

## ARTICLE

### **Neo-Liberalism, Police, and the Governance of Little Urban Things**

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**Abstract:** This article seeks to refine understandings of the governmental logics that comprise and shape urban governance. Drawing on research using ethnographic methods that explore the business improvement district (BID) and the condominium corporation (condo) it is argued that exclusive focus on urban neo-liberalism neglects an urban "police." This latter logic is most famously remarked upon in Michel Foucault's writings as targeting "little things" in urban spaces. Both "police" and the "free rider problem" it confronts predate and are irreducible to neo-liberalism. Ethnography helps discern this "police" as well as how neo-liberalism relates to it in private urban realms typically hidden from view. Examining BIDs and condos in this way shows that neo-liberalism and "police" co-exist and combine in the governance of urban residential and commercial life. This matters because it reveals a more complex picture of urban governance than is sometimes assumed when neo-liberalism is exclusively invoked and one that is necessarily considered when conceiving of alternative governing arrangements.

**Keywords:** cities, neo-liberalism, police, governmentality, condominium corporations, business improvement districts

### **Introduction**

Understanding urban governance has a new urgency since the world's population has now become principally urban.<sup>1</sup> About governance of this urban world there is a familiar story in which neo-liberalism plays a starring role. Specifically, it is said that new strategies, technologies, and authorities have emerged on the global urban stage to reshape and manage urban life and space in new directions.<sup>2</sup> This neo-liberal governance, or "political-economic governance premised on the exten-

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<sup>1</sup> Mike Davis, *Planet of Slums* (New York: Verso, 2007).

<sup>2</sup> Engin Isin, "Governing Toronto without Government: Liberalism and Neo-Liberalism," *Studies in Political Economy* vol. 56 (1998); Neil Brenner and Nik Theodore, "Cities and Geographies of 'Actually Existing Neo-Liberalism'," *Antipode* vol. 24, (2002); Kevin Ward, "'Policies in Motion', Urban Management and State Restructuring: The Trans-Local Expansion of Business Improvement Districts," *International Journal of Urban and Regional Research*, vol. 30 (2006); Evelyn Ruppert, *The Moral Economy of Cities: Shaping Good Citizens* (Toronto: University

sion of market relationships,"<sup>3</sup> is especially evident within ambitious efforts to gentrify or, less honestly, to "revitalize" urban economies and spaces.<sup>4</sup> Typically this means a stark reduction of municipal expenditures for services and social housing for urban populations, de-regulation, a move toward entrepreneurial planning, and a valorisation of the private sector's alleged capacity to deliver services and housing more efficiently than the state. Two forms closely associated with these neo-liberal projects are the business improvement district (BID) and the condominium corporation (condo).

Examining BIDs and condos as forms of urban governance via ethnographic research that combines personal interviews, observation, and the collection of text-based materials, this article seeks to refine understandings of the governmental elements that comprise and shape urban governance. BIDs and condos are found to have attributes consistent with urban neo-liberalism. However, largely absent from governmentality-related accounts of urban neo-liberalism is acknowledgement of other relevant governing logics, including those operating in these and other private (or privatized) urban realms, or across private-public boundaries. One of these logics Michel Foucault called "police"<sup>5</sup> which attends to the minutiae of urban life or, as Foucault aptly suggested, to "little things." This article argues in relation to BIDs and condos that the full significance of "police" in contemporary urban governance has gone unrecognized and that ethnography is a key means of exploring "police." In BIDs and condos "police" is found to initially coerce membership as well as subsequently target myriad aspects of members' conduct and other "little things" that constitute everyday residential and commercial urban life. "Police" practices are found to increasingly stem from private agents' activity in the governance of BIDs and condos. Thus, "police" is discovered to be increasingly marketized in these realms. Yet, these practices still cannot be fully accounted for by reference to neo-liberalism alone. All this underscores the need for more research into these private urban arrangements and practices using ethnography. Specifically, ethnography can help identify "police" in the first instance and discern how neo-liberalism relates to other logics, particularly in growing private realms that are notoriously difficult to access or are hidden from view. Analysts need ethnography to explore what some would consider mundane private

