Detroit Looks Toward a Massive Blight Condemnation: The Optics of Eminent Domain in Motor City

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 *Abstract*

*The Detroit Blight Removal Task Force prepares the city to engage in an unconstitutional taking of up to 72 thousand structures in the city, but its members pretend otherwise. Task Force Chairs intimate that this clearance will operate under Michigan’s police powers, not its powers of eminent domain, as the Michigan Constitution erects profound barriers to blight takings. Blight condemnations historically exploit low-income communities and people of color, but these same officials also pretend that this danger does not exist when it comes to Motor City.*

 *The reasons for this indirection prove exigent: Detroit is the most dilapidated city in the nation,and desperately needs to repair or remove its unsound housing. Constitutional dramas and troublesome objections about the city’s very poor would only protract this process if not vanquish it altogether. Yet the Task Force performs a great feat in obscuring these problems. How does it do it?*

 *The Task Force succeeds by luring the public’s focus – specifically, its gaze – away from the Constitution and the problem of poverty toward mesmerizing scenes that speak to Detroiters’ greatest fears and desires. That is, officials use optics to persuade politicians and the citizenry that they can confiscate thousands of properties without compensation. In previous work, I have named these optics a specious brand of official and judicial gazing practice: I call it “peering.”*

 *In this paper, I study how optics now work in Detroit to occlude the legal and social problems that lurk in the Task Force’s recommendations. I then offer a different public purpose under which eminent domain exercises could progress unhampered by the Constitutional barriers facing Michigan blight condemnations: The alleviation of poverty. In my development of an anti-poverty agenda that would support Detroit blight clearance, I advance a helpful optical practice that would deflect many of the hazards of peering: I call this practice “seeing.”*

1. Introduction

The Detroit Blight Removal Task Force prepares the city for an unconstitutional taking of up to 72 thousand structures, but pretends otherwise.[[1]](#footnote-1) Its members intimate that this enormous acquisition of title and clearance will operate under Michigan’s police powers authorizing its Nuisance Abatement Program [NAP], not its Constitution’s Takings clause.[[2]](#footnote-2) Blight condemnations historically exploit low-income communities and people of color,[[3]](#footnote-3) but these same officials also pretend that this danger does not exist. “The “city’s best days are ahead of it,”[[4]](#footnote-4) promise the chairs of the Detroit Blight Removal Task Force.[[5]](#footnote-5) As one of the Task Force’s leaders, Quicken Loans billionaire Dan Gilbert, enthused to the Detroit Free Press: “We can have an incredible turnaround success story that maybe has never been experienced before, at least in the last 50 years in America. It’s going to happen.”[[6]](#footnote-6)

These functionaries do not admit that their recommendations would result in a mass land confiscation in violation of the U.S. Constitution’s Fifth Amendment’s prohibition on takings of property without compensation.[[7]](#footnote-7) And they do not recommend that this clearance proceed under the power of eminent domain, since such acquisition would prove unlikely-to-impossible if scrutinized under the Michigan Constitution, whose 2006 amendment[[8]](#footnote-8) rejected the U.S. Supreme Court’spermissive *Kelo v. City of New London,[[9]](#footnote-9)* and now creates high obstacles for blight condemnations. They also do not acknowledge that the history of blight condemnations predicts that their “success story” may well leave a trail of want, poverty, and exclusion in its wake.[[10]](#footnote-10)

The reasons for this indirection prove exigent: Detroit is the most dilapidated city in the nation,[[11]](#footnote-11) and desperately needs to repair or remove the unsound housing that clutters its many neighborhoods.[[12]](#footnote-12) Constitutional dramas and troublesome objections about the city’s very poor would only protract this process if not vanquish it altogether. Yet Mr. Gilbert and the Task Force perform a great legerdemain in vaporizing these elephantine legal and social problems. How did they do it? They lure the public’s focus – specifically, its gaze – away from the Constitution and the problem of poverty toward mesmerizing scenes that speak to Detroiters’ greatest fears and desires. That is, officials use *optics* to persuade politicians and the citizenry that they can confiscate thousands of properties without compensation.

This is not my first foray into a legal theory that struggles with looking, class, and eminent domain. In a 2015 Georgetown Journal on Poverty Law and Policy (GJPLP) article, titled *Peering*,[[13]](#footnote-13) I observed how optics and class privilege help determine when a state can reap a community under the Fifth Amendment, which requires that takings exist for a public use or purpose and that residents see adequate compensation.[[14]](#footnote-14) I argued that this apprehension depends on official and judicial gazes, what I call acts of peering. By studying eminent domain’s history, I learned that when elites regarded (or, peered at) a community and decided that its residents did not qualify as their peers, this race and class vulnerability rendered the communities defenseless to exercises of eminent domain.[[15]](#footnote-15) I also listed the damage that takings impose on low-income people and people of color, which include exile, ouster, family dislocation, and community network disintegration.[[16]](#footnote-16) I found these dangers particularly acute in the case of blight condemnations, and lambasted them as racist and colonial conquests.[[17]](#footnote-17) At the end of *Peering*, I promised that I would try to forge a way of *seeing*, rather than peering, to invest eminent domain jurisprudence with anti-subordination optics that might leverage egalitarian land appropriations and uses.[[18]](#footnote-18)

Peering now operates in Detroit, in a different but dangerous way. Peering here does not yet distract the judiciary: It diverts authorities and residents. Few objectors critique the Task Force’s proposal that tens of thousands of properties be transferred to the Detroit Land Bank Authority under the city’s nuisance abatement program because of the powerful peering tactics that now energize the Task Force’s rhetoric and advocacy.[[19]](#footnote-19) These peering campaigns frighten and seduce Detroit’s citizenry with repulsive, opulent, and manipulative imagery that divert them from the legal and social problems the Task Force’s plans hazard. But these problems should not be overlooked. First, the confiscations recommended by the Task Force promise to take land from property owners in violation of the Fifth Amendment. Second, if the government undertook blight condemnations under the power of eminent domain, then this would then run afoul of the will of the Michigan voters, who in 2006 prohibited eminent domain confiscations for the purposes of economic development and authorized significant restraints on blight condemnations.[[20]](#footnote-20) Third, my past work in eminent domain and optics teach us that the peering practices that now dazzle Detroiters serve as warnings that poor and other vulnerable people will be left behind in the seized and cleaned-up Motor City.[[21]](#footnote-21)

In response, we must acknowledge the Task Force urges the city to make a massive taking, recognize the constitutional, racial, and class problems this will raise, and identify the peering gestures that occlude these quandaries. To resolve the legal and social dilemmas hazarded by the planned-for blight condemnations, *I propose the city confiscate and condemn dilapidated properties under the power of eminent domain, and do this for the public purpose of alleviating poverty.* This heady goal will require a tailored agenda and a rigorous method of seeing Detroit and its residents.

In this article, my objects are to 1) describe the Task Force’s Detroit blight clearance project, emphasizing its plans to condemn dilapidated properties and transfer their titles to the Detroit Land Bank Authority under the city’s Nuisance Abatement Program; 2) consider the legal problem created by this project, that is, that these forced transfers of title would prove takings under constitutional law; 3) consider the social problems of this project, that is, that blight condemnations traditionally predate upon low-income people and people of color; 4) describe why Michigan Constitutional reforms explain why the Task Force does not recommend that the blight clearance proceed under the powers of eminent domain; 4) consider why objections to these legal and social problems have not received more airing, and hypothesize that peeringpractices explain this lacuna; 5) explain peering and its operation in Detroit’s blight removal; 6) offer the alleviation of poverty, not blight clearance, as a public purpose under which eminent domain could proceed, and 7) describe how the creation of an anti-poverty eminent domain agenda requires a new kind of seeing, hearing, and thinking about the city and its specific “poverty traps.” Interviews with residents who work for a better Detroit, which I conducted in the city in August of 2014, will aid me in this last effort.

II) The Law of Eminent Domain

“I think that the blight clearance the Task Force’s calling for isn’t legal,” I tell Josh Bassett in September of 2014 as he drives me through the Cass Corridor, near Midtown.[[22]](#footnote-22) Josh, a sixty-year old Anglo Detroit native with warm brown eyes and a talent for talking in complete paragraphs, directs the Institute for Social Progress at Wayne County Community College. I’ve sought him out to tutor me on the city’s distress because Detroit operates as the current site of the U.S.’s highest-profile blight removal enterprise.[[23]](#footnote-23) In 2013, the White House created the Detroit Blight Removal Task Force (the “Task Force”), [[24]](#footnote-24) whose chair, Quicken Loans’ Dan Gilbert, aims to raze between 40,000 to 72,000[[25]](#footnote-25) structures even while he buys up vast tracts of Detroit real estate such as the Chase Tower.[[26]](#footnote-26)

“Legal – what – no, what you’re dealing with here isn’t law per se, it’s the politics of desperation,” Josh answers. As we careen down Detroit’s avenues, I glance at crushed-looking apartment buildings and moth-eaten offices and try to understand what I’m looking at. I understand that I have to train my eye so that I can actually *see* the neighborhoods instead of just gawk at poverty. One of the reasons I’m here with Josh is so that he can help me to do that.

Based on my previous work in blight condemnations,[[27]](#footnote-27) I’m particularly concerned about blight removal in Detroit because gentrification will affect a community that is 82 percent African-American, [[28]](#footnote-28) and whose residents suffer a 38 percent poverty rate; another 31 percent of its citizens live just above the poverty line.[[29]](#footnote-29) In order that I develop a greater understanding of these figures, Josh drives me around Detroit to compare its neighborhoods with its Starbucks-bejeweled downtown.[[30]](#footnote-30) One of the first lessons I learn in Detroit is its posh downtown separates, class-wise, from its other neighborhoods, which number up to 105 according to a recent map.[[31]](#footnote-31) As I witness the class divide now severing the city, I tell Josh that I worry that an upper class fortress will fill the confiscated and emptied space, one that exiles low-income people.[[32]](#footnote-32)

“But this city doesn’t have the luxury to turn away resources [being imported by this] Dan Gilbert Republican dude,” he tells me. “Here’s this guy that brought 3,000 White people out here, along with capital, revitalization of the city[[33]](#footnote-33). . . . I mean, look, I’m a leftist radical. But we’re dealing with such serious issues you can’t apply the same leftist framework. I would push back where I see [the blight removal plan] harming the community, but it’s just a different framework. It’s a framework of desperation.” Josh grips the steering wheel tighter. “I agree that sometimes Gilbert’s buying spree[[34]](#footnote-34) and blight removal can seem undemocratic. But for me, the most important question is how do you generate revenue? I’m dealing with what’s viable, and what’s not.”

We maneuver down the Corridor. This area is the home of the Coalition on Temporary Shelter (COTS), [[35]](#footnote-35) as well as manifold blasted-out-looking buildings, along with a sprinkling of brightly painted structures and inhabited office buildings. “[Little Caesar’s billionaire] Mike Ilitch has bought up most of this area,” Josh says. “It wasn’t really revealed until maybe six months ago that the purpose of that was to locate this new [Red Wings, the Detroit hockey team] stadium.[[36]](#footnote-36) And now, it’s really changing. In the 60s, 70s you could not walk through this unless you were a motherfucker, you would get punked. People have tried to revitalize it but nothing’s ever really worked. So now Ilitch has bought all this land. It’s controversial.”

I’m staring at a building that looks disintegrated by acid. The sun cascades onto wide, nearly empty streets. I am trying to see the city in a way that’s unoccluded by my own solipsism and infant-like requirements for constant creature comforts. But it’s hard, because I’m from Studio City, California, and I’m ignorant.[[37]](#footnote-37) “Why’s that controversial?”

“There are lots of people who used to live in these low income housing hotels -- drug houses, I mean. It was dangerous stuff, but this is where they used to live. Just a few years ago these areas were areas where people used to set up tent cities. Now they’ve all been moved out, displaced. I’m not sure what’s happened to them. It’s still thick here, though.”

“What’s ‘thick?’”

 “Thick means East L.A. Thick means watch your ass. But you’re not going to have a Cass Corridor any more like you used to -- which is a good thing.[[38]](#footnote-38) The issue is, though, what are you going to do about the low income population? So many have been displaced, obviously. It’s been a social clearing. We don’t know where they go. They bulldozed the Brewster projects, the low income projects.”[[39]](#footnote-39)

Josh makes a few turns and brings us onto a thoroughfare that hosts even more battered housing. The buildings crumble to the ground, except for isolated homes that evidence care in the forms of baby buggies and laundry out on the porches. “This is Grand River, away from downtown. The neighborhoods are one of the major keys to the city. Downtown is doing great – downtown, midtown, and all the way up to Grand Boulevard. So you have 20, 30 blocks of density and vibrant urban growth. But the neighborhoods themselves are still – there’s no other word -- they’re devastated. This is as fucked as it gets. This is the real real.

“The neighborhoods grew into a population of 2 million, within 168 square miles. And now we have a population of 8 to 9 hundred thousand. So you have huge tracts of empty land. They’re talking about resizing it, but what do you do with the people who don’t want to move? And also you’re dealing with the consistent problems of racial segregation.”

I’m trying to film Grand River with my iPhone. “What’s causing poverty in Detroit?”

“It’s education. The rosiest picture is we graduate 58, 59 percent of our high school kids, but everyone thinks it’s actually much lower than that. [[40]](#footnote-40) I don’t know what the exact figures are. Some are gruesome. Some people say we have a 70 percent illiteracy rate, but some cut it to fifty percent.[[41]](#footnote-41) We have one third less funding than suburban students. There are many teachers, people work their asses off. But there has to be support. So when you mention Dan Gilbert, and he’s bringing in all these White people – I mean, White people aren’t magic but there has to be capital. It’s money. It’s economics.”

I first begin to describe how these non-magic people may be getting set to occupy land that will be unconstitutionally taken by the city.[[42]](#footnote-42) I then wax prolix about how officials in other cities employed eminent domain to try to turn Poletown,[[43]](#footnote-43) Atlantic Yards,[[44]](#footnote-44) Manhattanville,[[45]](#footnote-45) and New London[[46]](#footnote-46) into exclusive, money-making metropolises, and the harm that did to poor residents of color. “But how do you avoid downtown getting turned into a mall?”

At first, Josh seems unperturbed by this prospect. “I’m not worried it’s going to turn into something that’s unfair.” But then, he starts to lament racism and its already visible effects on Detroit. “It’s just that, Whites still don’t want to live and integrate with Blacks. And they won’t tolerate Blacks in any kind of viable numbers. And White people are not moving out to the neighborhoods, they’re moving downtown.”

“Aren’t you guys stressed that there are no guarantees for what’s going to happen to poor people and people of color once all this is underway?” I persist. “There are all these plans for bulldozing, but no one’s talking exactly about what’s going to come after. And that’s where I think the law has to come in.”

Josh drives past vacant lots and deliquesced apartment buildings. He nods. “The future, it gives people pause.” He purses his mouth. “I shouldn’t say ‘pause.’ That ameliorates it. They’re more worried than that. . . . But – I don’t know about the law, exactly.”

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In 2006, the Michigan voters amended the state Constitution’s taking clause, being article 10 section 2.[[47]](#footnote-47) It now requires that in blight condemnation cases, public use or purpose be proved by clear and convincing evidence, and that property owners enjoy 125% of fair market value (FMV).[[48]](#footnote-48) For other exercises of eminent domain, public concern must be proven by a preponderance of the evidence.[[49]](#footnote-49) The Michigan takings clause now also prohibits the use of eminent domain for economic development.[[50]](#footnote-50)

Previous to the amendment, Michigan takings law had already jumped the U.S.’s Fifth Amendment track, which under cases from the U.S. Supreme Court’s 1954 *Berman v.* Parker, to 1984’s *Hawaii Housing Authority v. Midkiff,[[51]](#footnote-51)* to 2005’s *Kelo* allows the bench to rubberstamp legislatures’ determinations that exercises of eminent domain fulfill a public use or purpose.[[52]](#footnote-52) In 2004’s *County of Wayne v. Hathcock,* the Michigan Supreme Court held a “generalized economic benefit” did *not* constitute a public use or benefit; this proved a direct response to *Kelo,* which allowed New London, Connecticut, to give a bedroom community to Pfizer.[[53]](#footnote-53) The *Hathcock* court identified three constitutional public purposes: First, land could be transferred to a private individual for public benefits dependent on the use of land that can be assembled only by means unavailable to the central government – such as in the case of giving over land to private enterprise to construct a railway.[[54]](#footnote-54) Second, officials may transfer property where the private entity remained accountable to the public in the use of that property.[[55]](#footnote-55) Third, property could be transferred on the basis of “facts of independent public significance,” such as blight.[[56]](#footnote-56) After *Kelo,* Michigan voters amended their constitution to secure *Hathcock’s* guarantees against perceived Federal constitutional overreaching.[[57]](#footnote-57) As noted, article 10, section 2 also requires that officials prove public concern by a preponderance of the evidence.[[58]](#footnote-58) However, in blight takings cases clear and convincing evidence is required.[[59]](#footnote-59)

In 2006, the Michigan legislature also amended the Uniform Condemnation Procedures Act.[[60]](#footnote-60) These changes raised the statutory cap for individuals’ moving expenses and provided attorneys’ fees for low-income individuals who made unsuccessful challenges to the government’s exercises of eminent domain.[[61]](#footnote-61) The Michigan legislature also enacted Senate Bill 693, which defines “public use” to exist in the three situations identified by *Hathcock*.[[62]](#footnote-62) SB 693 specifies that economic development is not a public use. [[63]](#footnote-63)

Where the government does not invoke the shaky Michigan powers of eminent domain, its regulations on property can constitute takings that violate the U.S. Constitution’s Fifth Amendment and require payment of fair market value to the property owner. The Federal Takings Clause initially applied to physical grabs of private property for the public’s benefit,[[64]](#footnote-64) and in 1922, the U.S. Supreme Court extended the Clause to regulatory actions that had the same effect of a physical taking.[[65]](#footnote-65) Some regulations constitute categorical or per se takings, such as regulations that deny all economically beneficial uses of land,[[66]](#footnote-66) or involve direct physical invasion or occupation of the property by the government.[[67]](#footnote-67) Judicial definitions of private property may also implicate the Takings Clause.[[68]](#footnote-68) The Supreme Court analyzes other regulatory takings on a case-by-case balancing test.[[69]](#footnote-69)

Regulations that prohibit dangerous and illegal uses of property, such as nuisance laws, do not traditionally constitute takings. Longstanding federal court authority supports restraints on or even destructions of property under nuisance ordinances as exercises of the police power. As the Supreme Court said in *K*[*eystone Bituminous Coal Ass'n v. DeBenedictis,*](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1987029487&pubNum=708&originatingDoc=I8c1b154b9c1e11ddbc7bf97f340af743&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.History*oc.Search)) “[c]ourts have consistently held that a State need not provide compensation when it diminishes or destroys the value of property by stopping illegal activity or abating a public nuisance.”[[70]](#footnote-70) And in 1992’s *Lucas v. South Carolina Coastal Council*,[[71]](#footnote-71) the U.S. Supreme Court explained that regulations that prohibit all economically beneficial use of land can (without compensation) only “inhere in the title itself, in the restrictions that background principles of the State’s law of property and nuisance already place upon land ownership.”[[72]](#footnote-72) Courts interpret *Lucas* to support findings that destructions of nuisance properties do not constitute takings, since illegal uses of property do not “inhere in the title itself.”[[73]](#footnote-73)

As *Keystone Bituminous* indicates, federal courts *do* permit seizure of property used in the commission of crimes.[[74]](#footnote-74) This rule reaches all the way back to 1882’s *Mugler v. Kansas,* a case involving defendants convicted of manufacturing spirits in violation of Prohibition.[[75]](#footnote-75) The Supreme Court held that the seizure of the defendants’ personal property and the closing of their prohibited brewery for one year did not require compensation since it constituted an abatement of a nuisance under the police power.[[76]](#footnote-76) Similarly, in 1996’s *Bennis v. United States*, the U.S. Supreme Court upheld the judicial sale of a car used to facilitate prostitution under the Fourteenth and Fifth Amendments, after the vehicle was confiscated under the Michigan nuisance abatement statute.[[77]](#footnote-77) The *Bennis* Court recognized a long line of cases permitting forfeiture when properties were used in connection with crimes ranging from privateering[[78]](#footnote-78) to liquor smuggling.[[79]](#footnote-79)

However, as I will show in the next section, little to no authority exists allowing for the seizure of titles to real property under nuisance laws where the property has not been used in the commission of crimes.[[80]](#footnote-80) This threatens a Constitutional crisis in present and future Detroit, as the Task Force recommends not only demolition of blighted or blight-indicated properties, but also their titles’ transfer to the Detroit Land Bank Authority, so that they can be purchased by wealthier people.[[81]](#footnote-81) This brings their proposal into direct confrontation with Fifth Amendment jurisprudence prohibiting takings without the payment of adequate compensation. And yet, as I will also discuss, if the city proceeded to condemn blighted properties under the power of eminent domain, this exercise would confront tremendous, possibly fatal, legal obstacles on account of the high bar set by the 2006 Michigan Constitutional reforms.

*III. The Blight Removal Task Force and its plans*

“You can’t be a city full of poor people forever,” photographer Noah Stephens explains to me as we sit in the downtown Detroit Starbucks.[[82]](#footnote-82) The coffee shop glows with warm wood, and offers a fragrant cornucopia of baked treats; inoffensive jazz lilts away over the franchise’s speakers. This Starbucks offers but one proof of Detroit’s storied, if still precarious, comeback: It opened at One Kennedy Square in April of 2014 to much fanfare, and the Detroit Free Press predicted it augured “a momentum of growth in the district once left for dead just five or six years ago as General Motors and Chrysler declared bankruptcy during the Great Recession.”[[83]](#footnote-83) Noah likes to work on his projects at the coffee shop. One of these enterprises is his blog, The People of Detroit, which features images of the vibrant Detroiters whom Noah finds unheralded in the typically doomful news reportage about his city.[[84]](#footnote-84)

Noah is an African-American photographer and social critic who regards reformers like me with skepticism. He tilts his head at me as if detecting a vexing fragrance as I tell him my theory that Detroit’s about to be turned into a fortress. “But we *need* a tax base,” he says in a deep staccato while sipping his coffee. He smiles often, despite his prickliness. “So these new people who are moving in, hopefully they’re paying taxes, hopefully they’re buying property and that’s going to increase tax bases and lead to increased city coffers that will lead to improved services for everybody.”

Noah shrugs as I mumble that poor people are likely to be left behind in Brave New Detroit. “Look. There’s this guy I used to be Facebook friends with. Everything for him is an evil conspiracy by ‘them’ and ‘they’ and it just drives me insane. I unfriended him. Everything is a post-apocalyptic [nightmare] for this guy. I’m like, look, it’s *good* to have private security, police, in a neighborhood. That’s a good thing because it helps tamp down on people who would take advantage of people otherwise -- as long as they’re not being abusive. It’s *good* to have a security presence -- that’s what makes a developed place different than a place where anarchy reigns then you just have whoever has the biggest gun wins.”

I understand that I am being lumped in with paranoiacs who believe in black helicopters and New World Order cabals. But despite my conviction to see things from other people’s perspectives I continue badgering Noah until he admits that he “does feel sorry for people who are old and who are handicapped.” He doesn’t wish them exiled by the Camelot that might grow in the supposed “blank slate”[[85]](#footnote-85) seized and cleared by city officials who follow the Task Force’s recommendations. But he also explains that he’s not losing much sleep over the futures of “young people,” who he thinks should find their own way in the refurbished city.

“You can’t discount the *agency* of people,” he emphasizes. “I feel like there’s a certain paternalistic condescending perspective, usually from the left, that says: ‘Oh no, these poor Black people, they’re just hapless victims of circumstance.’ Well, no, sometimes poor Black people, just like rich White people, make bad decisions. So let’s try to encourage people to make the right decisions, and that’s how I think you’ll see change.”

The biggest change Noah hankers for concerns deterring early parenthood, which he believes constitutes the city’s greatest cause of poverty. I ask him which reforms he would make if given the reins, and his eyes widen with glee. “Oh, *all* the liquor stores and churches would be replaced by planned parenthoods.[[86]](#footnote-86) *And* education would be funded not based on local tax bases but federally. So all schools would have equal resources and zero-to-three parenting classes would be standard everywhere.”

“You’re sounding a little more communitarian on the education front than on family planning,” I offer as an understatement.

Noah laughs. “It’s possible that we don’t see things in a completely different way.” I confess as much as well, particularly as I’ve found his photography so compelling. Noah began The People of Detroit in 2010[[87]](#footnote-87) as a response to “ruin porn,” that is, the images that pass as Detroit photojournalism[[88]](#footnote-88) in their displays of filth and abjection.[[89]](#footnote-89) As a riposte to these spectacles, Noah works with humanizing portraiture. I’ve been thinking a lot about one particular image on his blog: This portrait is of Dezey, a gay teen whom Noah photographed during a stay at the Ruth Ellis Center, a social service agency that gives shelter to LGBT homeless youth.[[90]](#footnote-90)

[[91]](#footnote-91)

Noah tells me the little he knows about Dezey – that he probably sought shelter at Ruth Ellis because “in the Black community there’s a lot of religiosity and as a consequence there’s a lot of regressive thinking about homosexuality,” and sometimes kids get kicked out of their homes.

Dezey’s story makes both Noah and me feel bad, and silence falls between us. “I’ve written that blight is a racist construct that shouldn’t be used as a justification for condemnations,” I finally pipe up. All of a sudden, I sound like a law professor. The word “construct” doesn’t belong in ordinary conversation and I worry my legal training has dented my ability to connect with people. Among other problems, that would defeat my jurisprudential goals. “In the 2000’s, ‘blight’ was used to evict people in Manhattanville, New York, which was a perfectly fine neighborhood until Columbia University dropped a satellite campus there.[[92]](#footnote-92) ‘Blight’ was an excuse for a land grab. And not only in Manhattanville – there’ve been similar problems in Atlantic Yards,[[93]](#footnote-93) and the Lower East Side,[[94]](#footnote-94) and Poletown, Detroit,[[95]](#footnote-95) and D.C.[[96]](#footnote-96) In all of those cases, I don’t really think ‘blight’ existed except in the fantasies of developers.”

Noah fixes me with a long look. He’s a good listener, and is fine with my language, but not with my meaning. “But you don’t think that’s happening here, right?”

I think again about the trashed homes and destroyed streets just a few blocks away from the pretty park.

“Detroit is different,” I say.

“Yes it is, Yxta,” he replies. “Here, it’s happening for real.”

