smith, 2007, p. 219). An escalation of police sweeps of public spaces paired with anti-homeless policies and rhetoric justified intensified police harassment, abuse, and brutality of people experiencing homelessness (Smith, 2007). Similarly, the recent targeting of black people engaging in minor crimes in the United Sates has been illuminated by the Back Lives Matter movement. The harassment and murder of black people engaged in minor criminal activities like selling single cigarettes and CDs on city sidewalks is a brutal response from police attending to small signs of disorder in public spaces. In the *Salon* article, "Criminalizing the hustle: Policing poor people's survival strategies from Eric Garner to Alton Sterling" Lester Spence reveals,

> Over the past few decades cities have turned to policing to fulfill two functions: to surveil and discipline black populations hardest hit by economic shifts and to collect revenue in the form of fines…The black men most likely to be left out of the formal economy- who have to engage in various illegal hustles to make ends meet- are far more likely to suffer from police violence than other black men (Denvir, 2016).

Thus the revanchist city is "Expressed in the physical, legal and rhetorical campaigns against scapegoats, identified in terms of class, race, gender, nationality, sexual preference. [This] reaction scripts everyday life, political administration, and media representations of the contemporary US city with increasing intensity" (Smith, 2007 p. 222). It is a divided city where the wealthy are increasingly defensive of their privilege and vicious in defending it. This viciousness extends to criminalizing and demonizing of a whole range of behaviours that do not fit the social norms of the dominant class (Smith, 2007). Mitchell explains, "by redefining what is acceptable behaviour in public space, by in effect annihilating the spaces in which the homeless *must* live, these laws seek simply to annihilate homeless people themselves, all in the name of recreating the city as a playground for seemingly global capital which is ever ready to do an even better job of the annihilation of space" (Mitchell, 1997, p. 305).

The use of law and urban design to filter and control who can be in public spaces "exhibit[s] distinctly apolitical impulses toward exclusion, control, security, sameness, and predictability" (Bickford, 2000, p. 362). The segregation of some citizens from others based on social and economic factors changes how the public is experienced. Who we see regularly as we move through the city influences who we think of as citizens and part of the public. Struggles for inclusion in the urban realm is what Lefebvre calls the right to the city. The right to the city is a political right to participate in civic life rather than a formal legal right. Lefebvre originally envisioned this right to urban life as emerging from the everyday lives of the working class and urban poor through the legitimization of their appropriation of urban spaces and their refusal to be excluded (Holston, 2009). The right to the city is both a cry and a demand. It is a cry from those

discontented and alienated from life in a capitalist society and a demand from those

directly oppressed and deprived legal rights and basic material necessities of life

(Marcuse, 2009). It is a collective right to change and reinvent the city, to have some

sort of shaping power over the processes of urbanization (Harvey, 2012). It is also the

right to *be* in the city.

The case of Victoria (City) v. Adams is significant because it challenges the

criminalization of actions homeless people must do to survive. The case highlights the

conflict between homeless people using public space for "essential, life-sustaining acts"

and the responsibility for governments to maintain these spaces for recreational use by

the public. In October 2005, the City of Victoria filed an injunction to remove a tent city

located in Cridge Park, owned and managed by the municipality. The tent city included

about 20 tents occupied by 70 homeless residents. The homeless residents were given

notice to vacate the park or risk arrest and confiscation of their personal property, under

the city's *Parks Regulation Bylaw* and *Streets and Traffic Bylaw* that prohibited, among

other things, loitering and taking up temporary residence in a public park overnight.

While the city amended the bylaws to remove the prohibition of loitering and sleeping in

public spaces, it still prohibited people to "take up a temporary abode over night"

(Victoria (City) v. Adams, 2009, at para. 22). The City feared that allowing the erection

of temporary shelters (like tents, tarps, and boxes) would a lead to the establishment of

more permanent encampments that would enable drug use, crime, self-destruction, and

death. They also feared that allowing people to erect temporary shelters on public land

would lead to an increase in the number of homeless residents sleeping in public parks

(Victoria (City) v. Adams, 2008). The respondents claimed the ban on the erection of

temporary shelters violated section 7 of their *Charter* rights to life, liberty, and security of person because shelter from the elements is essential for an individual's health and wellbeing.

The case brought before the Court did not address the right of homeless people to occupy public space, but focused on the constitutionality of the City's bylaws, which criminalized the survival tactics of homeless people. During the trial it was determined that there were more than 1000 homeless individuals living in the City of Victoria. At the time, the municipality had 141 shelter beds regularly available to serve this population, expanding to 326 beds in extreme weather conditions. Furthermore, expert evidence confirmed that exposure to the elements without proper shelter leads to significant risks to health, including the risk of hypothermia which is a potentially fatal condition. Given this evidence, the trial judge determined:

> I have found that a significant number of people in the City of Victoria have no choice but to sleep outside in the City's parks or streets. The City's Bylaws prohibit those homeless persons from erecting even the most rudimentary form of shelter to protect them from the elements. The prohibition on erecting shelter is in effect at all times, in all public places in the City. I have found further that the effect of the prohibition is to impose upon those homeless persons, who are among the most vulnerable and marginalized of the City's residents, significant and potentially severe additional health risks. In addition, sleep and shelter are necessary preconditions to any kind of security, liberty or human flourishing. I have concluded that the prohibition on taking a temporary abode contained in the Bylaws and operational policy constitutes an interference with the life, liberty and

security of the person of these homeless people. Finally, I have concluded that

the prohibition is both arbitrary and overbroad and hence not consistent with the

principles of fundamental justice. (Victoria (City) v. Adams, 2008, at para. 194).