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of Toronto Press, 2006); Randy K. Lippert, "Urban Revitalization, Security, and Knowledge Transfer: The Case of Broken Windows and Kiddie Bars," *Canadian Journal of Law and Society*, vol. 22, no.2 (2007); Roger Keil, "The Urban Politics of Roll-with-it Neoliberalization," *City*, vol. 13 no.2-3 (2009); Leslie Kern, *Sex and the Revitalized City: Gender, Condominium Development and Urban Citizenship* (Vancouver: UBC Press, 2010); Sharon Zukin, *Naked City: the Death and Life of Authentic Urban Places* (New York: Oxford University Press, 2010), 143; Sophie Didier, Elisabeth Peyroux and Marianne Morange, "The Spreading of the City Improvement District Model in Johannesburg and Cape Town: Urban Regeneration and the Neoliberal Agenda in South Africa," *International Journal of Urban and Regional Research*, vol. 36, no.5 (2012).

<sup>3</sup> Wendy Lerner, "Neo-liberalism: Policy, Ideology, Governmentality," *Studies in Political Economy*, vol. 63 (2000), 5.

<sup>4</sup> See Nicholas Blomley, *Unsettling the City: Urban Land and the Politics of Property* (New York: Routledge, 2004), 31; Jason R. Hackworth, *The Neoliberal City: Governance, Ideology and Development of American Urbanism* (Ithaca: Cornell University Press, 2006).

<sup>5</sup> Michel Foucault, *Security, Territory, Population: Lecture at the Collège de France, 1977-1978* (New York: Palgrave MacMillan, 2007).

realms to discover the little rules that constitute the urban at a distance from city councils and the courts and where neo-liberalism articulates in conjunction with “police.” Such an exploration matters because it can help expose regressive effects of combinations of such logics and allow thinking about alternatives. The remainder of this article unfolds in three parts. The first section considers urban neo-liberalism and “police” in recent governmentality-related literature with an eye to identifying the specific contribution that ethnographic research can make. The second section describes the emergence and characteristics of BIDs and condos to raise doubt about their characterization as neo-liberal. In this section, the value of using ethnography to discover and explore “police” in BIDs and condos and its relations with neo-liberalism is also shown. Finally, the free rider problem<sup>6</sup> and the marketization of “police” in these two realms is briefly discussed. This is followed by some concluding remarks.

### **Urban Neo-liberalism, Police and Governmentality**

Governmentality studies and related work from across the disciplines, including political science, geography, and sociology, has documented complex shifts in the governance of cities in the past three decades, often using “urban neo-liberalism” or “neo-liberalization” to describe these changes.<sup>7</sup> This varied work lends insight into what has occurred in Western cities. For example, this concept speaks to how and why entrepreneurial forms of urban governance have arisen to replace or supplement rolled back municipal bureaucracies and public services overseen by city councils, and reveals how market-based urban housing schemes have emerged while urban public housing and rent control programs have been reduced or altogether eliminated.<sup>8</sup>

Yet, deploying a totalizing or master narrative of urban neo-liberalism and suggesting this logic accounts for the contours of contemporary urban governance assemblages is empirically doubtful and somewhat inconsistent with the original thrust of governmentality studies inspired by a “later Foucault.”<sup>9</sup> To be sure, recent work on urban neo-liberalisation from within the governmentality literature and from structural perspectives occasionally recognizes resistances, holes, or anomalies in this otherwise totalizing configuration,<sup>10</sup> but these are not typically characterized as eliciting a logic of power. Thus, one encounters, among others, “contingent urban neo-liberalism,”<sup>11</sup>

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<sup>6</sup> See Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965).

<sup>7</sup> See for example, Brenner and Theodore, “Cities and Geographies of ‘Actually Existing Neo-Liberalism’”; Hackworth, *The Neoliberal City*; Kern, *Sex and the Revitalized City*.

<sup>8</sup> Blomley, *Unsettling the City*.

