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Secondary Units for Whom?

Assessing interventions into informal housing in San Francisco and Oakland

A thesis submitted in partial satisfaction of the
requirements for the degree of Master of Urban and
Regional Planning

by

Megan Wissing Healy

2019

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ABSTRACT OF THE THESIS

Secondary Units for Whom?

Assessing interventions into informal housing in San Francisco and Oakland

by

Megan Wissing Healy

Master of Urban and Regional Planning

University of California, Los Angeles, 2019

Professor Vinit Mukhija, Chair

As San Francisco and Oakland have endured critical affordable housing crises over the last decade, both cities have observed increases of proscribed, non-permitted living arrangements. The reconfiguration of informal housing landscapes has been evident in the reliance of not only low-income and immigrant residents, but tech workers, teachers, and college students, on cheaper housing units found in converted garages, basements, and warehouses. Informal housing, operating outside the bounds of municipal zoning and land use regulations, has been an integral component of the Bay Area housing market for the last century but has emerged as an urgent public policy priority in recent years. While most municipalities have tacitly ignored such arrangements, San Francisco and Oakland have reconfigured

local planning agendas to more aggressively identify and regulate informal housing units.

This thesis examines how San Francisco and Oakland have attempted to intervene into informal housing markets and analyzes the efficacy of such policy approaches. I evaluate whether patterns of increased enforcement reflect the informal housing markets of these cities by conducting analyses of building permit records, code violation complaints, and rental market data. I further consider whether life-safety conditions of buildings have been improved and investigate the extent to which tenants have been impacted through interviews with tenant advocates and organizers. Finally, I draw upon extensive interviews with planners, code enforcement officers, policymakers, and tenant advocates to elucidate both the motivations and challenges of attempting to regulate informal housing.

These analyses illustrate the geographies of housing informality in San Francisco and Oakland and identify uneven secondary unit policies that prioritize formalized ADU typologies over the preservation of existing informal units. While rental market, code enforcement, and building permit data reveal the prevalence of informal units across both cities, ADU development has been concentrated among higher-income property owners and remain prohibitively expensive for the moderate and low-income communities that have long relied on garage, basement, and backyard conversions.

The thesis of Megan Wissing Healy is approved.

Paavo Monkkonen

Christopher C. Tilly

Vinit Mukhija, Committee Chair

University of California, Los Angeles

2019

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INTRODUCTION

On December 2, 2016, a fire broke out during a concert in an industrial warehouse in Oakland. The warehouse had been converted into an unauthorized “live-work” space, where twenty-five members of an art collective built bedrooms and art studios. Such living arrangements have been central to Oakland’s artist community since the 1970s, and by 2016 an estimated 200 converted warehouses offered affordable housing to residents who otherwise could not afford to stay in the city (Bensus et al, 2018). To offset the cost of rent and maintenance, residents of the Ghost Ship warehouse occasionally hosted parties for the outside community. It was during one of these parties that the fire broke out. Thirty-six people were killed, most of whom were young and visiting the space for the concert. It was the deadliest fire in Oakland’s history, and one of the worst in U.S. history.

The tragedy brought these informal live-work spaces into public view and revealed the failure city officials to enforce building and safety codes. Despite multiple reported code violations and inspections by the Fire Department, the City failed to enforce violations that could have prevented the fire. Investigations into records of municipal agencies revealed systematic failure to inspect and cite unauthorized properties that had been reported to code enforcement. Further damaging was the revelation that Oakland had not employed a Fire Marshal or Assistant Fire Marshal between 2011 and 2015, leaving the two most senior-level roles in fire building safety enforcement unfilled. The City had a backlog of over 1,000 complaints of residential conversions in

commercial spaces, and had only inspected 30% of complaints filed against unauthorized units in residential properties such as single and multi-family homes.

Oakland Mayor Libby Schaaf reacted swiftly, promising renewed action to identify unpermitted industrial conversions and pledged additional resources toward investigating complaints of code violations. Mayor Schaaf also promised to protect the artist community from eviction by issuing an executive order to pursue identification and citation of these units without displacement.

The Ghost Ship fire had a much broader impact on government responses to informal housing. Cities across the country, including Baltimore, Seattle, Nashville, and Los Angeles, began cracking down on similar warehouse conversions immediately following the tragedy, fearing liability for similar fires. Evictions of tenants in converted warehouses, garages and basements alike rose in many of these jurisdictions. Strict code enforcement of informal housing became a top planning priority for cities across the country seemingly overnight.

In San Francisco, the tragedy hit closer to home. Oakland has historically been the affordable alternative to San Francisco, its housing markets intrinsically connected with that of its larger neighbor. The fact this tragedy occurred in Oakland signified a new rupture in the housing crisis. San Francisco officials had also been fearful of such an incident in the months preceding the Ghost Ship fire. The previous summer, just months before Ghost Ship, the Board of Supervisors expanded a pathway to legalize unauthorized dwelling units (UDUs) and took steps to prevent displacement of their tenants. Following the fire, reports on similar backlogs of code violation complaints

elicited the same public outrage in San Francisco, and officials promised to increase code enforcement and expand the legalization program.

Reorienting policy toward informal housing presents planning departments with a significant dilemma, as experiences in both Oakland and San Francisco demonstrate. Ignoring building code violations puts residents at risk of avoidable disasters. But it also maintains supplies of affordable housing that many lower-income households rely upon, especially in high-cost housing markets like that of the Bay Area where formal rental housing has become prohibitively expensive. By enforcing building codes more aggressively cities can prevent precarious and dangerous conditions, but these actions often lead to the displacement of tenants with few alternative options for housing.

This tension was highlighted in San Francisco by the citation and eviction of the Wash & Dry Laundromat in the Excelsior neighborhood. In January 2017, just weeks after the Ghost Ship fire, the San Francisco Fire Department acted on an anonymous complaint and discovered two dozen immigrants living in 150 square feet partitioned spaces in a basement with no means of egress. The basement had been subdivided into twenty units with panels of drywall, and the tenants paid up to \$1000 per month per room. Fire Department officials referred to the arrangement as “a Ghost Ship situation,” and “a death trap.”¹ When the owners failed to fix the code violations, city officials evicted the tenants. But the tenants were unable to find alternative housing and sued their former landlords for no-fault eviction, claiming the landlords had tried to evict them against their will before the City’s ultimate eviction. Several of the tenants attempted to

¹ Bodley, M. (2017, May 19). Inside the SF Laundromat basement where 2 dozen people lived. *San Francisco Chronicle*.

refuse to leave, insisting they had nowhere else to live. For several months after the eviction, seven of the residents lived in a homeless shelter. Planners in San Francisco have referred to this case as emblematic of the challenges facing them. To allow over twenty people to live in an undeniably dangerous property would constitute a failure to ensure public safety, but in a housing market as unaffordable as San Francisco's, enforcement could mean pushing people onto the street.

In their efforts to avoid another Ghost Ship, both San Francisco and Oakland have contended with the need to simultaneously address urgent life safety concerns and protect tenants from displacement. Officials and residents in both cities immediately recognized the prevalence of informal housing in their neighborhoods, and responded to the Ghost Ship tragedy accordingly. Complaints reporting unauthorized housing arrangements on industrial, commercial, and residential properties increased, as did public pressure for building and planning departments to inspect and cite these properties. But these neighboring cities, attempting to address the same concerns, took two different approaches. San Francisco introduced legislation to preserve informal housing through legalization. Oakland Mayor Libby Schaaf issued an executive directive following the fire to identify, cite, and protect informal units, however, this was not backed by legislation. Instead, Oakland relied on community partnerships and cooperation between agencies. The objective of this thesis is to determine whether either of these approaches has been successful thus far in preserving the supply of UDUs and affordable housing and upgrading life safety conditions.

Oakland and San Francisco serve as a useful comparison because the two cities took on this challenge within several months of one another, motivated in large part by

the same tragedy. Both cities contend with high-cost housing markets and displacement pressures, and expanded Accessory Dwelling Unit (ADU) programs concurrent with interventions targeting UDUs. The approaches also represent two common reactions when the “state tolerance of illegal housing” that most cities adhere to is challenged: increased scrutiny with mechanisms for legalization and protection and increased scrutiny without concrete mechanisms for preservation.

This study is relevant to California’s current political conjuncture, as local and state officials contend with crises of housing affordability, scarcity, and insecurity. ADUs have been elevated in recent years as a solution to quickly add supply to single-family neighborhoods. However, this thesis articulates the need for simultaneous recognition and preservation of existing secondary units. State legislation successfully removed barriers for ADU development in 2017, but has not yet established guidelines for exempting existing units that meet new building and planning codes. Local jurisdictions have instead continued to exercise considerable discretion when it comes to regulating informal housing, though most continue to do so in a punitive and inconsistent manner. I contend that legislative agendas to preserve affordable housing must include measures to upgrade informal secondary units. To do this, I identify the strengths of the approaches undertaken in San Francisco and Oakland, most notably the concurrent implementation of a UDU legalization framework and an ADU program in San Francisco and a partnership with an independent organization working directly with unauthorized spaces to improve safety conditions in Oakland. San Francisco’s approach provides a pathway to preserve informal secondary units while the work of Safer DIY Spaces in Oakland demonstrates the importance of leveraging community organizations to build trust, conduct essential

outreach, and provide technical assistance. I recommend the state mandate jurisdictions implement pathways for legalization in conjunction with ADU programs, and develop partnerships with independent third parties to facilitate more participatory processes of upgrading informal housing.

Research Design

The purpose of this project is to interrogate planning interventions into informal housing in San Francisco and Oakland, and is guided by four research questions. First, what are the approaches of each city and how were the principal goals articulated? Second, is there evidence of spatial variation of enforcement? Third, what impacts have these policies had on tenants of informal units? Fourth, what do the initial impacts of these policies tell us about the landscape of informal housing in these cities?

Because the rapidly evolving policy landscape toward informal housing in the United States is relatively understudied, this thesis draws upon several methods to elucidate these processes and identify potential ways to expand future evaluations. I employed three methods: participant observation, semi-structured interviews, and analysis of public records. In the summer of 2018 I worked as an intern with the San Francisco Planning Department, supporting the Accessory Dwelling Unit and Unauthorized Dwelling Unit teams. In this capacity I observed the importance of simultaneously formalizing and legalizing informal housing typologies, and the urgency with which Bay Area jurisdictions currently approach the issue of unauthorized housing. The motivation to conduct a comparative analysis was born in part from discussions with planners and policymakers in various jurisdictions who understood the range of approaches neighboring cities had undertaken but were left uncertain as to which could

be considered successful. This experience highlighted myriad challenges involved in scaling legalization programs that are interrogated further in this project.

Between December 2018 and May 2019, I conducted twenty-four interviews with planners, policymakers, tenant advocates, and experts working on structurally upgrading housing. Though I had numerous conversations with planners in San Francisco and policymakers in other Bay Area cities in my capacity with the Planning Department, these discussions are not considered interviews for the purpose of this project. Interviews serve an essential function in evaluating the intentions and initial impacts of each city’s respective approaches. Because so little data has been collected at this point, accounts by actors engaged directly in work related to informal housing offer valuable insight as to how processes of increased regulation have fared.

Interviewee Type	Count
City Planner	9
Tenant Advocate	6
Policy Advisor	1
Housing Expert	1
Tenant of Informal Unit	1
Code Enforcement Officer or Planner	2
Informal Housing Upgrading Expert	4
Total	24

Table 1. *A summary of the people interviewed for this thesis. Some interview subjects fall under more than one category but are only counted once in this table. Follow-up interviews are not accounted for in this table.*

I analyzed of building permit records, code violation complaints, and rental market data in order to illustrate the informal housing markets and evaluate initial trends of these policies in each city. For San Francisco, I relied on building permits for UDU

legalizations and ADUs for address-level data. I used these data to establish the scope and initial impacts of the legalization program. As Oakland does not a legalization program, I relied instead on code enforcement data and qualitative data from the civil organization partnered with the City to estimate the impacts of its policies. I used scraped Craigslist data and code enforcement data to illustrate spatial trends in the informal housing markets in both cities, capturing both advertisements for mid-market rental units and complaints reporting informal units filed with each city. These methods are not leveraged with the intention of quantifying the informal market, as units identified from these sources cannot always be verified as being informal, but rather serve to illustrate the spatial dimensions of this housing typology.

CHAPTER ONE: AN OVERLOOKED HISTORY OF HOUSING INFORMALITY

War-Era Housing Crisis

Government reports and historical accounts reveal that a considerable number of unauthorized secondary units date back to the period spanning WWII and post-war redevelopment. Between 1941 and 1945, the San Francisco Bay Area experienced the largest wave of migration since the Gold Rush. The concentration of shipyards, factories, and a variety of military supply centers around the strategic ports enticed hundreds of thousands of people to seek well-paying defense industry jobs. San Francisco's population increased by 30 percent, while Oakland's increased by 32 percent.

The region's housing growth had previously stagnated during the Great Depression, when nearly no residential development took place, and the limited housing supply quickly proved insufficient to meet the needs of the expanding defense industry. By 1942 Oakland's vacancy rate reached 0.06 percent. Thousands of factory workers and their families resorted to constructing shacks in fields, living in cars, renting beds in shifts, and sleeping in 24-hour movie theaters (Johnson, 1991). As the most productive site of defense manufacturing, distribution, training, and deployment, the housing crisis in the Bay Area prompted direct intervention from the Federal government. Federal investigators charged with documenting living conditions in the East Bay reported workers living in five hundred "horrible shacks," trailer camps, and in several cases, chicken coops (Johnson, 1991). The most prevalent arrangement, as described by Oakland officials in a 1943 Federal hearing, was squeezing families into any habitable room in a house. The officials also provided an account of twenty-eight people sleeping

in a converted bakery. An important catalyst for converting existing homes to accommodate multiple families was a ban on using construction materials for any purpose except housing war workers, effectively blocking housing development not directly subsidized by the Federal government (Rothstein, 2019). But subsequent planning and building inspection reports suggest people reacted to this ban by simply adding units within the footprint of existing buildings.