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In response to the problems Noah describes, in 2013 the White House assembled the Detroit Blight Removal Task Force (the “Task Force”), appointing as its chairs billionaire Dan Gilbert, U-Snap-Bac president Linda Smith, and Glenda Price, former Marygrove College president.[[97]](#footnote-97) The Task Force possesses no state authority, but city officials such as Mayor Mike Duggan warmly embrace its recommendations, particularly since they amount to an enhanced version of the condemnation processes the DLBA has used to clean up the city for more than a decade already.[[98]](#footnote-98)

The Task Force cherishes the goals of “helping citizens” and “focusing on the people who live and work in Detroit,”[[99]](#footnote-99) and sets as its primary objective the razing of forty thousand blighted properties in the city, and possibly upwards of seventy-two thousand,[[100]](#footnote-100) in under five years.[[101]](#footnote-101) These resolutions irradiate Time to End Blight (TtEB), the report published by the Task Force on May 27, 2014.[[102]](#footnote-102) TtEB synthesizes a research and policy recommendation effort undertaken with Data Driven Detroit and Loveland Technologies.[[103]](#footnote-103) These are, respectively, an information-gathering affiliate of the Michigan Nonprofit Association, and a Detroit-based technology company that develops interactive property mapping systems.[[104]](#footnote-104) Data Driven Detroit and Loveland instituted the Motor City Mapping Project (MCM),[[105]](#footnote-105) which charted Detroit blight by surveying 380,000 parcels in the city.[[106]](#footnote-106) Blighted properties are those that: 1) are a public nuisance; 2) are an attractive nuisance; 3) are a fire hazard; 4) are dangerous; 6) have had utilities, plumbing, heating or sewage disconnected, destroyed, removed, or rendered ineffective; 6) have been tax-reverted; 7) are owned or under the control of a land bank; 8) have been vacant for five consecutive years and not maintained to code; and 9) have code violations posing a severe and immediate health or safety threat.[[107]](#footnote-107) Properties possessing blight indications are unoccupied or abandoned and either state-owned or owned by government sponsored entities such as Fannie Mae and Freddie Mae.[[108]](#footnote-108)

MCM sent out 130 surveyors[[109]](#footnote-109) throughout the city, arming them with cameras and questions. Inquiries included “What is this site used for?” -- the answers including residential, commercial, and industrial.[[110]](#footnote-110) Also, “what is the condition of the structure?” – possible answers covered good, fair, poor, and “suggest demolition.” [[111]](#footnote-111) MCM also instructed these “blexters” (blight texters) to identify properties as occupied, unoccupied, or possibly occupied, and to indicate whether structures needed boarding, or suffered fire damaged or looked maintained.[[112]](#footnote-112) “Windshield” photographs of structures accompanied findings;[[113]](#footnote-113) this term derives from the pictures’ curbside orientation.

Interestingly, the blexters appear to harbor hidden but deep disagreements with the Task Force’s conclusions of blight, or at least how to address it. MCM allows researchers to search within its raw data to discover how many edifices blexters identified as being in poor or “suggested demolition” condition:[[114]](#footnote-114) Out of the 379,549 surveyed parcels, blexters identified 12,849 as being in poor condition or ripe for demolition.[[115]](#footnote-115) They suggested 24 occupied residences for demolition,[[116]](#footnote-116) and identified 440 occupied residences as “poor.”[[117]](#footnote-117) 4,002 unoccupied residences were suggested for demolition,[[118]](#footnote-118) and 7,439 unoccupied residences were identified as “poor.”[[119]](#footnote-119) Another important number: Blexters suggested for demolition only 4,314 structures, whether occupied or unoccupied, residential or commercial.[[120]](#footnote-120) This low number clashes with the 40,077 structures Blight Reporters tag as ripe for demolition, and the 38,428 structures that bear “indicators of future blight,”[[121]](#footnote-121)

What accounts for the gap between 4,314 structures blexters wanted demolished and the potentially over 72K structures that the Task Force has within its sights? The survey amounted to only the first stage of analysis. In the press conference that celebrated the publication of TtEB, Mr. Gilbert explained that MCM “merged” blexters’ raw data with 24 other “data sets,”[[122]](#footnote-122) and the Blight Report clarifies that 16 of these sets helped define blight: These triggers include factors extracted from the 2009 Detroit Residential Parcel Survey, the Wayne County Register of Deeds, Detroit’s Dangerous Building list, and the Fannie Mae and Freddie Mac REO Inventories.[[123]](#footnote-123)

 Upon this merging, TtEB recommends “intervention” in these up to or more than 72 thousand buildings.[[124]](#footnote-124) Intervention may take the form of demolition, restoration, or securing and maintaining the property.[[125]](#footnote-125) However, acquisition of title[[126]](#footnote-126) and then demolition appears to be the main cure the Task Force imagines for the buildings, as Mr. Gilbert told reporters in September of 2013 that “[w]e have to get it all down.”[[127]](#footnote-127) TtEB allows that 98 percent of blighted properties are “neighborhood structures,” indicating this wholesale acquisition and removal could have significant community impact.

The Task Force does not recommend that the government confiscate this property through the exercise of eminent domain. Instead, it submits that it will not only demolish the buildings, but also (I emphasize) *seize titles* to blighted and blight-indicated properties under its nuisance abatement program [NAP] and transfer them to the Detroit Land Bank Authority (DLBA).[[128]](#footnote-128) While it notes that the DLBA will also acquire title through gifts, [[129]](#footnote-129)  seizure pursuant to demolition liens,[[130]](#footnote-130) and tax foreclosures,[[131]](#footnote-131) the Task Force indicates that the DLBA should rely first upon NAP.[[132]](#footnote-132) This recommendation seems likely to be adopted in earnest, since Detroit has already been seizing and condemning blighted properties through NAP for more than a decade.[[133]](#footnote-133) As such, I will focus my critique on the constitutionality of seizing titles through Detroit’s NAP. In the following section I will argue that the Task Force’s recommendation that the DLBA use NAP to seize title and then demolish the bulk of the 72 thousand buildings it deems blighted or blight-indicated calls for conduct that will qualify as an unconstitutional taking under Federal constitutional law.

IV. Will the Task Force’s recommended seizures of title under the nuisance abatement program qualify as takings?

The Task Force’s recommendation that the DLBA seize title to dilapidated properties via NAP does not find support in Fifth Amendment jurisprudence. In this section I will first describe how NAP works, how it is being used and perceived in Detroit as of this writing, and make the case against its constitutionality.

1. How NAP works.

Detroit’s NAP operates under City Ordinance 556-H, and allows for an appropriation of title by the DLBA after a prosecution for nuisance that does not involve criminal activity.[[134]](#footnote-134) Instead, nuisance exists under 556-H where a dwelling is “vacant, dilapidated, accessible to trespassers, dangerous, and when there exist outstanding property taxes on the property.”[[135]](#footnote-135) In its legislative findings section, 556-H provides that such properties should be put in the hands of “families” who can repair the properties.[[136]](#footnote-136) In 1987, the Michigan Court of Appeal determined that 556-H proved a constitutional exercise of the police power.[[137]](#footnote-137) While 556-H creates a presumption that the owner intends title to revert to the city where the dwelling is vacant, dangerous, and is delinquent in taxes,[[138]](#footnote-138) title does not transfer under 556-H, but rather under Michigan’s quiet title provision.[[139]](#footnote-139) In 2004, then-Governor Jennifer Granholm[[140]](#footnote-140) signed into law the Land Bank Fast Track Legislation, Public Act (PA) 258, which permits a hearing on an action for quiet title initiated by the Land Bank within 90 days of the Land Bank’s filing a notice of an expedited quiet title and foreclosure action.[[141]](#footnote-141) News reports and articles relay that prosecutions for nuisance in Detroit “force negligent property owners to fix up houses or lose them to the city.”[[142]](#footnote-142) This loss of title occurs “without compensation.”[[143]](#footnote-143)

1. NAP’s use in Detroit and how Detroiters perceive it.

NAP title seizures have been taking place in Detroit already for more than a decade – and it appears that have *not* been regarded by the people of Detroit as creating a takings problem. Mr. Mike Brady of the Detroit Land Bank Authority informed me in a phone conversation that nuisance abatements resulting in seizures and condemnations have occurred apace in Detroit for the past twelve years.[[144]](#footnote-144) Mr. Brady estimated that the DLBA files fifty nuisance abatement suits a week, and that the community is “thrilled” by their use of this tool.[[145]](#footnote-145) He also estimated that the DLBA had filed “thousands” of nuisance abatement suits since 2002, and that not one successful taking claim had derailed the abatements.[[146]](#footnote-146) In addition, if the DLBA’s nuisance abatements had been exercises of eminent domain, Mr. Brady explained, that would have been impermissible, as Land Banks in Michigan are prohibited from exercising that power.[[147]](#footnote-147)

1. The unconstitutionality of forced transfers of title under NAP.

While Fifth Amendment jurisprudence recognizes the state’s ability to diminish, destroy, or sometimes seize property under nuisance laws without compensation, NAP’s transfer of title prove distinguishable from cases such as *Keystone Bituminous,* which upheld regulations disallowing mining of certain seams of coal beneath a property’s surface, rather than a complete seizure of underlying property, [[148]](#footnote-148) and *Lucas,* which involved the regulatory prohibition of an owner building structures on his land.[[149]](#footnote-149) *Lucas*, in fact,highlights tantalizing questions about Detroit’s nuisance abatements, since blexters’ profound disagreements with the Task Force about property conditions[[150]](#footnote-150) raise issues about whether the properties targeted by the Task Force do indeed evidence uses that veer outside of “the title itself.”[[151]](#footnote-151) But more pressing problems regarding the constitutionality of these seizures exist than that.

Regardless of the public’s supposed “thrilled” support for nuisance confiscations, no legal authority that I could find immunizes nuisance abatements that result in seizures of property from Fifth Amendment challenges where the property has not been used for illegal ends. As Professor Mary Spector notes, “public nuisance statutes may produce results identical to [criminal] forfeiture statutes, including seizure of a home,”[[152]](#footnote-152) but “the . . . . availability of criminal prosecution and penalties [have traditionally [been] highly relevant to a court’s decision to permit equitable abatement on behalf of the state.”[[153]](#footnote-153) *Bennis,* involving the car used to shelter prostitution, provides one example of the criminal underpinnings of a forfeiture that proceeds under nuisance law.[[154]](#footnote-154) The *Bennis* court specifically referred to the objectives of the criminal justice system in affirming this nuisance abatement, namely deterrence and rendering illegal behavior unprofitable.[[155]](#footnote-155) Similarly, in 2004, the Sixth Circuit in *Ross v. Duggan* upheld a Detroit city seizure of a car used in “sex crime[s]” (there, again, prostitution)[[156]](#footnote-156) under the authority of Michigan’s nuisance law, which prohibits lewdness, assignations, and trafficking;[[157]](#footnote-157) the court observed that such forfeiture proved constitutional under both due process and the Fifth Amendment because its deterred “future uses of similar property for similar illegal uses.”[[158]](#footnote-158) And, as just one other example of the criminal foundation of these seizures, note similar legislation and jurisprudence in Colorado: There, real property may be seized[[159]](#footnote-159) if used in the commission of a class 1 nuisance, which requires a finding that the property was used in connection with crimes such as prostitution, theft, drug dealing, child abuse, or gambling.[[160]](#footnote-160) The Colorado Supreme Court, sitting *en banc,* noted in *People v. Milton* that “[t]he legislature may properly impose a civil sanction with respect to conduct that may also be punishable as a crime.”[[161]](#footnote-161)

Where, as here, no criminal activity exists, these confiscations violate the takings principle articulated by Justice Holmes in *Pennsylvania Coal v. Mahon,[[162]](#footnote-162)* finding that “while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.”[[163]](#footnote-163) This is not even a regulation – this is an out and out confiscation.[[164]](#footnote-164) While 556-H only creates a presumption that the owner intends the property to revert to the state, available news reports[[165]](#footnote-165) plus various forces indicate that this presumption will be *very strong* if Detroit uses it to confiscate tens of thousands of properties in under five years:[[166]](#footnote-166) This expedited schedule[[167]](#footnote-167) plus the politics of desperation[[168]](#footnote-168) do not create the incentives for a loving review of the property owner’s rights.

 While I can find no cases striking down – or upholding – the seizure of titles under nuisance statutes not involving criminal uses of property – other cases support drawing the line here. In *Wyss v. v. City of Joquiam,* the Ninth Circuit upheld the demolishment of a home under a nuisance statute because it was “likely to seriously injure occupants or visitors;”[[169]](#footnote-169) it determined the takings clause proved unoffended because Wyss's home was “ordered vacated and demolished, but the use of his land was not otherwise restricted. . . . and his land remains usable regardless of the demolition of his home. “[[170]](#footnote-170) In *Brown v. State of California*, the California Court of Appeal refused to find a taking where the government occupied private property for ten years in order to clear hazardous waste; the court, however, observed that “[o]nce accomplished, neutralization of the extant danger will render the property usable by its owners.”[[171]](#footnote-171) Further, in 2002 *Brown* was restricted to apply only to emergency conditions.[[172]](#footnote-172) Other important state court cases interpreting nuisance’s interactions with eminent domain all permit destruction of buildings or personal property within the buildings, but do not go so far as to permit the forced transfer of the underlying property itself.[[173]](#footnote-173)

One can see why case law does not support expanding the government’s right to seize properties under nuisance law where no crime has been committed. First, such seizures will not deter the people of Detroit from engaging in the types of crimes described in *Bennis, Ross,* and *Milton*,[[174]](#footnote-174) and will not further the policy of rendering similar offenses unprofitable.[[175]](#footnote-175) Second, expanding the rational of *Bennis*, *Ross,* and *Milton* to poor people who cannot pay taxes and keep their houses from becoming dangerous[[176]](#footnote-176) analogizes them to patrons of prostitutes, child abusers, thieves, drug dealers, and other felons.[[177]](#footnote-177) While my other work has demonstrated that Fifth Amendment jurisprudence suffers from a lack of race and class consciousness,[[178]](#footnote-178) hopefully the judiciary possesses the vision to see that this goes “too far.”[[179]](#footnote-179) Professor David A. Dana recognizes that eminent domain law (specifically, reform) bears racist and classist “expressive meaning” in the way it parcels out permissions and denials of condemnations.[[180]](#footnote-180) Similarly, if courts allow the DLBA to acquire title to the bulk of the 72 thousand properties the Task Force has in its sights under the rationale of *Bennis,* et al, this would express racist and classist meaning of the lowest order.

This is all quite bad, but legal dilemmas do not exhaust the list of problems raised by the Task Force’s recommendations: A study of the history of blight condemnations resembling those the Task Force urges counsels that these demolitions hazard social and economic perils for Detroit’s most vulnerable people.

V. Will the Task Force’s proposed razings hurt poor people?

The Task Force recommends that Detroit government engage in blight condemnations under NAP in order to “help citizens.”[[181]](#footnote-181) However, the long history of U.S. eminent domain law shows, blight condemnations hurt poor people. I detail this problem in *Peering:* In 1936’s *New York City Housing Authority v. Muller*,[[182]](#footnote-182) the New York Court of Appeal allowed a blight condemnation that degraded and expelled poor immigrants in the Lower East Side.[[183]](#footnote-183) In 1954’s *Berman v. Parker,* the U.S. Supreme Court permitted a “Negro removal”[[184]](#footnote-184) that dislocated 97 percent African American community.[[185]](#footnote-185) In 1981, the Florida Supreme Court approved of a tax increment revenue pledge that would service slum redevelopment clearance that evicted a community of color,[[186]](#footnote-186) and in 1985 a Florida appeals court approved of slum condemnations in a largely minority area, which might have exacerbated homelessness.[[187]](#footnote-187) Moreover, in *Peering,* I focused particularly on a New York court’s authorization of Columbia University’s 2000’s takeover of “blighted” Manhattanville and the resulting damage wrought on low-income, minority people.[[188]](#footnote-188)

For these reasons, in *Peering* I rejected blight condemnations (there, undertaken under the powers of eminent domain) as socially beneficial because they create human wreckage.[[189]](#footnote-189) I am not alone: A wide range of scholars including David A. Dana, Rick Hills, and Audrey MacFarlane argue either for a severe restriction of blight’s definition,[[190]](#footnote-190) or make the case that condemnations must accompany low–income housing provisions.[[191]](#footnote-191) Others, like Ilya Somin, reject blight removal as qualifying as a public use under the 5th Amendment in most or all situations.[[192]](#footnote-192)

While the Task Force recommends that Detroit engage these blight condemnations under nuisance laws rather than the powers of eminent domain, the same dangers still manifest. Early evidence of the social damage that occurs in the wake of Detroit blight clearance through NAP as well as gentrification already exists: A recent report by CBS Detroit described how DLBA’s demolitions threaten homeless people with dislocation;[[193]](#footnote-193) further, recall Josh Bassett’s description of Mike Ilitch’s clearance of the Cass Corridor and its effects on the people who once lived there.[[194]](#footnote-194)

So, if these legal and social hazards lurk in the Task Force’s plans, then, why are so few people complaining?

VI) Peering explains why so few people are complaining.

A few people in the press have complained that the proposed blight clearance is nothing more than a “land grab,”[[195]](#footnote-195) and when I talked about blight condemnations at Wayne County Community College in September of 2014, several Detroiters in the audience described getting “left behind” by the city’s accelerating gentrification.[[196]](#footnote-196) In January 2015, the World Socialist Web Site lamented that more than 100,000 Detroiters are likely to face eviction in a “wave of home [tax] foreclosures.”[[197]](#footnote-197) But Wayne State University Law Professor John Mogk proves the most prominent of these critics.[[198]](#footnote-198) He has written that Michigan should amend its constitution to allow the government to use eminent domain for economic development,[[199]](#footnote-199) and that Detroit needs to abolish residential property taxes to prevent mass home foreclosures, which primarily affect the poor.[[200]](#footnote-200) In 2006, Professor Mogk also worried in print that the NAP constitutes a “forced transfer” that exists in an “unclear constitutional area.”[[201]](#footnote-201)

Yet why have these problems not been raised by more vociferous constitutionalists or higher-profile advocates for low-income people? This question connects with confusion over why nuisance abatements have not been derailed by takings claims already, as Mike Brady informed me.[[202]](#footnote-202) Josh explains this omission as a product of the politics of desperation,[[203]](#footnote-203) and his take on the problem is a most sympathetic one. But more disturbing explanations also exist: A study of the peering practices that the Task Force and Mr. Gilbert express so powerfully helps illuminate why there exists a paucity of push-back to the seizure and clearance project. These optics have frightened the citizenry with threats of illness and contagion, and seduced them with promises of fresh wealth, which encourages a scorched earth approach that overlooks constitutional and social dilemmas.

In the following sections I will explain my theory of peering and show how it now operates in Detroit.

1. Peering, explained

Here, I describe where my theory comes from, how it works in eminent domain cases, and how it constitutes a form of violence.

1. Where “peering” comes from and how it works.

Government officials and judges invent legal optics when describing communities during condemnation proceedings. I borrow part of this revelation from film and race criticism, which examines the “male gaze,” [[204]](#footnote-204) and the “white gaze”[[205]](#footnote-205) that objectify women and people of color. In *Peering,* I identified a judicial and official classed gaze that appraises poor people.[[206]](#footnote-206) I call this gaze peering, because this look is more than a noun – the gaze. It is a verb – to peer. When courts peer, they regard the poor (and the rich) in light of their class (or their aspirations to class), and also fix poor people into their proper positions. In my study of the bench’s visual habits in eminent domain cases, I found that judges not only peer at these communities, but also ask whether those communities sufficed as the court’s peers.[[207]](#footnote-207) This gesture took the forms of what I call the *downward[[208]](#footnote-208)* and *upward* or *aspirational* gazes,[[209]](#footnote-209) and I discovered these optics bore ghastly consequences that haunt the law of eminent domain.

The downward gaze looks “down” on poor communities and describes them as contagious and monstrous. This practice proves not exclusive to law; it can be found in “ruin porn” photojournalism that depicts Detroit itself. This genre of photography traffics in Motown’s devoured housing,[[210]](#footnote-210) and some of the most controversial images spring from the lenses of Yves Marchand and Romaine Meffre. When making their book*,* The Ruins of Detroit (2011), they relied on the monstrous downward gaze, and also consistently eliminated human beings in their landscapes.[[211]](#footnote-211) In their pictures, poverty spreads a mesmerizing, contagious disease.[[212]](#footnote-212) The absence of people proves troubling: While erased from the scene, residents’ absence itself offers a racial referent. One can read in these winnowed photographs silent accusations that slothful Detroiters caused this catastrophe.[[213]](#footnote-213)

This downward gaze also directs government slum clearance efforts that courts usually uphold. When courts and officials look down on communities in these eminent domain decisions, they discover there horrific, unclean subhumans. This revelation helps them discover that these communities cannot hope to be the bench’s peers, and facilitates condemnations.[[214]](#footnote-214) Such a practice can be found, for example, in the 1954 U.S. Supreme Court decision *Berman v. Parker.[[215]](#footnote-215)* *Berman* allowed Washington D.C. authorities to condemn blighted territories, removing 5,012 people (mostly African-American) from their homes. The area could be condemned, and people cast adrift, because the region’s blight “spread disease and crime and immorality[,] . . . reducing the people who live there to the status of cattle. . . . The misery of housing may despoil a community as an open sewer may ruin a river.[[216]](#footnote-216) Cases in New York, Florida, Ohio, and New Jersey have followed this same pathology.[[217]](#footnote-217) There, communities cited for blight were described monstrous, animalistic, or referred to as dangerously contagious.[[218]](#footnote-218) The resulting findings of blight then led to low-income people and people of color’s eviction, exclusion, and, possibly, homelessness.[[219]](#footnote-219)

The upward or aspirational gaze proves another peering gesture.[[220]](#footnote-220) It occupies a special place in economic development takings cases, where states give properties to wealthy franchises whose owners promise to enrich the territory.[[221]](#footnote-221) Cases featuring this optic include the Michigan Supreme Court’s 1981 *Poletown Neighborhood Council v. City of Detroit*,[[222]](#footnote-222) which approved of the demolitions of a largely African-American working class community to house a GM plant, and the United States Supreme Court’s 2005 *Kelo v. City of New London,[[223]](#footnote-223)* allowing New London to give a community to Pfizer. New York cases involving urban renewal, such as 2009’s *Goldstein v. New York State Urban Dev. Corp.*,[[224]](#footnote-224) which upheld the razing of twenty-two acres of Brooklyn for Bruce Ratner’s Atlantic Yards project, and 2010’s *Matter of Kaur v. New York State Urban Development Corporation,*[[225]](#footnote-225) which concerned the Columbia overtaking of “blighted” Manhattanville,[[226]](#footnote-226) also employ the aspirational gaze.

In these cases, the upward or aspirational gaze prompted courts’ and politicians’ approvals of exercises of eminent domain that gratified GM, Pfizer, Ratner, and Columbia.[[227]](#footnote-227) These titans seduced the State by pledging to fill its coffers with the jobs and money that would flow from their “world class,” “state of the art” and “cutting edge” projects.[[228]](#footnote-228) These clichés prove the signatures of the aspirational gaze when taken up by courts and officials to help explain the public purpose of the relevant exercises of eminent domain;[[229]](#footnote-229) their use constitutes a form of drinking the corporate Kool-Aid, if you will. Other evidence of the upward look exists in political boosters’ grandiose talk that put the speakers at the heroic level of big-business Goliaths: During the Poletown controversy, Detroit Economic Growth Corporation vice president James Schafer ululated: “[This] is] the biggest thing in history to happen to any U.S. urban area.”[[230]](#footnote-230) And before the litigation, Detroit’s Mayor Coleman Young boasted “I’m attempting to do something that has not happened anywhere in this country, to rebuild an industrial city within the boundaries.”[[231]](#footnote-231) Aspirational peering, like the use of the downward gaze, is dangerous, since it renders poor people invisible[[232]](#footnote-232) and also secures the most gossamer of vows: As I detail in *Peering,* these projects either did not fulfill their economic promise or injured low income people.[[233]](#footnote-233)

1. Peering is a form of violence.

Beyond these mechanisms, another important facet of peering must be named: I describe peering as an instrument of violence.[[234]](#footnote-234) My larger scholarly project discovers law’s taciturn savagery, and sometimes offers alternatives.[[235]](#footnote-235) I struggle with the legal variations of what peace theorist Joseph Galtung describes as “cultural violence,” which emanates from social propaganda that makes violence “look and feel right.”[[236]](#footnote-236) Cultural violence disguises the “structural violence” existing in the maldistributions of illness, pain, suffering, death and other harms to the underclass.[[237]](#footnote-237) Peering creates cultural violence that makes the structural violence of eviction and dislocation caused by eminent domain “look and feel right:” In the case of the downward gaze, it seems “right” to cleanse subhumans and contagion from the community;[[238]](#footnote-238) in the case of the upward gaze, it feels not only right but also really good to align oneself with the corporate titans who want to kick people out of their properties to build magnificent enterprises.[[239]](#footnote-239)

In so branding peering as an instrument cultural violence leading to structural violence, my work relates to that of eminent domain scholars who target cultural and structural violence without naming it as such. As mentioned above, David A. Dana studies the “expressive meaning” of post-*Kelo* eminent domain reforms allowing blight condemnations but forbidding takings for economic development -- such as is the case in Michigan.[[240]](#footnote-240) Dana argues that the permission of blight condemnations, usually found in poor neighborhoods, and the blocking of middle-class development takings “sends the message that these two types of households are fundamentally unequal in importance.”[[241]](#footnote-241) Dana’s anti-poverty property jurisprudence frets over how post-*Kelo* reform hosts a culturally violent “message,” and how its resulting social injustice operates on the ground – that is, in Galtung’s view, performs violence on the people.[[242]](#footnote-242) Ilya Somin, who disagrees that the poor abhor post-*Kelo* reforms and claims they hate economic development takings as much as the middle class, debates with Dana about what constitutes cultural and structural violence in eminent domain.[[243]](#footnote-243) Michael Heller and Rick Hills resist a culturally violent dependence on Big Government’s, or the “Leviathan’s,” powers of eminent domain that leads to the structural violence of “poor and vulnerable” people’s exploitation; in response, they recommend collective action – that is, Land Assembly Districts.[[244]](#footnote-244) Similarly, structurally violent “trauma” [[245]](#footnote-245) caused by eviction inspired Robert Hockett’s case that governments should use eminent domain to secure underwater mortgages; Hockett also acknowledges that a culturally violent practice of “blam[ing]” the “irrationality” of investors in real estate bubbles creates a psychological obstacle for governments to come to their aid now.[[246]](#footnote-246) My citation of Galtung, then, maps onto the jurisprudence of eminent domain’s leading scholarly lights, who all describe cultural tendencies that aid eminent domain abuses. I add to this conversation in my description of culturally violent peering that promotes structurally violent seizures, evictions, and gentrifications.

In *Peering,* I promised to forge an alternative to peering, which I called *seeing.[[247]](#footnote-247)* After describing in the remainder of this section how Detroit peering encourages people to ignore the legal and social problems inherent in the Task Force’s proposals, in section VII, I will argue that Detroit should abandon the plan of unconstitutional NAP takings and instead exercise eminent domain. This undertaking should advance *not* as blight condemnations (which, again, will prove nearly impossible), but as confiscations designed to alleviate poverty. Justifying eminent domain on poverty alleviation will avoid the subordinating harms of blight condemnations and may be proven by a lower preponderance of the evidence.[[248]](#footnote-248) Developing an anti-poverty agenda for a Detroit land use program, I will maintain, requires a clear-eyed vision of the city and its people – that is, it will require policymakers to see instead of peer. In Section VII, I will describe this seeing, which is a difficult practice of looking, learning, listening, and fighting one’s own vanity when engaging with communities at risk for condemnation.[[249]](#footnote-249) I hope that this harsh regard reveals the reforms needed to alleviate the poverty Detroiters endure, and so promotes “positive peace,” which Galtung identifies as social justice.[[250]](#footnote-250)

1. Applying the theory of Peering to Detroit.

The Task Force’s recommendations urge unconstitutional takings and also hazard the welfares of Detroit’s low-income and vulnerable populations, who face the traditional fates of dislocation and worse when the city is cleansed. Yet few object.[[251]](#footnote-251) The reason for this silence rests in the powerful peering tactics that already rivet the city when it comes to the Task Force, which has manipulated both the downward and upward gaze. This peering diverts the citizenry with the fear of contagion and the excitement of coming wealth, and will also make the forthcoming structural violence that awaits Detroit’s poor population look and feel right.

1. The Downward Gaze: Horror imagery and ruin porn in Detroit.

The TtEB report, its introductory press conference, and Motor City Mapping imagery of “blighted” properties reveal city officials and a responsive media peering at city residents and real estate with the downward gaze. The report, the press, and the mapping effort run amok with horror images and ruin porn that exceed the degradations seen in *Berman* and its ilk[[252]](#footnote-252)and qualify as cultural violence.[[253]](#footnote-253) The downward gaze makes it easy to ignore legal dilemmas and forthcoming social problems as collateral damage incurred because of the politics of desperation.