<sup>9</sup> See Larner, Neo-liberalism: Policy, Ideology, Governmentality; Pat O’Malley, “Genealogy, Systematisation and Resistance in ‘Advanced Liberalism’” in Gary Wickham and George Pavlich (eds.) *Rethinking Law, Society and Governance: Foucault’s Bequest* (Portland, Oregon: Hart Publishing, 2001), 13-25; Nikolas Rose, Pat O’Malley and Mariana Valverde, “Governmentality,” *Annual Review of Law and Social Science*, vol. 2 (2006); William Walters, *Governmentality: Critical Encounters* (Oxon: Routledge, 2012).

<sup>10</sup> E.g., David Wilson, “Toward a Contingent Urban Neo-liberalism,” *Urban Geography*, vol. 25 no. 8 (2004); Blomley, *Unsettling the City*.

<sup>11</sup> Wilson, “Toward a Contingent Urban Neo-liberalism”.

“variegated neo-liberalization”<sup>12</sup> and “roll-with-it-neo-liberalization.”<sup>13</sup> While well-intentioned and often adroit, the awkwardness of these newer concepts nonetheless underscores that urban neo-liberalization is notoriously incomplete when studied in specific sites, and of the aligned problem of specifying the nature of what operates outside or alongside these processes in cities. Put another way, we might ask: what are the *contingencies* that *do not* lead to urban neo-liberalism; what lies *between* brightly coloured neo-liberal spots in cities; and with *what*, exactly, must neo-liberal governance *roll* in cities?

Perhaps more satisfying approaches may be found using additional orientating concepts such as “governing from below”<sup>14</sup> that potentially can recognize logics, technologies, and authorities beyond, adjacent, or below neo-liberalism. These elements tend to be neglected partially due to widely perceived banality, especially evident in the case of BIDs and condos; but also to an assumed immorality and criminality in instances of organized urban crime networks;<sup>15</sup> or to invisibility where empirical inquiry (especially ethnography) is absent. Yet it is these elements that partially comprise novel urban assemblages of rule. This concept of urban assemblage” itself, well known in governmentality scholarship, “allows and encourages the study of the heterogeneous connections between objects, spaces, materials, machines, bodies, subjectivities, symbols ... that ‘assemble’ the city in multiple ways.”<sup>16</sup> Thus, the urban assemblage concept invites inquiry into logics besides neo-liberalism in urban forms that include condos and BIDs.

Collier’s recent work on governmentality and neo-liberalism is also pertinent here. He writes that neo-liberalism in structural approaches is sometimes depicted as the Big Leviathan: “the entire ensemble of elements is identified with neo-liberalism ... [and] neo-liberalism grows bigger, and becomes more fundamental, more structural and structuring, than other things in the field.”<sup>17</sup> He suggests that what “is now required [instead is] to show how styles of analysis, techniques or forms of reasoning ... are being recombined with other forms, and to diagnose the governmental ensembles that emerge from these *re-combinations*.”<sup>18</sup> The following analysis seeks to accomplish this, particularly in relation to the “free rider problem” and “police.”

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<sup>12</sup> Neil Brenner, Jamie Peck and Nik Theodore, “Variegated Neoliberalizations: Geographies, Modalities, Pathways,” *Global Networks*, vol. 10, no. 2 (2009).

<sup>13</sup> Keil, “The Urban Politics of Roll-with-it Neoliberalization”.

<sup>14</sup> Kevin Stenson, “Sovereignty, Biopolitics and Community Safety in Britain,” *Theoretical Criminology*, vol. 9, no. 3 (2005); see also Pat O’Malley, “Indigenous Governance,” *Economy and Society*, vol. 25 (1996).

<sup>15</sup> See, Diane E. Davis and Guillermo Ruiz de Teresa Mariscal, “Rescaling Security Strategies: State Tactics and Citizen Responses to Violence in Mexico City” in Randy K. Lippert and Kevin Walby (eds.) *Policing Cities: Urban Securitization and Regulation in a 21st Century World* (New York: Routledge 2013).

<sup>16</sup> Ignacio Farias, “Introduction: Decentering the Object of Urban Studies,” in I. Farias and T. Bender (eds.) *Urban Assemblages: How Actor Network Theory Changes Urban Studies* (New York: Routledge 2010), 14.