Both the housing crisis and government responses were characterized by racial discrimination. Between 1941-1945, San Francisco's Black population increased by 666 percent while Oakland's increased by 157 percent (Johnson, 1991). The Federal government initially resisted public housing proposals and instead encouraged private homeowners to accept boarders, tethering housing defense workers to patriotic responsibility. White homeowners, however, refused to rent rooms to Black tenants, and only 0.6 percent of private housing units built for defense workers between 1940-1946 were available to Black buyers.² Newly arrived workers instead had few alternatives but to double- and triple-up in the existing middle-class Black neighborhoods that had been redlined by the Home Owners' Loan Corporation (HOLC) "residential security maps" in 1937. Federal war housing offices in the Bay Area operated home conversion programs, offering low-interest loans to homeowners to subdivide single-family homes. Density in middle- and working-class neighborhoods increased far beyond that of the cities overall. In West Oakland, overcrowded units increased from 14 percent to 25 percent (Johnson, 1993). Overcrowding, a direct consequence of exclusionary housing programs and subsidized subdivisions, would eventually be leveraged as justification for redevelopment

² Of the 50,000 housing units built by private developers during this period, only 300 were made available to Black prospective buyers (Johnson, 1993).

programs that displaced tens of thousands of Black residents in both cities (Self, 2005; Talbot, 2013).

The housing crisis of the “homefront era,” initiated first and foremost by over a decade of suspended housing development and delineated along racial lines, resulted in informal housing arrangements analogous to those observed in the 21st century.

Post-War Redevelopment

Residents of both San Francisco and Oakland appear to have accelerated the development of informal subdivisions and unauthorized secondary units in the post-war years. As veterans and interned Japanese Americans returned to their cities that had grown by tens of thousands of residents in four years, competition for housing increased yet again. Shortages of lumber and metal products further slowed new construction, as did under-funded and short-staffed public agencies. In the meantime, residents continued to add housing where they could. A wave of thousands of building permits in early 1946 overwhelmed San Francisco agencies, necessitating emergency funding and the creation of a new building code. This effort culminated in the 1948 Building Code, which sought to accommodate the spike in building permits filed with the City, increase the capacity of the Bureau of Building Inspection, and update the obsolete building code of 1909.³ These new policies were also designed to address fears that nearly a decade of rapid growth had resulted in the proliferation of “ghettos” in the Fillmore, Western Addition, and Hunters Point.

³ Originally passed with the title “Slum Clearance Program” that was eventually changed to “Urban Renewal Program”

San Francisco's new building code, followed by successive amendments, introduced new building standards and inspection protocol. These reforms ultimately resulted in the 1958 Housing Code, or Slum Clearance Program.⁴ This redevelopment agenda was designed to leverage financing available through the California Community Redevelopment Act of 1945, which provided local jurisdictions with the framework and private capital to identify blighted neighborhoods (Gordon, 2003). San Francisco's slum clearance agenda explicitly targeted the city's majority Black neighborhoods, most aggressively the Fillmore, on the grounds of "blight." This broad term included public health and safety concerns, but was frequently defined in Planning Commission and Building Inspection reports as substandard and unauthorized housing, including illegal subdivisions and the presence of basement and attic apartments. In 1947 the San Francisco City Planning Commission published the first plan for redevelopment, proselytizing that, "The new San Francisco, planned for better living, replaces the dilapidation and disorder of more than half a century. In this new city of space and living green there are no densely built-up blocks. Here no families live in murky cubicles, damp basements, rooms that are hardly more than closets."⁵

One of the first actions of the 1958 Housing Code was a systematic building inspection of the city's housing stock. The resulting 1960 report by the Bureau of Building Inspection found between 20,000 and 30,000 secondary units, the majority of which had been built in the preceding twenty years and 90 percent of which were built without permits (Williams, 2001). Many of those unpermitted units deemed to have substandard conditions were destroyed in subsequent urban renewal efforts in the city's

⁴ San Francisco DPW Annual Report for Fiscal Year Ending June 30, 1958.

⁵ San Francisco Planning Commission. "New City: San Francisco Redeveloped" 1947.

Black neighborhoods that resulted in the displacement of tens of thousands of residents. But the City also conceded that the scale of informal units warranted preservation. Those that could be brought up to minimum standards of the Housing Code were offered long-term, low-interest (3 percent) loans to finance required building upgrades. The Bureau of Building Inspection distinguished between life safety and non-life safety code violations, and introduced an appeals process to ensure units that could more easily be brought up to code could be preserved.⁶ This response resulted in an uneven geography of secondary units, where those in the Fillmore were condemned and destroyed as part of the broader redevelopment agenda and those in non-Black neighborhoods were granted leniency and favorable financing. This also meant that a majority of the secondary units built during the war and post-war periods were not removed by code inspectors.

In 2014, when the Board of Supervisors prepared legislation for the legalization program, it cited informal surveys suggesting many of the unauthorized secondary units then in use dated back to the war and post-war period. At that point city officials estimated between 30,000 and 50,000 unauthorized units. This insight to the informal housing supply elucidates both the circumstances under which considerable unauthorized units have been built as well as uneven efforts to regulate such housing. It also underscores the fact that informal housing is not a new phenomenon but has rather been a characteristic of the regional housing market for nearly a century.

State Regulation of Secondary Units

Discussions of secondary units in the California State Legislature in recent years have not concerned existing informal units but have rather attempted to accelerate the

⁶ San Francisco Planning Commission. “New City: San Francisco Redeveloped” 1947.

development of ADUs. ADUs, also colloquially known as in-law units, granny flats, backyard cottages or carriage houses, are independent residential units located on the same lot as a single-family home. The most common ADU typologies are detached backyard structures, converted garages and converted basements, the same configurations of most informal units. The difference between the two is that ADUs are permitted and code conforming, while informal units remain unpermitted regardless of whether they conform to building and safety codes. Prior to state intervention, these typologies were not permissible in most California jurisdictions. While an unknown number of units received retroactive permits in San Francisco during the systematic building inspections of the 1960s, the City did not introduce a pathway to add these units legally. Oakland similarly did not have a legal option through which homeowners could add residential units to their properties until prompted by state legislation.

The state legislature first allowed local jurisdictions to permit ADUs on lots zoned for single-family homes in 1982.⁷ This option went relatively unheeded by local jurisdictions until three decades later, when housing affordability became a central concern. In 2013 San Francisco Mayor Ed Lee introduced an executive directive calling for an acceleration of housing production, at which point accessory dwelling units became a topic of interest. The cost and speed at which ADUs can be produced relative to other housing units to reach the city's housing production targets attracted both political and public support. An ADU pilot program launched in the Russian Hill and Castro neighborhoods the following year. While San Francisco experimented with the pilot for several years, state legislators introduced a number of bills to dramatically expand ADU

⁷ Government code section 65852.2 was enacted in 1982, and has been amended several times since 2016.

development throughout the state. Three bills in particular, Senate Bill 1069 (2016), Assembly Bill 2406 (2016) and Assembly Bill 2299 (2016), elevated ADUs within housing policy agendas. The adoption of these bills lifted zoning restrictions of ADUs in single-family residential zones, specifically identifying garage, basement, and backyard units as desirable housing that local jurisdictions should promote.⁸ In the ensuing years ADUs have proliferated in high-cost housing markets, including San Francisco and Oakland.

Absent from the wave of state legislation were guidelines for grandfathering existing units that under the zoning reforms may be code-conforming despite their lack of permits. This question instead remained open for local jurisdictions to determine. It is in this context that the respective approaches taken by San Francisco and Oakland presents urgent questions concerning the increased scrutiny and regulation of informal housing. The near simultaneous introduction of increased citation and regulation of informal units with the formalization of these housing typologies represents a significant shift in housing policy. It also raises questions of equity and access. ADUs remain prohibitively expensive for low- and moderate-income homeowners, with no financing tools beyond equity based loan products, personal savings, and credit cards currently available in the Bay Area. The acceleration of ADU development in San Francisco and Oakland has subsequently been concentrated among higher-income households. Despite the rush to champion ADU as a de jure housing solution, few discussions have raised the questions of equity, access to capital, and the exclusion of low- and moderate-income households from adding housing units to single-family homes in a legal manner. The extent to which

these cities promote and subsidize legal garage units through ADU programs while homeowners with informal garage units face heightened scrutiny and expensive fees will, at least in part, determine the relative efficacy and equity in the formalization of secondary units.

A Note on Language

Throughout this thesis, I describe housing that lacks permits or authorization as “informal.” By recognizing processes of housing that occur outside of legal regulation in San Francisco and Oakland as informal, I hope to both illustrate the diversity and complexities of housing markets in these cities and emphasize connections with processes of informal housing in other cities. I also refer to this housing stock with terms “unauthorized” or “unpermitted,” as they are the terms most commonly used by planners and policymakers in the two cities in planning documents and codes. These three terms are often used interchangeably, as they denote the same characteristic of lacking permits required by law. While many public discussions of this housing use the term “illegal,” I avoid this label so as not to delegitimize or criminalize legitimate processes of housing.

Terms such as “code conforming” and “non-code conforming” are more technical and not used interchangeably with “informal,” “unauthorized,” or “unpermitted,” though applications can overlap. “Code conforming” and “non-code conforming” refer to whether a unit meets the requirements of a specified building or planning code, regardless of authorization. A unit can be code conforming under new ADU legislation, meeting all building and safety requirements, but lack permits and thus be unauthorized. Legally, any housing unit without the required Certificate of Occupancy is considered unauthorized.

Though myriad academic and public discussions use the term Accessory Dwelling Unit to refer to both legal and informal secondary units, I avoid this and distinguish between the formalized ADUs advanced by state legislation and informal secondary units that lack protection in most California jurisdictions. Throughout this thesis the term ADU only refers to permitted, legal secondary units.

CHAPTER TWO: LITERATURE REVIEW

The Bay Area's Housing Crisis

Efforts to increase regulation of informal housing have occurred against the backdrop of a severe housing crisis that has restructured socioeconomic geographies across the San Francisco Bay Area (Schafran, 2012; Ramírez, 2019). Over the past three decades, the growth of the tech industry in Silicon Valley and its expansion to San Francisco and Oakland have increased pressures on the regional housing market (Ramírez, 2019; Stehlin, 2015). San Francisco experienced a sharp increase in tech employment following the Great Recession, when large tech companies such as Twitter, Salesforce, and Uber either relocated to or expanded operations in the city. Between 2010 and 2014, tech employment in San Francisco grew by 90 percent, outpacing the 30 percent growth in Silicon Valley (Stehlin, 2015). After decades of insufficient housing production, the influx of high-income tech workers overwhelmed the limited housing supply, driving up the cost of housing (Chapple, 2017; PolicyLink, 2016). The forces that have prevented housing development in the San Francisco Bay Area have been well established by scholarship, and include restrictive zoning and other land use controls, community opposition (or NIMBYism), environmental review processes, local financing structures, limited vacant developable land and onerous permitting processes (Glaeser and Gyourko, 2002; Chapple, 2017; Monkkonen, 2016; Taylor, 2016). During a period of considerable growth between 2010 and 2018, the nine counties of the Bay Area added 722,000 jobs but developed only 106,000 new housing units (CASA, 2019). The inability of the local housing supply to meet the new demands, as well as the uneven recovery from the Great Recession, have contributed to severe crises of affordability and

insecurity, felt most acutely by the region's lower and moderate-income households (Chapple, 2017; Schafran, 2012).

As Karen Chapple has illustrated, the region's housing crisis is not merely a problem of insufficient supply, but of growing economic inequality driven by declining real wages as well (Chapple, 2017). In both San Francisco and Oakland, the rising cost of housing far outpaced growth in incomes for low and moderate-income households. This resulted in significant increases in rent-burdened and severely rent-burdened renter and owner households, defined as those that expend more than 30 or 50 percent of their monthly income on housing expenses. Research suggests that families with high rent burdens reduce spending on other basic needs such as food, healthcare, and transportation, are more likely to live in substandard housing conditions and less likely to report such conditions, and face higher risks of displacement (Causa Justa, 2015; Urban Displacement Project, 2019). In San Francisco the rise in rent burdens increased across all income categories, affecting not only extremely low-income households (those earning less than 30 percent of the Area Median Income, or AMI) but moderate and middle-income households (those earning between 80-120 percent and 120-200 percent AMI respectively) as well.⁹ The number of severely rent burdened households in San Francisco increased from 38,000 in 1990 to 49,000 in 2015, a 29 percent increase (San Francisco Planning Department, 2018). Oakland experienced a similar pattern, with rent burdens increasing across all income categories but concentrated among extremely low

⁹ Whereas in 1990 only households earning less than 80 percent of AMI were identified as severely rent-burdened, by 2015 there was evidence that the rising cost of housing was affecting most income levels, with 12 percent of moderate-income households reported severe rent-burdens. This rise in housing costs was experienced disproportionately by very-low (30-50 percent AMI) and low-income (50-80 percent AMI) households (San Francisco Planning Department, 2018).

and very low-income households (Verma et al, 2018). By 2105, approximately 75 percent of all extremely low-income households were reported to be severely rent burdened while 13 percent were rent burdened, and approximately 30 percent of very low-income households were severely rent burdened, 49 percent of which were rent burdened (Verma et al, 2018). Concurrent with these trends of rising costs of housing are increasing rates of housing instability and evictions that have disproportionately affected communities of color (San Francisco Planning Department, 2018; Ramírez, 2019; Graziani, et al, 2016; Verma et al, 2018; Verma et al, 2018; Causa Justa, 2015; Rose et al, 2015).

A ‘Doubling Up’ Crisis and Informal Housing Arrangements

An additional outcome of rising housing costs in the Bay Area has been higher rates of overcrowding (Taylor, 2015; Cash, 2018; Rose, 2015; Nguyen, 2018; Causa Justa, 2015; City of Oakland, 2014; San Francisco Planning Department, 2018). The prevalence of overcrowding in San Francisco and Oakland, while frequently cited as a characteristic of the housing crisis, is often not centered in discussions of displacement pressures in the private market. Defined by the presence of more than 1.51 occupants per room, overcrowded housing is more likely to be unstable, have substandard conditions (including the presence of lead and mold), and is linked with heightened stress and negative education and health outcomes (Nguyen, 2018; Cash, 2018; Causa Justa, 2015; Bush and Shinn, 2017). Research from both cities suggest the current crisis can be conceived of as a “doubling up crisis,”¹⁰ in which low and moderate-income households resort to informal housing arrangements to reduce their housing costs (Cash, 2018; Causa Justa, 2015). In Oakland, the number of tenants living in overcrowded units increased by

¹⁰ ‘Doubling-up’ refers to tenancies in which residents share rooms or units with family or acquaintances without being added to a lease (Cash, 2018).