TtEB opens with *A Message from the Chairs*,[[254]](#footnote-254) authored by Glenda D. Price, Linda Smith, and Dan Gilbert. Here, Price, Smith and Gilbert describe Detroit using language that expands *Berman’s* tactics with a relentless emphasis on contagion, disease, and monsters*.*  They also explicitly align themselves with the ruin-porn gaze.[[255]](#footnote-255)

 In the letter’s first paragraph, the Chairs describe the “malignant disease of blight” that will render it “near impossible” to make “serious progress” on Detroit’s “large-scale difficult challenges . . . . [concerning] [e]ducation, crime and jobs.” [[256]](#footnote-256) “Blight is a cancer,” they explain.[[257]](#footnote-257) “Blight sucks the soul out of anyone who gets near it, let along those who are unfortunate enough to live with it all around them. Blight is radioactive. It is contagious.”[[258]](#footnote-258) Such an epidemic requires radical surgery: “Just like removing only part of a malignant cancerous tumor is no real solution, removing only part or incremental amounts of blight from neighborhoods and the city as a whole is also no real solution. Because, like cancer, unless you remove the entire tumor, blight grows back.”[[259]](#footnote-259) The Chairs devote the middle part of their letter to MCM mapping effort. Then they circle back to the cancer motif: “The first major step on the path to . . . [Detroit’s renewal] is the removal of the cancer of blight from our city. . . . Failure is not an option.”[[260]](#footnote-260) We need not strain to discover horror motifs in the Chairs’ invocations of contagious, spreading cancer, Chernobyl-like radioactivity, as well as a succubus (“soul-sucking”[[261]](#footnote-261)).

 Horror and cancer imagery also bedecked the press conference announcing the blight report. Taking place at Detroit’s Focus Hope[[262]](#footnote-262) on May 27, 2014, the conference opened with one Matt Cohen’s speech about “blight’s” entomological roots, making its horrific and catastrophic implications plain. Mr. Cohen cited the Webster’s Dictionary definition of blight as a “destructive force, something that spoils or damages things severely.“[[263]](#footnote-263) Cohen added, “I think we’ve now come to understand that blight is an active disease in our city, a cancer that unless totally eliminated will continue to spread and choke the very life out of our community.”[[264]](#footnote-264)

 Not long after Cohen gave his introduction, Dan Gilbert took the floor. Mr. Gilbert, who is Anglo, appears to have directly read out the *Message from the Chairs* document, describing blight as a “malignant disease,” “a cancer” that is “contagious” and “radioactive” as well as a “calamity.” He also spoke excitedly about removing “cancerous tumor[s]” in a sick host’s body in order to prevent the “blight [from] grow[ing] back.”[[265]](#footnote-265)

 The press seized upon these ghoulish specters. *The New York Times* quoted Gilbert’s cancer and soul-sucking perorations,[[266]](#footnote-266) and cancer and succubus descriptions decorated reports published by Deadline Detroit,[[267]](#footnote-267) Watchdog Wire,[[268]](#footnote-268)the Huffington Post(which proved one of the very few publications to critique this language),[[269]](#footnote-269) the Detroit Free Press,[[270]](#footnote-270) the Michigan Daily,[[271]](#footnote-271) the Florida Times-Union,[[272]](#footnote-272) the Cleveland Plain-Dealer,[[273]](#footnote-273) and The Week.[[274]](#footnote-274)

Other classic peering patterns infiltrated the news, as reporters paired invocation of monstrous contagion with traditional “blight” visuals: At least five of the newspapers carrying Gilbert’s “cancer” story illustrated their articles with ruin porn, that is, images of distressed edifices that are empty of people:

For example, consider this image from the New York Times’ report on the press conference[[275]](#footnote-275)

 

Deadline Detroit,[[276]](#footnote-276) the Michigan Daily,[[277]](#footnote-277) the Cleveland Plain Dealer,[[278]](#footnote-278) and the British publication, The Week’s[[279]](#footnote-279) reports all included nearly identical images.

In *Peering* I observed that official horror-talk and ruin porn make “blight” findings pleasurable, culturally violent exercises in voyeurism and banishment.[[280]](#footnote-280) The press photos depict a spreading, overgrown encroachment mirroring Gilbert’s fantastical description of contagious cancer (cancer is not contagious). They inspire a kind of titillation. The thrills of slumming,[[281]](#footnote-281) also, hold in these pictures, creating their own problems – for if these photographs excite some observers with disgust while congratulating them on their bourgeois health, then that very hedonism makes the state’s potentially structurally violent[[282]](#footnote-282) “cleansing” action all the more immune from criticism.

 What’s worse, the Task Force’s chairs *explicitly* endorse the ruin porn gaze. In *Message from the Chairs*, after describing blight as a radioactive cancer, Price, Smith and Gilbert also that “[t]he phrase ‘ruin porn’ did not emerge accidentally. It emerged because it is rooted in the truth that tens of thousands of well-built homes, commercial buildings and clean vacant lots have morphed into an unprecedented amount of ugly blight.”[[283]](#footnote-283)

 Ruin porn also dramatizes the Motor City Mapping (MCM) study of Detroit blight.[[284]](#footnote-284) Recall that MCM uses “windshield” pictures to illustrate Detroit dilapidation.[[285]](#footnote-285) While the mapping task’s enormity explains the necessity of these windshield pictures – an elaborate photography project would have slowed down progress – the images nevertheless replicate ruin porn, particularly as seen in The Ruins of Detroit and theManhattanville blight reports.[[286]](#footnote-286) Like ruin porn, they show destroyed housing without any images of human beings.

 Here are some images from the Motor City Mapping project featuring residences that blexters suggested for demolition:

This is 8271 Brush Street, Detroit, 48202: [[287]](#footnote-287)

This is 19220 Albany Street, Detroit, 48234:

[[288]](#footnote-288)

And this is of 7822 Pitt Street, zipcode 48209, showing an occupied house that blexters recommended for demolition:[[289]](#footnote-289)



One strong objection to my analysis concerns the photographers’ native statuses. These were no Parisians descending upon Motor City: Data Driven Detroit’s Director Erica Raleigh explained to me that MCM endeavored to have many of its 130 surveyors come from the community, and trained them in how to use MCM technology to visually document the properties.[[290]](#footnote-290) The “gaze” here, then, appears to be a local one.

So, do the surveyors’ local identities make their pictures good proofs of blight? Not necessarily: The images bear all the hallmarks of classic ruin porn, whatever the surveyors’ intentions. And, more distressingly, the photographers’ “authenticity” can create an excuse to enjoy the images as ruin porn while denying this practice.

But even more hazards lurk in the MCM images: Recall that while Mr. Gilbert would like to demolish up to 72 thousand structures based on his colorful “tumor excision” rhetoric, considerable disagreement exists between the blexters and the Task Force concerning how many structures need demolishing, or are even in poor condition: Again, Blexters recommended only 4,314 structures for demolition.[[291]](#footnote-291) So the local gaze accounted for a very small number of properties that now prove vulnerable for confiscation and demolition – but, in a fascinating feat of cultural violence, the blexters’ authentic “Detroit” gaze can shield the determination that so many homes now need to be seized.

 Motor City Mapping, however, seems alert to the problems of overbreadth. It promises a tool called the “People’s Property Dashboard,” which will “enable residents to update information about property in their neighborhood.”[[292]](#footnote-292) This would amount to a critical part of the MCM project, since it will allow for contested gazes. The dashboard is not yet up, however.[[293]](#footnote-293) If it is used well by the community, then it could create a very valuable tool in defining Detroit blight, and for determining Detroit’s future.

 The Blight Task Force’s report, rhetoric, and tools, then, partake of the downward gaze. In the report and Gilbert’s use of alarming “cancer,” “radioactive,” “succubus,” and “contagion” language, we find the same panic-inducing and dehumanizing imagery that traditionally energizes blight condemnations. Further, we find ruin porn in the Chairs’ Report *Message*, news reports of the Blight Report, and the blexters’ photographs.

 My previous work counsels that peering forms a warning sign that poor, working class, minority, and vulnerable populations may be overlooked in the redevelopment push.[[294]](#footnote-294) The downward gaze creates cultural violence that will make the structural violence of eviction and dislocation look and feel right.[[295]](#footnote-295) My study of Detroit adds another gloss to the power of downward gaze as well: It proves so influential that it helps explain not only why few people sound the alarm about the proposed blight condemnation’s threat to low income and vulnerable people. The “desperate”[[296]](#footnote-296) and scared atmosphere cultivated by Mr. Gilbert’s scaremongering – and that likely existed before Mr. Gilbert became a prominent mouthpiece for blight removal – also illustrates why few complain about the unconstitutional takings that the Task Force characterizes as NAP exercises of police powers, and even why residents were so “thrilled” at demolitions and confiscations the decade previous.[[297]](#footnote-297)

 As it so happens, that other dangerous look, being the aspirational or upward gaze, also drives Detroit’s blight removal effort and shapes the conversation about the social and legal implications of the Task Force’s recommendations.

1. The aspirational gaze: Pioneers, frontiers, and blank slates.

 “A lot of people seem to want to move to Detroit right now,” I tell Delphia Simmons, the Quality Improvement Director at Detroit’s Coalition on Temporary Shelter (COTS).[[298]](#footnote-298) COTS sits off of the Cass Corridor, and provides emergency and transitional housing, as well as comprehensive support services to the city’s homeless population.[[299]](#footnote-299) The Corridor achieved notoriety years back for its poverty and violence but now lurches toward gentrification.[[300]](#footnote-300) Delphia has a full schedule because of the Corridor’s citizenry’s continued deep need. She is African-American, possesses a warm voice, a soft, dark aura of hair, and wears large glasses. She agreed to talk with me with between two of today’s many meetings but does not appear rushed.

“I’ve heard Detroit described in some pretty attractive ways,” I say. “I keep hearing the phrase, ‘blank slate.’ It’s as if Detroit is a place where you can do anything, build anything -- or buy a big house for cheap in an auction.”

 Delphia looks at me. Like Noah, she experiences a cerebral weight of skepticism that makes her head tilt when I am talking. “Blank slate. Frontier. We hate that,” she finally offers.

 “Why?”

“People in Detroit don’t like that because . . . they mean there’s nothing here. I mean, I don’t know how anyone could come to Detroit and say there’s nothing here unless they’re very selective in what they look for.”

“What should people look for when they look at Detroit?” I press.

“I don’t like the idea that it’s all here for the taking. We need to understand that the city already has a rich culture. [The people who come here, and want to] plant [their] stake, so to speak . . . need to do it out of a place of knowledge and compassion for the people that are here.”

 “Dan Gilbert is set on fixing the city,” I observe.

 “Dan Gilbert is often called a philanthropist, but he’s a businessman. We can benefit from that if we have a conversation that puts on the table how his business affects us. I don’t know if that conversation has happened. When it comes to how we look at things -- I think that when we [at COTS] look at buildings we think of potential homes. Whereas a business person might look at a building . . . see something [to bulldoze.] Somewhere in the middle we ought to be able to meet, so instead of tearing down one hundred percent of the houses that are targeted, maybe there are some of those houses that we can pull out, and make them mixed use homes or group homes or single family homes. And one of the things that we’re very aware of is that when you put all low income people into one place that doesn’t work.”

I think about the shiny Starbucks where I met Noah, the pretty Campus Martius park across from One Kennedy Square, and how these spaces seemed a world apart from the disintegrated houses I drove by en route to this meeting. “Right. That’s segregation.”

“Exactly,” Delphia replies. “We’re looking to integrate into the existing landscape, and not so much have these pods of people that are all in poverty. . . . And Detroit has a 40 percent poverty rate.[[301]](#footnote-301) So anything that we do that we call ‘opportunity’ or ‘change’ or ‘growth’ has to have that 40 percent involved. Otherwise, what you’re saying is that you’re doing something for the sixty percent.”

I check my iPhone, so excited by Delphia’s explanations that I’m scared that I’m not taping or even understanding everything. “How do you get something done for the 40 percent?”

“It would start with our city hall. . . . I’m hoping that somewhere in the near future there will be more political will for homelessness. There’s 60 some odd homeless organization under the Homeless Action Network of Detroit [HAND],[[302]](#footnote-302) but there’s still not a seat at the table in the city. There’s not a task force in city government that says I want to know what’s going on with homelessness in this city. We need a homelessness task force. In the city. At the table. Talking to the city council members about the homelessness numbers in their district. And I think that will influence the business decisions in the city.”

“What does business and government need to do to address the poverty that leads folks into being homeless?”

Delphia doesn’t hesitate. “A big poverty trap is insurance rates. Believe it or not a person can end up in jail with thousands of dollars’ worth of fines because they don’t have automobile insurance. But insurance rates in the city are -- what -- I think I heard a report that they were 165 percent higher than the rest of the nation?[[303]](#footnote-303) . . . What it results in is, a driver gets cited for not having insurance. They’re poor, and they don’t pay the fine. So, then the authorities get a warrant for their arrest,[[304]](#footnote-304) and then they get driver responsibility fees on top of the fine. You’d get the ticket and then you’d get a driver responsibility fee on top of for a two year period. They’re getting rid of it, but it’s still operative now.[[305]](#footnote-305) . . . . So, then, not only do they owe a lot of money but if they are caught, they can go to jail. And incarceration is one of the causes that pushes people into homelessness.”[[306]](#footnote-306)

 Delphia goes on to criticize caps on public assistance,[[307]](#footnote-307) landlords who don’t provide storm windows and so increase utilities,[[308]](#footnote-308) and the high cost of food.[[309]](#footnote-309) “People say it all the time, but it’s true. At the heart of poverty is just – it’s just inequality. So, that’s what I think people need to see when they look at Detroit. This blank slate thing, and people coming here for that -- you know how when new people come to the country and they have an orientation? There needs to be an orientation. Let’s sit down and talk. That should probably be at city hall. Come on, let’s talk, we’ll bring some people who’ve been here and we can teach each other.”

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In *Peering*, I noted how an aspirational gaze also drove optics in Fifth Amendment cases. Politicians, blight report authors, and the judiciary justified condemnations based on forthcoming wealth. Three clichés, in particular, stupefied these authorities’ audiences: Officials described the firms that would endenizen Poletown, Manhattanville, Atlantic Yards, and New London as “state-of-the-art,” “cutting edge,” and “world class.”[[310]](#footnote-310) While some may dismiss this language as puffery, in *Peering* I show how it occluded indigents’ suffering: Its cultural violence justified the structural violence of condemnation and eviction.[[311]](#footnote-311) Judges and politicians so fixated on the sky-high, “world-class” promises of Pfizer, Bruce Ratner, GM, and Columbia that they ignored the plights of low-income people who would be affected by the takings.[[312]](#footnote-312)

 In Detroit, officials and observers already deploy the aspirational gaze to support development. In TtEB’s *Message from the Chairs*, the authors mourn that Detroit was once a “world-class city,”[[313]](#footnote-313) and end their letter with the exhortation that “the “city’s best days are ahead of it.”[[314]](#footnote-314)

 Interestingly, Dan Gilbert did not opine on Detroit’s glittering future at TtEB’s press conference. He deflected any inquiries about what Detroit might look like after blight clearance: “Probably the main question that we received . . . from communities. . . was . . so what happens to the land after it’s all cleared? . . . . [But] nothing will be ever attempted if all possible objections must first be overcome.[[315]](#footnote-315)

 When interviewed by the *New York Times* in July of 2014, though, Mr. Gilbert waxed effusive: “Here, man, oh, man, it’s a dream. Anything can be created in Detroit. Down here, like in basketball, you can create your own shot.”[[316]](#footnote-316)

 This aspirational rhetoric resembles the “biggest thing” speech DEGC chief James Schafer gave during the Poletown controversy,[[317]](#footnote-317) with its heroic sportsman symbolism and promises of economic limitlessness. Does Gilbert’s “[a]nything” include plentiful affordable housing and homelessness support that Delphia Simmons calls for? These possibilities seem threatened by Mr. Gilbert’s own, possibly conflict-of-interest-creating investments in the city. The same NYT article notes that Mr. Gilbert purchased nine million square feet of Detroit real estate, including “many” of its “20th century architectural treasures” and the Chase Tower.[[318]](#footnote-318) So the “world class” vision that overtook New London and Manhattanville – and excluded low-income people -- may also find its way into the “dream[y]” urban planning schemes that shape Detroit’s future.

But the classic upward-gazing “world class” and “cutting edge” clichés do not yet overflow in Detroit. Instead, the aspirational has taken a different, even possibly more culturally violent[[319]](#footnote-319) turn. During his press tour publicizing TtEB, Mr. Gilbert told the Detroit Free Press that “Detroit’s a bit different, more gritty, a little bit more pioneerish.”[[320]](#footnote-320) Much in the same style as Coleman Young back in the *Poletown* days,[[321]](#footnote-321) he enthused: “[W]e carry that sort of hard work, can-do, make-it attitude. . . . [W]e can have an incredible turnaround success story that maybe has never been experienced before.”[[322]](#footnote-322) The potentially culturally violent meanings of this speech are not hard to unwrap: The heroic pioneer is justified in whatever colonizing, “make your own shot” behavior she will engage in – as she usually is.[[323]](#footnote-323)

Gilbert is not the only colonial booster. Consider Bradford Frost, the impetus behind The Detroit Opportunity Project blog,[[324]](#footnote-324) which describes Detroit’s “Millennial Frontier.”[[325]](#footnote-325) Instead of “going west,” Frost urges America’s youth to move to the city in order to find “meaningful work” and “authentic community.”[[326]](#footnote-326) Aaron M. Renn, in new geography*,* writes that Detroit is a “blank slate,”[[327]](#footnote-327) a “frontier,”[[328]](#footnote-328) and enthusiastically describes poor people hunting raccoon and pheasant for pelts and food.[[329]](#footnote-329) Gerald Celente, Publisher of Trends Journal*,* offers: “The new frontiers are going to be the burnt out urban centers, so it might be the Millennials who become the homesteaders, farmers, and gardeners of Detroit.”[[330]](#footnote-330) This branding also inspirits the Michigan Historic Preservation Network’s (MHPN) video, *Vacant Not Blighted: Revitalizing Detroit*, which offers an aspirational alternative to Gilbert’s “cancer-blight” narrative. To draw outlanders with “a little bit of money” and a “do it yourself” ethic, the MHPN courts pilgrims willing to purchase cheap run-down homes and put “sweat equity” into them.[[331]](#footnote-331) This merry video features seven White women, fifteen White men, and three Black men holding signs saying “architecture matters” and “people matter” while celebrating Detroit’s facelift.

As this last description shows, *race* matters in this aspirational gaze. Whereas New York’s and Connecticut’s ascendant optics focused on extreme wealth,[[332]](#footnote-332) MHPN’s vision describes an Anglo-majority pioneer investment in a blank slate of a city. The “pioneer” and “frontier” rhetoric also bears racial meaning, casting Detroiters as primitives to be saved, conquered, or ignored. “Pioneer” derives from the Middle French for *pionnier*, meaning the “foot-soldier” who “prepares the way for the army.”[[333]](#footnote-333) In the 1600s the word derived its present meaning of a “person who goes first or does something first.”[[334]](#footnote-334) The pioneer has long existed only in relation to the savage: In Frederick Jackson Turner’s classic 1920 book The Frontier in American History*,* we learn that American continually “begin[s] over again on the frontier. . . .[a development created by] this expansion westward with its new opportunities, its continuous touch with the simplicity of primitive society, [which] furnish the forces dominating American character.”[[335]](#footnote-335)

Race inequality concerns *have* surfaced Detroit debates, however: Bradford Frost mentions that Detroit can be a new frontier for “surmounting egregious inequality [] and for consciously nurturing interracial community”[[336]](#footnote-336) and, again, some Detroit residents complain that “blight removal” obscures “land grab[s].”[[337]](#footnote-337)

Nevertheless, at this stage there remains little mention of how the Task Force’s initiatives are likely to result in the dislocation of the poor, since the upward gaze pushes indigents out of the frame. And, as I have emphasized, the exciting hope in solving Detroit’s economic problems also encourage Detroiters to ignore the Task Force’s plans’ constitutional problems.

1. *So what should happen? Detroit should use the power of eminent domain to condemn dilapidated properties, and do this for the public purpose of alleviating poverty.*

As I have set forth here, Detroit readies itself to engage in a massive taking using NAP, which promises to violate the Fifth Amendment.[[338]](#footnote-338) As John Mogk has already written, it should instead use the powers of eminent domain.[[339]](#footnote-339) This creates a problem, however. Not only are blight condemnations historically colonial and racist, but in Michigan they are nearly impossible when accomplished under the power of eminent domain: Article 10, section 2 prohibits blight condemnations unless officials prove public use or concern by clear and convincing evidence and pay 125% of FMV; [[340]](#footnote-340) moreover, economic development does not form a constitutional public purpose.[[341]](#footnote-341) And there is little doubt that the Task Force has promoted itself as blight condemners: As discussed, the Chairs emphasize its goal of eradicating blight in extreme, colorful language that appears nearly identical to descriptions of blight takings in Fifth Amendment cases.[[342]](#footnote-342) They have indeed marketed themselves as blight eradicators who intend to confiscate and condemn vast tracts of Detroit property.

Thus, the blight condemnation that the city readies for will fail if undertaken through eminent domain. In a 2010 article, Professor Mogk, along with Sarah Kwiatkowski and Mary J. Weindorf, explain that the 2006 amendment made it “more difficult to clear blighted neighborhoods” by eliminating the “area-wide” blight test, requiring developers “seeking to assemble a blighted area for redevelopment [to] . . . prove blight on a parcel-by-parcel basis.”[[343]](#footnote-343) A parcel-by-parcel review using a clear and convincing standard would slow down the clearance project immeasurably; with thousands of unoccupied parcels at stake, the arrested process would rout the clearance. As scholar Peter J. Domasa assesses, the clear and convincing standard could “likely reduce the chances of a successful revitalization effort by bogging down the process with extensive litigation.”[[344]](#footnote-344)

But there is a way out. Repair of dilapidated housing can benefit Detroit’s people under the right legal circumstances. To cultivate these better conditions, we would have to establish that the city’s exercise of eminent domain did not amount to “blight condemnations.” This may be very difficult to substantiate. However, one way to do so would confirm that the takings in Detroit do not assist the racist, classist, and colonial aims that blight condemnations undertaken under the powers of eminent domain have so often served.[[345]](#footnote-345) One must distinguish these takings from the “Negro removals” found, for example, in *Berman*,[[346]](#footnote-346) or the class evictions that shook Atlantic Yards and Manhattanville.[[347]](#footnote-347) That is, we would have to show that these takings benefited other aims, indeed, perhaps opposite aims. And if the property were taken for this other “independent public . . . concern. . . rather than . . . private interests,”[[348]](#footnote-348) the standard of proof would only be the preponderance of the evidence.[[349]](#footnote-349) This would set a lower obstacle for property dissolution, which would make the demolitions possible. Again, if we are searching for alternative public purpose, economic development does not qualify.[[350]](#footnote-350)

My answer is this: *The alleviation of poverty* provides a public concern that serves opposite aims compared to those ministered by blight condemnations. This public purpose should be the aim that leverages the Task Force’s proposed takings, and satisfy the Michigan Constitution’s scrutiny. And this aim would tackle the city’s most exigent problem: Again, Detroiters now suffer from a 38 percent poverty rate,[[351]](#footnote-351) and many more struggle at the poverty line.[[352]](#footnote-352) Deteriorated housing contributes to Detroit poverty and other woes, because residents abandon their property, siphoning off the tax base.[[353]](#footnote-353)

In this section I will demonstrate how the public purpose of lifting the indigent into the middle classes coheres with legislative intent and Fifth Amendment jurisprudence.[[354]](#footnote-354) I will then show the Task Force’s proposed confiscations, if accomplished under eminent domain, cannot now satisfy that public concern because current plans for the space cleared by the ensuing demolition mainly address strengthening the bourgeoisie.[[355]](#footnote-355) Next, I will discuss also how eminent domain plans that purport to serve the lower classes have historically been coopted to serve the interests of the privileged. To address these problems, I will argue that a poverty uplift program must be developed within a practice of seeing, the discipline that I promised I would forge in *Peering*.[[356]](#footnote-356) After describing what seeing entails,[[357]](#footnote-357) and requires in Detroit, I will set forth its fruits, which take the form of the recommendations made by the people I interviewed in September of 2014.[[358]](#footnote-358) These recommendations will help form the first draft of a poverty alleviation program that should secure the constitutionality Detroit’s acquisition and clearance of its dilapidated properties, and also guard vulnerables against harms usually experienced in the wake of blight condemnations.[[359]](#footnote-359)

1. Poverty uplift coheres with legislative intent and judicial constructions of “public purpose.”

If Detroit acquired and cleared land via the power of eminent domain for the public purpose of alleviating poverty, its efforts would likely satisfy constitutional scrutiny. The public purpose of poverty alleviation aligns with the legislative intent surrounding the enactment of the 2006 amendment: While Article 10, Section 2 now announces hostility to economic development, the coterminous amendments made to the Michigan Uniform Condemnation Procedures Act demonstrate that the Michigan legislature envisioned the new takings clause as a safeguard against the predations of low income people.[[360]](#footnote-360) Specifically, it allowed for relocated indigent people making unsuccessful challenges to eminent domain exercises to recoup their attorney fees.[[361]](#footnote-361)

Using eminent domain to bring low income people into higher economic strata would also prove supported by the rationale of *Hathcock*, which forms the basis of the amended Article 10, Section 2, and aims to protect the middle and impoverished classes.[[362]](#footnote-362) The *Hathcock* court rejected its previous decision in *Poletown*, which allowed the taking of a community of color in order that GM might site a plant there and imburse the region.[[363]](#footnote-363) *Hathcock* dealt with a similar economic rejuvenation scenario, there concerning the condemnation of nineteen parcels south of the Metropolitan Airport to make way for the Pinnacle Project business tract.[[364]](#footnote-364) *Hathcock* recognized that that the wealth generated by the Project would “benefit the public,”[[365]](#footnote-365) and observed that its boosters promised it would be cutting edge and state of the art; but the court rejected this aspirational gaze.[[366]](#footnote-366) The court twinned its regard with modest Detroiters by concluding the Project’s enormous private investment recoupments disqualified it from possessing a public concern; it also worried the Project would not be subject to the oversight of the people.[[367]](#footnote-367) And even as *Hathcock* approved of slum clearances as a public purpose, it grounded its approbation in the goal of increasing the entire collective’s health and safety – a large frame that must include the poor.[[368]](#footnote-368)

Indeed, while the *Hathcock* court appears most eager to protect middle-class interests,[[369]](#footnote-369) close study reveals that anti-poverty commitments ring in its holding. This is for three reasons. First, just as the middle class may find their interests eroded by insecure property ownership, so, too, do poor or other vulnerable people. Economists Daron Acemoglu and James A. Robinson have written of the history of extractive institutions – that is, institutions that benefit the higher strata at the expense of racial minorities or the indigent – and detailed how they operate to keep poor people on the lower notes of the economic and political scale for scandalously long periods.[[370]](#footnote-370) Acemoglu and Robinson explain how property rights benefitting only the upper class create persistent, even centuries-long, disincentives for people to innovate and succeed; they conclude that such rights must exist “for the majority of people in society.”[[371]](#footnote-371) A similar analysis and conclusion regarding the prolonged effects of extractive institutions has also, as it so happens, been performed on Detroit: In Thomas J. Sugrue’s landmark The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit (1995),[[372]](#footnote-372) Sugrue details how racist uses of eminent domain[[373]](#footnote-373) all hailing from the 1940s and 1950s helped create current poverty in a city that is nearly 82 percent African American.[[374]](#footnote-374)

Thus, *Hathcock’s* prevention of elite land grabs can be read as a preservation of rights for low-income people: If taken property benefits only or primarily economic elites, rather than triggering a trickle-down effect, it will foreclose low-income populations and other vulnerables from climbing the economic and social ladders. The cycle of Detroit poverty will find itself yet again exacerbated by a long history of local poverty traps that include auto plant closures,[[375]](#footnote-375) scarcity, debt, and high borrowing rates,[[376]](#footnote-376) the war on drugs,[[377]](#footnote-377) and cuts in public employment and education.[[378]](#footnote-378) Though the *Hathcock* court reserves most of its bluster to criticize parvenu landowners, its holding also prevents the kind of gentrification that inflicts long-term harm on poor people.[[379]](#footnote-379)

Second, a closer look at *Hathcock* reveals that its protection reached people who, while wealthy enough to own a home, still did not enjoy elite economic or social power: Appellant Robert Ward was 68 years old, and a former house painter and retired steel fabricator who had lost his legs to circulation problems years before the litigation.[[380]](#footnote-380)

Finally, *Hathcock* depended in large part upon the dissent of Justice Ryan in *Poletown*,[[381]](#footnote-381) which trumpeted the interests of African-American working or middle class owners against GM colonization.[[382]](#footnote-382) Justice Ryan here initiated the working class look in his alignment with Poletown’s beleaguered petit bourgeois residents: “[T]he city chose to march in fast lock‐step with General Motors . . . [by] ultimately requir[ing] sweeping away a tightly‐knit residential enclave of first and‐second‐generation Americans, for many of whom their home was their single most valuable and cherished asset and their stable ethnic neighborhood the unchanging symbol of the security and quality of their lives.”[[383]](#footnote-383)

This is the Michigan legal gaze that most closely recognizes the humanity of lower-income vulnerables: While Ryan in *Poletown* focused on people rich enough to purchase real estate,[[384]](#footnote-384) he promoted the rights necessary for non-white “ethnic[s]” and new members of the American community to hoist themselves into the middle class via home ownership. Presumably, then, a public use or concern seeking to advance indigents into the working and middle classes would satisfy the constitutional requirements as set forth by *Hathcock*, Ryan’s *Poletown* dissent, and would also cohere with evident legislative intent in its amendments of the Uniform Condemnation Procedures Act.[[385]](#footnote-385)

Such a public use would certainly also satisfy the dictates of the U.S. Constitution’s takings clause, particularly after the U.S. Supreme Court’s potentially revolutionary 1984 decision *Hawaii Housing Authority v. Midkiff.*[[386]](#footnote-386)There,writing Justice Sandra Day O’Connorupheld Hawaii’s 1967 Land Reform Act, which took fee title from lessors and transferred it to lessees in order to demolish longstanding land oligopoly benefiting Hawaiian elites.[[387]](#footnote-387) O’Connor’s high‐toned but still relatively compassionate watch over “the common people”[[388]](#footnote-388) and squinting suspicion of nabobs enriches *Midkiff’s* conclusion that land owned by “evil”[[389]](#footnote-389) oligopolists could be returned to the larger populace so that they might eventually rise to the middle class triumph of owning their own home.