<sup>17</sup> Stephen J. Collier, “Neoliberalism as Big Leviathan, or...? A Response to Wacquant and Hilgers” *Social Anthropology*, vol. 20, no. 2 (2012), 189.

<sup>18</sup> Stephen J. Collier, “Topologies of Power: Foucault’s Analysis of Political Government beyond ‘Governmentality’” *Theory, Culture and Society*, vol. 26, no. 6 (2009), 51. *Emphasis added.*

A neglected but pertinent logic highlighted in Foucault's writings is "police."<sup>19</sup> Of special relevance is Foucault's assertion of the early tether between "police" and the urban. Foucault remarked in his famous *Security, Territory, Population* lectures that "to police and to urbanize is the same thing" and perhaps more intriguingly saw "police ... as a condition of existence for urban existence."<sup>20</sup> These increasingly-quoted but rarely exploited Foucauldian notions are exquisitely suggestive for understanding contemporary urban governance assemblages. In his lectures Foucault quotes Catherine II on a code of police: "The things of police are things of each moment ... Police is concerned with little things."<sup>21</sup> "Police" refers to a regulatory power, sometimes called "the police power", entailing coercive measures to ensure a community's welfare.<sup>22</sup> "Police" is the power to govern humans and things, to treat the city, a district, or small portion thereof like a household and in this sense is patriarchal.<sup>23</sup> The logic of "police" dreams of regulating everything urban and targets things and their positioning as much as human conduct. The objects of "police" are things of the urban,<sup>24</sup> or "little urban things."

When invoked in governmentality studies, "police" typically appears as the defunct antecedent of early liberalism,<sup>25</sup> thus serving as a convenient foil for Foucault's account of liberal governmentality.<sup>26</sup> But there is little evidence "police" or the police power has become less prevalent in Western cities through the 20<sup>th</sup> Century or since urban neo-liberalization commenced. "Police" has not been yet fully explored and is not accounted for by reference to neo-liberalism alone. Leading governmentality analysts in socio-legal studies such as Hunt,<sup>27</sup> Blomley<sup>28</sup> and Valverde,<sup>29</sup> have begun to recognize "police" in the urban too. Their Foucault-inspired work points the way and can be extended. Hunt, for example, has explored, as a form of "police", the emergence of regulations and signals in cities to confront that distinctively urban problem called "traffic" that, of course,

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<sup>19</sup> Michel Foucault, "Politics and Reason" in L. Kritzman (ed.) *Politics, Philosophy, Culture, Interviews and Other Writings 1977-1984* (New York: Routledge, 1988).

<sup>20</sup> Foucault, *Security, Territory, Population*, 336-7.

<sup>21</sup> *Ibid.*, 340.

<sup>22</sup> See, Markus D. Dubber and Mariana Valverde (eds.) *Police and the Liberal State* (Stanford: Stanford Law Book, 2006); William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 1996), 70.

<sup>23</sup> Markus D. Dubber, "'The Power to Govern Men and Things': Patriarchal Origins of the Police Power in American Law," *Buffalo Law Review*, vol. 52, no. 4 (2004).

<sup>24</sup> See, Foucault, *Security, Territory, Population*, 336.

<sup>25</sup> e.g., Alan Hunt and Gary Wickham, *Foucault and Law: Toward a Sociology of Law as Governance* (Boulder: Pluto Press, 1994).

<sup>26</sup> See, Walters, 28.

<sup>27</sup> Alan Hunt, "Police and the Regulation of Traffic: Policing as a Civilizing Process?" in M. Dubber and M. Valverde (eds.), *The New Police Science: The Police Power in Domestic and International Governance* (Stanford: Stanford University Press, 2006).

<sup>28</sup> Nicholas Blomley, *Rights of Passage: Sidewalks and the Regulation of Public Flow* (New York: Routledge, 2011).