70 percent since 2009 (Cash, 2018). While the total number of residents in San Francisco living in overcrowded units has decreased since 1990, overcrowded conditions have been found to be concentrated among certain racial and ethnic groups, with twenty percent of Latino and Asian/Pacific Islander residents living in overcrowded conditions, respectively (San Francisco Planning Department, 2018).¹¹

The question of overcrowding intersects with the potential presence of other informal housing arrangements observed in high-cost housing markets. Studies from New York and Los Angeles demonstrate that as housing markets become more expensive and exclusionary, informal housing markets expand to meet the needs of households priced out of formal markets seeking alternative arrangements (Wegmann, 2014; Wegmann and Mawhorter, 2017; Chhaya CDC, 2008; Brown et al, 2017; Cabansagan, 2011). Informal housing refers to any arrangement without a Certificate of Occupancy, making it unauthorized. While understudied by academic scholarship, unpermitted housing arrangements have provided a substantial source of affordable housing for decades and have been the subject of considerable scrutiny by community based organizations, tenant advocacy groups, and planning departments. In high-cost housing markets such as New York and Canadian cities, the most common informal typologies are those located in basements (referred to colloquially as “basement apartments” in New York and “secondary suites” in Canada) while in the more mild climates of Los Angeles and the Bay Area the more common configurations are located within garages, detached structures, as well as basements (Wegmann, 2014; Chhaya CDC, 2008; Mukhija, 2014;

¹¹ The rate Black residents is lower, at 8 percent. The rate for all three groups remains disproportionately high relative to the 3 percent rate among white residents (San Francisco Planning Department, 2018).

Cabansagan, 2011; Goodbrand and Hiller, 2016; Mendez, 2017; Mendez and Quastel, 2016).

In addition to providing lower-cost and less regulated housing for those who might otherwise not be able to access housing through the formal market, informal units in high-cost areas offer attractive options to property owners. Informal housing units provide additional income revenue, supporting property owners' ability to make mortgage payments and providing financial stability. In New York and Los Angeles, evidence suggests that in some cases home sales prices reflect the presence or possibility of a secondary unit as an additional revenue stream (Chhaya CDC, 2008; Mukhija, 2014).

Housing Informality in the Global North

A small but growing body of scholarship has begun to examine informal housing markets in the United States and Canada, reorienting the conception of housing informality as a phenomenon restricted to the Global South to one deeply embedded in residential landscapes in the Global North. Early empirical work on housing informality focused on the landscapes of peri-urban regions along the US-Mexico border known as colonias (Ward, 1999; Ward, 2004). The pattern of colonias being situated outside of incorporated jurisdictions, lack of service provisions, and configuration of titled properties which are subdivided for residents to auto-construct housing led to consistent comparisons with informal typologies in the Global South. Rather than recognizing a distinct and underserved American housing landscape, the Spanish term "colonia" both distanced and racialized the communities as "third world" (Mukhija and Monkkonen, 2007; Hanna, 1995). Policies addressing habitability and tenure in colonias in Texas provided some of the earliest analyses of government interventions, while research from

California demonstrated how prevailing stigmatization and political isolation has rendered securing federal funding for essential upgrading difficult (Durst 2015; Durst and Ward, 2014; Mukhija and Monkkonen, 2006).

Despite increasing interest in examining housing informality in the United States, relatively few studies have undertaken research in high-cost and densely populated urban landscapes. Two scholars who have researched the landscape of informal housing in the United States identify three distinct features of US-style housing informality as “characteristically *geographically uneven*, or highly variable from location to location; *interwoven* with formal housing and land ownership; and *hidden*, both in a figurative and sometimes literal sense” (Durst and Wegmann, 2017). Perhaps more than anywhere else in the US have these characteristics been interrogated than in California, where recent studies have elucidated and refined our understanding of informal housing markets. In addition to rural colonias along the border, this research has also attempted to disentangle informal housing markets within urban and suburban communities in the greater Los Angeles region (Mukhija, 2014; Wegmann, 2014; Wegmann, 2015; Durst and Wegmann, 2017). This scholarship emphasizes the prevalence and integration of informal housing within Southern California’s urban landscapes and identified trends in typologies and the populations most frequently relying on such housing. For example, these studies identify secondary units, located within garages or detached backyard structures adjacent to single family homes, as emblematic of a hidden “horizontal density” in Los Angeles neighborhoods (Wegmann, 2014; Wegmann, 2015). This scholarship also finds higher concentrations of such configurations in working-class, immigrant, and Latino

neighborhoods in LA, though also note evidence of informal housing across economic and racial categories (Wegmann, 2014; Wegmann, 2015; Mukhija, 2014).

Quantification Methodologies

Three studies have proposed new methodologies to quantify the scale of informal housing markets. In his 2014 study of informal housing in Los Angeles, Mukhija offered one of the first attempts to quantify unpermitted units in the city, identifying single-family home sales listings with language describing an unpermitted secondary rental unit. This methodology was modeled in part off of a survey conducted by the Los Angeles Times in 1987 that estimated 42,000 informal garage apartments across Los Angeles County and a 2001 survey of informal units in San Francisco which suggested the number of unpermitted units was about twice that detected through analyses of real estate listings. He estimated 50,000 secondary units in single-family zoned lots within the City of Los Angeles alone (Mukhija, 2014). Wegmann and Mawhorter introduced a quantification methodology in 2017, which estimated informal housing development at the local level in incorporated jurisdictions in California (Wegmann and Mawhorter, 2017). They posit that these numbers can be determined by subtracting units lost, units added through annexation, and units added through permitted construction from the total number of housing units added as recorded in the decennial censuses, resulting in the remaining number of units added outside of these formal processes. Wegmann and Mawhorter estimate that between 1990 and 2010, the average California city added informal housing units at a rate of 0.4 percent of its housing stock each year, compared with the rate of formal housing construction of 1.3 percent of existing housing stock per year (Wegmann and Mawhorter, 2017). Finally, Brown, Mukhija and Shoup presented a

model for measuring the number of informal units in the ten largest Metropolitan Statistical Areas (MSAs) by comparing the number of new single-family housing units recorded by the US Census with the number recorded by the Department of Housing and Urban Development. Their study estimates that between 2000 and 2014, 37 percent of new single-family units were constructed informally, totaling 1.7 million housing units in the ten largest MSAs (Brown, Mukhija, and Shoup, 2017).

These studies reiterate the important role informal housing plays in California housing markets by suggesting a presence much larger than previously accepted. Underscoring these recent contributions to the literature on housing informality in California is the understanding that many of the same forces that contributed to the housing affordability crisis may have led to increased production of informal housing (Chhaya CDC, 2008; Wegmann, 2014; Wegmann and Mawhorter, 2017; Brown, Mukhija, and Shoup, 2017; Cabansagan, 2011). Just as restrictive zoning policies have been demonstrated to contribute to higher housing costs, so too may they be a principal driver of informal housing development. Before local jurisdictions relaxed zoning restrictions to accommodate secondary units, lower-income households relied upon informal housing to provide housing that the formal market had failed to provide. The scale of informal housing markets in California thus reflects the acute unmet need for affordable rental housing, stagnation in wages for lower-income residents, and the inadequacy of restrictive zoning policy.

The Emergence of Accessory Dwelling Policy

Concurrent with these pioneering analyses of informal housing markets emerged a growing body of literature championing Accessory Dwelling Units (ADUs) as a

prescription to California's housing crisis. ADUs had been studied as a housing typology with myriad economic, social, and environmental benefits. The fact that the typology mirrors that of many informal units, in that they are secondary units most frequently on single-family lots but also within multi-family developments, has not been expressly emphasized in the literature extolling the advantages of ADUs.

Early studies of ADUs emphasize their potential to facilitate "aging in place," by allowing senior homeowners to downsize to a more accessible unit on their property while renting out the main house or by staying in the main house and offering the smaller unit to a live-in caretaker (Chapman and Howe, 2001). But ADUs gained considerable political traction from a robust body of literature advancing the policy to promote infill development and housing affordability (Wegmann, Nemirow, and Chapple, 2011; Wegmann, Nemirow, and Chapple, 2012; Wegmann and Chapple, 2014). These studies, situated in the Bay Area, contend that ADU production offers a low-cost mechanism for increasing housing supply in high-cost housing markets. This literature analyzes the potential impacts of increased production of such units (specifically garage conversions and detached backyard cottages) on housing affordability, economic growth, and transit ridership. The authors conclude that ADU production could have considerable impacts on housing affordability and economic growth, and transit ridership (Wegmann, Nemirow, and Chapple, 2011; Wegmann, Nemirow, and Chapple, 2012; Wegmann and Chapple, 2014).

Limitations of ADUs in the Bay Area

Overlooked in many of these studies is the fact that ADUs leverage a model long relied on by low-income Californians, but remain financially prohibitive for households

for whom building a secondary unit might be most appealing in order to supplement their income, increase their home equity, or age in place. Despite widespread assertions that ADUs are “affordable by design,” available data indicates that the cheapest designs in the Bay Area cost upwards of \$150,000.¹² Most ADU projects therefore necessitate financing. But traditional lenders have been reluctant to consider the future rental income of an ADU to qualify for loans, thereby preventing households with lower equity or moderate and low incomes from securing financing. Households that are thus excluded from conventional financing options include seniors with fixed incomes who may have sufficient equity but do not meet income qualifications for Home Equity Lines of Credit (HELOCs) or Home Equity Loans, recent homeowners who may meet income qualifications but have outstanding debt and have yet to build sufficient equity, and low and moderate-income homeowners who may not meet either the income or equity qualifications.

Until late 2018, no lender in San Francisco offered tools beyond Home Equity Loans or Home Equity Lines of Credit, limiting the households that could build ADUs to those with sufficient equity or cash savings. Data from cities with more established programs (including Portland and Seattle) demonstrate that this is a broader trend of ADU development, with new projects consistently concentrated among affluent white households. As far as increasing housing affordability, while increasing the overall supply is correlated with stabilizing and lowering housing costs, there is little evidence of the formal ADU stock being accessible to lower and moderate-income households.

¹² In San Francisco, a new garage conversion (the cheapest ADU typology) in the Excelsior has been estimated to cost approximately \$300,000 (Grey et al, 2018).

Additionally, as Ramsey-Musolf points out, counting ADUs toward low-income housing production (as some California jurisdictions do) reduces the creation of units that do charge below-market rate rents (Ramsey-Musolf, 2018). This project seeks to complicate the academic discussion of ADUs by considering the intersections of ADU programs and regulation of existing informal typologies. By identifying spatial and socio-economic patterns of both forms of housing this project will elucidate the ways in which policies promoting secondary units can be more inclusive of moderate and low-income households.

CHAPTER THREE: SAN FRANCISCO

The Informal Housing Landscape

The City of San Francisco has not conducted a comprehensive survey of informal housing, leaving many questions about the scale of the market, characteristics of tenants, and physical safety of the housing stock unanswered. Though the 1960 report detailing systematic building inspections estimated between 20,000 and 30,000 units lacked permits, it did not provide further information elucidating this housing supply.

Anecdotally, the planners and tenant advocates interviewed acknowledged knowing through both professional and personal experience that informal housing units existed throughout the city. Tenant advocates explained that the lower-income residents they worked with often lived in unauthorized units in the Sunset and Richmond districts as well as in the Excelsior, but planners were quick to acknowledge that they encounter unauthorized units in most neighborhoods, including those with some of the highest rents and property values in the city. While empirical evidence from Los Angeles and the colonias near the US-Mexico border emphasize the reliance of lower-income and Latino residents on informal housing arrangements, interview subjects in San Francisco speculated that tech workers, young professionals, students, and middle-income residents such as teachers and nurses were all likely to live in unauthorized units at rates much higher than might be expected. These observations suggest that the informal housing market in San Francisco serves both lower-income and immigrant populations as well as highly educated, middle-income younger residents and college students.

Illustrating Geographies of Housing Informality

Before interrogating the city's approach to regulating unauthorized housing I considered it incumbent to interrogate where such units exist in the city. Though an attempt at quantifying the informal housing markets was beyond the scope of this project, developing a better understanding of the geographies of these markets remained a key objective. In order to do so I selected two proxies - Craigslist data and complaints registered with code enforcement agencies – that illustrate, rather than quantify, the spatial distribution of informal housing markets. These two data sources offer the potential to capture a wider variety of the market than any individual data source. Craigslist captures a significant portion of rental listings in the Bay Area, providing valuable insight into specific and recent rental market activity and can reveal both spatial and temporal patterns in such markets (Boeing and Waddell, 2016; Pennington, 2018). The platform does not represent the entire rental market, but does capture many mid-level rental listings. Rental listings at the higher end of the market typically captured by commercial sites and realtors can be expected to be excluded from Craigslist rental listings, as can lower-market listings that are more likely to be found through social networks or word-of-mouth (Pennington, 2018). This data is not intended to reflect all market activity, but rather to illustrate broader market trends beyond the lower end of the market with which informal housing has traditionally been associated.

Code enforcement complaints, on the other hand, reveal the city's relationship with informal housing. They are the principal source from which code enforcement officers use to identify potential unauthorized units. San Francisco, like Oakland, has a complaint-based code enforcement system, relying on complaints issued by the public to

direct enforcement activity. This data therefore provides important insight as to what patterns may exist of among the complaints alleging unauthorized units. Code enforcement data also captures complaints registered against industrial and commercial conversions (such as inhabited warehouses and auto body shops) that are far less likely to be advertised on Craigslist, but is less likely to capture the scale of conversions in higher income neighborhoods with larger properties and driveways that mitigate risks of neighbors reporting violations to the City.

In the summer of 2018, UC Berkeley PhD student Kate Pennington created a scrape of Craigslist rental housing listings for Bay Area between 2013-2018 for the San Francisco Planning Department. The Department requested this scrape to support future research on the city's housing market, considering Craigslist to be a valuable metric through which to capture both macro and neighborhood-level trends. Because Craigslist posts are not preserved, Pennington created the scrape using data archived by the Wayback Machine. The Wayback Machine does not archive websites entirely, instead doing so sporadically and only capturing the first 100-120 results listed on those days (Pennington, 2018). Though not a complete portrait of Craigslist rental listings during this period, data from the days that were preserved do provide a useful portrait of trends within the rental market. Among the proposed applications of this dataset in the Planning Department was a curiosity as to whether such a snapshot could highlight any trends of the informal housing market. People creating rental listings select from a list of "housing types" to identify the rental typology, among which was the option of "in-law" unit. Planners in the department, knowing the relatively low number of ADUs (in-law units) that had been permitted as of August 2018, suggested a majority of those classified as

“in-laws” in the years of the scrape would likely have been unauthorized dwelling units (UDUs).