As I detailed in *Peering*, *Midkiff* bookends Ryan’s dissent and *Hathcock* in its use of legal optics that favor vulnerables: Ryan inhis *Poletown* dissent observes with affection second and third generation “ethnic[s],” while O’Connor looks sympathetically at the common people; the *Hathcock* gaze turns into a glare as it observes the commoners’ enemies, being the megastores and other big-capitalist companies that would litter Michigan’s pastures if not reined in by the invisible hand.[[390]](#footnote-390)

In *Peering*, I urged looking to *Midkiff* as a model for exercises of eminent domain that give back to low income and vulnerable people: *Midkiff* took land from the upper classes with the aim of distributing it to people unable to purchase their own homes. Like other progressive property scholars such as Robert Hockett,[[391]](#footnote-391) I enlist *Midkiff* (as well as the permissive *Kelo*)*,* as an authority that might “keep people in their homes rather than . . . eject them.”[[392]](#footnote-392) I particularly rely upon the optics recruited in *Midkiff*, since O’Connor looked (comparatively speaking) so graciously and with such care upon lower-income people,[[393]](#footnote-393) and offered a “positive[ly] peace[ful]”[[394]](#footnote-394) equitable land distribution as an answer to the cultural and structural violence of elites’ resource hoarding.[[395]](#footnote-395) I also call also upon the lower- and middle- sympathies, commitments, and gazes employed by *Hathcock* and *Poletown’s* Justice Ryan. Their protection of the middle classes showcases their high “regard” of this social order, and an eminent domain program designed to expand its numbers satisfies constitutional prerogatives.

Indeed, when one considers the brutal history of eminent domain, and the plain language meaning of public use or benefit (since “public” refers to the entirety of the polis, and may be a word emphasizing its have-nots),[[396]](#footnote-396) a strong argument arises that any takings plan that does not secure the welfares of indigents should not satisfy constitutional scrutiny.

As it happens now, however, the Task Force’s proposed takings could not satisfy the public concern of poverty uplift. This is because the current plans for Detroit’s land, once seized and cleared, serve the interests of economic development and of the bourgeoisie.

1. Current plans serve economic development and the bourgeoisie.

The land the Task Force recommends the City confiscate and clear through NAP appears marked for economic development use that will gratify the bourgeoisie. We can see this for two reasons. First, Mr. Gilbert has proven one of the architects of Detroit’s new aspirational gaze, which calls for pioneers and a new city where “we can have an incredible turnaround success story that maybe has never been experienced before.”[[397]](#footnote-397) This language tracks the traditional upward look, such as that found on the part of Poletown’s Mayor Coleman Young;[[398]](#footnote-398) it serves as a lever for economic development.[[399]](#footnote-399)

The cleared land’s destiny for economic development also manifests in plans now under construction for Detroit’s future: The Detroit Master Plan that is being written to replace the 2009[[400]](#footnote-400) version under the Michigan Planning Enabling Act[[401]](#footnote-401) proposes how to use the cleared land. The forthcoming Detroit Master Plan is likely to incorporate some or all of the Detroit Future City (DFC) 2012 Detroit Strategic Framework Plan,[[402]](#footnote-402) which will be the vision that I will focus on in my critique.

DFC is an organization dedicated to creating a “long term guide for decision-making by all of the stakeholders in the City.”[[403]](#footnote-403) After engaging in 30,000 interviews and 70,000 surveys,[[404]](#footnote-404)the DFC recommends rebuilding Detroit around a shrunken population of 600-800 thousand, up from a high of 2 million.[[405]](#footnote-405) It focuses on economic growth,[[406]](#footnote-406) land use,[[407]](#footnote-407) city systems,[[408]](#footnote-408) neighborhood development,[[409]](#footnote-409) and how to best use land and buildings assets.[[410]](#footnote-410) It should be noted that the Plan does recognize that many of Detroit’s citizens live in poverty[[411]](#footnote-411) and enjoy reduced opportunities,[[412]](#footnote-412) and it encourages increased minority wealth by emphasizing the need to foster Minority Business Enterprises.[[413]](#footnote-413) DFC also chooses to focus its development plans on a series of neighborhoods that have suffered economic difficulties but show financial promise: These are Mount Elliot,[[414]](#footnote-414) Eastern Market,[[415]](#footnote-415) Corktown,[[416]](#footnote-416) downtown,[[417]](#footnote-417) midtown,[[418]](#footnote-418) and McNichols.[[419]](#footnote-419) Furthermore, it observes (albeit briefly and discreetly) that criminal enforcement practices can create poverty traps, recommending that the city “[t]rain prisoner reentry work force to participate in the implementation of citywide DFC pilot projects.”[[420]](#footnote-420)

However, while the Plan says that it “articulates a shared vision for Detroit’s future,”[[421]](#footnote-421) its emphasis on growth is not matched by recognition of the manifold problems associated with poverty that will remain uncured by business enterprise alone. A word search of the Plan reveals that it never mentions racism or sexism. It does not mention homelessness, nor (as in the case of TtEB) the shelters that will have to be built to accommodate the “squatters” who lose their lodgings upon blight removal.[[422]](#footnote-422) It provides no plans for mental health or addiction counseling, though mental illness and substance abuse are traps that can create severe poverty.[[423]](#footnote-423) And while the Framework emphasizes the need to integrate people with prison records into Detroit’s economy,[[424]](#footnote-424) it does not mention the poverty trap that can come with racist policing[[425]](#footnote-425) – rather, it plans for an expanded police presence[[426]](#footnote-426) without recognizing Detroit’s history of racist law enforcement.[[427]](#footnote-427) And while it describes the need to improve the services delivery,[[428]](#footnote-428) it does not mention the race and class discrimination in city services that led to, for example, a recent mass water shutoff that affected nearly 19,500 Detroiters and affected those who owed at least $150.00 for their water bill or had fallen at least two months behind on their payments.[[429]](#footnote-429) This is in line with a long Detroit history of racist and classist deprivations of city services.[[430]](#footnote-430)

The Strategic Framework, unfortunately, insufficiently attends to these vicious circles found in Detroit’s past, which create the economic obstacles that economists have long described as “poverty traps.” “Vicious circles” here designates the term, used in economic literature, to designate the loop created by extractive, or exclusive, political and economic institutions that birth aristocratic networks and cultures that later make it all but impossible to forge true democracy short of revolution.[[431]](#footnote-431) “Poverty traps” are endogenous social conditions that hamper people’s climb out of indigency.[[432]](#footnote-432) Economists authors Daron Acemoglu and James Robinson reshaped economic theory by teaching us that vicious circles and their resulting poverty gaps can be best apprehended by attending to a region’s political and economic history, and as they, as well as economist Paul Collier, show, a history of bad governance give rise to these circles and traps. [[433]](#footnote-433)

Thus we may consider with great interest law Wayne State University Law Professor Peter Joseph Hammer’s critique of the Strategic Framework, which assails its authors for failing to attend to the history of racism and classism in Detroit. In a talk delivered at Marygrove College on February 25, 2014,[[434]](#footnote-434) he emphasized that the report ignored race and history, particularly Detroit’s “six decades of racial conflict and racial divide.”[[435]](#footnote-435) He further counseled that the report fails to consider Detroit’s connection with other parts of Michigan,[[436]](#footnote-436) and that it “never mentions race for where we were and how we got here.”[[437]](#footnote-437) In his description of Detroit as an “inelastic city,”[[438]](#footnote-438) he focused on its historical and contemporary practices of segregation; from these foundations he argued that the green spaces the DFC planned to create would only benefit historically privileged suburbs, bypassing poorer communities that live next to the interstate.[[439]](#footnote-439) Despite the DFC’s considerable outreach efforts, Hammer believes that the report omits the perspectives of grass roots organizations,[[440]](#footnote-440) and he excoriates its capitalist ethos. He noted that DFC’s plans for shrinking the city and building up certain neighborhoods, such as Eastern Market, Mt. Elliott, Downtown, Southwest, Corktown, Midtown, and McNichols means that other less privileged neighborhoods would suffer the loss.[[441]](#footnote-441) When studying the Framework, Hammer counseled, always consider “who is winning and who is losing.”[[442]](#footnote-442) Hammer’s critique of the DFC’s ahistoricism acts as a strong warning that its plans will lead Detroit’s upper strata to “win” and its low-income population to “lose,” a prediction that takes on extra strength when we consider how Acemoglu,[[443]](#footnote-443) Robinson,[[444]](#footnote-444) and Sugrue[[445]](#footnote-445) all counsel that a future that enjoys economic equality cannot ignore the traps and circles that mar the past.

A study of Detroit history, economic literature, and a consideration of Professor Hammer’s Marygrove speech, then, helps us understand that the plans for Detroit’s seized land will not serve the interest of poverty uplift.

1. So what would work?

The question then arrives: What plans *would* serve the aims of moving Detroit’s indigent out of poverty and into the middle class? Must the DFC’s plans to use the cleared space for economic growth be scrapped? My answer is no, provided that the growth plans remain pegged to poverty alleviation. This conclusion expands into a huge economics question concerning the role of growth plans in poverty uplift. One take on fixing poverty through eminent domain in Detroit might counsel cutting all costs and distributing the city’s meager funds and remaining, sound, empty buildings to poor people – in other words, to create a kind of austerity/property redistribution takings plan. But austerity is in bad ideological shape these days: Controversies over austerity programs currently roil national and international programs. While economists such as Carmen M. Reinhart and Kenneth S. Rogoff are the beleaguered spokepeople for austerity agendas,[[446]](#footnote-446) nations such as Ireland evidence some benefits of austerity plans,[[447]](#footnote-447) and Scranton, Pennsylvania made a short-lived but high-profile experiment with austerity,[[448]](#footnote-448) a watershed of economists support growth measures for poverty alleviation, including infusions of capital and the taking on of debt.[[449]](#footnote-449) In other words, “You can’t be a city full of poor people forever.”[[450]](#footnote-450)

However, while growth certainly *can* create indigents’ upcast,[[451]](#footnote-451) it still does not necessarily mean an end to poverty. Paul Krugman worries that growth and inequality walk hand in hand.[[452]](#footnote-452) William Easterly, that champion of the free market, notes that in some cases growth shoves the poor to the side.[[453]](#footnote-453) In the realm of foreign aid, economists such as Paul Collier struggle with a world bristling with increasing plenty that still does not touch “the bottom billion.”[[454]](#footnote-454) Already, we can see signs of this problem in Detroit: While Mike Ilitch’s land purchases in the Cass Corridor might be described as being good for the people because they are cleaning up a “thick” part of town, Josh explained how this cleansing resulted in an exile of low-income people and a palace for Big Hockey.[[455]](#footnote-455)

What is needed, then, is an eminent domain program that combines with a financial strategy that mixes the infusion of capital and the provision of incentives with schemes devoted to poverty uplift funded by the resulting increase. Roosevelt’s New Deal[[456]](#footnote-456) as well as Keynesian economics[[457]](#footnote-457) and one of its most modern U.S. incarnations, New York Mayor Bill de Blasio’s[[458]](#footnote-458) style of governance, offer models, providing for an economy mixing the free market with state controls.

Admittedly, this is a vast expansion from any previous eminent domain plan that I have ever heard of, particularly since modern eminent domain plans typically amount to the government’s giving confiscated property to a franchise that tries to grow business out of it.[[459]](#footnote-459) I may be criticized for turning eminent domain into a multi-faceted city planning program that vaults far from the original intent or even contemporary understanding of the Takings Clause, which is to make sure that a piece of property is used for the public. Yet to ensure that these acquisitions of property do secure the welfares of low income people, the city must do more than acquire the property, pay its owners FMV, and mouth its good intentions about helping the underclass. It must actually aim to help indigents. And, as Delphia Simmons shows us in particular, this will require more than tagging a few property “pods” for homeless people.[[460]](#footnote-460) An effective anti-poverty program, instead, must eliminate poverty traps. So, the growth that the DFC contemplates cultivating in Detroit’s confiscated and cleared space must combine with anti-poverty programs thattackle those traps.

This is a big job. Formulating this plan will be difficult. It will also require clarity of vision – that is, a practice of seeing, rather than peering – in order to avoid some of the old culturally violent stumbling blocks that historically have prevented architects of eminent domain from securing the welfares of low-income people.

1. How to Fix This: Seeing, not Peering, our way to alleviating poverty and hewing pathways to the middle class in Detroit

“We’re trying to achieve community building through the telling of stories,” Shel Kimen explains to me on the phone.[[461]](#footnote-461) I’ve called her up for an interview about her project, Detroit’s “Collision Works,” a program she intended at first to result in an arts-focused, 36-room hotel made out of shipping containers, where she expected people to swap personal tales.[[462]](#footnote-462) Shel, an Anglo woman, raised over $43,000 for the enterprise on Kickstarter,[[463]](#footnote-463) but has now divided up the mission into hospitality and storytelling.[[464]](#footnote-464) Shel held her “First Container” series in a shipping container sited at Eastern Market, a six-block market a mile northeast of downtown Detroit.[[465]](#footnote-465) People come to the shipping container and share stories about their lives in the city.

“Our explicit mission is to create empathy,” she emphasizes. “There aren’t that many places in Detroit where many different kinds of people feel comfortable together. Eastern Market had the right community vibe. It’s one of the only places in the whole city where you get people from inside the city, outside the city, from various backgrounds and income levels all together at once. It’s the largest farmers market in the country, in operation since 1851. It’s five city blocks of market where you can get your organic Zen raw kale, or get a box of tomatoes at end of day for two bucks. So it’s a really interesting collision of people coexisting and that’s rare for this city.”

“Why do you want to cultivate Detroit empathy?” I ask her. “Who lacks empathy?”

Shel answers without pausing. “We all do. It’s a really complicated environment here. The biggest and most obvious issue is that we have six billion dollars of downtown development in the last two years, and we still can’t get toilet paper to the fire department. There’s a very classic tale of two cities going on with the new development. [The growth] is great, except that job opportunities don’t match the skills that are here, and the demographic is changing rapidly, and the new services and amenities are being designed for the new demographic. That is, White millennials. And it’s challenging because we have new people coming to the city saying ‘I don’t know why they [lifetime residents] are so angry’ and they don’t feel like they can go to the neighborhoods. And they don’t understand privilege in the greater story. And then there are a lot of other people in the neighborhoods who are frustrated by the new development, and don’t feel like they don’t have a seat at the table. But there are opportunities for all of us to step outside of our comfort zone.”

Shel furnished Collision Works’ repurposed shipping container with plush furniture, lamps, and tables, and in it provides an intimate setting where people can tell each other about their lives.[[466]](#footnote-466) “I split off the hotel business from the story sharing aspect because I soon realized that the stories were very important for the people in the city,” Shel tells me. “There’s been a lot of trauma and people need to talk. We talk about tricky things.”

“Like what?”

Shel sighs. “Race, class, gender, sexuality, income disparity -- all kinds of things. The project is about Detroit revitalization and inclusion, and race and class. It’s about helping people get space to talk about [their lives.] It’s a community space and we’re having all sorts of wackadoodle conversations.”

“Are you getting any city funding? Or, say, funding from Dan Gilbert? He’s head of the Blight Task Force and involved in a lot of Detroit projects.”

“No,” she says, flatly. “I’m not reaching out to Dan Gilbert. That whole program, it’s complicated spiritually. There’s no alignment [with the city].”

“No alignment how?”

“Aesthetics, for one. A lot of the work that’s being imagined and created through that organization is a design aesthetic that I don’t find interesting. It’s new. It’s flashy. It’s modern and pretty – but. . . . It’s trying to cultivate community, but a very specific community – a White millennial community. I mean, take Campus Martius [the park in downtown Detroit, which sits across from the Starbucks, and that was recently converted into a temporary beach.][[467]](#footnote-467) It’s a tiki bar -- and our greatest public park -- with sand and torches and lawn chairs, which is fun, but really kind of strange to a lot of people who have different ideas about what civic parks is supposed to be.”

“Which is . . . ”

“Detroit is an aging population. I like new development, and I like bringing in new people and ideas. And Detroit is probably the most protectionist, isolationist community I’ve ever lived in. But I understand why -- it comes from a long history of thievery and distrust and seeking a savior from Jim Crow only to find that it was here but disguised. So, Gilbert’s organization, they have a vision and a plan and they want to do things *their* way. And that’s why I don’t want to put this project in that path.”

I’m scribbling down notes. Shel continues talking. “These conversations at First Container – they’re emotional and personal and very real. And at the same time . . . I’ve seen the needle move during these exchanges. The goal is not to create a homogenous Detroit, but to understand our diverse experience and create linkages between them.”

Shel describes one conversation where older clients of a low-income treatment center educated newcomers about an important Detroit uprising of (among others) out-of-work Black people: The shipping container sits across from a health services organization that “does substance abuse counseling for people without health insurance[[468]](#footnote-468) . . . and there was a group of people from there . . . and all of them had really complicated and challenging lives. And then there were some other people who were young and new to the city, and thinking that they were in a cool spot, they were hanging out. And then somehow we got to talking about the [race and class] rebellion of 1967[, which saw fighting between a largely African-American contingent of Detroit and its Anglo police force].[[469]](#footnote-469) What most people understand about this is, the National Guard comes in, and there’s chaos for a week and it’s squished. But what people don’t realize is that it was months of people under curfew, mostly where Black people live. And people didn’t have access to food, it was a scary time. So we started hearing about this from these people who had lived through it -- one person was three or four years old, another person was fifteen or sixteen. And they were all fighting to speak. And the other people were just like, ‘holy shit I had no idea!’ And that’s a point where the needle moved particularly in this case for the newcomers.”

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Engaging poverty uplift through the use of Michigan eminent domain law should depend upon a practice of seeing, not peering, for at least three reasons: 1) to avoid using “anti-poverty” as a cover for economic programs that primarily benefit the upper classes; 2) to guard against the condescension and paternalism that Noah Stephens warned me about; and 3) to ensure that plans for eradicating Detroit’s poverty gaps come from people who have boots on the ground, rather than elite technocrats who may succumb to the temptations of problems 1 and 2.

In this section, I will first describe the practice of seeing and not peering, and study how my visits to Detroit and my interviews with its leaders provide a first draft of such an engagement. I will then show how this practice can help create systems that will defuse poverty traps and avoid the three problems I list above. I will then submit a short list of suggestions for Detroit’s future that I learned from Noah Stephens, Delphia Simmons, Josh Bassett, and Shel Kimen.

1. The practice of Seeing.

How can a person see rather than peer? That is, how can one see clearly? Here, I confront the magnitude of this challenge. In *Peering*, I focused on one taking in particular, which was New York’s taking of Manhattanville under the justification that it was blighted.[[470]](#footnote-470) Blight reports filled with ruin porn supported this determination.[[471]](#footnote-471) Manhattanville’s taking served the interest of Columbia University, which sited its auxiliary campus there.[[472]](#footnote-472) To counteract this colonization, I gathered images and stories made by Manhattanville residents to contest the imagery that eased the takeover.[[473]](#footnote-473) I tried to do this in the spirit of peacefulness and nonviolence,[[474]](#footnote-474) and I used the work of photographers Carrie Mae Weems and Bill Cunningham as well as Susan Sontag as models.[[475]](#footnote-475) But I also realized that while I gazed at the often lovely images that I had been given, I hazarded romanticizing the people in those photos myself.[[476]](#footnote-476) Peering turns out to be a polymorphous pleasure, particularly when it is paired with denial about one’s own delight in coming to the aid of the “underclass.” Perhaps one can do just as much or even more damage when one is trying to “save” the “needy.” Hence, once in Motor City, I took special note of Noah Stephen’s critique of do-gooders’ condescending attitudes toward Black people.[[477]](#footnote-477)

In Detroit, I tried to mesh my optics with my politics. I tried to see instead of peer. In order to avoid the temptation of self-congratulating blindness – insofar as I did – I tried to absorb a multiplicity of head tilts and insinuations that I maybe didn’t know what I was talking about. Perhaps because I am Latina I should be inured to rough-and-tumble reactions to my ideas, but apparently not. Seeing instead of peering turned out to be more difficult for me in disputatious Detroit than when I looked at photographs of people in Manhattanville.[[478]](#footnote-478) It also involved all of my senses and self-control, and inspired occasionally lacerating self-critiques. I had to admit that my argument that the recommended title seizures are takings could backfire and lead to a quagmire of inaction[[479]](#footnote-479) -- and yet persist in finding a path forward. Sometimes, seeing proved the opposite of pleasure. This makes me worry about its future, because part of the intractability of peering is the happiness that it induces in its practitioners. I would like to come up with an alternative pleasure to more deeply root the practice in legal gazers, but so far I can only conclude that bearers of legal optics who want to stop trampling on the rights of low-income people start to get more comfortable with losing their high status.[[480]](#footnote-480)

Yet I can comfort myself that I do not work in a vacuum. I invented novel language to describe the undertaking that I prescribe here, but the calls for curiosity, openness, humility, good listening, and creativity in the development of legal and social policy programs have been made before. In legal literature, Angela Harris argues that we should engage a jurisprudence that admits the multiplicity of experience and refuses to center any particular point of view.[[481]](#footnote-481) Critical Race Theorists and LatCrit Theorists and Queer Theorists also craft legal methods that require its participants to avoid what Keith Aoiki has called “false homogeneity,” that is, to make sure that no one group is batting away the interests of another while convincing itself that it’s serving the public good.[[482]](#footnote-482) In property law, Timothy M. Mulvaney calls for courts to scrutinize land use regulations with transparency, humility and respect for identity,[[483]](#footnote-483) and Laura Underkuffler asks courts considering takings challenges to “honest[ly] grappl[e] with hard truth.”[[484]](#footnote-484) In economics literature, William Easterly has promoted an irascible critique of foreign aid workers, arguing that wasteful top down efforts to assuage world poverty have only exacerbated suffering. In his famous White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done so Much Ill and So Little Good (2006), Easterly argues that foreign aid should be implemented by on-the-ground “searchers” rather than elite “planners,” or technocrats, who intensify world health and poverty problems.[[485]](#footnote-485) Easterly also rails against “blank slate” thinking, which he believes technocrats indulge in with regularity.[[486]](#footnote-486)

So, call it what you will – seeing instead of peering, anti-essentialism,[[487]](#footnote-487) coalition building,[[488]](#footnote-488) humility,[[489]](#footnote-489) grappling,[[490]](#footnote-490) searching instead of planning,[[491]](#footnote-491) or simply following the Golden Rule[[492]](#footnote-492) -- this attitude of inquisitiveness and modesty will help develop a plan for a future Detroit free or at least clearer of poverty traps for the reasons listed above: Again, seeing instead of peering will help avoid the obstacles traditionally found where officials say they will use eminent domain for poverty uplift (and do the opposite), to guard against condescension that can create more hazard than good in the public policy arena, and to help come up with real solutions for on-the-ground problems instead of unworkable top-down panaceas.

These problems all present themselves when we use eminent domain to craft a poverty uplift program in Detroit today. In *Peering*, I showed how “slum clearance” projects found their initial inspiration in the anti-poverty ethics of Progressivism, but soon deteriorated into a system of eviction and exile that proved all the more unassailable because of its “for your own good” bona fides.[[493]](#footnote-493) This same history shows the hazards of elite-to-poor condescension that Noah Stephens cautioned me about.[[494]](#footnote-494) This history, indeed, is reflected in the disastrous development of public housing projects in Detroit itself, which were spurred by reformers’ zeal for social engineering that would “’make better citizens.’”[[495]](#footnote-495) Seers, then, must guard against the condescension that gives rise to policies that are so remote from the real-world fixes that Detroit residents know could help dismantle poverty traps. Josh, Noah, Delphia, Shel – and also John Mogk and Mike Brady -- helped teach me how to see in Detroit, and within their lessons we find concrete plans that can form the foundation of a poverty uplift plan.