<sup>29</sup> Mariana Valverde, "Seeing like a City: the Dialectic of Modern and Premodern ways of Seeing in Urban Governance," *Law & Society Review*, vol. 45, no. 2 (2011).

continues to proliferate.<sup>30</sup> Blomley has recently argued that pedestrianism, traditionally used to distinguish the urban from the suburban, is a form of “police” as well.<sup>31</sup> He argues pedestrianism avoids governing through rights and instead elicits “an attention to placement and flow.”<sup>32</sup> Finally, Valverde has argued that pre-modern and modern rationalities co-exist in cities.<sup>33</sup> This is a vital point. In urban governance there is a “pragmatic approach that uses both old and new gazes, pre-modern and modern knowledge formats, in a nonzero-sum manner and in unpredictable and shifting combinations.”<sup>34</sup> Thus, here there is emphasis on combination rather than a singular totalizing process. Scholars, however, have so far tended to overlook private eyes among the possible ‘old and new gazes’. Valverde notes that to fully understand urban governance there is a need to study these private realms too:

... public laws and rules did not have a monopoly on regulation, because such private actors as insurance companies also imposed rules ... lenders as well as realtors also imposed their own private but nevertheless compelling regulations ... A full genealogy of urban governance would have to include the myriad private ... regulatory structures that converged on different kinds of property owners and different kinds of properties.<sup>35</sup>

This assertion can be extended. It is regulation by insurance firms of property owners, but also regulation by BIDs, condo boards, and other property owners concerning the “little things” that form private property that are essential to the understanding of urban governance assemblages.

In the work of governmentality scholars above “police” flows mostly from municipal government. But, as will be shown below, contemporary “police” need not be so tightly tethered to the municipal level. The preceding work drawing on Foucault’s notion of “police” is a compelling, suggestive start of a move toward more nuanced accounts of contemporary urban governance assemblages. However, private arrangements that target behavior in commercial and residential urban spaces ought to be explored too. Valverde recently criticized Novak’s work on the police power because it “remains almost wholly confined to the municipal level” when it is in fact easily recognized at the federal level.<sup>36</sup> However, governmentality analysts can look *lower* for instances of governing from below (including in the workings of BIDs and condos) too, where placement and flow are paramount concerns. How “police” *combines* with other logics, including neo-liberalism, in these lower realms remains unexplored. As Brady has cogently noted, we need

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<sup>30</sup> Hunt, “Police and the Regulation of Traffic”.

<sup>31</sup> Blomley, *Rights of Passage*.

<sup>32</sup> *Ibid.*, 4.

<sup>33</sup> Valverde, “Seeing like a City”.

<sup>34</sup> *Ibid.*, 28.

<sup>35</sup> Valverde, “Seeing like a City”, 292.

<sup>36</sup> *Ibid.*, 287.

to understand the “witches’ brew” of “heterogeneous logics and practices.”<sup>37</sup> It is this private urban caldron into which analysts need to immerse themselves.

Ethnographic research involving personal interviews, observation, and collection of private text-based materials can effectively explore “police” and “little urban things” in these lower private urban realms. Certainly ethnography has been advocated to study neo-liberalism before,<sup>38</sup> but it is not necessarily useful to look *solely* for the hidden neo-liberal character of urban governance assemblages on the ground. Levi’s recent Foucauldian-informed analysis of private housing developments in relation to the US courts suggests why this is.<sup>39</sup> His account shows there is little support for neo-liberalism in the courts in terms of separate privately-governed spaces in municipalities - often called gated communities - that involve condo or similar arrangements. Rather, the courts have often confronted private fiefdoms that refuse to defer to municipalities’ authority. He argues the courts are not intent on promoting neo-liberal imaginings of community but instead resist the spatial differentiation governed in this way. The private realms discussed below are ultimately subject to the courts in this way,<sup>40</sup> however in practice, as discovered through interviews with BID and condo board members or employees, comparatively few “little things” in BIDs and condos that could be litigated actually enter the courts.<sup>41</sup> Rather, there are more complex governing arrangements in place within BIDs and condos than cannot be reduced to the master narrative of neo-liberalism, and through ethnography they can begin to be revealed. It is precisely the introduction of common elements and spaces in these ‘lower’ BIDs and condos, beyond individual ownership, that either demands “police” or permits “police” to peacefully co-exist with neo-liberal demands that private property be protected and maintained in the urban. It is the creation of common elements and spaces that tethers these forms so closely to the urban, since space is at a premium in the urban *by definition*. These spaces are carved out with tiny rules that are often necessarily broken. It is in the urban where we can expect to find “police” but which is perhaps best uncovered via ethnographic methods that allow entry to these private urban realms.