I analyzed the existing scrape of Craigslist data prepared by Pennington in an effort to discern trends related to neighborhood distribution and rental prices within this market. Craigslist data of “in-law” rental units is not intended to identify units guaranteed to be informal, but to indicate where the markets for mid-priced secondary units are located throughout the city. This data offers limited but unique metric to interrogate the geography of such units. The scrape of all rental market listings for the Bay Area between 2013-2018 included 58,551 posts. I narrowed this to only those concerning rentals in San Francisco between 2015-2018 (the four years considered for data analyses in this project), yielding 7,659 results. Of these 7,659 listings, 88 were categorized as “in-law” units (representing 1.15 percent of the total sample for San Francisco). All 88 of these listings indicated specific neighborhoods, allowing me to trace the spatial distribution of the sample.

Despite the small sample size, this data indicates that secondary units are distributed throughout the city, with most neighborhoods registering at least one listing. This finding corroborates the characterizations by interview subjects that informal rental units exist in most neighborhoods. While most of these planners and tenant advocates surmised that there are higher concentrations of unauthorized units in the low-density, single-family neighborhoods of the Sunset, Richmond District, Excelsior, and Bayview, they also acknowledged that these neighborhoods were by no means unique in relying on informal configurations to provide additional housing and rental income.

Neighborhood	Count	Percentage
Bayview	3	3%
Bernal Heights	2	2%
Excelsior/Outer Mission	13	15%
Glen Park	3	3%
Ingleside/SFSU/CCSF	12	14%
Marina/Cow Hollow	1	1%
Inner Richmond	4	5%
Inner Sunset/UCSF	4	5%
Lake Merced	1	1%
Mission District	2	2%
Portola District	3	3%
Richmond/Seacliff	5	6%
Sunset/Parkside	27	31%
West Portal/Forest Hill	3	3%
Visitacion Valley	5	6%
Total	88	100%

Table 3.1. *Spatial distribution by neighborhood of Craigslist rental listings categorized as “in-law” units between 2015-2018. This data was taken from scrape of Craigslist ads stored on Wayback Machine that captured ads for the entire Bay Area between 2013-2018. Of the 7,659 rental listings within San Francisco between 2015-2018 (the years considered for this study) 88 (1.15 percent) specifically identified the unit as an “in-law.”*

Using the same sample of Craigslist rental listings, I also attempted to analyze the available data on rents charged for these units. Most of the preserved posts did not include rents, though those that do offer greater depth as to how this rental market functions. All of the posts with listed rents were one or two-bedroom units. As in-law units, most with descriptions reiterated the presence of private bathrooms and separate entrances, though three distinguished between a “partial kitchen” within the unit and a “full kitchen” to which tenants may or may not have access. Like other categories of rental listings on Craigslist there is considerable variation among arrangements for utilities and other fees, with some including such costs in the monthly rent listed while others noted these would be in addition to rent. Most listings specified a month-to-month lease.

	1 Bedroom	2 Bedroom
Median Rent	\$1,550	\$1,925
Mean Rent	\$1,598	\$2,035
Range	\$980-\$2,600	\$1,500-\$2,900
Sample Size	20	12

Table 3.2. Rental price data from sample of Craigslist rental listings. Of the 88 listings categorized as “in-law” units in San Francisco between 2015-2018, only 32 included monthly rents in the listing.

In addition to neighborhood distribution and rents, this data also revealed several trends in populations targeted by property owners listing in-law units on Craigslist. Listings across neighborhood boundaries specifically identified students and staff at CCSF, USF, and SFSU as desired tenants. Several requested “quiet, long-term tenants”

while multiple specified preferences for international students. One 2014¹³ post for a “brand new in-law” in the Sunset district with monthly rent of \$1350 (\$3500 move in fee), capturing many of the requests observed across the sample reads, “looking for student or professional with good credit, quiet, responsible, neat, no drug, no smoking, no party and no pet. If you need a place to sleep or study, it is the right place. No party and no loud music. Should be quiet at night. International student welcome.”

This sample of Craigslist rental listings demonstrates the capacity of such platforms to illuminate important characteristics of informal housing markets. Unlike real estate platforms that emphasize for-sale listings at the mid- and higher-end of the market, Craigslist captures a middle segment of the rental market that may be more likely to resort to informal housing arrangements: low- and moderate-income residents, students, international students, teachers, and young professionals. This data gives us a sense of where informal units may be being rented, to whom, at what price, and under what conditions. The small sample size of the scrape renders the extrapolation of further conclusions difficult, but it does introduce a method through which to investigate geographies of informal rental markets. Future scrapes of complete, continuous periods will likely provide more robust findings.

In addition to the proxy of in-law units advertised on Craigslist, I also analyzed code enforcement data to identify neighborhood distribution of potential informal housing units. San Francisco conducts code enforcement on a complaint-driven basis, meaning that a complaint must be received and reviewed by a municipal agency before a Notice of Violation can be issued. Exceptions to this process exist, as Fire Department,

¹³ The City had not issued ADU permits in the Sunset by the date of this post, indicating the unit is likely informal.

Department of Building Inspection, and Department of City Planning staff can identify and report units in the course of their work. But complaints remain the primary source through which agencies initiate inspections of potential violations of municipal ordinances and zoning codes. Analyzing this data source therefore allows me to identify spatial trends among the source from which violations are determined.

Complete records of code complaints are not publicly available in San Francisco as they are in Oakland (though several municipal websites suggest otherwise) so I relied on data provided through a records request to the San Francisco Planning Department. This dataset ostensibly includes all complaints filed with the Planning Department concerning unauthorized dwelling units between January 1, 2015 and December 31, 2018. The Planning Department is not the only agency that receives complaints of unauthorized housing, as it shares responsibility for code enforcement of these properties with the Department of Building Inspection, but it does offer a more responsive and transparent records request process. This dataset therefore does not capture complete records of code complaints during this period but rather those received by the Planning Department, some of which were likely filed with both departments. It is also important to reiterate that the presence of a complaint against a property for having an unauthorized housing unit does not mean that is in fact the case. As is the case with the dataset of Craigslist rental data, this complaint data is not intended to identify specific unauthorized housing units but rather to offer a valuable and complementary picture as to where the informal housing markets in the city may be concentrated.

Mapping these complaints reinforces the findings from both interviews and the Craigslist rental market analysis. Complaints of unauthorized housing units were

registered in most neighborhoods throughout the city between 2015 and 2018, including wealthier neighborhoods such as Russian Hill, Seacliff, Noe Valley, and the Marina. This map also illustrates larger concentrations in lower and moderate-income neighborhoods in the South of Market (SoMa), Bayview-Hunters Point, and the Mission.

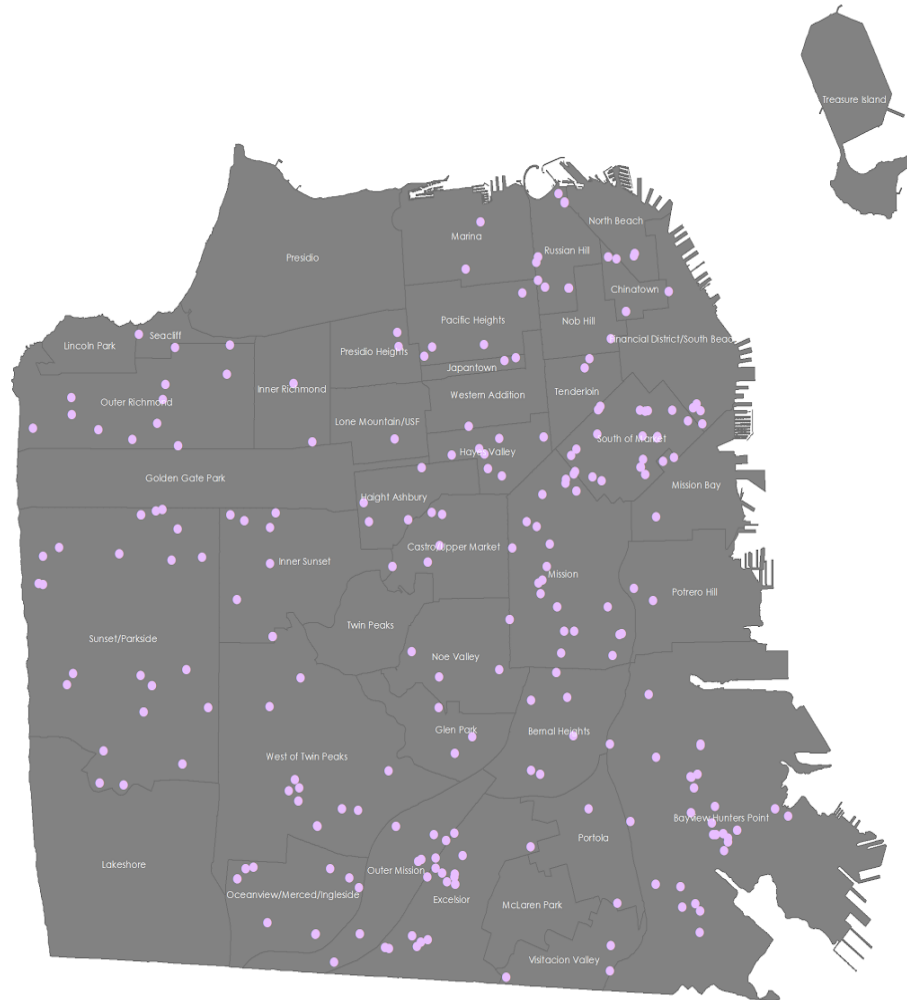


Figure 3.3 *Code enforcement complaints registering unauthorized housing units with the San Francisco Department of Urban Planning between January 1, 2015 and December 31, 2018.*

Legal and Structural Housing Precarity: Tenancy of Informal Units

Rental market and code enforcement data are useful indicators of the scale and distribution of the informal housing landscape, but do not offer sufficient insight as to who relies on this housing supply and how the circumstances of their tenancy may have changed in recent years. In order to better ascertain the conditions and pressures faced by tenants in UDUs I spoke with counselors at two organizations, the San Francisco Tenants Union (SFTU) and the Housing Rights Committee of San Francisco (HRCSF), which provide legal counsel and advocacy for tenants across the city. Both organizations work closely with tenants of UDUs, but a consistent challenge over the years has been reaching these tenants who are more likely to be unaware of their rights.

Counselors with SFTU and HRCSF find that tenants of UDUs generally seek support under two circumstances: when the landlord refuses to address habitability issues and when the landlord is increasing the rent or harassing the tenant in an effort to force them out of the unit. The organizations reported seeing an increase in tenants of UDUs facing eviction since the Ghost Ship fire in December 2016. Jennifer Fieber of SFTU described the wave of new harassment and eviction cases concerning UDUs over the last two years as attributable to both the fear many landlords felt of being held liable for any similar tragedies and a housing market that incentivizes property owners to push out long-term, lower-income renters in favor of new tenants who can pay market rate rents. Most of the tenants of informal units who work with SFTU and HRCSF are long-time residents of traditional in-law units attached to single family homes, many of which were constructed decades ago and predate the current landlord. These residents frequently seek

support when they receive rent increases they are unable to pay, or when structural conditions deteriorate substantially and they feel that they cannot call building inspectors.

In addition to informal secondary units, both organizations observed a considerable increase in cases emblematic of informal “doubling up” arrangements. They are observing more tenants renting spaces in kitchens (for which they pay at least \$1,200 each month), commercial storefronts, and in one case a couple and their small child living in a walk-in closet in an apartment. Even in these cases of more precarious informal arrangements tenants come forward because their rent has increased. As Tommi Aviccoli Mecca, the director of HRCSF’s counseling program explained, “these illegal units are a symptom of our broken housing system, and are emblematic of housing precarity in this city; what else do we expect people to do in this housing market?”

While a majority of clients who live in informal units live in UDUs attached to a single family home, tenants living in converted commercial and warehouse spaces have represented a disproportionate share of the spike in clients. According to Mecca, “in the last 3 to 4 years alone we’ve seen more converted warehouses than the previous 16 years I’ve worked here.” He emphasized that while warehouses and DIY spaces have been portrayed as housing for artists, many of whom are white and well educated, that hasn’t been representative of the cases he encounters in San Francisco. Most of the clients living in converted commercial spaces HRCSF works with are immigrants, some of whom are undocumented, who simply can’t afford to live anywhere else on the salaries they are earning. He described this housing as the most structurally precarious the organization encounters, often times failing to meet basic habitability standards, and usually lacking sufficient toilets, showers, and heat. Mecca worked directly with the tenants of 5 Persia,

the Wash & Dry Laundromat, and has worked with several other commercial UDUs with over 30 residents.

Both the Ghost Ship tragedy and scandal of 5 Persia generated increased public scrutiny around informal housing arrangements in San Francisco, and while that has resulted in more landlords evicting tenants out of fear, it has also helped tenant organizations reach some of these residents for the first time. “Since cases like 5 Persia made headlines, including all over the local Spanish-language press, we’ve seen far more immigrants in illegal units come forward seeking support. That outreach has been really successful. People know now that we’re a safe place to come to and won’t call the city; they can ask questions without jeopardizing their housing,” Mecca explained. Despite anecdotal evidence that many tenants of UDUs are recent or monolingual immigrants who find housing through social evidence, a majority of the tenants SFTU and HRCSF works with are long-time San Francisco residents who are more familiar with the city’s tenant protection laws. This explanation is understandable, and according to Mecca, “a tenant of an illegal unit is especially unlikely to complain about dangerous living conditions if they are an immigrant. People are incredibly fearful of their landlords, and they’re fearful of the City.” It is this lack of trust that poses the greatest obstacle for effectively addressing building code violations or incentivizing voluntary legalizations of UDUs.

Fieber and Mecca both support efforts to legalize UDUs, believing housing habitability has been long overlooked in policy. SFTU and HRCSF maintain that landlords should be responsible for meeting the standards required by law, and increased accountability by the City is encouraged and welcomed. But they identify punitive code

enforcement as counterproductive to addressing serious life safety and habitability concerns in informal units. Punitive approaches to policy and enforcement, both Fieber and Mecca contend, will result in more landlords removing units entirely and won't help the tenants relying on this housing. They argue that code enforcement practices that prioritize getting people out of precarious or dangerous living conditions without offering viable alternatives instills fears of engaging with city agencies and reinforces the asymmetrical power relations between landlords and tenants of informal units. Punitive code enforcement, in other words, doesn't help these situations. One of the central priorities of these tenant organizations is to encourage code enforcement processes that allow tenants to come forward with complaints of habitability or harassment without fear of eventually losing their home.