1. Policy measures that would dismantle poverty traps, which should constitute part of the planning for Detroit’s cleared land to ensure that the takings satisfy the public purpose of alleviating indigency*.*

In order to establish by a preponderance of the evidence that Detroit’s exercise of eminent domain satisfies the public purpose of alleviating poverty and bringing the city’s indigent into the middle class, the plans for the cleared space must not only aspire to the development of economic growth that would benefit low-income people but also contain clear strategies for overcoming the poverty traps that keep almost 40 percent below the poverty line and another over thirty percent just above it.[[496]](#footnote-496)

Developing a plan, as I have said, requires a clarity of vision, and an effort to prioritize the insights of the people who know why local poverty exists. The process of gathering such intelligence could take many forms. Economists Francisca Antman and David J. McKenzie, for example, developed dynamic pseudo-panels to study poverty traps in Mexico,[[497]](#footnote-497) and Deborah Weissman’s work with Community Benefits Agreements also raises great possibilities developing a system whereby Detroiters may gather to discuss and name poverty traps and their potential solutions.[[498]](#footnote-498)

In my own efforts to see but not peer, I went out into the community to consult creatives and activists and – to use Easterly’s phrase, “searchers.”[[499]](#footnote-499) Listening proved a central part of my “seeing” practice and jurisprudence. And it was very fruitful: The people I interviewed provide an initial list of poverty traps and strategies to alleviate them. This list deserves study and attention by the Task Force as well as Detroit Future City and the drafters of the Detroit Master Plan.

From Noah Stephens, we learn that having children in poverty is a serious poverty trap in Detroit. Authorities confirm this obvious point: Unwanted pregnancy is associated with dire poverty.[[500]](#footnote-500) Thus, the cleared land should in part be devoted to clinics that will aid Detroit residents in their family planning and the nurturance of their children.[[501]](#footnote-501) Since Michigan is home to one of the nation’s most anti-choice regimes, the drafters of the Detroit Master Plan should also take it upon themselves to lobby against Michigan’s illegal pre-*Roe* abortion law and draconian insurance laws (which do not provide women with abortion coverage unless they purchase separate riders)[[502]](#footnote-502) as well as for pro-choice representatives in its legislature.[[503]](#footnote-503)

But Noah’s recommendations also connect with Delphia Simmons’ concern for homeless families. We should not just promote available abortions; we should also make provisions for the families that do and will exist. Looking to experts in Detroit who know how best to support families and their children would also prove advisable. This is particularly true for single mothers, who endure some of the most intense poverty traps.[[504]](#footnote-504) Poverty that leads to child malnutrition also constitutes a poverty trap, since malnutrition can lead to delayed motor skills and other deficiencies that will inhibit flourishing.[[505]](#footnote-505) Children’s feelings of food insecurity can also lead to deleterious mental conditions such as depression,[[506]](#footnote-506) which also constitutes a poverty trap.[[507]](#footnote-507) Delphia’s mention of caps on public assistance and the high cost of food in Detroit supermarkets, thus, also counsel that a plan for future Detroit should include lobbies to elevate the assistance caps[[508]](#footnote-508) and provide ample food subsidies. [[509]](#footnote-509)

Noah also reminded us of how intersectionality or multidimensionality[[510]](#footnote-510) should enrich our approach to identifying and tackling poverty traps: In his portrait of, and story about, Dezey, he observed how sexual identity and youth form two particular types of poverty traps that make gay teens of color particularly vulnerable to eviction and homelessness.[[511]](#footnote-511) Noah’s ability to see this problem teaches us that a plan for alleviating poverty must include dedicating confiscated property to organizations like the Ruth Ellis Center.[[512]](#footnote-512)

Delphia teaches us a host of other legal and policy changes that should be made in tandem with the Task Force’s seizure and condemnation of buildings. In terms of land use, the city should flag some of the properties for homeless shelters and supportive housing that are not segregated from the rest of the community.[[513]](#footnote-513) Homes that blexters do not identify as “poor” may qualify for such housing.[[514]](#footnote-514) An Anti-Homelessness Task Force should also be convened, which will meet regularly with Detroit’s Mayor and its top brass.[[515]](#footnote-515) The land seizures should also exist in a holistic program that seeks to lower car insurance rates,[[516]](#footnote-516) and address irresponsible landlords and the exaggerated utilities costs they make tenants incur.[[517]](#footnote-517)

From Josh Bassett, as well as Noah, we learn of the necessity to improve education in Detroit, and to increase the literacy and graduation rates of its adults and youths.[[518]](#footnote-518) Besides “access to food,”[[519]](#footnote-519) strengthening education is the only other poverty trap mentioned by my interviewees that Detroit Future City focuses on in its Strategic Framework Plan.[[520]](#footnote-520) So at least that is one goal that may already find its way into the Master Plan.

From Shel Kimen, [[521]](#footnote-521) as well as Delphia,[[522]](#footnote-522) we learn that lack of empathy, communication, and understanding may also exist as poverty traps in Detroit. Shel notes, for example, that the “tiki bar”[[523]](#footnote-523) development now shaping the city increases a sense of isolation and non-belonging for Detroit’s elderly and low-income residents.[[524]](#footnote-524) Social isolation is itself a poverty trap.[[525]](#footnote-525) While DFC did make great efforts toward community engagement, it did not do so with the purpose of poverty alleviation in mind. There must be concrete plans to listen and hear in Detroit, and to use the seized land in a way that “moves the needle” instead of increasing segregation and social atomization.

As Easterly’s disgruntled take on “planners” has already shown in the field of foreign aid,[[526]](#footnote-526) all of the efforts to dismantle the poverty traps that I have discussed here should be crafted with the guidance of low-income people’s stories and understandings. In so doing we can pave a route toward a more egalitarian Detroit, where growth does not proceed without fairness, and where high ideals of equality and nonviolence do not collapse into a pretext that serves only upper class interests.

Finally, because seeing and not peering requires a commitment to acknowledging problems with one’s own viewpoint, this process must also proceed with a candid assessment that these programs will cost money, and may also hamper the rapid resolution of the serious blight problem in Detroit. The money problem is massive. In order to ensure that the exercise of eminent domain secures poverty alleviation, a tax on the growth promoted by the DFC should ensure that prosperity pays for poverty alleviation. But that will not be enough, particularly at first. Support could come from the Hardest Hit Fund,[[527]](#footnote-527) or the money set aside to fight blight in the bankruptcy resolution,[[528]](#footnote-528) but there is no surplus of dollars even in these windfalls, considering the gargantuan costs that Detroit now faces.[[529]](#footnote-529) So money will be an issue – that’s an understatement. Moreover, there’s always the possibility that poverty uplift efforts could upend any potential for Detroit recovery, if the politics of “desperation” is any clue. Seeing and not peering requires admission of these hazards. Yet it also needs a recognition that anti-poverty commitments too often take a backseat to growth in capitalism.[[530]](#footnote-530) Detroit’s future should not be built on the backs of the poor.

1. Conclusion

Detroit readies itself for a massive blight condemnation that proves necessary for its future. If it proceeds according to the Task Force’s playbook, this condemnation will also constitute an unconstitutional taking under the federal constitution. The condemnation will create a second problem as well, which is that blight condemnations often harm low-income people of color, and the peering practices that already enliven anti-blight rhetoric in the city indicate that such injuries are coming. But the peering practices engaged in by Mr. Gilbert, the Task Force’s chairs, the media, and others divert the citizenry from these dilemmas with mesmeric images of contagion and pioneering wealth.

Detroit should harness the power of eminent domain instead of relying on the city’s unconstitutional use of NAP. I propose justifying the use of eminent domain on the basis of poverty alleviation. Such a public purpose will not create the same constitutional obstacles (a high standard of proof and over fair market value payable to the owners) that blight condemnations will create. Pegging the seizures and razings to poverty alleviation will also avoid many of the harms to the poor that blight condemnations traditionally manifest.

But the path toward poverty alleviation through eminent domain does not prove certain or guaranteed. The past vibrates with examples of poverty uplift plans that went awry and aided instead the wealthy. To ensure that cleared Detroit land pivots on an anti-poverty agenda, we must create clear-eyed plans for the city that tackle poverty traps and vicious circles. The argumentative people on the ground know best about these traps and circles, and what to do about them. Officials should approach people like Noah, Delphia, Josh, and Shel for concrete suggestions on how to help move low-income people to the middle class. They should engage such folks with an openness, humility, patience, and readiness to see things in a different way than they ever have before.

1. \*Professor, Loyola Law School. Thanks to Noah Stephens, Shel Kimen, Delphia Simmons, Josh Bassett, Sonia Katyal, Dan Selmi, Jim Krier, Robert Hockett, Ilya Somin, Tim Mulvaney, Erica Raleigh, Deborah Weissman, Kathryn Sabbeth, Melissa Jacoby, John Mogk, Mike Brady, and the faculties of University of North Carolina at Chapel Hill and Boalt for inviting me to present this paper. Yxta.murray@lls.edu.

 *See* section IV, *infra.*  [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *See* text accompanying notes 182-192, *infra.* [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)
5. *See* text accompanying note 314, *infra.* [↑](#footnote-ref-5)
6. Tom Walsh, *Gilbert says Detroit blight can be purged in 3 to 6 years, Detroit Free Press, May 22, 2014,* [*http://www.freep.com/article/20140522/COL06/305220263/Tom-Walsh-Techweek-Detroit-Dan-Gilbert-Beth-Niblock*](http://www.freep.com/article/20140522/COL06/305220263/Tom-Walsh-Techweek-Detroit-Dan-Gilbert-Beth-Niblock)*.* See also text accompanying infranote 278. [↑](#footnote-ref-6)
7. U.S. CONST. amend. 5. *See also* note 14, *infra.* [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. 545 U.S. 469 (2005). [↑](#footnote-ref-9)
10. *See* note 218, *infra.* (“gossamer”) [↑](#footnote-ref-10)
11. *See, e.g.,* Kurt Badenhausen, *Detroit Tops 2013 List of America’s Most Miserable Cities*, Forbes.com, 2/21/2013, http://www.forbes.com/sites/kurtbadenhausen/2013/02/21/detroit-tops-2013-list-of-americas-most-miserable-cities/. [↑](#footnote-ref-11)
12. *See, e.g.,* text accompanying notes 82-96, *infra* (Noah Stephens). [↑](#footnote-ref-12)
13. Yxta Maya Murray, *Peering, available at* http:// papers.ssrn.com/sol3/papers.cfm?abstract\_id=2438284. (Hereinafter *Peering*). [↑](#footnote-ref-13)
14. “No person shall . . . be deprived of . . . property, without due process of law; nor shall private property be taken for public use, without just compensation." U.S. CONST. amend. 5. In 1954 the Supreme Court authorized the State expanded public use to mean rescue. *See* Berman v. Parker, 348 U.S. 26, 32 (1954); *Peering*, Section III (a)(ii). [↑](#footnote-ref-14)
15. *See* *Peering*, section IV(d)(ii). [↑](#footnote-ref-15)
16. *Peering* at 68-69, interviews with Alicia Barksdale and Hilary Saunders. [↑](#footnote-ref-16)
17. *Id.* at 90 (“’Blight’ formed as a symbol of race and class dominance.”). [↑](#footnote-ref-17)
18. *Peering* at 90-94. [↑](#footnote-ref-18)
19. *See* section VI, *infra.*  [↑](#footnote-ref-19)
20. *See* text accompanying 47-50, *infra.* [↑](#footnote-ref-20)
21. *See, e.g.,* note 294, *infra.* [↑](#footnote-ref-21)
22. Interview with Josh Bassett, Detroit, Michigan, Wednesday, September 26, 2014. For Josh’s bona fides, *see* http://instituteforsocialprogress.org/about/. [↑](#footnote-ref-22)
23. *See* section III, *infra.* [↑](#footnote-ref-23)
24. Tom Walsh, *When will Detroit blight task force get cracking?* Detroit Free Press, Oct. 25, 2013, <http://www.freep.com/article/20131024/COL06/310240208/Tom-Walsh-Glenda-Price-Dan-Gilbert-blight>. *See also* Kevin Reed, *Why is Dan Gilbert on the Detroit Blight Removal Task Force?* World Socialist Web Site, Jan. 11, 2014 (task force created September 27, 2014), http://www.wsws.org/en/articles/2014/01/11/gilb-j11.html. [↑](#footnote-ref-24)
25. *See* note 124, *infra.* (“numbers are on page 59”) [↑](#footnote-ref-25)
26. *See* note 318, *infra.* [↑](#footnote-ref-26)
27. *See Peering* at section 3(a)(ii). [↑](#footnote-ref-27)
28. http://detroit.areaconnect.com/statistics.htm. [↑](#footnote-ref-28)
29. *See* Kate Abbey-Lambertz, *Most Detroit Families Can’t Afford Their Basic Needs: Report, 9/04/2-14,* [*http://www.huffingtonpost.com/2014/09/04/detroit-poverty-alice-report\_n\_5760602.html*](http://www.huffingtonpost.com/2014/09/04/detroit-poverty-alice-report_n_5760602.html)*.* *See also* United Way, Alice Michigan 2 (2014), http://www.uwwexfordmissaukee.org/sites/uwwexfordmissaukee.org/files/14UW%20ALICE%20Report\_MI\_Hires.pdf. [↑](#footnote-ref-29)
30. *See* text accompanying note 82, *infra.* [↑](#footnote-ref-30)
31. *See* Paul Beshouri, *Finally, A Complete Attempt at Mapping Detroit’s Neighborhoods,* Detroit.Curbed.com, Aug. 20, 2013, <http://detroit.curbed.com/archives/2013/08/finally-a-complete-attempt-at-mapping-detroits-neighborhoods.php> (analyzing Loveland Technologies’ map). [↑](#footnote-ref-31)
32. For Detroit’s history of fortress building s*ee,* Thomas Sugrue, The Origins of the Urban Crisis: Race and Inequality in postwar Detroit 64-65 (2005) ( “wailing wall” built in 1940s.); Jeff Karoub, *Wall that once divided races in Detroit remains, teaches,* May 1, 2013, USA Today, <http://www.usatoday.com/story/news/nation/2013/05/01/detroit-race-wall/2127165/>. As of 2014, a fence separates Grosse Point and Detroit. *See* Sophie Jane Evans, *No entry! The ‘haves’ of a wealthy Michigan suburb who built Fences around the streets to keep out Detroit ‘have-nots’,* Mailonline.com, Oc. 19, 2014, http://www.usatoday.com/story/news/nation/2013/05/01/detroit-race-wall/2127165/. [↑](#footnote-ref-32)
33. Mr. Gilbert invested more than a billion dollars in Detroit real estate. *See* Kirk Pinho, *Compuware HQ changes hands; Gilbert, Meridian now owners,* Crain’s Detroit Business, December 31, 2014, http://www.crainsdetroit.com/article/20141231/NEWS/141239963/compuware-hq-changes-hands-gilbert-meridian-now-owners. [↑](#footnote-ref-33)
34. *See* note 318, *infra.* [↑](#footnote-ref-34)
35. *See* note 298, *infra.* [↑](#footnote-ref-35)
36. John Gallagher, *Ilitches unveil ‘bold vision’ for arena district,* USA Today, July 12, 2014, http://www.usatoday.com/story/sports/nhl/wings/2014/07/20/detroit-red-wings-arena-district/12909267/. [↑](#footnote-ref-36)
37. Regarding Studio City class stratification, *see* my *Law and the Possibilities of Peace*, forthcoming from the Seattle Journal of Social Justice, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2461525. [↑](#footnote-ref-37)
38. *See* Armando Delicato & Elias Kahlil, Detroit’s Cass Corridor 87 (2012) (“The longevity of landmark bars, restaurants, apartment buildings, houses of worship, and businesses gives the Cass Corridor its character and charisma.”). [↑](#footnote-ref-38)
39. *See* Gus Burns, *Photos: $6.5 million Brewster-Douglass projects demolition in Detroit progressing slowly,* mlive.com, June 7, 2014, <http://www.mlive.com/news/detroit/index.ssf/2014/06/photos_65_million_brewster-dou.html>. See also *Detroit residents speak out against mass evictions, World Socialist Web Site,* May 1, 2013,(evictions of Corridor’s Henry Street apartments; speculation Ilitch will site Detroit Red Wings there). [↑](#footnote-ref-39)
40. *Detroit Raised 65 Percent Graduation Rate, Increase Echoed Across the State,* CBS Detroit, Deb. 13, 2013, <http://detroit.cbslocal.com/2013/02/13/detroit-praised-for-65-percent-graduation-rate-increase-echoed-across-the-state/> (up from 59 percent). [↑](#footnote-ref-40)
41. *Nearly Half of Detroit’s Adults are Functionally Illiterate, Report Finds, Huffington Post,* 7/08/13, http://www.huffingtonpost.com/2011/05/07/detroit-illiteracy-nearly-half-education\_n\_858307.html. [↑](#footnote-ref-41)
42. *See* section III(C), *infra.* [↑](#footnote-ref-42)
43. *See* text accompanying note 222, *infra.* [↑](#footnote-ref-43)
44. *See* text accompanying note 255, *infra.* [↑](#footnote-ref-44)
45. *Peering* at V(c)(i). [↑](#footnote-ref-45)
46. *Id.* at 25. [↑](#footnote-ref-46)
47. MICH. CONST. art. X, § 2; S.R.S. Res. E, 93d Leg., Reg. Sess. (Mich. 2006). [↑](#footnote-ref-47)
48. *Id.* [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. *Id.* [↑](#footnote-ref-50)
51. 467 U.S. 229. [↑](#footnote-ref-51)
52. *See Peering* at 22, discussing *Berman* deference. [↑](#footnote-ref-52)
53. 684 N.W.2d 765, 786-87 (Mich. 2004). [↑](#footnote-ref-53)
54. *Hathcock* at 781. [↑](#footnote-ref-54)
55. *Id.* at 781-82. [↑](#footnote-ref-55)
56. *Id.* at 783. [↑](#footnote-ref-56)
57. *See* Marc Milhaly and Turner Smith, *Kelo’s Trail: A Survey of State and Federal Legislative and Judicial Activity Five Years Later,* Ecology LawQuarterly711 (2011) (“Michigan's eminent domain limitations. . . [react] to Kelo.’” (citation omitted)). [↑](#footnote-ref-57)
58. Mich. Const. art. X, § 2; S.R.S. Res. E, 93d Leg., Reg. Sess. (Mich. 2006). [↑](#footnote-ref-58)
59. *Id.* Article 10, section 2 reads:

“Public use” does not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Private property otherwise may be taken for reasons of public use as that term is understood on the effective date of the amendment to this constitution that added this paragraph.

In a condemnation action, the burden of proof is on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking of a private property is for a public use, unless the condemnation action involves a taking for the eradication of blight, in which case the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use. [↑](#footnote-ref-59)
60. Mich. Comp. Laws § 213.55 (2010). *See also* Miihaly & Smith, supra note 55 at 711. [↑](#footnote-ref-60)
61. Mich. Comp. Laws § 213.55 (2010). Milhaly & Smith *id*. [↑](#footnote-ref-61)
62. *See* text accompanying notes 55-56, *supra.* *See also* SB 693 (2)(a)-(c). <https://www.legislature.mi.gov/documents/2005-2006/publicact/htm/2006-PA-0368.htm>. Codifying *Hathcock*. See *Hathcock*, 684 N.W.2d at 783. [↑](#footnote-ref-62)
63. *Id.* at (3). [↑](#footnote-ref-63)
64. Pa. Coal Co. v. Mahon,260 U.S. 393, 415 (1922). [↑](#footnote-ref-64)
65. *Id.* [↑](#footnote-ref-65)
66. Lucas v. S.C. Coastal Council, 505 U.S. 1003 (1992). [↑](#footnote-ref-66)
67. *See* Loretto v. Teleprompter Manhattan CATV Corp.,458 U.S. 419, 427 (1982). (“[w]hen faced with a constitutional challenge to a permanent physical occupation of real property, this Court has invariably found a taking.”) [↑](#footnote-ref-67)
68. Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155 (1980). For a review of law, *see* Cody Snyder, *Unnecessary Expansion of the Takings Clause to the Judiciary: Stop the Beach Renourishment, Inc. v. Fla. Dep’t of Envtl. Prot.* 130 S.Ct. 2592 (2010)*,* 30 Temp. J. Sci. Tech. & Envtl. L. 347, 354-6 (2011). [↑](#footnote-ref-68)
69. Penn Cent. Transp. Co. v. New York City, 438 U.S. 104 (1978). [↑](#footnote-ref-69)
70. [480 U.S. 470, 491 n. 22, 107 S.Ct. 1232, 94 L.Ed.2d 472 (1987)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1987029487&pubNum=708&originatingDoc=I8c1b154b9c1e11ddbc7bf97f340af743&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.History*oc.Search)).  [↑](#footnote-ref-70)
71. 505 U.S. 1003 (1992). [↑](#footnote-ref-71)
72. *Lucas* at 1029. [↑](#footnote-ref-72)
73. *See, e.g.,* Embassy Realty Investments, Inc. v. City of Cleveland, 976 F. Supp. 2d 931, 941-42 (N.D. Ohio, 2013) (upholding demolition of condemned property without compensation under *Lucas*). [↑](#footnote-ref-73)
74. [480 U.S. 470, 491 n. 22, 107 S.Ct. 1232, 94 L.Ed.2d 472 (1987)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1987029487&pubNum=708&originatingDoc=I8c1b154b9c1e11ddbc7bf97f340af743&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.History*oc.Search)).  [↑](#footnote-ref-74)
75. [123 U.S. 623, 654 (1887)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1887180294&pubNum=780&originatingDoc=If167395136eb11db8382aef8d8e33c97&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)). [↑](#footnote-ref-75)
76. *Id.* at 688-689. [↑](#footnote-ref-76)
77. United States v. Bennis, 516 U.S. 442, 443 (1996). [↑](#footnote-ref-77)
78. *Id.* at 446-447 (citing  [The Palmyra*,* 12 Wheat. 1, 6 L.Ed. 531 (1827)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1800105705&pubNum=780&originatingDoc=I38ffeb069c4611d991d0cc6b54f12d4d&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)).). [↑](#footnote-ref-78)
79. *Id.* at 447-448 (citing [Van Oster v. Kansas, 272 U.S. 465, 47 S.Ct. 133, 71 L.Ed. 354 (1926)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1926122385&pubNum=708&originatingDoc=I38ffeb069c4611d991d0cc6b54f12d4d&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink))). [↑](#footnote-ref-79)
80. *Id.* [↑](#footnote-ref-80)
81. *See* note 134, *infra.*. [↑](#footnote-ref-81)
82. Noah Stephens interview, 9/27/2104, Detroit, Michigan. [↑](#footnote-ref-82)
83. JC Reindl, *Starbucks Returns to Downtown Detroit,* Detroit Free Press, Apr. 10, 2014, http://www.usatoday.com/story/money/business/2014/04/10/starbucks-returns-downtown-detroit/7567353/. [↑](#footnote-ref-83)
84. Noah Stephens, The People of Detroit, http://www.noahstephensphotography.com/p/about-people-of-detroit.html. [↑](#footnote-ref-84)
85. For “blank slate” discussion, *see* text accompanying note 327, *infra.* Aaron Renn*.* [↑](#footnote-ref-85)
86. A Google search reveals five Detroit abortion clinics with limited services. The Summit Women’s Center of Detroit offers abortions until 24 weeks, <http://www.summitcenters.com/michigan/detroit-mi.html>; the Eastland Women’s clinic until 18 weeks, <http://www.eastlandwomensclinic.com/>; the Detroit Health Center in the Cass Corridor offers medication abortions for until 9 weeks, <http://www.plannedparenthood.org/health-center/michigan/detroit/48201/detroit-health-center-2890-90630/abortion>; the Scottsdale Women’s Health Center does not advertise its time cut-off, <http://www.detroitabortioncenter.com/>.