In light of Section 1 of the *Charter* which guarantees rights and freedoms within

reasonable limits, Madam Justice Ross determined the preservation of urban parks is

an important objective but the benefits derived from the bylaws do not outweigh the

harmful effects on homeless people. Interestingly, she notes if there were sufficient

shelter spaces for the city's homeless and if they decided not to use them, the case

would be different and more difficult. The bylaws violated the constitutional rights of

homeless people only because they prohibited the erection of temporary overhead

shelters at night when there were insufficient resources to shelter the city's homeless

residents. Thus, the bylaws were struck down.

Although the rights gained in Victoria (City) v. Adams are narrow and specific to

the erection of temporary shelter in public space at night, it is a step towards

decriminalizing the tactics and actions homeless people must do in public space to

survive. The case also reaffirms that homeless people are citizens with constitutional

rights. Although public spaces must be subject to rules and regulations as a way to

balance competing interests, bylaws passed that make the lives of homeless people

intolerable as a way to move them out of public spaces can be challenged. The 2015

court case Abbottsford (City) v. Shantz challenged the constitutionality of three City of

Abbotsford bylaws that worked to displace and criminalize people experiencing

homelessness. During the six week trial which commenced on June 29, 2015, the court

heard the testimony of some of the people effected by the bylaws. Individuals described

how authorities attempted to disperse encampments through revanchist tactics like pepper spraying and slashing tents and spreading manure over the camp site (Abbotsford (City) v. Shantz, 2015). On October 21, 2015 the Honourable Chief Justice Hinkson of the British Columbia Supreme Court ruled Abbotsford's bylaws which prohibited the City's homeless population from sleeping, being in a park overnight, or erecting a temporary shelter without permits, unconstitutional. The ruling allows people to erect shelters and to sleep in the City's public spaces between the hours of 7:00pm to 9:00am without the threat of eviction. Like the Victoria (City) v. Adams case, the judge found that the bylaws violated section 7 of the respondents' *Charter* rights because the bylaws interfered with the need for people to shelter themselves when faced with no viable alternative. The judge concluded:

> The constant movement of the homeless exacerbated their already vulnerable positions, as it inhibited the ability of the service providers who endeavored to help the City's homeless to actually locate them and provide help… the evidence supports a finding that the Impugned Bylaws have had a serious effect on the psychological or physical integrity of the City's homeless (Abbotsford (City) v. Shantz, 2015, at para. 209).

Thus, the effects of the bylaws were deemed grossly disproportionate to any benefit the city might derive from them.

The two court cases are significant because they challenged the constitutionality of municipal bylaws by appealing to rights secured in the *Canadian Charter of Rights and Freedoms*. Conflicts over rights are often viewed as struggles between individual entities, while municipal bylaws entail a flattening of social difference (Blomley, 2007).

This means, if camping in public parks in Abbotsford requires a permit from everyone, the law is applied equally regardless of the identity and class position of the individual. But, as the court cases illustrate, laws that govern uses of public space do not affect everyone equally. Blomley writes, "the 'interests' of the beggar and the commuter are not simply 'competing', but are radically asymmetrical…For the commuter, the risks are frankly rather low. For the beggar, the inability to obtain money is far more serious" (Blomley, 2007, 1708). Similarly, the interests for the person experiencing homelessness who must erect a shelter and sleep in public spaces as a means of survival is radically different than the interests of people who want to leisurely enjoy the city's urban spaces unencumbered by signs of urban homelessness.

The cases are also significant because they are a step in rejecting the revanchist city. Laws and urban design techniques that are used to displace, traumatize, and criminalize homeless people can be challenged in the courts. Unfortunately, using law to address state injustices directed at homeless people can only go so far. In Abbottsford v. Shantz, it was revealed that the police used multiple dispersion tactics to clear the Happy Tree Camp, a tent city occupied by some of the respondents. Police used pepper spray on a tent occupied by a woman who was known to them under the premise of the presence of excess garbage. The judge did not condone this conduct but could not award any damages to the woman whose tent was sprayed because she was not a named party in the proceedings. Similarly, damages were not awarded to people who had their belongings soiled and destroyed by the spreading of chicken manure at the Happy Tree Camp. According to the judge "The spreading of the chicken manure at the Happy Tree Camp was disgraceful and worthy of the Court's disapproval. I am

unable, however, to find that it was sufficient to found a breach of the *Charter* rights of any individual" (Abbotsford (City) v. Shantz, 2015, at para. 115). Using law to promote the rights of homeless people can only go so far. The political will to treat homeless individuals as residents and citizens worthy of dignity and respect is also needed.

In summary, municipal law and urban defensive design works to regulate and filter users of urban spaces by outlawing certain uses like sleeping and panhandling. Since multiple uses of urban space is seen to be incompatible, urban space is purified of people and activities deemed disorderly in order to promote capital investment and middle class consumption. Mitchell argues, "By being out of place, by doing private things in public space, homeless people threaten not just the space itself, but also the very ideals upon which we have constructed our rather fragile notions of legitimate citizenship" (Mitchell, 1997, 321). The revanchist city seeks to rid urban space of signs of crime and disorder through the annihilation of public space through law and design. In other words, spaces that people experiencing homelessness use in order to survive is shrinking through privatization, defensive design techniques, and laws that prohibit behaviours that are essential for survival. Waldron argues "given their exclusion from private space, forms of regulation governing behaviour in public (such as laws forbidding sleeping in parks) act with particular force upon the homeless. Such law…constitutes 'one of the most callous and tyrannical exercises of power in human times'" (as cited in Blomley, 2007, p. 1698). Thus, the rulings of Victoria (City) v. Adams and Abbotsford (City) v. Shantz are important for the decriminalization of people experiencing homelessness. It is recognized that passing laws that prohibit behaviour that is essential for survival like sleeping and erecting shelters in public spaces is

unconstitutional. If municipalities are not able to use bylaws to regulate, displace, and

hide their homeless population, they may be forced to address the root of the problem,

namely that people experiencing homelessness need a home.