Legalization and Formalization: A Concurrent Approach

Questions regarding whether or how to incorporate San Francisco's substantial stock of informal secondary units has posed a dilemma for the city's elected officials for the last five decades. Since the efforts in 1959 to extend financing to property owners with unauthorized units in order to upgrade building, plumbing and electrical standards, limited direct outreach or legislation has supported bringing these units up to code (Williams, 2001). Zoning reforms beginning in the late 1970s incrementally introduced opportunities for homeowners to add secondary units. The 1978 zoning district RH-1-S (Residential-House, One Family with Minor Secondary Unit), for example, was one of the earliest zones that permitted a 600 square foot accessory dwelling unit. The area covered by the RH-1-S zoning district was quite small, covering only forty parcels, but

did offer a pathway for properties with existing secondary units to legalize them (Williams, 2001).

Supervisors proposed amnesty programs as part of affordable housing preservation agendas in 1992, 1996, and 1997, but all three proposals failed to garner sufficient political support (Williams, 2001). Planning Department staff explained that the question of legalization and amnesty were consistently raised as proposals in subsequent years, but always rejected by other agencies and elected officials. The issue gained little traction until 2014, when Mayor Ed Lee's Executive Directive 13-01 directed all municipal agencies with authority over housing production to prioritize the preservation and construction new and permanently affordable housing. This directive represented one of the earliest instances in which preservation of unauthorized units was cited as a component of the city's housing affordability strategy, noting "for building permits to remove an unpermitted unit where there is a feasible path to legalize the unit, the Department will recommend that the current housing affordability crises creates an 'exceptional and extraordinary' circumstance such that the Commission should deny the permit and preserve the unit" (Office of the Mayor of San Francisco, 2014). Within months of Lee's executive directive, Supervisors Avalos and Chiu advocated for a legalization program at the behest of residents and tenant advocates who identified rising rates of evictions in unauthorized units. Planners credit both Supervisors with advancing the agenda and securing the support of the Fire Department and Apartment Association, both of which had opposed previous proposals. This political support from supervisors and coordination of agencies from the Mayor's Office proved essential to successfully passing legalization legislation in 2014.

The same executive directive issued by Mayor Lee in 2014 gave the Planning Department the opportunity to initiate a pilot program of an Accessory Dwelling Unit program in the Castro District. The ADU program remained in a pilot phase for two years, operating within a “neighborhood commercial” zoned district in the Castro and resulting in a handful of completed projects by 2016.

The first iteration of the unauthorized dwelling unit (UDU) legalization program operated on a voluntary basis, requiring property owners to come forward with a unit and apply for a permit to legalize. The Planning Department waived most Planning Code requirements, such as rear yard, parking, open space, density, and light and air exposure, to expedite approval processes and reduce some processing fees. However all Building Code requirements, including ceiling height, ventilation, light, fire safety, and egress, needed to be met. The legislation had been initially proposed as a mechanism to preserve affordable housing, and thus included several measures to deter evictions and protect tenants. UDUs had previously been covered by the Residential Rent Stabilization and Arbitration Ordinance, and the legalization program clarified that any unit in a building subject to the Ordinance will remain so after legalization. Additionally, the program requires the Rent Board to verify whether any evictions have occurred within the unit, prohibiting units for which owner move-in evictions had been issued within five years and any no-fault evictions within ten years from qualifying for legalization.

Despite political support from the Mayor and Board of Supervisors, the Planning Department did not receive many applications in the first two years of the program. Planners speculated that low interest stemmed from the lack of incentives to legalize. Instead of legalization permits, Planning Department staff observed an increase in permit

applications seeking to remove these units. Consultations with tenant organizations revealed trends of property owners removing units (which frequently only requires removing a kitchenette and stove) as a pretense to evict long-time tenants after which they replaced the kitchenette and stove and charge market rate rent to new tenants. Between 2013 and 2016, the city lost 266 units due to removals of informal units, at which point planners and policymakers decided to take a new approach. As Kimia Haddadan, a Senior Planner who oversaw the legalization legislation, explained, “we were in a position where we could not force people to legalize their UDUs but we realized we could make it really hard for them to remove these units.” In 2016 the Board of Supervisors passed legislation that required requests to remove a UDU to go through the Conditional Use Authorization process. This ordinance made it much more difficult for property owners to legally remove a UDU, and approximately four Conditional Use Authorizations have been approved by the Planning Commission since 2016. A second change at this time the requirement of legalization, rather than removal, when a UDU was discovered through code enforcement by either the Planning Department or DBI.

It was also in 2016 that the Accessory Dwelling Unit legislation expanded the program citywide. While properties in most residential zones were permitted to build ADUs, the city concentrated outreach and resources to encourage production among owners of multi-family properties as part of the Mandatory Seismic Retrofitting strategy. The City offered property owners the opportunity to add ADUs as an incentive to increase mandated and voluntary participation in seismic retrofitting. Like the UDU legalization program, San Francisco’s ADU program exempts new units from Costa Hawkins and extends rent control protections to units added to properties covered by the

Rent Stabilization Ordinance. The ADU program was quickly elevated as a central component of the city's housing production agenda. San Francisco's policy discussions on secondary units have concerned almost exclusively ADUs, while the UDU legalization program has been a subject of more interest and scrutiny within the Planning Department. This reflects the recent statewide emphasis on removing barriers to scaling ADU development without extending leniency to secondary units that existed before formal ADU legislation. In August 2018, Mayor Breed issued an executive directive to accelerate the permitting and production of ADUs after a backlog of 919 applications generated public scrutiny. The executive directive called for streamlining permitting processes, developing consistent standards of code requirements among departments, and implementing inter-departmental permit reviews where all reviewing departments (the Planning Department, Department of Building Inspection, Fire Department, Public Utilities Commission, and Department of Public Works) meet regularly to review permit applications. Permit applications for UDU legalizations were intentionally excluded from this directive, leaving the approval process longer and standards between reviewing departments more ambiguous for property owners seeking to legalize a unit. In a subsequent executive directive in February 2019, Mayor Breed called for the elimination of the Department of Building Inspection's permitting fees that constitute roughly 8 percent of total project costs. Again, this directive did not extend to legalization permits. This oversight reflects a fundamental disconnect in secondary unit policy that prioritizes new development at the expense of preserving existing units.

Reception to the legalization program has been consistently positive among planners, tenant advocates, and housing experts. Interview subjects articulated that

legalization is a necessary and relatively straightforward component of the city's affordable housing preservation agenda. Kate Connor, a Principal Planner who also worked directly on drafting the 2014 and 2016 ordinances, explained that as a policy, the legalization program has been very successful. "It's been a 180 degree change from just a few years ago when we made people remove their UDUs; now almost all the units we encounter are legalized, which is great." Housing policy organizations such as the San Francisco Bay Area Planning and Urban Research Association (SPUR) advocated for ADU legislation for decades and agree that legalization and amnesty legislation is an essential component of zoning reform. "Legalization is the low-hanging fruit; the least costly and easiest option for preserving affordable housing," explained Kristy Wang, the Community Planning Policy Director at SPUR.

Initial Outcomes

In order to evaluate initial trends in both the UDU and ADU policies, I analyzed permits for each program and interviewed planners and tenant advocates who have observed these processes closely. Datasets of both legalization and ADU permits were obtained from the City's Permit Tracking System and capture permits issued between January 1, 2015 and December 31, 2018.

Legalization has not been exclusively voluntary since the 2016 amendment, and the program now requires households issued with a Notice of Violation (NOV) to undergo legalization. Each planner interviewed estimated that a majority of cases are mandated legalizations, though the number of voluntary participants has been increasing. Data included in each permit record varied according to the planner inputting information, and is not consistent in citing whether an initial NOV instigated the

legalization process. It is therefore not possible to ascertain the proportion of voluntary and mandated legalization cases with this dataset alone, though this information is essential to tracking the extent to which code enforcement practices drive legalization patterns. Because San Francisco's code enforcement system is directed by complaints, further interrogating these processes becomes an important consideration when introducing new regulations of housing informality.

The principal explanation provided by interview subjects as to why more property owners had not come forward to legalize units was the prohibitive cost of the process. The analysis of permit data found that the average UDU permit fee between 2015 and 2018 was \$31,408, ranging from \$1,000 to \$160,000. These fees did not include the cost of required construction. The inability of prospective applicants to anticipate how much legalization would ultimately cost them likely keeps people away.

This sample of UDU legalization permit data illustrates where processes of legalization are concentrated. While the analyses of code enforcement and Craigslist data suggested informal units likely exist throughout the city with higher concentrations in single-family zones, the UDU permit data indicates clearer patterns of neighborhood distribution. Most of the legalization permits between 2015 and 2018 were issued for properties in the Sunset and Richmond districts, as well as the Excelsior and Bayview-Hunters Point neighborhoods.

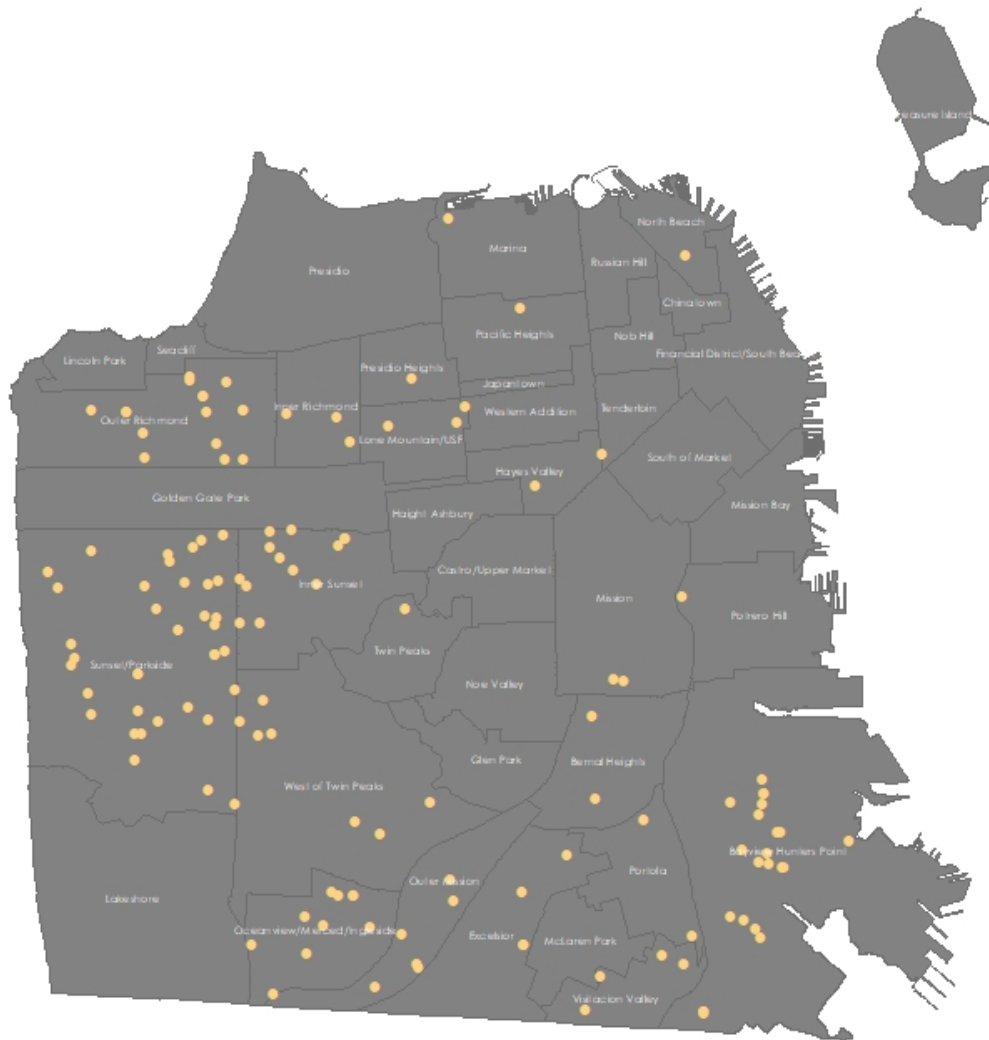


Figure 3.4 UDU legalization permits issued between January 1, 2015 and December 31, 2018.

In contrast, ADU permits between 2015 and 2018 were concentrated in multi-family buildings and in wealthier neighborhoods, including the Castro, Noe Valley, and Russian Hill. The higher rates of ADU permits in denser neighborhoods compared with legalization permits is likely attributable to the efforts to target property owners of multifamily buildings to add ADUs during seismic retrofitting.