 NARAL identifies Michigan’s Governor, Rick Snyder, and its House and Senate, as anti-choice. <http://www.prochoiceamerica.org/government-and-you/state-governments/state-profiles/michigan.html>. Michigan retains its pre-*Roe* abortion ban forbidding abortions except to save life. <http://www.prochoiceamerica.org/government-and-you/state-governments/state-profiles/michigan.html?templateName=template-161602701&issueID=5&ssumID=2657>. Michigan law prohibits insurance companies from covering abortion services unless customers advance-purchase add-ons. Louise Knott Ahern, *Abortion insurance law taking effect in Michigan,* Detroit Free Press, March 12, 2014,<http://archive.freep.com/article/20140312/NEWS06/303120050/Abortion-insurance-law-taking-effect-in-Michigan>.  Mich. Comp. Laws Ann. § 550 (Enacted 2013). [↑](#footnote-ref-86)
87. *See* The People of Detroit*, About the Founder,* <http://www.thepeopleofdetroit.com/p/about-me.html> (giving date as April 2010). [↑](#footnote-ref-87)
88. *See* *Peering* at 18-19, discussing “economic disaster porn” and Detroit. [↑](#footnote-ref-88)
89. *See* The People of Detroit*, About TPOD*, supra note 11 (“Noah started The People of Detroit after seeing a Dateline NBC special . . . [profiling] a man who shot, ate, and sold raccoon meat. The implication being, of course, that things are so dire in Detroit that raccoon meat had become a sort of post-apocalyptic staple food.”). [↑](#footnote-ref-89)
90. *About,* Ruth Ellis Center, http://www.ruthelliscenter.org/about-ruth-eliss-center [↑](#footnote-ref-90)
91. http://www.thepeopleofdetroit.com/2012/04/dezey-and-world-of-tomorrow.html#more [↑](#footnote-ref-91)
92. *See Peering* at section V. [↑](#footnote-ref-92)
93. Goldstein v. New York State Urban Dev. Corp, 13 N.Y. 3d 511 (2009). [↑](#footnote-ref-93)
94. New York City Housing Authority v. Muller, 277 N.Y. 333 (1936) [↑](#footnote-ref-94)
95. Poletown Neighborhood Council v. City of Detroit, 410 Mich. 616 (1981). [↑](#footnote-ref-95)
96. Berman v. Parker, 348 U.S. 26, 32 (1954). [↑](#footnote-ref-96)
97. Tom Walsh, *When will Detroit blight task force get cracking?* Detroit Free Press, Oct. 25, 2013, <http://www.freep.com/article/20131024/COL06/310240208/Tom-Walsh-Glenda-Price-Dan-Gilbert-blight>. *See also* Kevin Reed, *Why is Dan Gilbert on the Detroit Blight Removal Task Force?* World Socialist Web Site, Jan. 11, 2014 (task force created September 27, 2014), http://www.wsws.org/en/articles/2014/01/11/gilb-j11.html. [↑](#footnote-ref-97)
98. *See* Monica Davey, *Detroit Urged to Tear Down 40,000 Buildings*, N.Y.T., May 27, 2014, <http://www.nytimes.com/2014/05/28/us/detroit-task-force-says-blight-cleanup-will-cost-850-million.html?_r=0> (Mayor Duggan supported Task Force’s press conference); *see also* TtEB chp 10, p 255, http://www.nytimes.com/2014/05/28/us/detroit-task-force-says-blight-cleanup-will-cost-850-million.html?\_r=0 (observing that Mayor Duggan started the Detroit NAP when a city prosecutor); Duggan for Detroit, Every Neigh hood Has a Future 2, 4 (undated), http://www.dugganfordetroit.com/wp-content/themes/duggan/DugganNeighborhoodPlan.pdf (Duggan taking credit for the NAP). On the use of NAP for the past twelve years, see note 144, *infra* (interview with DLBA’s Mike Brady). [↑](#footnote-ref-98)
99. *See* Reed, *id.*, quoting unnamed White House officials. [↑](#footnote-ref-99)
100. *See* text accompanying note 127, *infra*. “have to get it all down.” Numbers found at chp 3 p 59 of TtEB. [↑](#footnote-ref-100)
101. Kirk Pinho, *Blight Removal in Detroit to take 5 years, cost $850 M, Task Force Reports,* May 27, 2014, http://www.crainsdetroit.com/article/20140527/NEWS/140529896/blight-removal-in-detroit-to-take-5-years-cost-850m-task-force#. [↑](#footnote-ref-101)
102. <http://www.timetoendblight.com/>. The blight report is not dated, but its “about” states that findings shared with Mayor, Kevyn Orr, and Obama on May 27, 2014.” http://www.timetoendblight.com/faq/ [↑](#footnote-ref-102)
103. TtEB, *About*, id. [↑](#footnote-ref-103)
104. *Id.* [↑](#footnote-ref-104)
105. https://www.motorcitymapping.org/#t=overview&s=detroit&f=all. [↑](#footnote-ref-105)
106. TtEB, *About*. [↑](#footnote-ref-106)
107. TtEB at Chapter 1, page 13, https://www.dropbox.com/sh/4pnv609h8r6w69a/AADh\_iJMhrfivYNmb5PUbsFha/CHAPTER%2001.pdf?dl=0. [↑](#footnote-ref-107)
108. *Id.* at 14. [↑](#footnote-ref-108)
109. Phone interview with Erica Raleigh, July 3, 2014: “[The] 130 surveyors that we hired . . . [were organized thusly:] we would have a driver and 2 surveyors. And we wanted at least one surveyor who was deeply familiar with the surrounding area.” [↑](#footnote-ref-109)
110. The survey can be found in TtEB, chapter 12, p. 304. [↑](#footnote-ref-110)
111. *Id.* [↑](#footnote-ref-111)
112. *Id.* [↑](#footnote-ref-112)
113. Sarah Schmidt, *Motor City Mapping Tackles Urban Bight Using Loveland Tech*, Xconomy, Jan. 6, 2014, http://www.xconomy.com/detroit/2014/01/06/motor-city-mapping-project-tackles-urban-blight-using-loveland-tech/ (“This is just a windshield survey,” [Loveland Technology CEO Jerry] Paffendorf says.”). [↑](#footnote-ref-113)
114. Data here: http://d3.d3.opendata.arcgis.com/datasets/7cfed5afb7654e2495ef4c1ead320aa5\_0?uiTab=table&orderByFields=Condition+ASC&where=+(Condition+like+%27%25poor%25%27+OR+Condition+like+%27%25suggest+demolition%25%27)+&filterByExtent=false. [↑](#footnote-ref-114)
115. I found this number when I filtered for “poor” and “suggest demolition” blexter findings. [↑](#footnote-ref-115)
116. I cannot search for occupied residences on the current MCM data, which is the file linked in footnote 118, called “Final Winter 2014.” The filter sets for both occupied and unoccupied. However, I saved an earlier version of the data on my computer where such a filter is possible. Blexters tagged 24 occupied residences for demolition in this data. I have the file in my possession. [↑](#footnote-ref-116)
117. The same is true regarding the filter for “occupied” and “poor” as that set forth in footnote 150, *supra*. [↑](#footnote-ref-117)
118. This was the number I obtained from the Final Winter 2014 data. [↑](#footnote-ref-118)
119. *Id.* [↑](#footnote-ref-119)
120. *Id.* [↑](#footnote-ref-120)
121. Page 51, chapter 3, of TtEB. [↑](#footnote-ref-121)
122. Press conference video around 39 minutes. TtEB also describes this chapter 3, p 48. [↑](#footnote-ref-122)
123. Chapter 3 of TtEB, p 48. [↑](#footnote-ref-123)
124. Numbers are on page 59 of chapter 3 of TtEB. At 59, the Report says intervention will include demolition, restoration, or “secur[ing] and maintain[ing]” the properties. No accounting of how many it plans to demolish. [↑](#footnote-ref-124)
125. *Id.* [↑](#footnote-ref-125)
126. *See* section IV(A), *infra.* [↑](#footnote-ref-126)
127. *See* Bill McGraw, *Dan Gilbert is Planning to Tear Down Every Single Abandoned Building in Detroit*, Deadline Detroit.com, Oct. 1, 2013, <http://www.deadlinedetroit.com/articles/6587/dan_gilbert_is_planning_to_demolish_every_last_abandoned_building_in_detroit#.VJSX-UAA>. *See also id:* “’You get these structures down and, I mean, all of them, not most of them, all of them.’”. [↑](#footnote-ref-127)
128. TtEB at chapter 5, p 102. “[The Nuisance Abatement Program] offer the current property owner the opportunity take immediate action and remedy the situation. If the owner fails to do so, the court will transfer title to the DLBA, who will then abate the nuisance (remove the property). By using nuisance abatement, the blight removal process can be shortened by more than two years versus the current burdensome, cumbersome, and costly process of hearings and deferrals.”). [↑](#footnote-ref-128)
129. TtEB at chapter 5, page 101. [↑](#footnote-ref-129)
130. *Id.* [↑](#footnote-ref-130)
131. *Id.* [↑](#footnote-ref-131)
132. The nuisance abatement scheme is featured prominently in its own flow chart on p 104 of TtEB; also, see *id.* at 107: “When blighted properties fall outside the scope of the nuisance abatement program, the process is forced down a more onerous path utilizing city Ordinance 290-H, judgment liens, and the tax foreclosure process.” *See also* TtEB, chapter 10, pps 255-256, emphasizing how the Task Force’s proposal for the aggressive use of the nuisance abatement program coheres with Mayor Duggan’s vision of Detroit City. The other mechanisms are not mentioned. [↑](#footnote-ref-132)
133. *See* text accompanying 144-146, *infra.* [↑](#footnote-ref-133)
134. *See* notes 138-141, *infra,* showing the mechanism for quiet title and the definitions of nuisance, [↑](#footnote-ref-134)
135. Joy Management v. City of Detroit, 1996 WL 33363013 (1996), describing Detroit City Ordinance No. 556-H. *See also* Moore v. City of Detroit, 159 Mich. App. 199, 202 (1987), quoting from 556-H’s section on legislative findings, found in its section 12-11-46.1(c): “(Certain vacant dwellings have reached a stage of disrepair and deterioration which create a public nuisance or exert a downgrading or blighting influence on the surrounding neighborhood, resulting in discouraging neighbors from making improvements to properties and thus adversely affecting the tax revenue of the city.”). Section 37-2-2 of the city code defines a nuisance as a dwelling that qualifies as dangerous under Ordinance chapter 12-11-28.2 of the 1964 City code. *See* Sec. 37-2-2-Definitions, <https://www.municode.com/library/mi/detroit/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22nuisance%20abatement%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=DECO_CH37NU_ARTIIVABU_S37-2-2DE>. [↑](#footnote-ref-135)
136. Moore v. City of Detroit, 159 Mich. App. 199, 201 (1987), citing Ord. 556-H 12-11-46.1 (f). [↑](#footnote-ref-136)
137. Moore v. City of Detroit, 159 Mich. App. 199, 203-206 (1987). [↑](#footnote-ref-137)
138. Detroit City Code Sec. 37-2-6. https://www.municode.com/library/mi/detroit/codes/code\_of\_ordinances?nodeId=DECO\_CH37NU\_ARTIIVABU\_S37-2-6QUTI. [↑](#footnote-ref-138)
139. *See* Moore v. City of Detroit, 159 Mich. App. 199, 203-204 (1987) (“Ord. 556-H does not by itself transfer title of property to the city or to the nuisance abatement contractor. Transfer of title must be achieved by the city through an action to quiet title. . . or through delinquent tax proceedings.”). Detroit City Ordinance 556-H § 12-11-46.5(f) and (g) allows families to temporarily move into abandoned deteriorated homes and creates a statutory presumption of intent to abandon which may then be asserted in an action to quiet title. *See id.* at 202 and n. 1. Michigan’s quite title provision is [M.C.L. § 600.2932](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MIST600.2932&originatingDoc=I5ed22649ff1f11d983e7e9deff98dc6f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default)); M.S.A. § 27A.2932. *See also* note 137, *supra.* [↑](#footnote-ref-139)
140. *See* Jessica DeWit, Revitalizing Blighted Communities with Land Banks (undated), http://www.umich.edu/~econdev/landbank/. [↑](#footnote-ref-140)
141. MCL 124.759, http://www.legislature.mi.gov/(S(xkgdls3h34ybho55j2nydx45))/documents/mcl/pdf/mcl-Act-258-of-2003.pdf?20150202165715. [↑](#footnote-ref-141)
142. *See* Matt Helms, *Duggan: Detroit seized 22 homes in Marygrove area, others set for auction,* Detroit Free Press July 16, 2014, <http://archive.freep.com/article/20140716/NEWS01/307160151/Margrove-homes-nuisance>; *see also* Andrew Dick, *Blight Fight*, Planning 45 (June 2008) (“Under its new ordinance, the county has the power to file lawsuits against blighted properties and to threaten permanent seizure of those properties without compensation if they are not renovated.”) [↑](#footnote-ref-142)
143. Andrew Dick, *id.* [↑](#footnote-ref-143)
144. Telephone conversation with Mr. Mike Brady, October 7, 2014, at 11:30 AM PST. [↑](#footnote-ref-144)
145. *Id*. In a DFC presentation, Mr. Brady said the nuisance abatement program started by then-prosecutor (now Mayor) Mike Duggan in 1998-2000. See Mike Brady, *Blight Bootcamp* 2014, posted July 23, 2014, http://www.youtube.com/watch?v=94i0CQ13lLY. [↑](#footnote-ref-145)
146. *Penn Central* at 136 (“[Whether] the interference with appellants' property is of such a magnitude that ‘there must be an exercise of eminent domain and compensation to sustain [it].’ . . . [depends on] the question of the severity of the impact of the law on appellants' parcel.”) (citation omitted). [↑](#footnote-ref-146)
147. *See* Michigan Land Bank Fast Track Act, 124.754,Sec. 4, (K)(8), [http://www.legislature.mi.gov/(S(g1a1y255kbm1hm45apnzf4r0))/mileg.aspx?page=getObject&objectName=mcl-124-754](http://www.legislature.mi.gov/%28S%28g1a1y255kbm1hm45apnzf4r0%29%29/mileg.aspx?page=getObject&objectName=mcl-124-754) (“An authority shall not exercise the power of eminent domain or condemn property.”). [↑](#footnote-ref-147)
148. *Keystone Bituminous* ruled nuisance property could be “destroy[ed]”, see text accompanying note 70, *supra*, but that case involved the destruction only of the owners’ “interests in particular coal deposits.” *Keystone Bituminous* at 515 (Rehnquist, C.J., dissenting). [↑](#footnote-ref-148)
149. *Lucas* at 1009 (petitioner’s building plans put “to an abrupt end.” [↑](#footnote-ref-149)
150. [↑](#footnote-ref-150)
151. *See* note 72, *supra.* [↑](#footnote-ref-151)
152. Mary B. Spector, *Crossing the Threshold: Examining the Abatement of Public Nuisances within the Home,* 31 Conn. L. Rev. 547, 565 (1999). [↑](#footnote-ref-152)
153. *Id.* at 563. [↑](#footnote-ref-153)
154. *See* note 75, *supra.* [↑](#footnote-ref-154)
155. *Id.* at 452. [↑](#footnote-ref-155)
156. Ross v. Duggan, 402 F.3d 575, 580 (2006). [↑](#footnote-ref-156)
157. *Id.* at 581 (citing [Mich. Comp. Laws 600.3801](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MIST600.3801&originatingDoc=Ib5b061dd9a1011d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))). [↑](#footnote-ref-157)
158. *Id.* at 582. [↑](#footnote-ref-158)
159. Colorado courts affirmed home forfeitures if used in a class 1 nuisance, *see* People v. Allen, 767 P.2d 798 (1988). [↑](#footnote-ref-159)
160. Colorado Abatement of Public Nuisance Statute, [Section 16–13–303(1)(i)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000517&cite=COSTS16-13-303&originatingDoc=I4f591371f3dd11d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)). [↑](#footnote-ref-160)
161. People v. Milton, 732 P.2d 1199, 1204 (1987). [↑](#footnote-ref-161)
162. 260 U.S. 393, 415 (1922). [↑](#footnote-ref-162)
163. *Id.* [↑](#footnote-ref-163)
164. *See* note 148, *supra* (*Keystone Bituminous* allowed destruction of right to mine certain coal seams). [↑](#footnote-ref-164)
165. The Detroit Free Press reports that “negligent” property owners “forced” to fix houses or lose them. *See* Helms, supra note 142. [↑](#footnote-ref-165)
166. *See* Pinho, note 101, *supra.* [↑](#footnote-ref-166)
167. *Cf.* David T. Kraut, *Hanging out the No Vacancy Sign: Eliminating the Blight of Vacant Buildings from Urban Areas,* 74 N.Y.U. L. Rev. 1139, 1159 (1999) (possible due process problems with a Chicago fast track program that authorized the demolition – not seizure – of vacant buildings); *see also cf. id.*at 1156-9 (regarding New York tax forfeiture program, owners given four months to pay back taxes after foreclosure). [↑](#footnote-ref-167)
168. *See* text after note 26, *supra.* [↑](#footnote-ref-168)
169. 111 Fed.Appx. 449, 451 (1994). [↑](#footnote-ref-169)
170. *Id.* [↑](#footnote-ref-170)
171. 21 Cal.App.4th 1500, 1504 (1993). [↑](#footnote-ref-171)
172. Massingill v. Department of Food & Agriculture, 102 Cal. App. 4th 498, 506 (2002). [↑](#footnote-ref-172)
173. See, *City of Minot v. Freelander,* 426 N.W.2d 556 (N.D.1988);  [Powell v. City of Clearwater, 389 N.W.2d 206 (Minn.App.1986)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1986129869&pubNum=595&originatingDoc=I7c9b56abff4d11d9bf60c1d57ebc853e&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search));  [Starzenski v. City of Elkhart,659 N.E.2d 1132 (Ind.App.1996)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1996027057&pubNum=578&originatingDoc=I7c9b56abff4d11d9bf60c1d57ebc853e&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)). Cases “important” based on Nebraska Court of Appeals’ reliance in Blanchard v. City of Ralston, 4 Nev. App. 692, 701 (1996). On this point, *see also* David T Kraut, *Hanging out the No Vacancy Sign: Eliminating the Blight of Vacant Buildings from Urban Areas*, 74 N.Y.U. L. Rev. 1139, 1164 (1999) (suggesting vacant nuisance properties be seized by the state; observation that such seizure an exercise of eminent domain). [↑](#footnote-ref-173)
174. *See* text accompanying note 155-161, *supra.* [↑](#footnote-ref-174)
175. *See* note 155, *supra.* [↑](#footnote-ref-175)
176. *See* definition of nuisance houses that may be presumptively acquired under 556-H at note 135, *supra.* [↑](#footnote-ref-176)
177. *See* text accompanying notes 155-160, *supra.* [↑](#footnote-ref-177)
178. *See* *Peering* at 89. [↑](#footnote-ref-178)
179. *Mahon*, supra note 163. [↑](#footnote-ref-179)
180. *See* text accompanying note 240, *infra* [↑](#footnote-ref-180)
181. *See* note 99, *supra.* [↑](#footnote-ref-181)
182. 277 N.Y. 333 (1936)). [↑](#footnote-ref-182)
183. *Peering* at 22. [↑](#footnote-ref-183)
184. *See, e.g.,* Will Lovell, *The Kelo Blowback: How the Newly-Enacted Eminent Domain Statutes and Past Blight Statutes are a Maginot Line-Defense Mechanism for all Non-Affluent and Minority Property Owners,* 68 Ohio St. L. J. 609, 629 (2007)(describing *Berman* as “Negro removal.”). [↑](#footnote-ref-184)
185. *Berman* at 30. [↑](#footnote-ref-185)
186. *Peering* at 24, citing State v. Miami Redevelopment Agency, 392 So. 2d 875 (1981). [↑](#footnote-ref-186)
187. *Id.,* citing Post v. Dade County*,* 467 S. 2d 758 (1985). [↑](#footnote-ref-187)
188. Peering at V(c)(i). [↑](#footnote-ref-188)
189. *Id.* [↑](#footnote-ref-189)
190. *See Peering* at 89, citing the work of Kaitlyn Piper, Matthew J. Kokot, James W. Ely, Jr., Michael Rikon, Martin Gold & Lyn B. Sagalyn, David Dana, Michael Heller and Rick Hills, and Robert C. Bird. [↑](#footnote-ref-190)
191. *Id.,* citing Audrey G. McFarlane, Ronald K. Chen, and Michele Alexandre. [↑](#footnote-ref-191)
192. *Id.*, citing Amanda Goodin and Ilya Somin. [↑](#footnote-ref-192)
193. *See* Corey Williams, *Squatters in ‘Abandonminiums’ Slow Detroit’s Plan to Bulldoze Way to Prosperity,* CBS Detroit, Jan. 29, 2015, <http://detroit.cbslocal.com/2015/01/29/squatters-in-abandonminiums-slow-detroits-plan-to-bulldoze-way-to-prosperity/> (DLBA causing demolitions). [↑](#footnote-ref-193)
194. *See* text accompanying note 36, *supra.* [↑](#footnote-ref-194)
195. *See* Chloe Taft, *Detroit’s New Task Force Report is “Blight” on Cue, HuffingtonPost* , *May 29, 2014,* [*http://www.huffingtonpost.com/chloe-taft/detroits-new-task-force-r\_b\_5411942.html*](http://www.huffingtonpost.com/chloe-taft/detroits-new-task-force-r_b_5411942.html)(Gilbert’s “cancer” language sounds like a “half century ago.”)(Local Sheaf Howell says blight removal a White land grab); *see also* John Eligon, *Good Intentions of Detroit Residents are Tested by Blight*, N.Y.T. Dec. 12, 2014, http://www.nytimes.com/2014/12/13/us/good-intentions-of-detroit-residents-are-tested-by-blight.html (“’I think it’s to make the city look better, not for the citizens, but for the people that they’re expecting to come in,’” Ms. Michelle Van-Tardy said, referring to white people.”). [↑](#footnote-ref-195)
196. *Seeing, not Peering, in Detroit*, talk delivered at Wayne County Community College on September 27, 2014. [↑](#footnote-ref-196)
197. Zac Corrigan, *One in seven Detroiters threatened with eviction in wave of home foreclosures,* World Socialist Web Site, Jan. 7, 2015, <http://www.wsws.org/en/articles/2015/01/07/detr-j07.html> (“thousands of more residents will be thrown into the streets. Approximately 20,000 Detroiters are already homeless. . . . Twenty-five percent of the city’s homeless are children. A tent city appeared last month in Lafayette Park downtown.”). [↑](#footnote-ref-197)
198. Professor Mogk is Professor of Law at Wayne State University Law School, http://law.wayne.edu/profile/john.mogk/. [↑](#footnote-ref-198)
199. John Mogk, *Mogk: Why Detroit needs eminent domain,* The Detroit News, Jan. 14, 2015, http://www.detroitnews.com/story/opinion/2015/01/14/detroit-letter-eminent-domain/21710915/. [↑](#footnote-ref-199)
200. John Mogk, *Mogk: Why Detroit needs eminent domain,* The Detroit News, Nov. 26, 2014, http://www.detroitnews.com/story/opinion/2014/11/26/mogk-detroit-abolish-property-taxes/70110608/. [↑](#footnote-ref-200)
201. *County takes neglected properties,* The Detroit News, Sept. 5, 2006, http://media.wayne.edu/report.php?id=510. [↑](#footnote-ref-201)
202. *See* text accompanying notes 130-133, *supra.* Mr. Brady said that the DLBA only condemns vacant homes, but the article on squatters complicates this representation. *See* note 188,*supra;* email from Mike Brady, Feb. 4, 2015, 6:39 p.m. PST. [↑](#footnote-ref-202)
203. *See* text after footnotes 26, *supra.* [↑](#footnote-ref-203)
204. Laura Mulvey, *Visual Pleasure and Narrative Cinema,* in PATRICIA ERENS, ISSUES IN FEMINIST FILM CRITICISM 28 (1990). *See also* *Peering* at 11. [↑](#footnote-ref-204)
205. Frantz Fanon, Black Skin, White Masks 33 (2008). *See also Peering* at 11. [↑](#footnote-ref-205)
206. *Peering* at Section III. [↑](#footnote-ref-206)
207. *Peering* at 3. [↑](#footnote-ref-207)
208. *Peering* at 3(a). [↑](#footnote-ref-208)
209. *Id.* at 3(b). [↑](#footnote-ref-209)
210. *See Peering* at 18-19. *See also* Noreen Malone, *The Case Against Economic Disaster Porn*, The New Republic, Jan. 22, 2011, available at

http://www.newrepublic.com/article/metro‐policy/81954/Detroit‐economic‐disaster‐porn# (“By presenting

Detroit, and other hurting cities like it, as places beyond repair, they in fact quash any such instinct.”). *See also*

John Patrick Leary, *Detroitism,* in Guernica: A Magazine of Art and Politics, Jan. 15, 2011, available at

http://www.guernicamag.com/features/leary\_1\_15\_11/ (“So much ruin photography and ruin film . . . dramatizes

spaces but never seeks out the people that inhabit and transform them.”). [↑](#footnote-ref-210)
211. *Id.* [↑](#footnote-ref-211)
212. *Id.* [↑](#footnote-ref-212)
213. *Guernica,* supra note 210: “[T]he pictures of Detroit that tend to go viral on the Web are the ones utterly devoid of people.” For omission’s racial meaning, *see* *Peering* at 60. I reproduce Marchand and Meffre’s theater image at 19*.* [↑](#footnote-ref-213)
214. *See, e.g.,* discussion of *Berman* accompanying note 216-219, *infra.* [↑](#footnote-ref-214)
215. 348 U.S. 26 (1954). [↑](#footnote-ref-215)
216. Berman v. Parker, 348 U.S. 26, 32 (1954). [↑](#footnote-ref-216)
217. *See Peering* section III(a). [↑](#footnote-ref-217)
218. *Id.* [↑](#footnote-ref-218)
219. *Id.* [↑](#footnote-ref-219)
220. *See Peering* at section IV. [↑](#footnote-ref-220)
221. *See Peering,* section IV. [↑](#footnote-ref-221)
222. 410 Mich. 616 (1981). [↑](#footnote-ref-222)
223. 545 U.S. 469 (2005). [↑](#footnote-ref-223)
224. 13 N.Y. 3d 511 (2009). [↑](#footnote-ref-224)
225. 15 N.Y.3d 235 (2010). [↑](#footnote-ref-225)
226. *See* text accompanying note 188, *supra.* [↑](#footnote-ref-226)
227. *See* *Peering* at section IV. [↑](#footnote-ref-227)
228. For an analysis of these clichés, *see* *Peering* at 37. [↑](#footnote-ref-228)
229. *Id.* [↑](#footnote-ref-229)
230. *Peering* at 32; Wilbur C. Rich, Coleman Young and Detroit Politics: From Social Activist to Power Broker 185 (2000). [↑](#footnote-ref-230)
231. *Peering* at 32; Ellen Alderman & Caroline Kennedy, In Our Defense: The Bill of Rights in Action 194 (1992). [↑](#footnote-ref-231)
232. *See, e.g., Peering* at 5 (“The people of Manhattanville submerged under this ascendant gaze. . . . The majority did not bother describing the people on the ground.”). [↑](#footnote-ref-232)
233. GM engineers designed their plant for robot labor so the employment boon did not happen; Pfizer abandoned New London and as of 2011 disintegrated into a dump filled with feral cats; jobs creation disappointed in Atlantic Yards and Ratner’s promised low income housing development never materialized; and Columbia’s expansion led to gentrification and ouster of low-income tenants from their apartments. *See Peering* at 67-74; regarding Atlantic Yards, *see also* Jessica Dailey, *Skanska Terminates Contract for Atlantic Yards Tower B2, NYcurbed.com, Sept. 23, 2014,* http://ny.curbed.com/archives/2014/09/23/skanska\_terminates\_contract\_for\_atlantic\_yards\_tower\_b2.php#more). [↑](#footnote-ref-233)
234. *See* *Peering* at section V. [↑](#footnote-ref-234)
235. *See, e.g.,* Yxta Maya Murray, *A Jurisprudence of Nonviolence,*  9 Conn. Pub. Int. L.J. 65 (2009); *Law and the Possibilities of Peace, forthcoming* from the Seattle Journal For Social Justice, file:///C:/Users/MURRAYY/Downloads/SSRN-id2461525%20(3).pdf; Yxta Maya Murray, *Art, Violence, and Women*, Cuny Footnote Forum, Dec. 6, 2014, http://www.cunylawreview.org/vawa-20-art-violence-and-women/. [↑](#footnote-ref-235)
236. *Peering* at 59, citing Johan Galtung, *Cultural Violence,* 27 J. of Peace Research 291, 291 (1990). [↑](#footnote-ref-236)
237. *Id.* at 58, citing Johan Galtung*, Violence, Peace, and Peace Research,* 1 Peace Studies, 175 (1969) (“structural violence is inequality, above all in the distribution of power.”). [↑](#footnote-ref-237)
238. *See* text accompanying note 216, *supra.* [↑](#footnote-ref-238)
239. *See* note 228, *supra.* [↑](#footnote-ref-239)
240. *See* David A. Dana, *The Law and Expressive Meaning of Condemning the Poor After Kelo,* 101 NW. U. L. REV. 365 (2007). For Michigan law on blight condemnations, *see* Section II, *supra.* [↑](#footnote-ref-240)
241. *Id.* at 21. [↑](#footnote-ref-241)
242. *See also* David A. Dana, *Exclusionary Eminent Domain*, 17 Sup. Ct. Econ. Rev. 7, 7 (2009) (“In exclusionary eminent domain, low-incomes households are excluded not only from their homes but also from their home neighborhood.”). [↑](#footnote-ref-242)
243. Ilya Somin, *Is Post-Kelo Reform Bad for the Poor?* 101 Nw. L. Rev. 1931, 1936, 1938 (2007). [↑](#footnote-ref-243)
244. *Land Assembly Districts,* Harv. L Rev. 1465, 1469-1470 (2008). [↑](#footnote-ref-244)
245. Robert Hockett, *It Takes a Village: Municipal Condemnation Proceedings and Public/Private Partnerships for Mortgage Loan Modification, Value Preservation, and Local Economic Recovery,* 18 Stan . L. Bus. & Fin. 121, 172 (2012). [↑](#footnote-ref-245)
246. *Id.* at 130 [↑](#footnote-ref-246)
247. *Id.* at 93-94. [↑](#footnote-ref-247)
248. *See* text accompanying note 49, *supra.* [↑](#footnote-ref-248)
249. *See* section VII (A), *infra.* [↑](#footnote-ref-249)
250. *See Law and the Possibilities of Peace*, *supra* note 34, at 20 (citing Johan Galtung, 9 *Violence, Peace, and Peace Research,* 1 Peace Studies 167, 190 (1969). [↑](#footnote-ref-250)
251. *See* text accompanying 196-201, *supra.* [↑](#footnote-ref-251)
252. *See* notes 216-217, *supra.* [↑](#footnote-ref-252)
253. *See* cultural violence definition at text accompanying note 236, *supra.* [↑](#footnote-ref-253)
254. Dr. Glenda D. Price, Linda Smith & Dan Gilbert, *A Message from the Chairs*, in TtEB, *id.* at https://www.dropbox.com/s/ne6bi5f0kgt4iz5/Letter%20from%20the%20Chairs.pdf. [↑](#footnote-ref-254)
255. *Id.* [↑](#footnote-ref-255)
256. *Id.* [↑](#footnote-ref-256)
257. *Id.* [↑](#footnote-ref-257)
258. *Id.* [↑](#footnote-ref-258)
259. *Id.* [↑](#footnote-ref-259)
260. *Id.* [↑](#footnote-ref-260)
261. *See, e.g.,* Honore de Balzac, *The Succubus,* in his Droll Stories 350 (2014), http://books.google.com/books?id=FhynBAAAQBAJ&pg=PA345&dq=succubus+soul+sucking&hl=en&sa=X&ei=hcp8VL2QHNWyoQSczIGQDg&ved=0CBwQ6AEwADgK#v=onepage&q=succubus%20soul%20sucking&f=false (“ardent” Succubus “sucked out” the “soul” of story’s victim.). [↑](#footnote-ref-261)
262. The press conference, titled the Blight Task Force Report Announcement, has its own website, which says that the announcement took place at Focus Hope in Detroit. <http://www.timetoendblight.com/about/>. Focus Hope is a community development nonprofit. <http://www.focushope.edu/page.aspx?content_id=1&content_type=level1>. I cannot find a date for the press conference but press reports say that the Report was unveiled on May 27, 2014. *See* Allan Lengel, *Task Force Finds More than 84,000 Blighted Parcels in Detroit Neighborhoods,* May 27, 2014, <http://www.deadlinedetroit.com/articles/9428/task_force_finds_84_641_blighted_parcels_in_detroit#.U9ltq-NdXnM>.