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Chapter 2

Design Paranoia: Defensive urban design and public space

The universal and ineluctable consequence of this crusade to secure the city is the destruction of accessible public space.

-Mike Davis, *City of Quartz: Excavating the Future of Los Angeles*, 1990

Its mundanity makes it innocuous. Its "common sense approach" makes it pervasive. But once you see it, it's impossible to stop noticing its use around the city. I'm talking about defensive urban design, also known as defensive or hostile architecture. It is used to guide behaviour in urban space by "designing out" specified uses of street furniture or the built environment as a form of crime prevention or protection of property. In Toronto, its use seems benevolent in the form of "center armrests" on benches, specially designed ledges with varying angles to prevent skateboarding and lying down, and surveillance cameras that keep a watchful eye on the city. Defensive urban design guides behaviour both physically and psychologically. "When you're designed against, you know it," explains Ocean Howell, a former professional skateboarder and assistant professor of architectural history at the University of Oregon. "Other people might not see it, but you will. The message is clear: you are not a member of the public, at least not of the public that is welcome here" (Omidi, 2014). Homeless residents in Toronto also know the purpose of the center bar on public benches, the kind that are installed with public funds around the city. During

my research on the topic, I interviewed a nurse who works with people who are homeless or under-housed and asked if her clients ever talk to her about the benches with the center bar. She answered, "All the time. They ask why, and why are they doing that? Sometimes that's the only place people can rest so people are forced to sleep sitting up" (Personal Communication, March 4, 2016).

Figure 5- Anti-skateboarding elements- Nathan Philips Square, Toronto, 2016

One of the most visible forms of defensive urban design in Toronto are benches with a center "armrest." Since this form is easily recognizable, much of my research focuses on its history and use in the city. The center bar on benches is used as a practical method to prevent people from lying down on them. Not all new benches downtown have a center bar and some old benches have bars bolted on years later. So who is in charge of making decisions regarding their location and use? Unfortunately, I could not locate any information in the city's *Urban Design Guidelines, Parks Plan 2013-2017, Streetscape Manual, Accessibility Design Guidelines*, or *Official Plan* documents. Given that the use of the center bar on benches is arbitrary in application, it is troublesome that there are no municipal policies or design guidelines that govern its use. The lack of policy guidance and ease of ordering these elements allow for these forms to be pervasive. One interview participant speculates on anti-skateboarding designs, "I think the private sector started "capping" stuff first and once that became a viable business for people manufacturing this stuff, then it became easily available for public coffers to spend money on. Now it might just literally be a set of options in a catalogue when you're planning out your budget for a public space. I'm just guessing" (Personal Communication, March 20, 2016). I discovered this is indeed the case while looking at the websites of street furniture manufacturers. The choice as to whether to order benches with a center bar is as simple and uncontroversial as picking out the style and colour.

Figure 6- Bench with center bars installed- Winchester Park, Toronto, 2016

Defensive urban design is a component of the design philosophy Crime

Prevention through Environmental Design (CPTED) which evolved from Oscar

Newman's 1973 work *Defensible Space*. CPTED is based on the idea that the built

environment can be designed in a way that prevents the opportunity of crime as well as

the perception of crime. Influenced by Jane Jacobs' work on natural surveillance (eyes

on the street) and territoriality, CPTED is built upon three strategies- natural access

control, natural surveillance, and territorial reinforcement. Natural access control uses

manufactured and natural barriers to deny access to space. Natural surveillance works

to prevent the opportunity for crime by ensuring visibility and clear sightlines. Finally,

territorial reinforcement uses landscape design elements to create a sense of ownership

in urban space by delineating public and private space. Many aspects of CPTED seem

to be beneficial, especially the idea of natural surveillance or "eyes on the street" where

the presence of people and the knowledge on being watched creates the perception of

safety. Interestingly, CPTED also promotes design features that removes eyes in public

spaces for fear of loiterers or "undesirables." Criminologist Timothy Crowe justifies the

removal of public amenities in parks and squares in his book *Crime Prevention through

Environmental Design* because, "Benches, tables, and the fountain area may easily be

colonized by vagrants or serve as bombing targets by pigeons." (2000, p. 135).

Furthermore, CPTED strategies included on the RCMP website advises (in reference to

public spaces) to "avoid placing covered outdoor areas where loitering may be a

problem" (RCMP, 2016). Thus, a tension is revealed where CPTED practices

encourage the removal of amenities from public space as a way to curtail "undesirable"

activity but the removal of amenities make places less attractive to visit, leading to less

users, and less eyes in public spaces. Fortunately, the city of Toronto recognizes the importance of creating social gathering spaces and activating public spaces with programming. It has increased the supply and maintenance of amenities like seating, washrooms, children's playgrounds, and dog off leash areas in accordance to the *Parks Plan 2013-2017*. These amenities draw people into the spaces, making it safer for everyone.