## **BIDs and Condos<sup>42</sup>**

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<sup>37</sup> Michelle Brady, “Researching Governmentalities through Ethnography: the Case of Australian Welfare Reforms and Programs for Single Parents,” *Critical Policy Studies*, vol. 5, no.3 (2011), 264.

<sup>38</sup> James Ferguson, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” *American Ethnologist*, vol. 29, no. 4 (2002).

<sup>39</sup> Ron Levi, “Gated Communities in Law’s Gaze,” *Law and Social Inquiry*, vol. 34, no. 3 (2009).

<sup>40</sup> Research on how the courts have dealt with cases reflecting conflict between BIDs and municipalities or between members and BIDs has yet to be conducted.

<sup>41</sup> See Lippert, “Governing Condominiums”.

<sup>42</sup> “Condo” refers to condominium, strata, and related arrangements defined by combined individual and common ownership (other than non-profit cooperative housing arrangements) managed by a board or council. “Condo” is by far the most common term in North America. “Business Improvement District” refers to Business

Among the most taken for granted forms of contemporary urban governance are the BID and the condo. They entail governance of commercial and residential urban spaces. Both forms have expanded rapidly since the 1960s. Another similarity that justifies their discussion together is that owning private property in these urban spaces (a district or condo complex) is sufficient for membership. The scope of governance stemming from these two spatialized urban clubs is at times extensive. It includes garbage collection, infrastructure improvement, parades, business seminars, physical security, and Internet services (for BIDs), and transit, physical security, and recreational services (for condos) for their respective members. These forms have the status of private “spatial enclosures” that lead to social and spatial exclusion<sup>43</sup> in part through a bias toward property owning members and against others (especially renters and visitors (condos) and street vendors and homeless people (BIDs) who do not directly pay fees or levies or serve on boards). This is certainly consistent with effects widely attributed to urban neo-liberalism. Indeed both BIDs and condos are commonly labelled neo-liberal. The aim of this section is not to explore these two forms in exhaustive detail but rather to consider some features that raise doubt about the full appropriateness of assigning them a neo-liberal label, and to suggest the presence of ‘police’ and its corresponding attention to ‘little things’ too. Recent work has only begun to explore these forms with a more critical eye,<sup>44</sup> but rarely are they studied, directly or obliquely, using ethnographic methods broadly defined.<sup>45</sup> In what follows I draw from such methods that involved numerous personal interviews with condo owners, property managers, and board members, and BID board members and employees, as well as visits to their condo buildings and BIDs in Ontario, Canada where observational field notes were taken and text-based materials collected for two grant-funded urban research projects spanning 2006 to 2014.

### *BIDs*

The BID is undoubtedly less familiar than the condo so it is dealt with first. The BID has become an embedded feature of the landscape of North American cities and has spread not only to countries like the UK<sup>46</sup> and South Africa,<sup>47</sup> but also globally.<sup>48</sup> In the US and Canada several thousand

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Improvement Areas (BIAs) and similar arrangements entailing a mandatory levy on property or business owners in a circumscribed urban space managed by a board. It has acquired various monikers, see J. Pack, “BIDs, DIDs, SIDs, SADs: Private Governments in Urban America”, *The Brookings Review*, vol. 10, no. 4 (1992), but BID is the dominant term.

<sup>43</sup> See Brenner, Peck, and Theodore, “Variegated Neoliberalizations”.

<sup>44</sup> E.g., Kern, *Sex and the Revitalized City*; Elisabeth Peyroux, Robert Putz, and Georg Glasze, “Business Improvement Districts; the Internationalization and Contextualization of a ‘travelling concept’”, *European Urban and Regional Studies*, vol. 19, no. 2 (2012).

<sup>45</sup> See Brady, “Researching Governmentalities through Ethnography”, 267.