[Editors: The press conference has since been taken down from the website. I have an inquiry to the Task Force organizers asking for a tape. In the event that the tape is never delivered to me, I have detailed notes that I took about the press conference. I also can strike this section.] [↑](#footnote-ref-262)
263. *Announcement*, *id.* at 3:30 (statements of Mr. Matt Cohen). [↑](#footnote-ref-263)
264. *Id.* at 3:39. [↑](#footnote-ref-264)
265. *Id.* beginning minute 22. [↑](#footnote-ref-265)
266. Monica Davey, *Detroit Urged to Tear Down 40,000 Buildings,* N.Y.Times May 27, 2014, http://www.nytimes.com/2014/05/28/us/detroit-task-force-says-blight-cleanup-will-cost-850-million.html?\_r=0 (“‘Blight is a cancer,’” [said] Dan Gilbert. . . . “‘Blight sucks the soul out of anyone who gets near it.’”). [↑](#footnote-ref-266)
267. Allan Lengel, *Task Force Finds More than 84,000 Blighted Parcels in Detroit Neighborhoods,* Deadline Detroit May 27, 2014, http://www.deadlinedetroit.com/articles/9428/task\_force\_finds\_84\_641\_blighted\_parcels\_in\_detroit#.U9q8aeNdXnM. [↑](#footnote-ref-267)
268. Josh Kaib, *Bankrupt Detroit Told to Tear Down 40,000 Buildings by Obama Task Force*, watchdogwire.com, May 28, 2014, http://watchdogwire.com/michigan/2014/05/28/bankrupt-detroit-told-to-tear-down-40000-buildings-by-obama-task-force/. [↑](#footnote-ref-268)
269. Chloe Taft, *Detroit’s New Task Force Report is “Blight” on Cue, HuffingtonPost* , *May 29, 2014,* [*http://www.huffingtonpost.com/chloe-taft/detroits-new-task-force-r\_b\_5411942.html*](http://www.huffingtonpost.com/chloe-taft/detroits-new-task-force-r_b_5411942.html)(arguing Gilbert’s “cancer” language sounds like it comes from a “half century ago.”). [↑](#footnote-ref-269)
270. Tom Walsh, *Gilbert says Detroit blight can be purged in 3 to 6 years,* Detroit Free Press, May 22, 2014, http://www.freep.com/article/20140522/COL06/305220263/Tom-Walsh-Techweek-Detroit-Dan-Gilbert-Beth-Niblock. [↑](#footnote-ref-270)
271. Sam Gringlas, *Beating Blight*, Michigandaily.com, July 2, 2014, http://www.michigandaily.com/news/detroit-beat-beating-blight. [↑](#footnote-ref-271)
272. Opinion, *Looking at the next stage of city’s war on blight,* Jacksonville.com, June 12, 2014, <http://jacksonville.com/opinion/editorials/2014-06-12/story/looking-next-stage-citys-war-blight> (analogizing Detroit’s blight problem to Jacksonville’s). [↑](#footnote-ref-272)
273. Bent Larkin, *Blight and home abandonment now a persistent drag on Greater Cleveland’s economy,* cleveland.com, June 27, 2014, http://www.cleveland.com/opinion/index.ssf/2014/06/blight\_and\_home\_abandonment\_no.html (analogizing Cleveland and Detroit). [↑](#footnote-ref-273)
274. *It Will Cost Almost $2 Billion to Rid Detroit of Urban Blight,* the Week, May 28, 2014, http://theweek.com/speedreads/index/262239/speedreads-it-will-cost-almost-2-billion-to-rid-detroit-of-urban-blight. [↑](#footnote-ref-274)
275. *See* note 266, *supra.* [↑](#footnote-ref-275)
276. *See* note 267, *supra.* [↑](#footnote-ref-276)
277. *See* note 271, *supra* [↑](#footnote-ref-277)
278. *See* note 273, *supra.* [↑](#footnote-ref-278)
279. *See* note 274, *supra.* [↑](#footnote-ref-279)
280. *See* *Peering* at 15*.* [↑](#footnote-ref-280)
281. Slumming is peering tied to pleasurable visual culture. *See, e.g,* Paula Rabinowitz, They Must Be Represented: The Politics of Documentary 58 (1994) (documentarians who “slumm[ed]” in the 1930s “s[ought] pleasures, thrills, and answers.”); *Voyeurism,* in Encyclopedia of Feminist Literary Theory 590 (2009) (Elizabeth Kowaleski-Wallace, ed.) (In the 1800s, male voyeurism was accomplished through . . . slumming.”). [↑](#footnote-ref-281)
282. *See* text accompanying note 237, *supra.* [↑](#footnote-ref-282)
283. *See* *Message from the Chairs, supra note* 254. [↑](#footnote-ref-283)
284. *See* text accompanying notes 109-113, *supra.* [↑](#footnote-ref-284)
285. *See* text accompanying note 113, *supra.* [↑](#footnote-ref-285)
286. *Peering* at 54-55. [↑](#footnote-ref-286)
287. Data unloaded at Motor City Mapping website, <http://d3.d3.opendata.arcgis.com/datasets/7351af38856742e4a842076f2eea05b3_0>.; image at http://www.motorcitymapping.org/uploads/blexts/000/056/789/blext-original.jpg [↑](#footnote-ref-287)
288. https://www.motorcitymapping.org/uploads/blexts/000/230/591/blext-original.jpg [↑](#footnote-ref-288)
289. http://www.motorcitymapping.org/uploads/blexts/000/022/446/blext20131210-13046-1dh7as-original.jpg [↑](#footnote-ref-289)
290. Erica Raleigh phone interview, supra note 103. http://www.deadlinedetroit.com/articles/8347/erica\_raleigh\_named\_permanent\_director\_of\_data\_driven\_detroit#.VKrlrfnF9qU. [↑](#footnote-ref-290)
291. *See* text accompanying note 120, *supra.* [↑](#footnote-ref-291)
292. TtEB FAQ, http://www.timetoendblight.com/faq/. [↑](#footnote-ref-292)
293. Dashboard promised in June of 2014. *See* Sara Schmidt, *Coming Soon to Detroit’s Blight Fight: People’s Property Dashboard,* Xconomy, 6/15/15, http://www.xconomy.com/detroit/2014/06/04/coming-soon-to-detroits-blight-fight-peoples-property-dashboard/. [↑](#footnote-ref-293)
294. *See, e.g.,* *Peering* at 3, discussing *Berman* and how the downward gaze propelled the exile of an African-American community in D.C. [↑](#footnote-ref-294)
295. *See* text accompanying note 236, *supra.* [↑](#footnote-ref-295)
296. *See* text after note 26, *supra.* [↑](#footnote-ref-296)
297. *See* text accompanying note 145, *supra.* [↑](#footnote-ref-297)
298. Interview with Delphia Simmons, September 26, 2014, at COTS, Detroit. [↑](#footnote-ref-298)
299. <http://www.cotsdetroit.org/>. Cass Corridor was “notorious” for crime and blight but now sees rejuvenation. Recent reports tag it “midtown” but residents I spoke to referred to its original name. *See* J. Carlisle Larsen*, Neighborhood Rebranding, Cass Corridor to Midtown: The Detroit Agenda,* wedet.org, June 11, 2014, http://wdet.org/news/story/061114-detroit-agenda-midtown-community-jcl/. [↑](#footnote-ref-299)
300. *Id.* [↑](#footnote-ref-300)
301. *See* note 29, *supra.* [↑](#footnote-ref-301)
302. HAND is Detroit’s Continuum of Care (CoC). Under the McKinney-Vento Homelessness Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 et seq.), cities, states, and regions must organize their homeless organizations into a CoC to qualify for federal funding. *See, e.g.,* National Alliance to End Homelessness, McKinney-Vento Homeless Assistance Grants [undated], http://www.endhomelessness.org/pages/mckinneyvento\_HAG (“McKinney-Vento Homeless Assistance Grants fund[ed] . . . through the CoC.”); <http://www2.ed.gov/policy/elsec/leg/esea02/pg116.html>. *See also* HUD Exchange, *Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH): CoC Program Interim Rule,* July 2012, <https://www.hudexchange.info/resource/2033/hearth-coc-program-interim-rule/> (Regulations for CoC’s). [↑](#footnote-ref-302)
303. *See* Matt Schmitz, *Does Your City Have the Highest Insurance Costs?* usatoday.com, September 19, 2014, http://www.usatoday.com/story/money/cars/2014/09/19/cars-highest-premiums-insurance/15864797/ (“Motor City . . . ha[s] the most expensive auto insurance in the nation. Detroit-area drivers on average pay 165 percent more.” [↑](#footnote-ref-303)
304. *See Car Insurance in Michigan,* DMV.org, <http://www.dmv.org/mi-michigan/car-insurance.php>: Driving without insurance is a misdemeanor punishable by up to $500.00 fine and 1 year in jail); Michigan Insurance Code of 1956, Section 500.3102 (2), http://www.legislature.mi.gov/(S(bfbbgz555alusz55hbvwqf55))/mileg.aspx?page=getObject&objectName=mcl-500-3102. [↑](#footnote-ref-304)
305. Driver Responsibility Fees phased out October 2019, <http://www.mi.gov/documents/driverresponsibility/DRFPhase-OutChart_470541_7.pdf>; <http://www.mi.gov/driverresponsibility>. [↑](#footnote-ref-305)
306. *See* National HCH Council, 2 *In Focus: Incarceration & Homelessness: A Revolving Door of Risk* 1 (Nov. 2013), <http://www.nhchc.org/wp-content/uploads/2011/09/infocus_incarceration_nov2013.pdf> (“Incarceration and homelessness are mutual risk factors. . . . 25-50% of the homeless population has a history of incarceration.”). [↑](#footnote-ref-306)
307. *See* Department of Human Services, *Income Eligibility Chart*, http://www.michigan.gov/dhs/0,4562,7-124-5529\_7143-20878--,00.html (a family group size of 1-2 earns no DHS assistance if gross monthly income (GMI) is over $1607; a family group size of 3 earns 0 if GMI over $1900; the cap for 5 is $2367; for 6 Is $2746). *See also* Kathy arks Hoffman, *Mich. Governor signs 48-month welfare limit,* Yahoo! News, Sept. 6, 2011, http://news.yahoo.com/mich-governor-signs-48-month-welfare-limit-231915012.html (“The change gives Michigan the Midwest's toughest welfare time limit. . . . Gilda Jacobs of the Michigan League for Human Services . . . expects about 41,000 people to lose their cash assistance payments . . . . That includes 29,700 children, according to the Michigan Department of Human Services.”). [↑](#footnote-ref-307)
308. *Cf.* Andre Damon, *Tenants of Detroit apartment building living without utilities,* World Socialist Web Site, Jan. 21, 2010, <http://www.wsws.org/en/articles/2010/01/detr-j21.html> (“Nearly 100 tenants at the Casamira Apartments in Detroit have been without electricity since Thursday, after their landlord refused to repair the electrical system after a power failure. . . . . Tenants . . . had no heat, no hot water, and the hallways were pitch dark.”). [↑](#footnote-ref-308)
309. On Numbeo.com, I compared Detroit and L.A. food prices. Detroit came in 14.9% higher. *See* *Cost of Living Comparison Between Los Angeles, Ca and Detroit, MI*, numbeo.com*,* <http://www.numbeo.com/cost-of-living/compare_cities.jsp?country1=United+States&country2=United+States&city1=Los+Angeles%2C+CA&city2=Detroit%2C+MI>. [↑](#footnote-ref-309)
310. *See* section II(B), *supra.* [↑](#footnote-ref-310)
311. *See Peering* at Section IV. [↑](#footnote-ref-311)
312. *Id.* [↑](#footnote-ref-312)
313. *See* *Message from the Chairs*, *supra note* 254, describing the “once thriving world class city of Detroit.” [↑](#footnote-ref-313)
314. *Id.* [↑](#footnote-ref-314)
315. See video supra note 262, beginning around 1:11:33. [↑](#footnote-ref-315)
316. Ben Austen, *The Post-Post-Apocalyptic Detroit*, N.Y.T, July 11, 2014, Magazine, http://www.nytimes.com/2014/07/13/magazine/the-post-post-apocalyptic-detroit.html?\_r=0. [↑](#footnote-ref-316)
317. *See* text accompanying note 230, *supra.* [↑](#footnote-ref-317)
318. *Id.* [↑](#footnote-ref-318)
319. *See* note 236, *supra.* [↑](#footnote-ref-319)
320. Tom Walsh, *Gilbert Says Detroit blight can be purged in 30 to 6 years,* Detroit Free Press, May 22, 2014, http://www.freep.com/article/20140522/COL06/305220263/Tom-Walsh-Techweek-Detroit-Dan-Gilbert-Beth-Niblock%20-. [↑](#footnote-ref-320)
321. *See* text accompanying notes 232-233, *supra.* [↑](#footnote-ref-321)
322. Tom Walsh, supranote 6. [↑](#footnote-ref-322)
323. *See* text accompanying notes 333-335, *infra.* [↑](#footnote-ref-323)
324. http://detroitopportunityproject.com/abouttheproject. [↑](#footnote-ref-324)
325. http://detroitopportunityproject.com/TheMillennialFrontier. [↑](#footnote-ref-325)
326. http://detroitopportunityproject.com/TheMillennialFrontier. [↑](#footnote-ref-326)
327. Aaron M. Renn, *Detroit: Urban Laboratory and the New American Frontier*, new geography 11/04/2009, http://www.newgeography.com/content/001171-detroit-urban-laboratory-and-new-american-frontier. [↑](#footnote-ref-327)
328. *Id.* [↑](#footnote-ref-328)
329. *Id (quoting* Mark Dowie, *Food Among the Ruins*, Guernica Aug. 1, 2009, http://www.guernicamag.com/features/food\_among\_the\_ruins/*:* “There is such a dire shortage of protein in the city that Glemie Dean Beasley, a seventy-year-old retired truck driver, is able to augment his Social Security by selling raccoon carcasses (twelve dollars a piece, serves a family of four) from animals he has . . . . Pelts are ten dollars each. Pheasants are also abundant in the city and are occasionally harvested for dinner.’).

Recall Noah Stephens created The People of Detroit in response to the “raccoon eating” narrative. *See* note 89, *supra.* [↑](#footnote-ref-329)
330. Quoted in Nicole Goodkind, *Are Millennials a “Lost Generation”?*, Yahoo! Finance Daily Ticker, Feb. 27, 2013, http://finance.yahoo.com/blogs/daily-ticker/millenials-lost-generation-130643180.html. [↑](#footnote-ref-330)
331. MHPN, *Detroit: Vacant Not Blighted,* http://vimeo.com/96926735. [↑](#footnote-ref-331)
332. *See* note 228, *supra.* [↑](#footnote-ref-332)
333. Online Etymological Dictionary, *pioneer*, http://www.etymonline.com/index.php?term=pioneer. [↑](#footnote-ref-333)
334. *Id.* [↑](#footnote-ref-334)
335. Frederick Jackson Turner, The Frontier in American History 2-3 (1920). [↑](#footnote-ref-335)
336. Bradford Frost, *The Millennial Frontier,* The Detroit Opportunity Project,Spring 2011,http://detroitopportunityproject.com/TheMillennialFrontier. [↑](#footnote-ref-336)
337. *See* Chloe Taft, supra note 195 (Local Sheaf Howell calls blight removal effort a land grab for Whites). [↑](#footnote-ref-337)
338. *See* Section III(C), *supra.* [↑](#footnote-ref-338)
339. *See* note 199, *supra.* [↑](#footnote-ref-339)
340. [Mich. Const. of 1963, art. X, § 2 (2006)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MICOART10S2&originatingDoc=Ib65743dd082411dd86d5f687b7443f19&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)). [↑](#footnote-ref-340)
341. *See* text accompanying note 50, *supra.* [↑](#footnote-ref-341)
342. *See* *Berman* quote at note 216, *supra.* [↑](#footnote-ref-342)
343. *Promoting Urban Agriculture as an Alternative Land Use for Vacant Properties in the City of Detroit: Benefits, Problems and Proposals for a Regulatory Framework for Successful Land Use Integration,* 56 Wayne L. Rev. 1521, 1525 & n. 12 (2010). *See also* John E. Mogk, *Eminent Domain and the “Public Use”: Michigan Supreme Court Legislates an Unprecedented Overruling of Poletown in* County of Wayne v. Hathcock, 51 Wayne L. Rev. 1331, 1332 (2005) (hating *Hathcock* as judicial activism). [↑](#footnote-ref-343)
344. Peter J. Domasa, *Eminent Domain: Detroit’s Struggle to Downsize,* 89 U. of Detroit Mercy Law Rev. 61, 70(2011). Other problems exist with the 125% valuation. *See* James E. Krier & Christopher Serkin, *Public Ruses,* 2004 Mich. St. L. Rev. 859, 867 (2004) (“The list of concerns implicated by just compensation is long and heterogeneous.”). [↑](#footnote-ref-344)
345. *Peering* at III(A)(ii). [↑](#footnote-ref-345)
346. *See* text accompanying note 184, *supra.* [↑](#footnote-ref-346)
347. *See, e.g.,* Will Lovell, *The Kelo Blowback: How the Newly-enacted Eminent Domain Statutes and Past Blight Statutes are a Maginot Line-Defense Mechanism for all Non-Affluent and Minority Property Owners,* 68 Ohio St. L. J. 609, 629 (2007)(describing *Berman* as “negro removal.”). [↑](#footnote-ref-347)
348. SB 693 (2)(a)-(c). <https://www.legislature.mi.gov/documents/2005-2006/publicact/htm/2006-PA-0368.htm>. These provisions codified *Hathcock*. See *Hathcock*, 684 N.W.2d at 783. [↑](#footnote-ref-348)
349. [Mich. Const. of 1963, art. X, § 2](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MICOART10S2&originatingDoc=I6d51e5e89e0e11e18b05fdf15589d8e8&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)). [↑](#footnote-ref-349)
350. [Mich. Const. of 1963, art. X, § 2](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000043&cite=MICOART10S2&originatingDoc=I6d51e5e89e0e11e18b05fdf15589d8e8&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)). [↑](#footnote-ref-350)
351. *See* note 29, *supra.* [↑](#footnote-ref-351)
352. *Id.* [↑](#footnote-ref-352)
353. *See, e.g.,* Paul A. Jargowsky, Poverty and Place: Ghettos, Barrios, and the American City 3 (1997) (“the physical areas of urban blight have expanded rapidly and a greater proportion of the population lives within their borders. Social conditions in high-poverty neighborhoods have deteriorated, fueling more abandonment in a cycle of decay that, with few exceptions, seems immune to policy intervention or private initiatives.”). [↑](#footnote-ref-353)
354. *See* (A), *infra.* [↑](#footnote-ref-354)
355. (B), *infra.* [↑](#footnote-ref-355)
356. *Peering* at 93-94. [↑](#footnote-ref-356)
357. *See* Section VII(D)(i). [↑](#footnote-ref-357)
358. *See* Section VII(D)(ii). [↑](#footnote-ref-358)
359. *Id.* [↑](#footnote-ref-359)
360. For the simultaneity of changes, *see* Jerome P. Pesick & Ronald E. Reynolds, *Recent Changes in Eminent Domain Law*, 86 Michigan Bar Journal 22, 25 (Nov, 2007). [↑](#footnote-ref-360)
361. M.C.L.A. 213.66 (16)(7), http://www.legislature.mi.gov/(S(0qpf4p45ucjmyyfaaxuxyg55))/mileg.aspx?page=getobject&objectName=mcl-213-66 (until Dec. of 2007, indigents get attorneys’ and expert fees for unsuccessful takings challenges except for government transportation projects) *See* *also* Pesick & Reynolds, *id.* [↑](#footnote-ref-361)
362. *See* Kenneth H. Hemler, Note, *Michigan’s Proposed Constitutional Amendment in Response to Kelo: Adequate Protection Against Eminent Domain Abuse or False Hope to Private Property Owners?*, 84 U. Det. Mercy L. Rev. 187, 193 (2007) (“[T]he amendment is an attempt to codify . . . *Hathcock*.”). [↑](#footnote-ref-362)
363. *See Peering* at 34-35, discussing the Pinnacle Project at stake in *Hathcock.* [↑](#footnote-ref-363)
364. *Hathcock* at 451. [↑](#footnote-ref-364)
365. *Id.* at 466. [↑](#footnote-ref-365)
366. *Peering* at 34-35. [↑](#footnote-ref-366)
367. *Hathcock* at 477: “[T]he Pinnacle Project is not subject to public oversight.”  [↑](#footnote-ref-367)
368. *Hathcock* at 476: “[C]ondemnation *itself,* rather than the use to which the condemned land eventually would be put, was a public use.”(citing [In re Slum Clearance, 331 Mich. 714, 720 (1951)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1952105262&pubNum=595&originationContext=document&transitionType=DocumentItem&contextData=(sc.History*oc.DocLink)). *See also* Slum Clearance at 724: [Condemnation] was to remove slums for reasons of the health, morals, safety and welfare of the whole community.” (internal citations omitted). [↑](#footnote-ref-368)
369. *See Peering* at 34-35. [↑](#footnote-ref-369)
370. Indeed, for centuries. *See* Why Nations Fail: The Origins of Power, Prosperity, and Poverty 108 (2012) (modern divergences between Eastern and Western Europe rooted in extractive vs. inclusive institutions from the fourteenth century.). [↑](#footnote-ref-370)
371. *Id.* at 75 (describing, for example, extractive practices in 17th century Barbados and its long term effects). [↑](#footnote-ref-371)
372. The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit (1995). [↑](#footnote-ref-372)
373. *Id.* at 36 (“City officials, looking at the poor housing stock in black neighborhoods condemned many areas as blighted, and destroyed much extant housing to build highways, hospitals, housing projects, and a civic center complex, further limiting the housing options of blacks. Moreover the decaying neighborhoods [justified banker disinvestment].”). *See also id.*at 48-49: “City officials expected that the eradication of ‘blight’ would . . revitalize the decaying urban core . . . . [all of this was premised] on the destruction of some of the most densely populated black neighborhoods in the city. Plans to relocate blacks displaced by the projects utterly failed.” [↑](#footnote-ref-373)
374. http://detroit.areaconnect.com/statistics.htm. [↑](#footnote-ref-374)
375. Bill Vlasic, *When Auto Plants Close, Only White Elephants Remain, N.Y.T., Jul. 30, 2009,* [*http://www.nytimes.com/2009/07/31/business/31factories.html?pagewanted=all*](http://www.nytimes.com/2009/07/31/business/31factories.html?pagewanted=all)(“[W]hen a plant closes . . . [t]ax revenue evaporates and related businesses vanish.”). [↑](#footnote-ref-375)
376. “When we put people in situations of scarcity in experiments, they get into poverty traps,” said Eldar Shafir, a professor of psychology and public affairs at Princeton. “They borrow at high interest rates that hurt them.”). Benedict Carey, *Life in the Red, N.Y.T., an. 14, 2013,* [*http://www.nytimes.com/2013/01/15/science/in-debt-and-digging-deeper-to-find-relief.html?pagewanted=all&\_r=0*](http://www.nytimes.com/2013/01/15/science/in-debt-and-digging-deeper-to-find-relief.html?pagewanted=all&_r=0)(focusing on Detroiters). [↑](#footnote-ref-376)
377. Thomas J. Sugrue, The Origins of the Urban Crisis: Race and inequality in Detroit xvii (1996). [↑](#footnote-ref-377)
378. *Id.* [↑](#footnote-ref-378)
379. *Peering* at 68-69, interviews with Alicia Barksdale and Hilary Saunders. [↑](#footnote-ref-379)
380. John Gallagher, *Ruling lets couple keep land, to Wayne County, Mich’s dismay, Detroit Free Press, Aug. 3, 2004,* [*http://www.highbeam.com/doc/1G1-120084596.html*](http://www.highbeam.com/doc/1G1-120084596.html)*;*  [↑](#footnote-ref-380)
381. *See* James A. Martone, *Rethinking Eminent Domain in Michigan* 58 Wayne L. Rev. 537, 546 (2012) (“the court relied on Justice Ryan's dissent[].”). [↑](#footnote-ref-381)
382. *See* text accompanying note 222, *infra.* [↑](#footnote-ref-382)
383. *Poletown* at 658 (Ryan, J., dissenting). [↑](#footnote-ref-383)
384. *Peering* at 35. [↑](#footnote-ref-384)
385. *See* text accompanying notes 60-61, *supra.* [↑](#footnote-ref-385)
386. 467 U.S. 229. [↑](#footnote-ref-386)
387. *Id.* at 235. [↑](#footnote-ref-387)
388. *Id.* at 232 (“Beginning in the early 1800's, Hawaiian leaders and American settlers repeatedly attempted to