Figure 7- Bench with "vagrancy arm" retrieved from (http://hauser.ca/products/boomerang-bench-with-vagrancy-arm-2841)

In order to design and plan a truly inclusive and diverse city we must not shy away from difference and conflict in our public spaces. Using design as a technological solution to address social issues like substance use, mental illness, and homelessness merely displaces the problem rather than confronting it. Rather than installing benches with center bars, investments should be made in outreach services and programs like

the Parks Ambassador Program that works with Streets to Homes to connect homeless individuals in parks to shelters and other services. When paranoia over undesired uses of public amenities dominates the planning and design process, we are left with mediocre public spaces that are "inviting but not too inviting" and with "seating that's visually appealing and comfortable, but you wouldn't want to sit on for more than ten minutes" (Personal Communication, March 30, 2016). So what are planning and design professionals to do? First, in order to design flexible public spaces that can accommodate a large number of people, municipalities must recognize the use of defensive design elements can interfere with the public's enjoyment of amenities. For example, a center bar on a bench limits its use to two people of average size, while benches without it can accommodate three or four people comfortably. The center bar also limits who can use the bench. People with different disabilities may not be able to comfortably fit in between the bars, potentially conflicting with standards set by the *Accessibility for Ontarians with Disabilities Act*. In the case of design elements meant to deter skateboarders, people have to be careful not to trip over or accidently sit on metal protrusions embedded in ledges and seating areas. Secondly, municipalities must develop guidelines governing the use of defensive urban designs as a means to increase accountability and to ensure the decision making process is fair and transparent. Finally, let us spark a dialogue between people underrepresented in our current public consultation process, like people who are homeless or under-housed, to ensure our most marginalized community members have a voice in the planning and design process. According to Jake Tobin Garrett, manager of policy and research at Park People:

It really comes down to having a conversation with different user groups, not just

defaulting to a design solution where you put anti-skateboarding things on the

side of something or the third rail on the bench. That's the easy way out, in a

way. Just coming up with some sort of design. Then nobody has to talk about

conflicts in public space. Nobody has to confront anyone else about anything. It's

much healthier to have those conversations, which are difficult, and come up with

better and more innovative solutions. That makes better communities too

because then we're talking to people that we may not ordinarily have before and

understand where they're coming from (Personal Communication, March 14,

2016).

After all, to paraphrase renowned geographer David Harvey, the type of city we create

is reflective of the type of people we want to be (Harvey, 2008).

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Chapter 3

Who's Streets? Our Streets! The Transformative Potential of Small-Scale Urban Interventions

Figure 8- Laneway crawl, Toronto, 2016 (photo: James Anderson)

The created order is everywhere punched and torn open by ellipses, drifts, and leaks of meaning: it is a sieve-order.

-Michel de Certeau, T*he Practice of Everyday Life*, 1984

We set up our drums and amps in a dusty patch of driveway abutting the laneway. The owners of the lot thankfully provided a tent we could set up under, allowing the band to avoid the scorching mid-day sun. As we tuned our stringed

instruments people slowly began to poke into the laneway. We started our first song as a stream of cars flowed through the middle of a small crowd that had gathered to watch. I had to refrain from calling out "car" every time one breezed by. The entire scene was reminiscent of a street hockey game. Our musical performance was part of a laneway crawl, an urban intervention staged by a small Toronto non-profit called the Laneway Project. The sanctioned event was a part of a larger neighbourhood celebration, the Junction Summer Solstice Festival. The laneway was bustling with various activities like mural painting, live music, a greening demonstration, art, and buskers. Unfortunately, pedestrians making their way through the laneway had to yield to a constant procession of vehicular traffic that was rerouted through the area because a part of the main street was blocked off. Since the laneway crawl was an event approved by the local authorities, it had to obey the rules which required the free flow of traffic through the space. The constraints imposed on the event limited its transformative function, but not entirely. The tension between cars and pedestrians brought to the forefront the idea that public space is often contested and valued according to its desired use. The car drivers valued the laneway as a route for circulation, the pedestrians valued the laneway as a place for recreation and leisure, and the performers valued the laneway as a stage or canvas. Furthermore, the event blurred the lines between public and private space. The laneway which is a public right of way had to remain clear while the private driveways and backyards adjoining the laneway were the only spaces where public activities were allowed to take place. Thus, the public space of the laneway was virtually inaccessible whereas the private spaces were incorporated into the public realm.

The above description is an example of a sanctioned small-scale urban intervention. This is contrasted with unsanctioned urban interventions that have the ability to be overtly political because they aren't constrained by formal rules and laws. A few years ago, I participated in a "Blackout Party" in Toronto, staged to commemorate the August 2003 blackout that effected the entire northeastern seaboard where about 50 million people lost power for up to four days (Bitonti, 2014). When I arrived at the meeting spot in Parkdale, hundreds of people were crowding into the parking lot of an abandoned grocery store, spilling onto the street. A fifteen piece band played up-beat Balkan inspired music and people started to dance. The crowd moved into the center of Queen Street, taking over both lanes of traffic and starting walking towards the lake, weaving between fire performers and people on stilts. The festive atmosphere celebrated "Toronto the good" and remembered the blackout as a night where neighbours connected, strangers helped each other out, and the city had a chance to enjoy the stars. This unsanctioned urban intervention is an example of a flash mob where hundreds of people are invited to gather at a predetermined place and time. The sheer number of people gathered to dance and play in the street was part of the performance of public space. The street was transformed from a place of circulation to a stage, dance floor, and gathering spot through the actions of the participants. Both directions of traffic came to a halt as the sheer number of people gathered made it impossible for anyone to get by. The illegality and spontaneity of the street party made it exciting and empowering, bringing to mind the popular protest chant, "Who's streets? Our streets!" The event had a deeper purpose from just trying to increase the use and possibility of the streets as public spaces. The party was a counter-hegemonic spatial

practice aimed at disrupting naturalized notions of neoliberal capitalist individualism, competition, and consumption. The party transformed a group of strangers into neighbours, much like how the city was transformed the night of the blackout.