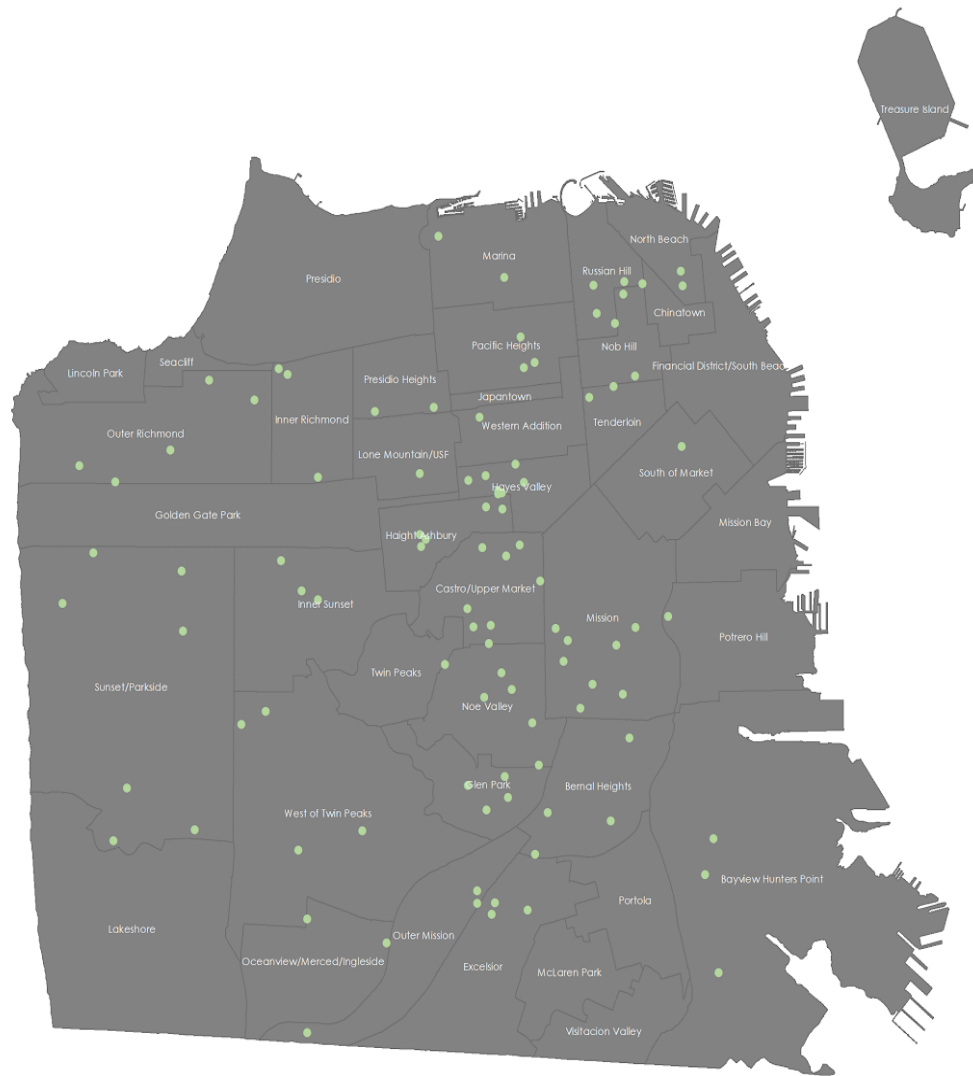


Figure 3.4 *ADU permits issued between January 1, 2015 and December 31, 2018.*

Of particular value is this dataset’s demonstration of the lack of ADU permits issued in the Excelsior and Bayview-Hunters Point neighborhoods. Both neighborhoods have higher concentrations of UDU legalization permits, which is consistent with their relatively higher representation in the code enforcement complaint and Craigslist rental listing analyses. These are two of the neighborhoods with the lowest household incomes in the city. The median household income in the Excelsior is \$65,200, 21 percent lower

than that of San Francisco, while the median household income in the Bayview is \$51,450, 53 percent lower than the city's average (San Francisco Planning, 2014). In contrast, three neighborhoods disproportionately represented by ADU permits are Noe Valley (with a median household income 35 percent higher than that of the city's), Russian Hill (30 percent higher), and the Castro (15 percent higher). To be sure, ADU development is a positive outcome and bodes well for the city's housing production strategy (especially considering 90 percent of ADUs permitted will be rent controlled). The point of concern arises from the pattern of lower income neighborhoods disproportionately relying on UDU legalization permits that do not have the same expedited and subsidized process as ADU permits. This pattern could also point to the inability of moderate and low-income homeowners to build ADUs due to the prohibitive cost.

One resident of an informal unit familiar with both the ADU and UDU programs explained that the City has not done enough to incentivize lower-income property owners to come forward with informal units. The lack of trust in many communities has led to skepticism that a permit to legalize will not lead to untenable penalties and fees, and people fear that attempting to come forward in good faith could lead to increased debt or losing their homes altogether. "San Francisco also isn't making the situation any easier by having a very lengthy and painstakingly expensive permitting process where in a lots ways, you can see why people forgo the permitting process. As you know, we do have some tools in place now but we obviously need a lot more. It wouldn't hurt to start looking at how we can actually incentivize people to legalize opposed to penalizing them," he explained.

CHAPTER FOUR: OAKLAND

Oakland's "Self-Made" Affordable Housing

Oakland's live-work warehouse spaces came into sharp public scrutiny following the Ghost Ship fire, with some asking how the city could have allowed unauthorized spaces to exist. The practice of converting underutilized industrial and commercial spaces into housing, however, has never been unique to Oakland and had been a well-established element of the city's cultural landscape for decades. Warehouse conversions first began in Oakland in the 1970s, when the decline of manufacturing left large industrial spaces vacant (Dolan, 2012). In processes closely resembling the conversion of lofts in SoHo in the mid-Twentieth Century, artists began moving into these spaces and building studios, lofts, and galleries (Shkuda, 2016). Tom Dolan, who has worked with Oakland's live-work spaces for decades and who wrote the city's live-work building code, explained that for forty years municipal agencies had little interest in regulating these spaces. "Unless there was a problem, the city ignored us," he said of the relationship between residents of these spaces and code enforcement officers. Live-work spaces, also known as DIY spaces, refer to arrangements that can be used for both residential and professional purposes (Dolan, 2012). This typology therefore connotes higher levels of self-employment among residents, often artists, musicians, or craftspeople.

Oakland approved one of the country's earliest live-work planning codes in 1980, and later adopted an updated 1999 live-work code in response to then-Mayor Jerry Brown's "10K" strategy (Bensus et al, 2018).¹⁴ Despite the codified uses of live-work

¹⁴ The mayor called for the 1998 General Plan to plan for the accommodation of 10,000 new residents by 2002 (City of Oakland, 1999).

spaces, a majority of conversions continued to take place without authorization from the city. As of 2019 an estimated 200 live-work spaces, both permitted and unpermitted, provide housing for approximately 5,000 people.¹⁵

Live-work spaces, however, constitute only one typology of informal housing in Oakland. In a tenure diversity analysis, Anna Cash identified fifty-five tenure types among the city's residents. This analysis situates informal tenure types (including single-family home with non-conforming unit, informal shared houses, unpermitted live-work/mixed-occupancy, and doubling up) within a continuum of housing precarity and insecurity (Cash, 2018). Other reports have similarly recognized informal housing arrangements as disproportionately relied upon by low-income. These analyses find that lower-income households in Oakland have been pushed by rising housing prices into increasingly substandard, overcrowded and unhealthy units, though only occasionally detail the specific configurations of these arrangements. A 2018 Housing Habitability report by Alameda County found that households spending 50 percent or more of their income on housing face higher risks of experiencing eviction and harassment from landlords and are more likely to double or triple up in overcrowded units (Nguyen, 2018). Testimony from a respiratory therapist in the report provided the only specificity that she had clients living in garages. Interviews with tenant lawyers and advocates also elucidated that descriptions of "overcrowding" often serve as innuendo for people living in garages, basements, and attics.

Live-work spaces are frequently distinguished from other informal tenancies in planning and policy discussions, but ultimately face similar barriers to being sanctioned

¹⁵ Interview, Tom Dolan (2019)

and upgraded. As Tom Dolan articulated, in all of these situations “people have taken it upon themselves to create housing where there wasn’t intended to be any, where the market and the city have failed to provide it – this is all naturally occurring and self-made affordable housing.”¹⁶ The City of Oakland, however, has not developed comparable pathways for amnesty and legalization of unauthorized units within single-family homes as it has for live-work spaces (O’Doherty et al, 2019). In sharp contrast with the policies in San Francisco, Oakland does not mandate legalization if the unit does not meet zoning and building code requirements or if the property owner wishes to remove the unit. Non-permitted units frequently require upgrades that make them cost prohibitive for property owners, which has reduced voluntary participation and restricted efforts to simultaneously preserve housing while addressing code violations.

Illustrating Geographies of Housing Informality

In this section I illustrate the distribution of informal secondary units using both Craigslist rental listings and code enforcement complaint data between January 1, 2015 and December 31, 2018 (representing approximately the two years preceding the Ghost Ship fire and the two years following the tragedy).

The scrape of Craigslist rental listings from the Wayback Machine, however, captured far fewer listings in Oakland than it had in San Francisco. Only 1,504 rentals were advertised in the four-year period, compared with 7,659 in San Francisco. Of these listings, 20 units (1.3 percent) were classified as “in-law” units. This offered a more limited sample to examine that, while on its own may not provide substantial insight,

¹⁶ Interview, Tom Dolan (2019)

does once again demonstrates the potential of rental market scrapes to interrogate informal housing markets.

Neighborhood	Count	Percentage
Oakland Rockridge / Claremont	1	5%
Oakland Hills/ Mills	3	15%
Oakland Piedmont / Montclair	11	55%
Oakland East	2	10%
Oakland West	2	10%
Oakland Lake Merrit / Grand	1	5%
Total	20	100%

Table 4.1. *Spatial distribution by neighborhood of Craigslist rental listings categorized as “in-law” units between 2015-2018. Of the 1,504 rental listings in Oakland between 2015-2018 (the years considered for this study) 20 (1.33 percent) specifically identified the unit as an “in-law.”*

The small sample size of the Craigslist scrape does not provide the opportunity to identify clear trends in neighborhood distribution or targeted populations of mid-market level informal rental units, but does highlight the presence of a rental market for secondary units in wealthier neighborhoods. Piedmont, an incorporated city surrounded by Oakland, has a median household income of \$202,631, more than three times Oakland’s median of \$63,251. Montclair, a higher-income neighborhood north of Piedmont, has a median household income of \$120,601, 47.6 percent higher than that of Oakland. Just as the Craigslist data demonstrated a presence of secondary unit rentals in higher-income neighborhoods in San Francisco, so too does this appear to be reflected in

Oakland. A number of these did not provide descriptions beyond location and rent, but the listings in Piedmont, Montclair, and the Oakland Hills described “newly renovated”, “sunny”, and “secluded” units, while both listings in West Oakland described the units as “basement spaces” in Victorians. Future scrapes of Craigslist rental listings would likely capture valuable information about the supply-side the rental market for secondary units.

Only 14 of the 20 units from this sample included rental prices, once again rendering this sample too small to extrapolate findings. It does, however, illustrate that the units in this narrow sample charge approximately market rate rents.

	1 Bedroom	2 Bedroom
Median Rent	\$1,925	\$3,250
Mean Rent	\$1,947	\$3,250
Range	\$1,000-\$2,800	\$2,300-\$4,200
Sample Size	12	2

Table 4.2. *Rental price data from sample of Craigslist rental listings. Of the 20 listings categorized as “in-law” units in Oakland between 2015-2018, only 12 included monthly rents in the listing.*

Code Enforcement data elucidated much more about both the geography of housing informality in Oakland. Unlike San Francisco, Oakland maintains a database of all complaints alleging code violations that have been filed with the city on the Accela Citizen Access Online Permitting Center. One of the nineteen categories of complaints that can be registered is a “housing habitability complaint,” which captures most concerns of housing units that may be in violation of building and safety codes. Each complaint includes a record number, date, address of the property in question, and a

description of the complaint. Most descriptions are relatively detailed, making this an immensely useful source of information.

Between January 1, 2015 and December 31, 2018, Oakland received 8,078 housing habitability complaints from residents. I closely analyzed this dataset, reading through each complaint, in an effort to identify where complaints reporting informal housing were concentrated, whether such complaints increased after the Ghost Ship fire, and to establish what code enforcement data can reveal about housing informality. Of the 8,078 housing habitability complaints filed between 2015 and 2018, 1,001 explicitly identified informal units. This subset excludes informal units that may have been identified through inspection processes initiated for other code violations, but speculating which descriptions match the requirements of an unauthorized habitable space is not possible.

The neighborhood distribution of complaints paints a more complex picture than the rental market analysis. In contrast with the Craigslist data, there are very few complaints registered against properties in the Oakland Hills and Montclair (Piedmont, as an incorporated city, is excluded from this database). Nor are there many complaints around downtown or Lake Merritt. Instead, complaints are dispersed around West Oakland and the Avenues.

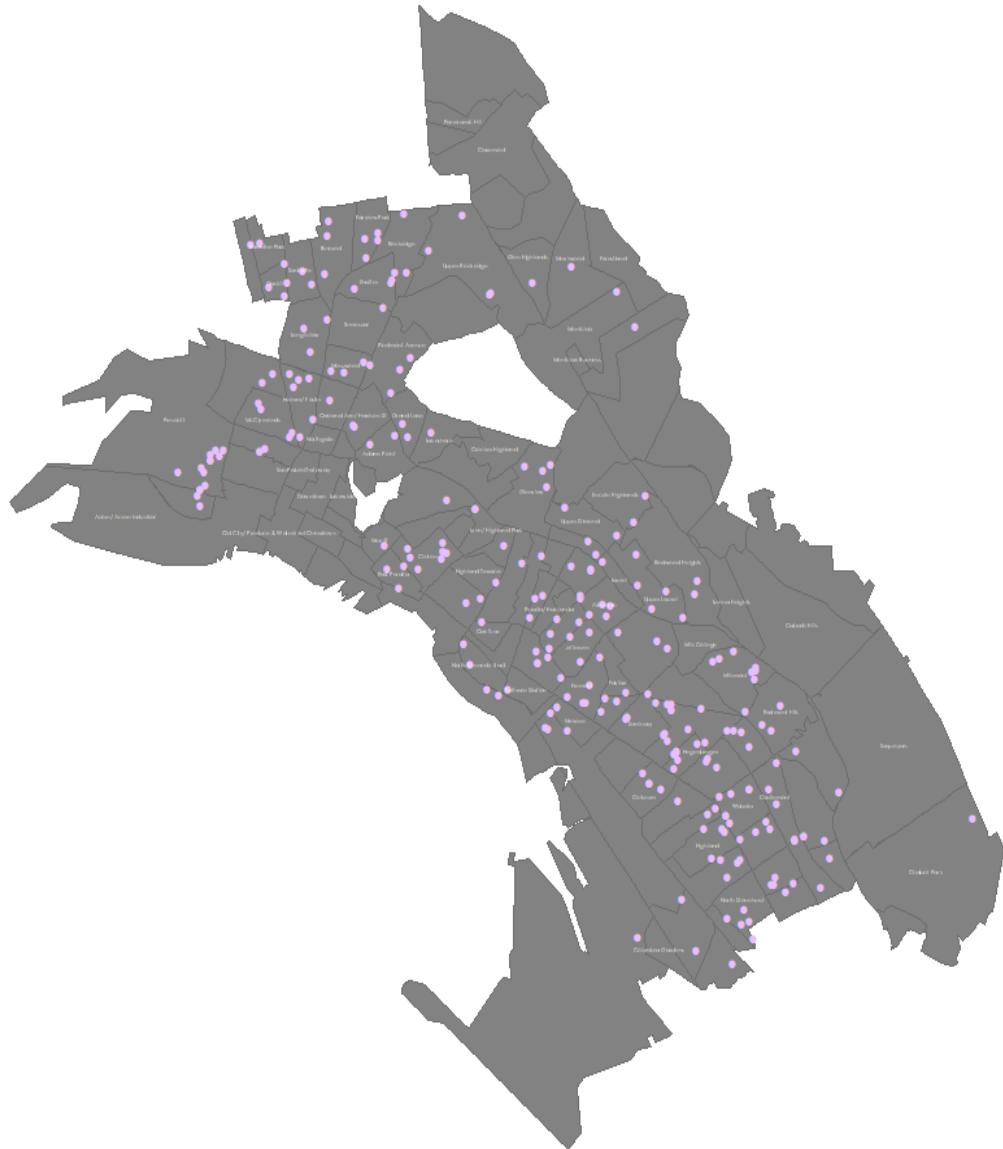


Table 4.3. *Housing habitability complaints filed with the City of Oakland between 2015 and 2018 reporting unauthorized housing arrangements. Data source: Accela Citizen Access Online Permitting System.*

The analysis of this dataset found that complaints specifically reporting informal housing arrangements increased by 58 percent (386 to 615) in the two years following the Ghost Ship fire in December 2016. The rate of investigated complaints found violating

building codes also increased over this period, with 23 percent and 29 percent of complaints registered as violations in 2015 and 2016 (through December 2, 2016) respectively, compared with 38.63 percent in 2017 and 43.8 percent in 2018. This suggests that in addition to the increase in residents reporting properties to be unauthorized housing, the rate of code inspections and issuance of Notices of Violations also increased.