divide the lands of the kingdom among the crown, the chiefs, and the common people.”) [↑](#footnote-ref-388)
389. *Id.* at 241‐242. [↑](#footnote-ref-389)
390. *See Peering* at section IV(b) and pps 40-41 for discussions of *Hathcock* and *Midkiff.* [↑](#footnote-ref-390)
391. Hockett cites *Midkiff* in support of his argument that governments should use eminent domain to secure underwater mortgages. Seenote 245 at 169. [↑](#footnote-ref-391)
392. *Id.* at 121. [↑](#footnote-ref-392)
393. *See* note 388, *supra.* [↑](#footnote-ref-393)
394. *See* note 250, *supra.* [↑](#footnote-ref-394)
395. On resource hoarding, *see* note 430, *infra.* [↑](#footnote-ref-395)
396. *See* *public (adj.),* Online Etymological Dictionary, describing “public” as stemming directly from the Latin Publicus, which means “of the people,” as well as “common, general, public; ordinary, vulgar.” [↑](#footnote-ref-396)
397. Tom Walsh, *Gilbert Says Detroit blight can be purged in 30 to 6 years,* Detroit *Free Press, May 22, 2014,* *http://www.freep.com/article/20140522/COL06/305220263/Tom-Walsh-Techweek-Detroit-Dan-Gilbert-Beth-Niblock%20-.*  [↑](#footnote-ref-397)
398. *See* text accompanying note 231-232, *supra.* [↑](#footnote-ref-398)
399. *See, e.g., Peering* at 35 (the aspirational gaze supports economic development takings). [↑](#footnote-ref-399)
400. The 2009 version can be found here: http://www.detroitmi.gov/Portals/0/docs/planning/planning/MPlan/MPlan\_%202009/Master%20Plan%20Text.pdf [↑](#footnote-ref-400)
401. Michigan Planning Enabling Act 33 of 2008, http://www.legislature.mi.gov/(S(xj3g1jal1er4tq45ve4x5vuz))/documents/mcl/pdf/mcl-act-33-of-2008.pdf. [↑](#footnote-ref-401)
402. Detroit Future City, Detroit Strategic Framework Plan 16 (2012) (“The public sector can incorporate the [SFP]. into the . . . Master Plan of Policies.”). *See also* Detroit Future City, Master Plan Update Process, Feb. 25, 2104, http://detroitfuturecity.com/wp-content/uploads/2014/03/dfc-master-plan-update-20140228.pdf (The Plan can be used to “update the Mater Plan of Policies.”); John Gallagher, *Detroit Future City to Unveil its 2014 Priorities for Remaking City,* Detroit Free Press, Feb. 19, 2014 (DFC initiatives will “help[] rewrite the city’s master plan”). [↑](#footnote-ref-402)
403. *See,* Detroit Future City, *About,* http://detroitfuturecity.com/about/. [↑](#footnote-ref-403)
404. *Id.* at 3. [↑](#footnote-ref-404)
405. *Id.* at 11 (“forecasts for the city predict that the population will fall . . . to 610,000 by 2030.”). [↑](#footnote-ref-405)
406. *See* Strategic Framework Plan, id., at the section starting at 33 (“The Economic Growth Element”). [↑](#footnote-ref-406)
407. *Id.* at 91. [↑](#footnote-ref-407)
408. *Id.* at 155. [↑](#footnote-ref-408)
409. *Id.* at 203. [↑](#footnote-ref-409)
410. *Id.* at 265. [↑](#footnote-ref-410)
411. *Id.* at 10 (“Poverty increased 40% over the last decade, now affecting 36% of households.”). [↑](#footnote-ref-411)
412. *Id.* *See also* *id.* at 41 (“Nationwide, high school graduation reduces the chance of living in poverty by 56%, and going on to earn a two-year degree reduces poverty by an additional 51%. Yet in Detroit, the corresponding reductions are much smaller (39% and 33%).”). [↑](#footnote-ref-412)
413. *Id.* at 41 (few of the city’s MBE’s hire employees); *id.* at 21 (encouraging minority business participation.). [↑](#footnote-ref-413)
414. *Id.* at 63. [↑](#footnote-ref-414)
415. *Id.* at 65. [↑](#footnote-ref-415)
416. *Id.* at 67. [↑](#footnote-ref-416)
417. *Id.* at 69. [↑](#footnote-ref-417)
418. *Id.* at 71. [↑](#footnote-ref-418)
419. *Id.* at 73. [↑](#footnote-ref-419)
420. *Id.* at 222. [↑](#footnote-ref-420)
421. *Id.* at 11. [↑](#footnote-ref-421)
422. *See* note 188, *supra.* [↑](#footnote-ref-422)
423. Julian Leff & Richard Warner, Social Inclusion of People with Mental Illness 6 (2006) (employers won’t hire those with mental health or addiction problems); e.g., Deborah R. Connolly, Homeless Mothers: Face to Face with Women and Poverty, chp. 3 (2000) (telling story of “Michelle,” whose addiction created intense poverty.). [↑](#footnote-ref-423)
424. *See* note 420, *supra.* [↑](#footnote-ref-424)
425. *Cf.,* FoxNews, *Detroit traffic cops learning stop and frisk tactics*, Fonews.com, Aug. 20, 2013, <http://www.foxnews.com/us/2013/08/20/detroit-police-consider-stop-and-frisk-policy/> (“Erik Ewing, an assistant police chief in Detroit, said stop and frisk operates in Detroit but is not racist). [↑](#footnote-ref-425)
426. *Id.*at 10 (calling for more police on the street). [↑](#footnote-ref-426)
427. Cloee Cooper, *Detroit Riots Tell of America’s History of Racism*, Imagine 2050, June 22, 2010 (“A predominantly black city, Detroit has a long history of police brutality, housing inequality and struggle.”), http://imagine2050.newcomm.org/2010/06/22/detroit-riots-tell-of-america%E2%80%99s-history-of-racism/. [↑](#footnote-ref-427)
428. Strategic Framework Plan at 10 (“service delivery mechanisms must be realigned to

achieve a better quality of life.”). [↑](#footnote-ref-428)
429. Bill Mitchell, *In Detroit, Water Crisis Symbolizes Decline, and Hope, National Geographic, Aug. 22, 2014, http://news.nationalgeographic.com/news/special-features/2014/08/140822-detroit-michigan-water-shutoffs-great-lakes/.* [↑](#footnote-ref-429)
430. *See, e.g,* Thomas J. Sugrue, The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit xxxvi (1996) (describing White “resource hoarding”). [↑](#footnote-ref-430)
431. See, e.g., Daron Acemoglu & James Robinson, Why Nations Fail: The Origins of Power, Prosperity, and Poverty 358 (2012). [↑](#footnote-ref-431)
432. *See, e.g.,* Paul Collier, The Bottom Billion: Why the Poorest Countries are Failing and What Can be Done About it 5 (2008) (“[A] society can gradually climb out of poverty, unless it gets trapped.”); *id:* (Discussing, in the context of foreign relations, the poverty traps of conflict, natural resources, landlocked status, and bad governance.); S.R. Osmani, *When Endowments and Opportunities Don’t Match: Understanding Chronic Poverty,* in Poverty Dynamics: Interdisciplinary Perspectives (2009) (“A person is . . . in a poverty trap when . . . her economic system . . . does not offer any escape route out of poverty.”); *cf. id.* (poverty can exist without traps). [↑](#footnote-ref-432)
433. Regarding Collier, *see id*. at 5. Regarding Acemoglu and Robinson, *see* Why Nations Fail, *id*., which uses history to study vicious and virtuous circles and to examine how certain nations were able, via democratic innovations, to break the “iron law of oligarchy.” [↑](#footnote-ref-433)
434. *See* Khalil AlHajal, *Wayne State professor calls Detroit Future City plan ‘deathblow,’* MLive.com, Feb. 15, 2014, http://www.mlive.com/news/detroit/index.ssf/2014/02/wayne\_state\_professor\_calls\_de.html. [↑](#footnote-ref-434)
435. *See* Video (hereinafter Hammer Video): WSU Professor Peter Hammer on Detroit Future City Plan, Detroit People’s Platform: Detroit is not a Blank Slate, http://www.unitingdetroiters.org/wsu-professor-peter-hammer-on-detroit-future-city/. At 6:09. [↑](#footnote-ref-435)
436. Id. at 9:50. [↑](#footnote-ref-436)
437. 21:00. [↑](#footnote-ref-437)
438. 22:55. [↑](#footnote-ref-438)
439. *Id*. around 35:00. [↑](#footnote-ref-439)
440. Lee Devito, *Peter Hammer debates Detroit Future City*, Metro Times, Mar. 3, 2014, http://www.metrotimes.com/detroit/peter-hammer-debates-detroit-future-city/Content?oid=2144158.

 (“I think grassroots groups in the community feel like they were not consulted, and I don’t necessarily feel that their views are reflected in the final report.”). [↑](#footnote-ref-440)
441. Lee Devito, *Peter Hammer debates Detroit Future City*, Metro Times, Mar. 3, 2014, http://www.metrotimes.com/detroit/peter-hammer-debates-detroit-future-city/Content?oid=2144158. [↑](#footnote-ref-441)
442. Hammer Video at 37:10. [↑](#footnote-ref-442)
443. *See* note 370-71, *supra.* [↑](#footnote-ref-443)
444. *Id.* [↑](#footnote-ref-444)
445. *See* note 372, *supra.* [↑](#footnote-ref-445)
446. See their *Growth in the Time of Debt,* Working Paper 15639, <http://www.nber.org/papers/w15639>, Jan. 2010, at p. 2 (“median growth rates for countries with public debt over 90 percent of GDP are roughly one percent lower than otherwise; average (mean) growth rates are several percent lower.”). See also their 2009 This Time it’s Different*,* attacked as premised on faulty data. *See, e.g.,* John Cassidy, *The Reinhart and Rogoff Controversy: A Summing Up*, The New Yorker, Apr. 26, 2013, <http://www.newyorker.com/news/john-cassidy/the-reinhart-and-rogoff-controversy-a-summing-up>. [↑](#footnote-ref-446)
447. *See* Charlemagne, *The Emerald Shines Again*, The Economist, Nov. 8, 2014, http://www.economist.com/news/europe/21631127-ireland-good-news-story-not-quite-way-eu-would-emerald-shines-again [↑](#footnote-ref-447)
448. *See* Alexander Eichler, *Scranton City Workers Set to be Paid more than Minimum Wage Again*, Huffington Post, July 31, 2012, http://www.huffingtonpost.com/2012/07/31/scranton-minimum-wage\_n\_1723401.html. [↑](#footnote-ref-448)
449. *See, e.g.,* Andy Robinson, *Even the IMF Agrees with Europe’s Anti-Austerity Protests,* Nov. 20, 2012, [http://www.thenation.com/article/171401/even-imf-agrees-europes-anti-austerity-protests#](http://www.thenation.com/article/171401/even-imf-agrees-europes-anti-austerity-protests) (“[T]he IMF announced that the austerity packages . . . have been counterproductive.”); Paul Krugman, *The Austerity Agenda,* The N.Y. Times, MTY 31, 2012, http://www.nytimes.com/2012/06/01/opinion/krugman-the-austerity-agenda.html (“slashing spending . . . just deepens the depression.”). [↑](#footnote-ref-449)
450. *See* text accompanying note 82, *supra.* [↑](#footnote-ref-450)
451. *See, e.g.,* David Dollar and Art Kraay, *Growth is Good for the Poor*, The World Bank (1991), <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-2587>; David Dollar, Tajana Kleinberg, & Art Kraay, *Growth is Still Good for the Poor, The World Bank* (2013), http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2013/08/13/000158349\_20130813100137/Rendered/PDF/WPS6568.pdf%20. [↑](#footnote-ref-451)
452. Paul Krugman, *Inequality and Economic Performance*, N.Y.T., Dec. 2, 2014, <http://krugman.blogs.nytimes.com/2014/12/02/inequality-and-economic-performance/> (“”I’m actually a skeptic on the inequality-is-bad-for-performance proposition.”). [↑](#footnote-ref-452)
453. Tyranny of the Experts. Yxta, find this. Green street analysis toward conclusion. [↑](#footnote-ref-453)
454. Paul Collier describe the people left behind by global development as The Bottom Billion: Why the Poorest Countries are Failing and What Can be Done About it (2007). [↑](#footnote-ref-454)
455. *See* text accompanying note 36, *supra* (red wings). [↑](#footnote-ref-455)
456. Michael Tanner, The End of Welfare: Fighting Poverty in the Civil Society 57 (1996) (“Welfare spending grew steadily as a result of the Great Depression and the New Deal, speaking in 1939 at $46 billion (1993 dollars.”); Jason Scott Smith, A Concise History of the New Deal 177 (2014) (“The New Deal’s spending spurred dramatic advances in economic productivity, at improving the nation’s transportation networks . . . expanding domestic military bases and facilities, and drawing up the blueprints for a national highway system.”). [↑](#footnote-ref-456)
457. tony Fitzpatrick, Welfare Theory: An Introduction to the Theoretical Debates in Social Policy [no page number on google books, yxta, will have to look up; book can be found here <http://books.google.com/books?id=B_f7AwAAQBAJ&pg=PT80&dq=keynes+mixed+welfare&hl=en&sa=X&ei=y4l_VMS-O4SzogT574DQAw&ved=0CCoQ6AEwATgK#v=onepage&q=keynes%20mixed%20welfare&f=false> (“After WW2, the Keynesian approach implied a mixed economy (the public ownership of major industries and utilities to shield them from market forces) and the state management of demand. This implied lowering taxes, printing money or creating jobs through public works programmes, in the expectation that the beneficial effects of doing so will reinvigorate an ailing economy. . . . Keynes articulates what became a central economic justification for the post-war welfare state: Ito save capitalism from itself.”). [↑](#footnote-ref-457)
458. *See, e.g.,* Brigid Bergin, *Next on De Blasio’s Progressive To-Do List: Jobs*, wnyc.org, Feb. 3, 2014, http://www.wnyc.org/story/de-blasio-nyc-should-set-new-standard/ (“‘We have to reconstruct the kind of middle class we used to have,’ de Blasio said Monday . . . . ‘It will require very substantial government investments and actions.’”). [↑](#footnote-ref-458)
459. Such was the case, for example, in *Kelo* and *Kaur*, see *Peering* at pps 25 and 52. [↑](#footnote-ref-459)
460. *See* text accompanying note 301, *supra.* [↑](#footnote-ref-460)
461. Phone interview with Shel Kimen, Monday, October 20, at 11 a.m. PST (hereinafter Kimen interview). [↑](#footnote-ref-461)
462. *Will Eastern Market Get New Boutique hotel – Made of Shipping Containers?* DeadlineDetroit.com, Sept. 4, 20120, <http://www.deadlinedetroit.com/articles/1769/will_eastern_market_get_new_boutique_hotel_--_made_of_shipping_containers>. *See also* David Sands, *Shipping Container Hotel Collision Works, Planned by Shel Kimen, Seeks Funding for Detroit Prototype [UPDATE],* huffingtonpost.com, 6/17/2013, http://www.huffingtonpost.com/2013/06/17/shipping-container-hotel-detroit-shel-kimen\_n\_3093286.html.

(“travelers and locals can gather to share art and stories.”). [↑](#footnote-ref-462)
463. David Sands, *Shipping Container Hotel Collision Works, Planned by Shel Kimen, Seeks Funding for Detroit Prototype [UPDATE],* huffingtonpost.com,6/17/2013, http://www.huffingtonpost.com/2013/06/17/shipping-container-hotel-detroit-shel-kimen\_n\_3093286.html. [↑](#footnote-ref-463)
464. Kimen interview. [↑](#footnote-ref-464)
465. *See* Detroit Eastern Market, *About*, http://www.detroiteasternmarket.com/. [↑](#footnote-ref-465)
466. Images at *First Container Eastern Market,* Style-Detroit.com, Aug. 13, 2013, http://www.style-detroit.com/2013/08/first-container-eastern-market.html. [↑](#footnote-ref-466)
467. Images of Campus Martius/tiki bar at *The “Beach” at Campus Martius Park,* Emerald Sky Photography, July 7, 2013, <http://emeraldskyphotography.wordpress.com/2013/07/07/the-beach-at-campus-martius-park/>. *See also* section I, *supra* (I looked at Campus Martius while talking to Noah). [↑](#footnote-ref-467)
468. This clinic is Team Mental Health on Russell Street. *See* Team Mental Health Services, *Team Mental Health Services Locations,* <https://t-mhs.com/home/locations/>. Team Mental Health aids low-income people. *See, e.g.,* Team Mental Health Services, *Testimonials,* <https://t-mhs.com/home/about/testimonial/> (describing Team’s paying for low-income housing for people.). [↑](#footnote-ref-468)
469. The summertime 1967 Rebellion sparked when police raided an unlicensed club. 3,800 people were arrested, 2,700 buildings were looted and there were more than $500 million in damages. “[A]ctual participation was disproportionately clustered among the more deprived segments of the black working class.” Steve Jeffreys, Management and Managed: Fifty Years of Crisis at Chrysler 169 (1986). [↑](#footnote-ref-469)
470. *See Peering* at 49-55. [↑](#footnote-ref-470)
471. *Id.* [↑](#footnote-ref-471)
472. *Id.* [↑](#footnote-ref-472)
473. *Peering* at section VII. [↑](#footnote-ref-473)
474. *Peering* at section V(b). [↑](#footnote-ref-474)
475. *Id.* at 75. [↑](#footnote-ref-475)
476. *Id.* at 90. [↑](#footnote-ref-476)
477. Interview with Noah Stephens, at section I. [↑](#footnote-ref-477)
478. *Peering* at section VII. [↑](#footnote-ref-478)
479. Regarding problems created by just compensation, *see* Christopher Serkin, *Big Differences for Small Governments: Local Governments and the Takings Clause,* 81 NY. U. Law Rev. 1626, 1633 (2006) (“the more the government has to pay for its actions, the less willing it will be to act.”) [↑](#footnote-ref-479)
480. I first practiced this while working at a food bank, which I detail in *Law and the Possibilities of Peace,* at 25-26. [↑](#footnote-ref-480)
481. Angela P. Harris, *Race and Essentialism in Feminist Legal Theory,* 42 Stan. L. Rev. 616 (1990). [↑](#footnote-ref-481)
482. *See* Yxta Maya Murray, *A Jurisprudence of Nonviolence,* 9 Conn. Pub. Int. L.J. 65, 99 (2009) (quoting Keith Aoki, *"Foreign-ness" & Asian American Identities: Yellowface, World War II Propaganda, and*

*Bifurcated Racial Stereotypes*, 4 Asian Pac. Am. L.J. 1, 48 (1996).). *See also* *id.* at 108, citing Queer and LatCrit theorist Frank Valdes’s ideas of common ground (citing *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of “Sex,” “Gender,” and “Sexual Orientation” in Euro-American Law and Society,* 83 Cal. L. Rev. 3, 372 (1995), and Aya Gruber, urging activists to help different people, [*Navigating Diverse Identities: Building Coalitions Through Redistribution of Academic Capital-An Exercise in Praxis*, 35 Seton Hall L. Rev. 1201, 1207 (2005)](https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=0308708756&pubNum=1234&fi=co_pp_sp_1234_1207&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)#co_pp_sp_1234_1207). [↑](#footnote-ref-482)
483. *See* Timothy M. Mulvaney, *Progressive Property Moving Forward,* 5 Cal. L. Rev. Circuit 349, 358-370 (2014). [↑](#footnote-ref-483)
484. Laura Underkuffler, *Property and Change: The Constitutional Conundrum,* 91 Tex. L. Rev. 2015, 2036 (2015). [↑](#footnote-ref-484)
485. Easterly’s disquisitions on planners vs. searchers found in Chapter 1, which begins on page 3 of that book. Easterly’s attack on technocrats was furthered in his 2014 Tyranny of Experts. [↑](#footnote-ref-485)
486. *See,* Tyranny of Experts, *id*., at 28 (early critiques of technocrats and blank slate thinking). [↑](#footnote-ref-486)
487. *See* text accompanying note 481, *supra.* [↑](#footnote-ref-487)
488. *See* text accompanying note 482, *supra.* [↑](#footnote-ref-488)
489. *See* text accompanying note 483, *supra.* [↑](#footnote-ref-489)
490. *See* text accompanying note 484, *supra.* [↑](#footnote-ref-490)
491. *See* text accompanying note 485, *supra.* [↑](#footnote-ref-491)
492. Matthew, 7:12. [↑](#footnote-ref-492)
493. *Peering* at 19-20. [↑](#footnote-ref-493)
494. *Id.* *See also* section I. [↑](#footnote-ref-494)
495. *See* Sugrue, supra note 372, at 59-60 (quoting historian Robert Fairlands.). [↑](#footnote-ref-495)
496. *See* note 29, *supra.* [↑](#footnote-ref-496)
497. *See* Francisca Antman & David J. McKenzie, *Poverty Traps and Nonlinear income Dynamics with Measurement Error and Individual Heterogeneity,* World Bank Policy Research Working Paper 3764, Nov. 2005*,* 9-10, https://books.google.com/books?id=7fDZ8nwPVhMC&pg=PA3&dq=poverty+traps&hl=en&sa=X&ei=xfvYVJydDo62oQTI3oHoBw&ved=0CCQQ6AEwAQ#v=snippet&q=cohort%20pseudo&f=false (“A pseudo-panel tracks cohorts of individual over repeated cross-sectional surveys.”). [↑](#footnote-ref-497)
498. *See* Deborah Weissman, *Law, Social Movements, and the Political Economy of Domestic Violence*, 20 Duke J. of Gender Law & Pol. 221, 251 (2013) (“CBAs are private enforceable contracts negotiated between a prospective developer and community coalitions that include conditions relating to social justice issues. These agreements also involve the relevant governmental entity that ultimately approves the development proposal.”). [↑](#footnote-ref-498)
499. *See* text accompanying note 485, *supra.* [↑](#footnote-ref-499)
500. *See* Board on Population Health and Public Health Practice, Committee on Women’s Health Research, Institute of Medicine, Women’s Health Research: Progress, Pitfalls, and Promise 144 (2010), http://www.iom.edu/~/media/Files/Report%20Files/2010/Womens-Health-Research-Progress-Pitfalls-and-Promise/Womens%20Health%20Research%202010%20Report%20Brief.pdf (“unintended pregnancy is substantially higher among poor women.”). [↑](#footnote-ref-500)
501. *See* discussion of clinics at note 86, *supra.* [↑](#footnote-ref-501)
502. *Id.* [↑](#footnote-ref-502)
503. *Id.* [↑](#footnote-ref-503)
504. Single parents in the U.S. work more hours and suffer much higher poverty rates than in other countries. *See* Timothy Casey & Laurie Maldonado, *Worst Off – Single-Parent Families in the United States,* Legal Momentum (2012), http://www.legalmomentum.org/sites/default/files/reports/worst-off-single-parent.pdf [↑](#footnote-ref-504)
505. *See* Katherine Alaimo, *Child Hunger in the United States: An Overview*, in Child Poverty in America Today: Health and medical care, Vol. 2 at 21-22 (2007). [↑](#footnote-ref-505)
506. *Id.* at 22 (the feeling of food insecurity can create depression.). [↑](#footnote-ref-506)
507. *See, e.g,* Martha Klett-Davies, Going it Alone? Lone Motherhood in Late Modernity 103 (2008) (describing a single mother’s depression then poverty). [↑](#footnote-ref-507)
508. *See* Department of Human Services, *Income Eligibility Chart*, http://www.michigan.gov/dhs/0,4562,7-124-5529\_7143-20878--,00.html (family size of 1-2 unentitled to DHS assistance if gross monthly income exceeds $1607; size of 3 unentitled if over $1900; cap for 5 is $2367; for 6 Is $2746). *See also* Kathy Marks Hoffman, *Mich. Governor Signs 48-month Welfare Limit,* Yahoo! News, Sept. 6, 2011, http://news.yahoo.com/mich-governor-signs-48-month-welfare-limit-231915012.html (“The change gives Michigan the Midwest's toughest welfare time limit. . . .Gilda Jacobs of the Michigan League for Human Services [expects] 41,000 to lose their cash assistance, including 29,700 children.”).

 The Michigan legislature also created a pilot program requiring welfare recipients suspected of drug use to submit to drug testing. Kary Moss, the ACLU Michigan Executive Director said “these kinds of programs may . . . throw families who are already in extreme distress and poverty into even worse shape.” Kate Abbey-Lambertz, *Michigan’s Welfare Drug-Testing Program Will Ultimately Harm Kids, Critics Say, The Huffington Post,* December 29, 2014, http://www.huffingtonpost.com/2014/12/29/michigan-welfare-drug-testing\_n\_6391894.html [↑](#footnote-ref-508)
509. 509 *See* note 309, *supra*. [↑](#footnote-ref-509)
510. Intersectionality and multidimensionality address race, class, and other identity features. *See, e.g.,* Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,* 43 Stan. L. Rev. 1241 (1991); Darren Lenard Hutchinson, *Critical Race Histories: In and Out,* 53 AM. U. L. REV. 1187, 1199 (2004) (“multidimensionality . . . [is] a natural progression of intersectionality.”) [↑](#footnote-ref-510)
511. Nick Ray, *Lesbian, Gay, Bisexual and Transgender Youth An Epidemic of Homelessness,* In Kicked Out 181 (2010) (“there is a consensus that LGBT youth represent a significant proportion of the homeless youth population.”). http://books.google.com/books?id=lfa08gAPqYQC&pg=PA183&dq=gay+teens+homeless&hl=en&sa=X&ei=5wCCVMzMO4TfoAT4voC4AQ&ved=0CC0Q6AEwAA#v=onepage&q=gay%20teens%20homeless&f=false [↑](#footnote-ref-511)
512. *See* note 90, *supra.* [↑](#footnote-ref-512)
513. *See* text accompanying note 301, *supra.* [↑](#footnote-ref-513)
514. *See* text accompanying notes 115-121, *supra.* [↑](#footnote-ref-514)
515. *See* text above note 302, *supra.* [↑](#footnote-ref-515)
516. *See* text accompanying notes 303-305, *supra.* [↑](#footnote-ref-516)
517. *Cf.* Andre Damon, note 308, *supra.*  [↑](#footnote-ref-517)
518. *See* text accompanying note 41, *supra.* [↑](#footnote-ref-518)
519. Strategic Framework Plan at 10 (mentioning that Detroiters deserve food.) [↑](#footnote-ref-519)
520. *Id.* (Detroit needs better educated youths and adults). [↑](#footnote-ref-520)
521. *See* beginning of Section VII, *supra.* [↑](#footnote-ref-521)
522. *See* text after note 300, *supra* (“come on”). [↑](#footnote-ref-522)
523. *See* text accompanying note 467, *supra.* [↑](#footnote-ref-523)
524. *See* text accompanying note 468, *supra.* [↑](#footnote-ref-524)
525. Robert J. Sampson & Jeffrey D. Morenoff, *Durable Inequality: Spatial Dynamics, Social Processes, and the Persistence of Poverty in Chicago Neighborhoods,* in Poverty Traps [yxta page number] (2011)(in Chicago “economic stratification by race and residence . . . [concentrates] disadvantage, intensifying the social isolation of low-income, minority, and single-parent residents from resources that could support collective social control.”). Book here: http://books.google.com/books?id=d3QU-hYo4GoC&pg=PT2&lpg=PT2&dq=poverty+traps+2006+samuel&source=bl&ots=OgbQHMmrhE&sig=Eams00G93qrzx8wRHBMRZ8NdJxs&hl=en&sa=X&ei=W-mAVOclgrKiBM3HgcAB&ved=0CEIQ6AEwBA#v=onepage&q=isolation&f=false [↑](#footnote-ref-525)
526. *See* text accompanying note 485, *supra.* [↑](#footnote-ref-526)
527. *See* *Detroit getting $50 million to fight blight,* The Detroit News, Dec. 16, 2014, <http://www.detroitnews.com/story/news/local/michigan/2014/12/16/michigan-detroit-blight-funding/20479333/> (not author?) (“The effort is being funded under the U.S. Department of Treasury’s Hardest Hit Fund program” initially designed for the foreclosure crisis.) [↑](#footnote-ref-527)
528. John Eligon, *Good Intentions of Detroit Residents Are Tested by* Blight, NYT, Dec. 12, 2014, http://www.nytimes.com/2014/12/13/us/good-intentions-of-detroit-residents-are-tested-by-blight.html?ribbon-adidx=4&rref=us&module=Ribbon&version=context&region=Header&action=click&contentCollection=U.S.&pgtype=article (“The bankruptcy resolution set aside $440 million for removing blight in the coming years, yet a task force report said that cleaning up the city would cost as much as $850 million, and as much as $1 billion more to remedy industrial blight.”). [↑](#footnote-ref-528)
529. *Id.* [↑](#footnote-ref-529)
530. Regarding taxes, growth, and poverty alleviation, *see, e.g,* Eduardo Porter, *Blessings of Low Taxes Remain Unproved,* NYT, Mar. 12, 2013, http://www.nytimes.com/2013/03/13/business/effectiveness-of-tax-cuts-on-lifting-the-economy-is-unproved.html?pagewanted=all (“The proposition that low tax rates produce higher economic growth has been a central plank of the Republican platform.”); Joseph E. Stiglitz,  *Tax System Stacked Ageist the 99 Percent*, NYT, Apr. 14, 2013, http://opinionator.blogs.nytimes.com/2013/04/14/a-tax-system-stacked-against-the-99-percent/ (“The United States stands out . . . for its low top marginal income tax rate.”); Richard Posner, *Does Redistributing Income from Rich to Poor Increase or Reduce Economic Growth or Welfare,* The Becker-Posner Blog, Dec. 29, 2013, http://www.becker-posner-blog.com/2013/12/does-redistributing-income-from-rich-to-poor-increase-or-reduce-economic-growth-or-welfare-posner.html(“The United States spends heavily on redistributing income by taxing the affluent. . . . The aggregate annual amount of redistributive transfers is in the trillions of dollars.”) [↑](#footnote-ref-530)