<sup>46</sup> Ian R. Cook, “Mobilising urban policies: The policy transfer of US Business Improvement Districts to England and Wales,” *Urban Studies*, vol. 45, no. 4 (2008).

<sup>47</sup> Julie Berg, “Governing Security in Public Spaces: Improvement Districts in South Africa,” in Randy K. Lippert and K. Walby (eds.), *Policing Cities: Urban Securitization and Regulation in a 21st Century World* (New York: Routledge, 2013).



BIDs are in place. The BID is perhaps entrepreneurial in character and thus consistent with neo-liberal ideals, but its defining feature and the key to its main function is actually a mandatory levy collected from all property owners in an urban space.<sup>49</sup>

The BID began in earnest in the late 1960s in a Toronto neighborhood called “Bloor West Village” that was experiencing economic decline due to suburbanization and specifically a new suburban mall. This is a key moment, though not the BID’s origins, which Foucault reminds us to avoid seeking due to its essentialist assumptions. Rather, it may be that the BID was a modification of a previous mechanism of urban governance, perhaps as early as 1965 as the state of California’s “Parking and Business Improvement Law.”<sup>50</sup> Nonetheless, in Bloor West Village it was thought that some businesspersons were taking free rides on the backs of other area businesspersons and had a propensity to use non-excludable common resources or “club goods.”<sup>51</sup> If the business association staged a promotional event to increase pedestrian traffic (e.g., a Santa Claus parade), for example, some businesspersons avoided contributing to the event’s cost. Yet, the event was non-excludable since all local businesses would gain from the promotion regardless of contributions: pedestrians tend to wander from business to business in the BID to consume. A founder of the first BID recounted this problem and the proposed response:

So a group of businesspeople in Bloor West went and formed themselves a businessmen’s association ... but nobody came. So then after a couple of years of trying to collect money from each other to try to promote the area ... [and] only two or three [businesspersons] every block being willing to pay ... So the voluntary businessmen’s association just doesn’t work so the business people here went to the City and went to the province and said: “If we can get the majority of people willing to pay a levy, would you be willing to collect the money on our behalf and turn it over to us?”<sup>52</sup>

An amendment to the Act was eventually passed by the Ontario legislature in 1972 that permitted BID creation. Local retail business associations would no longer depend on volunteers. This “free rider problem” would be anticipated with a mandatory levy on every commercial property in the district to finance BID events and other projects.<sup>53</sup> The “free rider problem” in relation to BIDs was

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<sup>48</sup> See Peyroux, Putz, and Glasze, “Business Improvement Districts”.

<sup>49</sup> See Lorraine M. Hoyt, *The Business Improvement District: An Internationally Diffused Approach to Revitalization* (Washington, DC: International Downtown Association, 2003); Lawrence O. Houston Jr, *Business Improvement Districts* (Washington, DC, Urban Land Institute, 2003, 2nd ed).

<sup>50</sup> Les D. Johnston and Clifford D. Shearing, *Governing Security: Explorations in Policing and Justice* (New York: Routledge, 2003), 111.

<sup>51</sup> See Adam Crawford, “Policing and Security as ‘Club Goods’: The New Enclosures?” in J. Wood and B. Dupont (eds.), *Democracy, Society and the Governance of Security* (Cambridge: Cambridge University Press, 2006).

<sup>52</sup> Anonymous. Interview with Bloor West Village Chairperson. Personal Interview. January, 2006.

<sup>53</sup> See also, Ontario Business Improvement Area Association, “Building in Action: Working with Business Improvement Areas” (2012): <http://www.obiaa.com>.

in Foucauldian terms a “problematization.”<sup>54</sup> The levy was to be collected from members by the municipal government and given over to BIDs to improve and promote the district to increase consumption. The BID, then, relies on free rider coercion via the police power within a designated urban space; the free rider problem was to be solved by instrumentalizing the police power. In the urban this problem is more salient, visceral, immediate. But the relevance of “police” does not stop there.