Changing Scales

The above two examples are examples of small-scale urban interventions, very different than many forms of large urban development projects happening around the world. Large-scale forms of urbanism take the form of complete new towns where every detail is included in comprehensive master plans, entire city blocks raised for high rise development, and new neighbourhoods built as mega projects on previously neglected industrial lands. The enormity of these projects stand in stark contrast to small-scale forms of urban development also being undertaken around the world. People living with limited resources find ways to construct housing often in undesired and periphery locations, and create entire neighbourhoods incrementally from the ground up. Similarly, urban design and public art interventions have been championed by artists and activists as a way to disrupt, challenge, and reimagine how development should proceed on a neighbourhood scale. Later adopted by non-profits, developers, and governments, small-scale urban interventions operate along a continuum, ranging from temporary to permanent, periphery to center, public to private, authored to anonymous, collective to individual, legal to illegal, old to new, and unmediated to mediated (Iveson, 2013). The variety of names attributed to these practices (insurgent, do-it-yourself (DIY), tactical, everyday, incremental, participatory, and grassroots urbanism- to name a few) creates some confusion as to whether these practices are connected in any way. New York's

Museum of Modern Art (MoMA) explored the concept of small-scale urban interventions under the lens of "tactical urbanism" in its 2014-2015 exhibition *Uneven Growth: Tactical Urbanisms for Expanding Megacities.* The curators of the exhibit present tactical urbanism as "a robust interpretive frame for understanding a variety of emergent urban design experiments in contemporary megacities" (Brenner, 2015). From guerilla gardening and street art to municipally approved pilot projects and neighbourhood street festivals, these forms of small-scale urbanism share some commonalities. Urban interventions are low cost, flexible, temporary, and participatory actions that uses the urban environment as a medium to convey art and ideas and are often used to disrupt inflexible, top-down, modernist forms of comprehensive planning (Brenner, 2015; Lydon & Garcia, 2015). They also arise "in the context of a broader governance crisis in contemporary cities in which both states and markets have failed systematically to deliver basic public goods (such as housing, transportation, and public space) to rapidly expanding urban populations" (Brenner, 2015). The motivation and politics behind these practices can vary widely from promoting capitalist consumption in the form of pop-up shops in vacant storefronts to forms of producing and sharing that unsettle capitalist relations like artist squats in abandoned buildings. If urban interventions attempt to change the way planning and development is undertaken, do they also challenge market-oriented neoliberal urban processes that informs these practices? Or do they merely cover up underlying dynamics and social structures that perpetuate socio-spatial inequalities in the city?

Figure 9- Tacheles, artist squat, Berlin, Germany, 2011

Imagining Alternate Futures

One of the strengths of urban interventions, whether they're initiated by individual citizens, non-profits, private entities, or governments, is that they capture the imagination of users and passersby to envision alternative futures. Critical Mass, a leaderless group bike ride that takes place on the last Friday of every month has transformed cycling activism into a global phenomenon with its spread to over 300 cities worldwide. Each month, cyclists meet at a predetermined location and time. If enough cyclists come together, a "critical mass" is reached where a small section of road is safely taken over for a leisurely group bike ride under the mantra "We're not blocking traffic- we *are* traffic!" Although the ride is anarchic with no predetermined leader, route, or destination, it also demonstrates cooperation and consideration among strangers,

Participant cyclists "cork" intersections by blocking traffic until the group has safely passed. People who feel confident putting their bodies in harm's way for the safety of the group challenge neoliberal notions of the individual as self-interested and competitive (Giroux, 2002). Thus, critical mass rides allow participants and observers to imagine new possibilities for streets as public spaces, used not only for leisure and recreation, but also for demonstration and protest. By using non-hierarchical forms of organization, it turns on its head the idea that groups must have a leader and hierarchy to function. Furthermore, it makes real (if only temporarily) an imagined future where cars and bikes are equal and have access to the same resources.

Figure 10- Critical Mass, Prague, Czech Republic, 2011

Figure 11- Critical Mass, Berlin, Germany, 2011
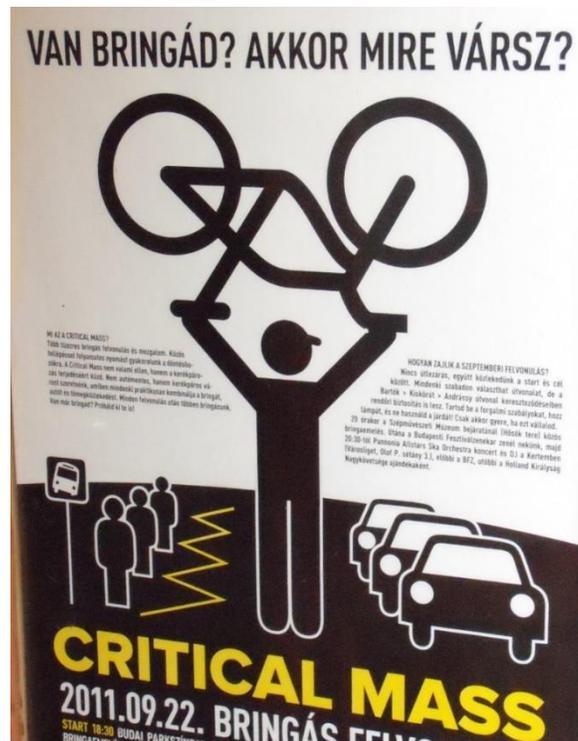
Figure 12- Critical Mass poster, Budapest, Hungary, 2011