These 1,001 complaints further illustrated the diversity of informal housing arrangements in Oakland. While concerns around warehouse conversions and DIY spaces generated the most public outcry and immediate response from the city's agencies, residents appear to have made the connection of unauthorized housing in a variety of other contexts. A majority of complaints identified traditional typologies of unauthorized units on single-family homes, namely in basements, garages, and detached backyard units. People were reported to be living in abandoned trailers on commercial lots, in church basements, storefronts, crawlspaces, and shipping containers. A significant limitation of this reporting system is that it does not identify the person filing the complaint, leading to ambiguity as to how these concerns arise. Some of the complaints are recorded in the first person and describe interior structural conditions in detail, indicating either a tenant or a property owner likely reported the unit, while others reports units as visible from the street or neighboring properties.

Reorienting Enforcement and Planning Practices After Ghost Ship

Interviews with tenant lawyers, live-work advocates, and policymakers revealed a widespread understanding among Oakland residents that the proliferation of informal housing arrangements has been evident for years, despite the relatively little attention it

received in local and regional housing policy. It wasn't until the fire at the Ghost Ship warehouse, a converted live-work space, and the deaths of thirty-six people that the issue of unauthorized living arrangements became a central housing priority.

Prior to Ghost Ship, displacement pressures had been a principal concern among tenants of live-work spaces. In response to these concerns, Mayor Libby Schaaf convened a task force in 2015 to identify strategies for protecting artist housing and workspaces in Oakland. The task force's white paper, released several months before the fire, identified three policy priorities to preserve affordable artist housing: ensure long-term affordability through public acquisition of properties; provide direct financial assistance to support artist groups avoid displacement; and create a "clearinghouse of resources" such as legal counsel, business planning tools, and available live-work spaces (Mayor's Artist Housing Task Force, 2016). Mayor Schaaf and city officials consistently affirmed the value of artist spaces in the city, leveraging the thriving arts scene to promote development in the Uptown corridor and attract tourism. This support, albeit more rhetorical than material, did not lead to increased enforcement of building codes, which allowed unauthorized spaces to continue to operate.

Three weeks after the Ghost Ship fire, Mayor Libby Schaaf issued an executive order detailing a plan to increase code inspections of the city's unauthorized housing stock without displacing tenants. The executive order affirmed the value of informal units that do not pose safety hazards as a vital source of affordable housing, and recognized the need to work with property owners to ensure that properties were brought up to code. She called for property owners of nonconforming residential and live-work buildings not

permitted for residential use to enter into an abatement plan with city officials within sixty days to address any code violations.

In the meantime, live-work advocates, architects and residents formed Safer DIY Spaces to provide technical assistance for addressing urgent life safety concerns and known Building, Fire, or Zoning code-compliance violations. Immediately following its formation, Safer DIY Spaces responded to over one hundred requests from live-work spaces seeking support. The organization works confidentially with communities to develop abatement plans and provide technical and financial assistance as spaces conduct structural improvements. Over the last two years, staff and volunteers have worked with dozens of communities to install fire sprinklers, build safer means of egress, and improve ventilation and electrical wiring. Some improvements are directed by code enforcement citations, but many have been made proactively at the behest of live-work tenants who want to ensure the safety of their homes.

Safer DIY Spaces, which eventually became a nonprofit, quickly came to fill an intermediary role between live-work communities and the City of Oakland. Two of its co-founders, Tom Dolan and David Keenan, describe their work as “translating” esoteric building codes into layperson terms for live-work tenants while simultaneously advising government officials as to how to protect these spaces and assuage fears of unsafe conditions. As both a live-work architect and the principal author of Oakland’s first live-work code, Tom Dolan has been able to secure the confidence of city officials and leverage his longstanding relationships with live-work communities to facilitate upgrades. Thus far Safer DIY Spaces has preserved 700,000 square feet of live-work spaces with over 2,000 residents at a rate of \$0.50 per square foot, making it one of the

most cost effective affordable housing strategies available.¹⁷ Though the City has worked with Safer DIY Spaces to “stabilize” spaces, which it defines as protecting them from an imminent threat of removal, Oakland does not yet have a process through which to legalize these spaces in a systematic manner. To fully legalize the one spaces the organization is working with would cost an estimated \$50 million, which at this point can only be achieved through a patchwork of grants, fundraisers, and a revolving loan fund that remains in the development stage. The organization’s experience since 2016 offers a valuable model for systematically inspecting converted spaces that rather than being red-tagged and removed, can continue to provide affordable housing for low-income residents with the appropriate improvements.

“A Pandora’s Box:” Confronting Code Enforcement Reform

Oakland’s experience navigating informal housing illustrates the “Pandora’s box” problem of enacting new policies, as efforts have already raised myriad structural reforms at the local and state level required for equitable and effective interventions.¹⁸ Despite recognition from the mayor that unauthorized housing needed to be preserved in order to protect the tenancy of thousands of low-income residents, evictions in live-work spaces increased following the January executive order. Safer DIY Spaces co-founder David Keenan estimated that in the two and a half years since the fire at least fifteen spaces had been evicted, leaving over one hundred people without homes.¹⁹

Keenan and Dolan, who have worked with over one hundred live-work spaces in Oakland since 2016, identified code enforcement practices as a principal obstacle

¹⁷ Interview, Tom Dolan, March 2019.

¹⁸ Interview, Tom Dolan, March 2019.

¹⁹ Interview, David Keenan. March 2019.

impeding preservation efforts. Individual code enforcement officers have a great deal of discretion when inspecting buildings, and have not demonstrated a consistent pattern of reluctance to working with residents of live-work spaces to improve conditions and preserve housing. Four interviewees based in Oakland described code enforcement officers as having experienced PTSD after Ghost Ship, carrying a great deal of internalized guilt over Ghost Ship as they inspect buildings. But the urgency with which these officers move through their work has resulted in more red-tagged buildings and over one hundred evicted tenants. Both Keenan and Dolan have had multiple conversations with code enforcement officers who articulate a priority of getting people out of buildings with any building code violation, going so far as to say that residents of these buildings would be safer living on the street than in a non-conforming space.

The instinct of code enforcement officers and the Fire Department to tighten enforcement of building and safety codes effectively undermines the mayor's directive to preserve informal housing and avoid displacement. Both Kennan and Dolan point out that preserving existing affordable housing by making necessary upgrades is cheaper by a factor of ten relative to building new affordable housing through the Low Income Housing Tax Credit program. Between the ongoing homelessness crisis and deficit of affordable unit, the two men contend that preservation is not an option the city can afford to ignore. The executive order of January 2017 managed to bring elected officials and some municipal departments to acknowledge the importance of preserving non-conforming spaces, but the directive alone has not restricted the agents responsible for identifying and citing these buildings from deciding to shut them down. The principal point of contention Safer DIY Spaces raises is the need to distinguish between life safety

violations and other code infractions. As Keenan explained, “an uncovered light socket or a handrail that is an inch lower than the code should not be a reason to throw a dozen people out of their home.” Jonah Strauss of the Oakland Warehouse Coalition, testified at a California State Senate Oversight Hearing in 2018 that “the way we avoid situations like Ghost Ship in the future is not through reactionary enforcement but by enabling tenants and landlords to work together to comply with basic life safety regulations immediately. It is important to note that in most spaces basic fire and life safety standards can be achieved with simple modifications to the interior build-out.” The fact that the executive order failed to introduce reforms to the building code or enforcement practices has ultimately impeded its objective. Until such reforms are enacted, and policies of amnesty and legalization are systematized, code enforcement officers and other municipal agents who object to amnesty can continue to exercise their latitude to ignore that priority.

Until such reforms can be made, Safer DIY Spaces has found that “no-tell” inspections offer the most effective method through which to reach people and address urgent life safety conditions. In the two and a half years since Ghost Ship, over one hundred live-work spaces have reached out for technical assistance or information about making essential upgrades. Most have done so on the condition of anonymity, wanting to avoid involvement by code enforcement officers who may not be willing to work with them to make the necessary improvements before a building is red-tagged and forcibly vacated. This outreach has resulted in extensive education and improvement of informal housing, little of which would have been possible without the guarantee of anonymity. The success of this model further underscores the recalibrate code enforcement practices

if the city's goals are to improve habitability conditions and preserve the existing supply of affordable housing.

An Uneven Response: Recognizing the Spectrum of Housing Informality

In the wake of the fire, political responses and media coverage principally concerned live-work spaces, but more aggressive code enforcement and evictions also increased among informal units within single-family homes. According to tenant lawyers with the East Bay Community Law Center and Centro Legal de la Raza, the number of eviction cases they see concerning renters of informal units has increased noticeably since the Ghost Ship fire. They attribute this trend to heightened fear among property owners, leading many of them to remove the units entirely and evict the tenants rather than risking citations by code enforcement officers or liability for a fire. Braz Shabrell, a Housing Attorney and Clinical Supervisor at the East Bay Community Law Center, the clinic typically sees evictions occurring in informally converted single-family homes that resemble “boarding house situations,” in which the garage, basement or backyard structure has been rented. Landlords of these arrangements tend to rent to people who are more vulnerable (particularly immigrants and women with young children), according to Shabrell, because they are less likely to complain about habitability issues. The tenants Shabrell works with face a “catch-22” when deciding whether to complain, because they frequently recognize that this housing is their only option. Leah Simon-Weisberg, the Directing Attorney at Centro Legal de la Raza, described a similar trend in seeing more tenants from informal units seeking counsel for eviction cases after the fire. In almost all cases, a Notice of Violation issued by a code enforcement officer initiates the eviction process. One important issue raised by both lawyers was the recurring trend they have

seen of landlords with unauthorized units filing complaints on their own properties, and leveraging the complaint as a means to evict the tenant of the informal unit before any NOV can be issued. Their suspicion of this is grounded in anecdotal evidence of landlords telling tenants they had filed complaints themselves and the fact that most of the properties in question are put on the market shortly after evictions have been issued, leading them to surmise that the higher value of single-family homes without informal units motivated landlords to push their tenants out.

Centro Legal serves low-income, immigrant, and Latino tenants in Oakland. Of their clients living in informal units approximately half live in single-family homes and half live in industrial or commercial conversions, though this ratio is likely not reflective of the city's informal housing landscape. Simon-Weisberg explained that while unauthorized units in single-family homes (particularly garage and basement conversions) are more prevalent and have also faced increased scrutiny since the Ghost Ship fire, DIY spaces are better organized and more likely to secure legal representation. She described the artist communities in industrial conversions as tending to be native-English speakers, highly educated, and more familiar with renter protections than tenants of other unauthorized typologies who face similar life safety concerns and harassment from landlords. But while there have been concerted efforts among DIY spaces to educate, fundraise, and advocate for protecting this housing, proactively reaching the tenants of garage and basement units who may be fearful of reporting unsafe conditions or harassment has posed a considerable challenge. Just as Tommi Avicelli Mecca of HRCSF described, immigrant tenants often face the most precarious living conditions that warrant structural upgrades, but have few recourses for registering concerns without

jeopardizing their housing. Unlike tenants in these positions in San Francisco, however, tenants Oakland cannot expect a complaint and investigation to trigger a legalization process that ostensibly preserves the tenancy of the unit.

This discrepancy between the two cities highlights the importance of creating pathways for legalization that can allow vulnerable tenants to more proactively address substandard living conditions that can be brought up to code. But beyond policy framework of legalization, Safer DIY Spaces' experience demonstrates that third parties can play an essential role in conducting outreach among communities that may not trust traditional code enforcement processes. The model developed between Safer DIY Spaces and the City of Oakland of a third party conducting no-tell inspections, educating both property owners and tenants, and providing technical and financial assistance to make life safety improvements has helped the city reach far more properties than it would with a public agency-operated program. The question before the city now is whether this model can be extended to tenants of informal units on residential zoned properties rather than just commercial warehouses.

