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Introduction

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INTRODUCTION

PETER W. SALSICH, JR.*

On February 27, 2009, Saint Louis University School of Law and the *Saint Louis University Public Law Review* presented a symposium titled: “Property Ownership and Economic Stability: a Necessary Relationship?” Leading scholars and practitioners presented their views on the relationship between property ownership and economic stability, paying special attention to the impact on lower-income families of recent instability in the nation’s housing markets. The symposium was organized around three main topics: Barriers to Affordability, Property Rights and Economic Stability in the International Context, and Property Ownership in the U.S.: New Definitions for a New Era.

Professor Damon Smith explores the rationale for and benefits of public participation in the redevelopment process and finds that “participatory planning is beneficial as a legitimizing form of deliberation in governance, but only when used as a supplement to, rather than a replacement for politically accountable legislative authorities.” Through an examination of urban redevelopment planning methods used in Camden, New Jersey and East St. Louis, Illinois, Professor Smith suggests specific changes to state redevelopment laws to foster participatory planning.

Using a series of devastating hurricanes that ravaged the southern United States between 2003 and 2008, University of Texas Law Clinic Director Heather Way analyzes a parallel “informal homeownership” regime accessed by “many of the nation’s most vulnerable homeowners – largely poor Black, Latino, and immigrant families” that exists alongside the formal legal systems designed to provide secure title to homeowners and enable them to transfer that title. Following an examination of both the “formal and informal paths to homeownership” existing in the U.S., Director (Professor)? Way offers recommendations for policymakers and lawyers designed to “help ensure that American laws and property systems better protect all homeowners.”

Professor Ngai Pindell raises provocative questions about the traditional concept that homeownership carries with it a virtually-unfettered right to freely alienate property. Discussing the “surprising number of contexts” in which local public restrictions on the ability of homeowners to rent their homes occur, Professor Pindell explores such restrictions as a possible strategy for

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addressing the type of real estate speculation that helped fuel the recent mortgage foreclosure crisis. While “more work needs to be done” to identify an appropriate approach, he concludes that “recent economic events demonstrate that more flexibility in ownership models and regulatory regimes is necessary to preserve the economic stability of individuals and communities.”

A 2004-05 case study in Bolivia is the centerpiece of Dr. Susana Lasterria-Cornhiel’s examination of the impact that land policy and administration programs can have on gender inequality and more general social inequality. Agrarian reform legislation enacted in 1953 and revised extensively in 1996 established policies of land re-distribution and protection of communally-held land by indigenous communities and smallholder peasant communities. The 1996 law also recognized explicitly that women as well as men have “equal rights to land.” Among the lessons suggested by the Bolivian case study are the need to include guidelines to safeguard women’s rights to land, as well as gender training workshops and the inclusion of gender in the monitoring component of the program.

Professor Michael Diamond engages in a rethinking of the concepts of *property* and *ownership*, using the context of shared equity ownership for his re-examination. His paper focuses on the “resale restraints placed on publicly financed affordable homeownership units” as a basis for continuing “an exploration of the cultural construction of property” he had begun in an earlier paper. After a brief review of philosophic and cultural aspects of property, he discusses the legal and political meaning of property in America, with particular focus on “the complexities of its meaning today.” Professor Diamond concludes that “the resale restrictions placed on some subsidized homeowners are appropriate elements of public policy . . . [and] are consistent with other restrictions currently placed on private property in order to meet overriding public concerns.”

Permanently affordable homeownership is the theme of Professor James Kelly’s article. Examining the potential of the inclusionary zoning land use technique and the Community Land Trust concept, both of which restrict resale of housing in certain circumstances and degrees, Professor Kelly argues that “a stewardship approach to restricting resale is superior to testamentary or regulatory approaches to sustaining the affordability of subsidized homes.” He describes the use of pre-emptive options to purchase in covenants and leases, techniques utilized by inclusionary zoning and Community Land Trust regimes respectively. He stresses the importance of “a vigilant and sophisticated stewardship agent” as an essential ingredient in any effort to “sustain perpetually affordable homeownership.”

This symposium is the result of the hard work of the authors, other participants in the February discussion, and the editors and staff of the *Public Law Review*. The articles published in this volume provide critical analyses of

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current affordable housing issues and thoughtful recommendations for improving public policy as it affects the availability of affordable housing for all segments of society.