DIY vs. Tactical

Mike Lydon and Anthony Garcia differentiate two forms of urban interventions as DIY (do-it-yourself) and tactical in their book *Tactical Urbanism: Short-term Action for Long-term Change*. They define DIY urbanism as the expression of an individual or small group of actors while tactical urbanism can include government, developers and non-profit organizations. Although both forms operate along a spectrum of legality, tactical urbanism is intentional in its goal for instigating long-term change. The use of "tactics" has origins in military theory and can be defined as "of or relating to small-scale actions serving a larger purpose" (Lydon & Garcia, 2015, p. 2). This is contrasted with a strategy which is defined as a "careful plan or method for achieving a particular goal usually over a long period of time" (Merriam-Webster, 2016). Tactics and strategies both work towards a goal but tactics are smaller in scale and occur over a short period of time while strategies are often comprehensive and occur over a longer period of time. In planning, strategies are top-down approaches to policy development that can take a long time to instigate, criticized with being overly bureaucratic and inflexible. The low-cost and temporary nature of tactics on the other hand can overcome traditional planning obstacles to illustrate proposed changes in the built environment in a tangible way. For example, a strategy for increasing the number of bike lanes on Toronto's roads includes environmental and traffic assessments, budget increases for implementation, public consultation, a proposed time frame, etc. Conversely, the tactical installation of bike lanes can be done by painting lines on the road which can then be tested for things like ridership and traffic impact. Thus, Lydon and Garcia's notion of tactics can be complementary to strategies, rather than being in opposition. Tactical urbanism seeks to

change the way planning and development is undertaken to be more efficient, cost effective, participatory, and responsive:

> For citizens it allows the immediate reclamation, redesign, or reprogramming of public space. For developers or entrepreneurs, it provides a means of collecting design intelligence from the market they intend to serve. For advocacy organizations, it is a way to show what is possible to garner public and political support. And for government, it's a way to put best practices into, well, practice- and quickly! (Lydon and Garcia, p. 3).

Lydon and Garcia's use of the term "tactics" to describe quick, flexible, small-scale urban interventions differs from Michel de Certeau's conception of tactics. In his book *The Practice of Everyday Life*, de Certeau defines strategies as the tools of the powerful as a way to impose spatial order and exert control over this order through the use of plans, regulations, and cartography. On the contrary, "a tactic is an art of the weak" (de Certeau, 1984, p. 37). Tactics are used by everyday people, to adapt to an environment shaped and regulated by powerful institutions. Tactics, "vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers. It poaches in them. It creates surprises in them. It can be where it is least expected. It is a guileful ruse" (de Certeau, 1984, p. 37). Therefore, tactical urban interventions work to transform, destabilize, poke holes, and contradict the established societal order created by the powerful. Many forms of urban interventions would fall under de Certeau's understanding of tactics rather than Lydon and Garcia's. The powerful have no need for de Certeauian tactics, because they are the ones who shape and regulate institutions, politics, and socio-economic systems. Lydon and Garcia's version of tactics are merely

strategies implemented on a smaller, flexible scale to reflect changes in the environment and the needs of inhabitants. The long-term change championed as a defining motive for tactical urbanism is only a change in the way urban development is organized, planned, and initiated. It does not seek to transform neoliberal capitalist relations that create social, economic, and spatial inequalities in the city.

Sanctioned vs. Unsanctioned

A better way to differentiate small-scale urban interventions would be along the lines of sanctioned and unsanctioned. Unsanctioned urban interventions can use legal or illegal methods and are often political even if their content is not. For example, a graffiti tag of an artist's pseudonym seems on the surface, apolitical. But the blurring of private and public and challenging of the sanctity of property, make graffiti writing a political act. Similarly, the unsanctioned actions of the Situationist International made up of activists, artists, and writers contested powerful interests and explored the possibilities of urban space in Europe in the late 1950s. They were committed not only to studying urbanism and socio-spatial relations but also to changing them (Pinder, 2005). They advocated for "détournement," a term used to describe tactics of diversion, appropriation and hijacking. The Situationists used a variety of methods to turn expressions of the capitalist system and its media culture against itself as a way to destabilize capitalist hegemony. Conversely, sanctioned urban interventions use legal methods and receive permission from governing bodies to make temporary changes to the built environment. Since permission must be gained, they must be accountable to the permission giving institutions. This often leads to interventions that don't challenge powerful institutions

and create small urban changes within the existing socio-economic system. Street art murals are a great example small-scale urban interventions. When they are created without permission, they are graffiti vandalism. When sanctioned, they are considered to be works of art, even if the style and medium are identical to murals that are unsanctioned. Sanctioned interventions can still be political, but if they are considered to be threatening to those in power, they are removed. For example, a portion of a mural located on Dupont Street in Toronto was painted over by the city as part of the former mayor Rob Ford's anti-graffiti campaign because it was considered to be too political. The mural, originally commissioned by the city, was painted by artist Joel Richardson. It depicted a "colourful scene of faceless men in suits, dollar signs and hearts" satirizing the mathematics of modern finance (Rider, 2011). The city removed it after a resident complained it was too political. According to a city spokesperson, "[The mural] was not approved by the city and we would not endorse any kind of mural with political messaging" (Rider, 2011). It is interesting that despite paying $2000 to commission the mural and receiving support from the local councillor, the city distanced itself from controversy by claiming the mural was unsanctioned.