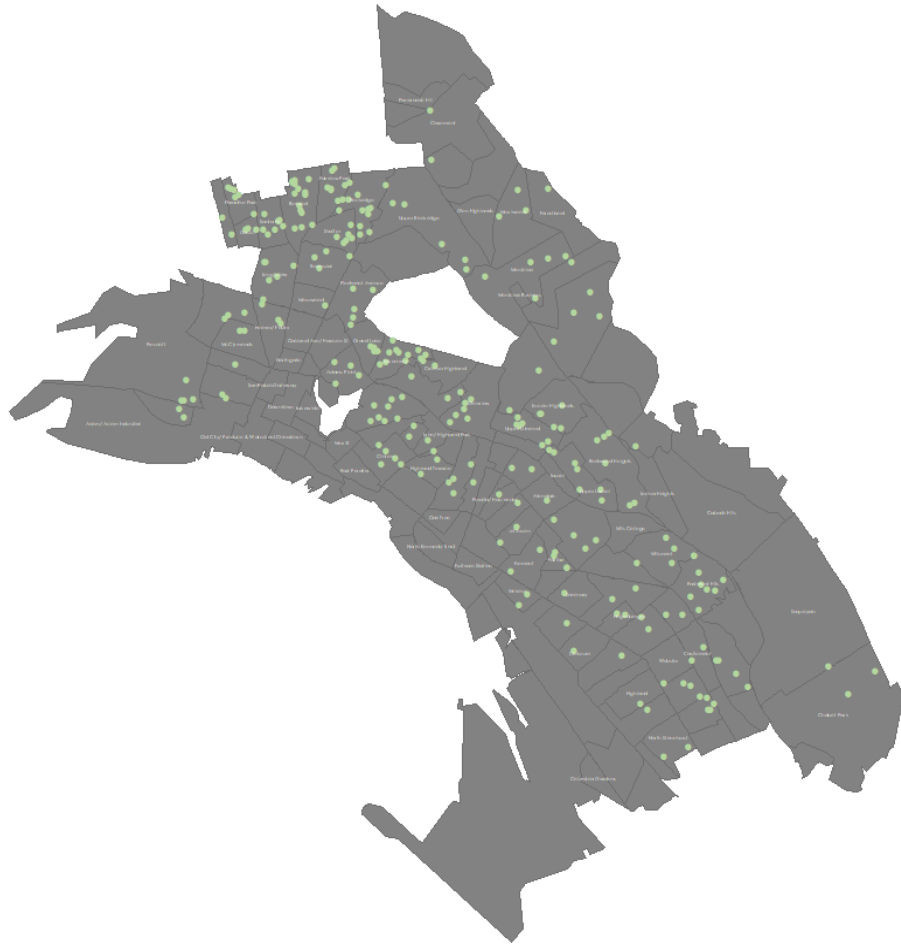
Proliferation of Formal Secondary Units

The inclusion of informal units in single-family homes in preservation efforts is made more urgent by the increased popularity of the city's ADU program. Oakland eased zoning restrictions on ADUs in January 2016, at which point Mayor Schaaf praised the policy as "the best way to quickly build our stock of much-needed rental housing...this will also help preserve the diversity of our communities by keeping renters and owners in the same neighborhoods, while creating income opportunities for homeowners who also

feel the pressure of our region's high cost of living.”²⁰ Oakland did not, however, enact a pathway to legalize existing secondary units at the time the ADU program was introduced. As both Shrabell and Simon-Weisberg pointed out, thousands of secondary units already exist in Oakland and provide precisely the benefits attributed to ADUs. “One of my big concerns is that we call these garage units ‘ADUs’ and that’s great and cute, but in another neighborhood with undocumented immigrants living in garages it’s unacceptable. It’s a racial and economic equity issue,” Simon-Weisberg explained.

I analyzed ADU permits issued in Oakland between 2015 and 2018 as recorded in the city’s Accela Citizen Access Permit Center. Building permits for ADUs in these datasets have not been consolidated in one category, so I therefore analyzed building permits categorized as “Residential Building – Addition,” “Residential – New,” and “Residential Alternative Method Request.” These three categories contained 2,780 building permits issued between 2015 and 2018. The permits do not follow consistent naming conventions (permits identify “accessory dwelling units,” “secondary units,” “second studios,” “separate units,” among others) and I only collected those that explicitly identify additions as independent, secondary units rather than merely habitable spaces. The number of permits increased by approximately 200 percent in the first two years after the city relaxed zoning restrictions. These permits appear to be present in most neighborhoods in the city, with greater concentrations around Temescal, Crocker Highlands, and Lake Merritt.

²⁰ BondGraham, Darwin. “Oakland Eases Rules on Secondary Units to Add New Rental Housing.” Easy Bay Express. January 6, 2016.



ADU permits 2015-2018

Unlike San Francisco, the most common typology recorded in building permits for ADUs in Oakland was detached garages and backyard structures, with the second most common typology conversions of basements into secondary units. A majority of permits for detached structures further specified converting existing structures into secondary units, rather than completing new construction.

The immediate increase in ADUs in Oakland indicates considerable public interest in developing secondary units. From a supply-side perspective, property

owners appear to be willing to add secondary units to their properties for any number of reasons, including generating rental income and building smaller, more accessible homes in which to age in place. ADU permits in Oakland appear to be less concentrated in a small number of wealthy neighborhoods than the dynamics observed in San Francisco. The cost of building ADUs in Oakland, however, remains prohibitive for many middle and lower-income property owners for the same reasons it is in San Francisco (namely, the lack of loan products that consider future rental income and future added value of the ADU). Data on the rents of newly added ADUs has not been collected, but limited evidence from San Francisco, Seattle, and Portland suggests that property owners typically charge market-rate rents in order to offset the cost of development

With ADUs now proliferating across the city, Oakland's lack of an amnesty or legalization framework for existing ADUs restricts the number of safe and affordable secondary units that can be recognized and protected. Informal units have been a source of affordable housing and supplemental income for Oakland residents for decades, and those that are code conforming under the new zoning reforms should be sanctioned through a legalization program similar to that offered in San Francisco. The exclusion of existing secondary units from legal recognition disproportionately affects lower-income households who have made these conversions at higher rates than the higher-income households taking advantage of the formalized ADU program now.

RECOMMENDATIONS

The interviews and analyses conducted for this project generated a number of recommendations for improving policy frameworks addressing informal housing. These range from quite technical suggestions, such as offering cheaper equivalencies for legalization purposes, to more fundamental reforms of existing processes, such as adopting a harm reduction approach to code enforcement. There are several avenues for city agencies, mayoral administrations, and state legislators to pursue to both preserve existing affordable housing units and develop more equitable secondary unit agendas.

1. Implement legalization programs in conjunction with ADU programs:

San Francisco's experience demonstrates the efficacy of expanding ADU development while simultaneously encouraging legalization of existing secondary units. Jurisdictions that have enacted zoning reforms to accommodate ADU production should at the very least allow code-compliant, unpermitted units to be formally sanctioned and protected. Doing so will facilitate increased inspections of affordable rental units to ensure habitability standards are met and increase the likelihood that tenant protections will be enforced.

2. Reorient code enforcement to adopt a harm reduction approach: Code enforcement processes should prioritize life safety concerns above common code violations. Safer DIY Spaces has called attention to the practice of issuing Notices of Violations (NOVs) for non-life safety code violations, often resulting in the eviction of tenants. The State building code already privileges life safety over

other building codes, offering a model for local jurisdictions that do not yet make these distinctions. NOV's can further be made more accessible to recipients citing state code, which explains building and fire science throughout, in order to educate recipients as to what concerns have been raised through an inspection. Many jurisdictions, including Oakland, issue NOV's that do not cite specific codes for alleged violation, which leads to confusion and frustration. Mandating the citation of each violation would educate recipients and also act as a subtle preventative measure to deter code enforcement officers from citing aggressively. NOV's should also be mailed directly to all residents of cited properties, rather than just the property owners.

3. Strengthen the role of intermediaries: Safer DIY Spaces offers an important model for local jurisdictions to partner with nonprofit organizations to conduct community outreach and “no-tell” inspections of informal units. These partnerships build trust among communities that may be skeptical of direct involvement of municipal agencies and increase education and awareness of building safety. In smaller cities, intermediaries can provide technical assistance and financing for essential upgrades for which municipal agencies may not have the capacity or resources. Bringing local organizations into the work of improving housing conditions alongside code enforcement and fire officials will ultimately reach more people and more efficiently address life safety conditions in the housing stock.

4. Offer older housing units exemption from Title 24: California's strict energy code has a number of positive attributes, but impedes the preservation of affordable housing in several ways. Most existing affordable housing units are over fifty years old and not energy efficient, meaning that in order to abide by the state's Building Energy Efficiency Standards (Title 24) they often need to replace walls, insulation, among other upgrades that often end up either being cost prohibitive or passed on to tenants, thereby threatening the affordability of the units. One solution is to designate housing units and live-work spaces over 50 years old as historic, which would exempt them from Title 24. Providing older housing exemption via access to the California Historical Building Code would allow existing affordable housing, which is disproportionately older housing stock, to make essential upgrades in a more cost-efficient manner. In addition to offering a more feasible path for property owners with informal units to pursue legalization projects, an exemption for older housing from Title 24 would strengthen the agendas to preserve existing affordable housing that most jurisdictions have promoted.

5. Expand financing opportunities for essential life safety upgrades: Local governments can accelerate upgrading initiatives by directly funding legalization projects or working with local financial institutions to develop long-term low-interest loans for property owners to make structural improvements. In San Francisco, the Housing Accelerator Fund is in the best position to extend funding already dedicated for preservation and expansion of affordable housing to units

undergoing legalization. Safer DIY Spaces and the City of Oakland have participated in discussions with the Northern California Community Loan Fund to establish a revolving loan fund to finance legalization of live-work spaces. This could offer a viable model for broader informal housing upgrading initiatives in other jurisdictions. An additional model is that offered by SOUP, a design and technology nonprofit, that provides project management for low-income families in East Palo Alto to legalize ADUs, including all permitting and construction. SOUP also offers families a grant at 0% interest if they sign an MOU saying that they will rent the unit to someone who earns less than 80% AMI.

6. Offer property owners amnesty while legalizing units: One point raised by city planners in San Francisco and staff at Safer DIY Spaces was the fact that property owners attempting to legalize housing units struggle to make the necessary upgrades as quickly as code enforcement requires. This is especially true for property owners that do not have outside financing. For mandated legalizations in San Francisco, this can lead homeowners to sell their property entirely out of desperation, while in Oakland it can result in live-work spaces being evicted. The “wish list solution” for these experts was to offer properties amnesty for five to seven years as they bring housing units up to code. This would allow property owners to make incremental upgrades without going bankrupt while ensuring the retention of an affordable housing unit. Assembly Member Nancy Skinner, who represents Oakland, included a provision for amnesty in SB 330, which she authored. Such an initiative could likely generate more traction if the amnesty

were offered for properties that commit to renting the housing unit to tenants earning under 80% AMI.

7. *Facilitate inter-agency coordination and cooperation:* One challenge that has faced interventions in both San Francisco and Oakland has been the coordination of all agencies that oversee building inspection. In San Francisco, the City Planning Department uses a different metric from which to determine whether a unit is unauthorized than the Department of Building Inspection. Both agencies conduct inspections of properties with alleged UDUs, but the fact that DBI requires a stove to be present for a UDU to be identified while the Planning Department looks for evidence of habitation leads to confusion among property owners and tensions between departments. In Oakland, code enforcement officers have been reluctant to abide by Mayor Schaaf's executive order to cite building code violations while avoiding displacement. Both of these experiences highlights the importance of inter-agency coordination at the executive level, and the need to fundamentally reorient code enforcement practices to meet the expressed priorities of any intervention into informal housing. Executive directives for an inter-agency initiative can also drive the cost of legalization down for property owners by encouraging the agencies involved to offer cheaper equivalencies for code violations. Ensuring that agencies understand and adhere to new policy approaches toward informal units is no small task but is ultimately the only way to ensure long-term viability.

CONCLUSION

Informal secondary housing arrangements have become increasingly visible in California cities in recent years. The most typology, unpermitted additions to single-family homes, has been relied on by low and moderate-income households for decades, and has now been formalized and championed by state and local legislators as Accessory Dwelling Units (ADUs). These code reforms necessitate pathways to legalize informal secondary units largely built prior to relaxed zoning laws. The processes through which to accomplish this, however, have yet to be interrogated. The experiences in San Francisco and Oakland over the last five years demonstrate that the legalization or amnesty of informal housing units cannot be divorced from the expressed priority of preserving existing affordable housing and that the region's current housing crisis has placed increased pressure on tenants of these housing arrangements.

San Francisco's legalization program demonstrates the relative ease with which such policies can be implemented in conjunction with ADU programs. Efforts in Oakland, on the other hand, illustrate the importance of intermediaries to facilitate outreach and structural upgrades. In both cities, fear and distrust of municipal agencies and code enforcement officers necessitates the participation of third party actors to help tenants and property owners navigate processes of legalization or upgrading informal units.

The respective interventions in both cities highlight the limitations of preserving informal units without reorienting code enforcement practices, which can alienate tenants who are disproportionately low-income and immigrants.

Code enforcement officers have historically played a punitive, if not largely absent, role in regulating informal housing in the Bay Area. But analyses of four years of code enforcement data corroborate what tenants and organizers of informal housing spaces have contended: that code enforcement of informal housing units have increased considerably since the 2016 Ghost Ship fire. This is most attributable both to the fears of local officials in identifying potentially dangerous structures and the increased visibility of informal units as more residents are forced to find cheaper arrangements in two of the most expensive housing markets in the country. In Oakland, code violation complaints that reported informal housing arrangements increased by 58 percent in the two years following the fire. Analyses of these data sets as well as rental market data from Craigslist further illustrate informal housing markets that extend to most neighborhoods in both cities, crossing most socioeconomic indicators. Lower-income and immigrant communities that have long relied on informal arrangements have been joined by tech employees, teachers, and college students in seeking lower rents wherever they can.

State and local policymakers, recognizing the value of secondary units in promoting infill development and increasing the housing stock, removed regulatory barriers for secondary units statewide in 2016. However the formalized ADUs remain largely inaccessible to moderate and low-income households in San Francisco and Oakland due to high construction costs and a lack of formal loan products for such projects. While rental market and code enforcement complaint data suggest informal secondary units exist in most neighborhoods, permit data from San Francisco indicates higher concentrations of ADUs in higher-income

neighborhoods. Moreover, political efforts to reduce permit costs and expedite approval processes have benefitted ADU projects but not extended the same incentives to UDU legalizations, which are largely concentrated in two of the lowest-income neighborhoods in the city.

The recent policy interventions directed toward informal housing in San Francisco and Oakland illustrate the prevalence of such arrangements in each city's housing landscape. They also demonstrate urgent need for more equitable secondary unit policies. The ascension of ADUs in state housing policy agendas has occurred in large part without consideration of how to integrate the tens of thousands of garage, basement, and backyard units built before zoning reforms. San Francisco and Oakland are two cities that have grappled with questions of legalization, upgrading, and enforcement through markedly different approaches. Each of these experiences underscores an acute need for policy to recognize informal units as a valuable source of affordable housing, and to center legalization frameworks in preservation agendas.

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