Figure 13- Controversial mural on Dupont Street, Toronto, 2011 (photo: Joel Richardson)

Figure 14- Unsanctioned street art, Toronto, 2012

Typology

A number of contemporary urban scholars including Hou (2010) Crawford (2011) and Iveson (2013) have attempted to label and categorize small-scale urban interventions as a way to understand their diverse features and politics. Hou identifies six forms of urban interventions. These practices include appropriating, reclaiming, pluralizing, transgressing, uncovering, and contesting. Appropriating involves the repurposing of existing urban landscapes by temporarily or permanently suspending meaning, ownership, and structure of official public space (Hou, 2010). Examples of appropriation can include vendors setting up their wares in empty parking lots, transforming what was meant as car storage space to a vibrant market place. In China, women gather underneath freeways, unused sections of parking lots, construction sites,

and widened sidewalks to dance collectively as a way to socialize and keep fit. These underused sites are transformed to become a stage or dance floor (Chen, 2010). Reclaiming includes the adaptation and reuse of abandoned or underutilized urban spaces for new uses and functions. Examples of reclaiming could include the occupation of abandoned buildings to create new art studios or the creation of pocket parks in residual spaces through landscaping and the addition of street furniture. Pluralizing occurs when specific ethnic groups create a more heterogeneous public sphere by transforming the meanings or functions of public space (Hou, 2010). For example, Latino immigrant communities in the United States express their cultural identity and social norms through the creation of spaces that anchors group solidarity in the urban landscape. Manifestations of this include public festivals and rituals like Dia de los Muertos in parts of California and the Puerto Rican Day Parade in New York City (Rios, 2010). Transgressing crosses boundaries between public and private domains through temporary occupation or by producing new meanings and relationships. People experiencing homelessness transgress norms and regulations governing public space because boundaries between public, domestic, and economic life are minimal. Their private use and occupation of public space in parks, streets and sidewalks is necessary for their personal and economic survival. Using park benches as beds, public facilities as restrooms, and panhandling as a source of income illustrates the necessity of using public space for their everyday needs (Crawford, 1995). Uncovering refers to the making and rekindling of public space through the discovery of hidden or latent meanings and memories in the city. The Ogimaa Mikana Project in Toronto is an example of uncovering the history of the city by restoring the Anishinaabemowin place-

names to streets, paths, and trails (Ogimaa Mikana: Reclaiming/Renaming, 2015). The project makes visible the hidden presence and history of indigenous people in Gichi Kiiwenging (Toronto). Finally, contesting involves the struggle over rights, meanings, and identities in the public realm. This often takes the form of urban or public space activism. In the UK, activists called the London Black Revolutionaries poured concrete over "homeless spikes" on the ground level window ledges of a downtown London supermarket. This direct action brings the struggle of homeless rights and the presence of defensive architecture into the forefront, contesting the message that public space is only for people who are working or consuming (Quinn, 2014). Crawford expands on Hou's categories to include decommodification, alternative economies, and collaboration across spaces (Iveson, 2013). Decommodification asserts use values over exchange values. An example of decommodification involves reclaiming billboards as spaces for two way dialogues. By presenting art or an alternative message in place of the advertisement, the space is transformed and valued for its new use rather than for its money making properties. Alternative economies include recycling, open source, and gift economies. An example of this is the "Really Free Market" in Toronto which is a semi-regular market based on the idea of a gift economy, where goods and services are given freely without an exchange. Finally, collaboration across spaces is required for many of these DIY urban practices because many use non-hierarchical ways of organizing that requires the input of many rather than a few.

Figure 16- Appropriation- dancing in front of the subway station, Beijing, China, 2015

Figure 17- Appropriation- unsanctioned sidewalk market, Toronto, 2015

Figure 18- Contestation- Occupy Toronto, 2011

Figure 19- Alternative Economy- Really Free Market, Toronto, 2009

Commodified Subversion

Given the temporary, political, and often illegal nature of unsanctioned urban interventions, it would seem that these practices would not lend well to cooptation for capitalist purposes. Conversely, the subversive aesthetic of these practices is used imbue a sense of difference, diversity, spectacle, and authenticity to luxury development projects (Tochterman, 2012). According to Debord, "dissatisfaction itself becomes a commodity as soon as the economics of affluence finds a way of applying its production methods to this particular raw material." (as cited in Halnon, 2005, p. 448). Street art murals painted on construction hoardings as a form of placemaking, add a sense of authenticity and difference to new development projects. For example, the PATCH project in Toronto works with developers to create public art on construction hoardings under the motto, "curating the city, one site at a time" (The PATCH Project, 2015). The PATCH project offers a variety of services including commissioned, site specific, and installation work. The organization's goal is to attract attention to the site, strengthen community ties, and beautify the streetscape. The use of traditionally subversive urban practices to sell products creates confusion as to what is the authentic voice of community members and what is marketing manipulation. In the summer of 2015, I walked past a vacant lot in one of Toronto's downtown east neighbourhoods that was turned into a temporary community space. Graffiti artists were creating murals, a local food truck was serving food, and music was playing from a sound system. What I thought was the creative community reclamation of an under used site was actually an urban intervention commissioned by the developer Oben Flats and staged by the PATCH project. The site, which will eventually be developed into luxury rentals, will be

open to the public through a variety of programming like a skating rink and pollinator's

garden until development commences. Thus, the development project is branded with a

sense of urban edginess and community.

Figure 20- Sanctioned street art mural, Toronto, 2016

The above example of the PATCH project illustrates that small-scale urban

interventions can easily be commodified but only when the practices don't threaten the

dominant processes of neoliberal capitalism. This means urban interventions are a tool

that can be used by the alienated and marginalized as well as dominant and privileged.

Unfortunately, the commodification of these practices creates a crisis of authenticity

where everything in the city is met with skepticism because it is difficult to distinguish what is real and what is a marketing ploy. The use of "community" in the branding of consumer products and lifestyles is problematic. Oben Flats' desire to program their vacant lot with community activities until development can commence makes the development more palatable to the nearby community because it creates a sense of inclusion. This inclusion is an illusion. Community members may perceive these token forms of inclusion as a way to participate in the shaping of their urban environments. In reality, the community has little or no say as to what will be developed in their neighbourhoods, how resources will be distributed, and who will profit.

In summary, small-scale urban interventions are created in many different ways by a variety of actors with a range of motivations. For individuals, they are often expressions of civil disobedience targeting outdated policies or undesirable physical conditions through the use of direct action. For organizations and institutions they are a tool for public involvement and placemaking by bringing planning concepts to people in a tangible form (Lydon & Garcia, 2015). For artists and activists they are low cost, low barrier ways to challenge the hegemony of neoliberal urbanism by making apparent contradictions and denaturalizing economic, social, and political assumptions. Lydon and Garcia's description of small-scale urban practices utilized by institutions, organizations, and individuals as "tactical urbanism" departs from its history as a tool of the weak, disempowered, and marginalized. Rather than categorizing these practices as "DIY" and "tactical" it is useful to investigate how they disrupt business as usual through the lens of "sanctioned" and "unsanctioned." Because sanctioned interventions are given permission and must obey the rules of the governing authority, these

practices are less political, disruptive and transformative than their unsanctioned

counterparts. This is not to say they are toothless. Small-scale sanctioned interventions

like Toronto's Adelaide and Richmond bike lane pilot projects were so successful they

were extended and made permanent, changing how the downtown core is experienced

by residents and tourists alike.

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Appendix

Interviews

The semi-structured interviews included in this Major Portfolio were conducted over the months of March and April, 2016. The interviews were conducted in person or over the phone, recorded, and transcribed. The key informants were selected based on their expertise and professional experience in their respective fields. The consent forms can be reviewed upon request. The participants include:

- An urban design consultant who formerly worked for the City of Toronto

- An urban design consultant and entrepreneur

- A City of Toronto landscape architect

- An organizer with a Toronto non-profit

- A person familiar with Toronto's Coordinated Street Furniture program

- A nurse with a downtown Toronto organization working with people who are homeless or under-housed

- An Executive Director of a Toronto BIA

- A City of Toronto Community Planner

- A Toronto skateboarder

Sample Consent Form

Date: June 17, 2016

Study Name: Urban Design in Toronto's Public Spaces

Researchers: Cara Chellew, MES student, Faculty of Environmental Studies, York University. Phone: 647.770.1730 Email: cchellew@yorku.ca

Purpose of the Research: The purpose of the research is to examine urban design elements in the City of Toronto's public spaces with a focus on mediating conflicting uses of space. This research is a part of my MES major research which takes the form of a portfolio. The final product will take the form of a paper with the goal of being published in a peer reviewed academic journal.

What You Will Be Asked to do in the Research: Interviews will be conducted in person, by phone, or via email. If interviews are conducted in person, written notes and an audio recording will be made.

Risks and Discomforts: The researchers do not foresee any risks or discomfort from your participation in the research.

Benefits of the Research and Benefits to You: The research will work to advocate for the design of a more inclusive public realm.

Voluntary Participation: Your participation in the study is completely voluntary and you may choose to stop participating at any time. Your decision not to volunteer will not influence your relationship with York University and the Faculty of Environmental Studies either now, or in the future.

Withdrawal from the Study: You can stop participating in the study at any time, for any reason, if you so decide. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with the researchers, York University, or any other group associated with this project. In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible.

Confidentiality: All information you supply during the research will be held in confidence and unless you specifically indicate your consent, your name will not appear in any report or publication of the research. Handwritten notes, audio tapes, and any other data will be safely stored in a locked facility and only research staff will have access to this information. Data will be stored for two years after the study and will be destroyed after that. Confidentiality will be provided to the fullest extent possible by law.

Questions about the Research? If you have questions about the research in general or about your role in the study, please feel free to contact Cara Chellew either by

telephone at (647) 770-1730 or by e-mail (cchellew@yorku.ca). This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University's Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics, 5th Floor, York Research Tower, York University (telephone 416-736-5914 or e-mail ore@yorku.ca).

Legal Rights and Signatures:

I _____, consent to participate in "Urban Design in Toronto's Public Spaces" conducted by Cara Chellew. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

<u>**Signature**_____</u>   <u>**Date**_____</u>
Participant

<u>**Signature**_____</u>   <u>**Date**_____</u>
Principal Investigator

Sample Interview Questions

Opening:

My name is Cara and I'm a Master of Environmental Studies student at York University studying urban planning with a focus on public space. I would like to ask you some questions about your knowledge regarding the planning and design of Toronto's public spaces. The interview should take about 45 minutes to an hour. There are no risks or benefits to you associated with this research, and you may withdraw, not answer questions or terminate participation at any time without prejudice. Unless you agree otherwise, your confidentiality and/or anonymity will be maintained.

Body

1. Tell me about yourself
    - Profession
    - number of years practicing
    - particular interests

3. How do you define public space?

4. In your opinion, what is the value of public space?

5. What would you consider to be examples of successful public spaces in Toronto? Why?

    - Examples of unsuccessful spaces? Why?

 6. Are you familiar with the concept of defensive architecture?

    - Defensive urban designs are intended to discourage certain uses or groups of people from using a space or part of the built environment as a form of crime prevention or protection of property. Defensive urban design can take many forms including specially designed street furniture, public spaces that discourage loitering, and surveillance cameras.

7. To your knowledge, does the City of Toronto have any policies concerning the use and regulation of defensive urban designs in public spaces?

8. Can you identify where defensive architecture has been used in the city's public spaces?

9. In your opinion, what is the purpose of using defensive architecture in public spaces?

11. Do you think the use of defensive architecture in the city's public spaces is consistent with the city's goals to provide public spaces that are open and accessible to all members of the public?

13. Do you have anything else to add? Personal stories, thoughts, resources?

14. Can you recommend anyone I could speak to about this topic?

Closing

I appreciate the time you took for this interview. Is there anything else you think would be helpful for me before we end? Would it be alright to call you at home or email you if I have any more questions? Thanks again.