The BID soon became widely understood as a means to “revitalize” either city centres or retail strips.<sup>55</sup> Despite predating its rise, the BID became associated with urban neo-liberalism and entrepreneurial governance.<sup>56</sup> Scholarly discussions take BID governance of business members’ conduct as self-evident<sup>57</sup> but there actually is much attention paid to their conduct in BID operations.<sup>58</sup> For example, interviews with BID representatives reveal businesspersons are expected to actively improve the aesthetics of the public street outside their businesses; act on detailed instruction about how to properly clean sidewalks, enhance storefronts, and store garbage; and promote the district at every turn. BIDs seek to intensively police members’ conduct and how objects and space are arranged in the privatized district. One way “police” is particularly evident in BIDs, however, is in use of BID personnel, sometimes called “ambassadors” or “hosts”, to patrol district’s spaces to collect information about it.<sup>59</sup> Among these agents there is much emphasis on placement and flow through the district, and this includes efforts to exclude or harass homeless people and panhandlers. These BID personnel are devoid of the same legal powers in urban public space as municipal government authorities or public police, but interviews with them and observations of their work reveal they do not necessarily need them to enforce rules. So, for example, “ambassadors” report in interviews sometimes feigning state power in their interactions with individuals violating the district’s order or use municipal by-law obliquely by reminding violators of its existence. They patrol for anything out of the ordinary, including members violating municipal by-laws or breaking BID rules about cleanliness or security of street fronts. In BIDs, their attention is paid to the restaurant that has left the obstructive sandwich board out too late on the sidewalk, a broken parking meter preventing someone from parking and then consuming, the panhandler partially blocking a store entrance, the street patio set up too early in the season causing pedestrian disruption, and all manner of other conduct by members and non-members. These “ambassadors” engage with a

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<sup>54</sup> See Robert Castels, “‘Problematization’ as a Mode of Reading History,” in J. Goldstein (ed.) *Foucault and the Writing of History* (Oxford: Blackwell, 1994).

<sup>55</sup> Lippert, “Urban Revitalization, Security, and Knowledge Transfer”.

<sup>56</sup> E.g. Ward, “‘Policies in Motion’”.

<sup>57</sup> E.g. Hoyt, *The Business Improvement District*.

<sup>58</sup> See Randy K. Lippert, “‘Clean and Safe’ Passage: Business Improvement Districts, Security Modes, and Knowledge Brokers,” *European Urban and Regional Studies*, vol. 19, no. 2 (2012).

<sup>59</sup> See Randy K. Lippert and Mark Sleiman, “Ambassadors, Business Improvement District Governance, and Knowledge of the Urban,” *Urban Studies*, vol. 49, no. 1 (2012); Laura Huey, Richard V. Ericson, and Kevin D. Haggerty “Policing Fantasy City,” in D. Cooley (ed.), *Re-imagining Policing in Canada* (Toronto: University of Toronto Press Inc., 2005).

network of agencies, depending on the particular “little urban thing” they identify to remove, correct, or report the absence of, but including municipal public works, public police, public health authorities, and local social service agencies/ shelters. Some BIDs in South Africa, for example, have social service units separate from government that regularly deploy their own social workers and communicate with city shelters. These types of arrangements have led Berg to argue that BID governance in South African cities has changed “from a neo-liberal system to a polycentric system... a shift away from the normative aspiration of the state being the centre of governance to recognition that governance has increasingly become more pluralized.”<sup>60</sup> Berg notes further that BIDs, “operate more like ‘general-purpose governments’”. They are thus not simply service providers under state auspices, but instead a complex meeting place of state and non-state knowledge, capacity, resources and power.”<sup>61</sup> BIDs pay special attention to pedestrian flow,<sup>62</sup> and also consistent with “police”, there is a focus on positioning and aesthetics of things below, adjacent and above this flow: banners, benches, graffiti, lighting, signage, panhandlers and so on. These are now the domain of BIDs and their minions as much as municipal engineering and planning departments. But it is not at all clear that preoccupation with these attributes is essentially neo-liberal, a point returned to in the third section of this article.

#### *Condo Corporations*

Condos are market-driven housing schemes that often displace or replace social, public or subsidized housing and in this sense are neo-liberal in orientation. But the theoretical relevance of these arrangements hardly stops at the point of purchase and replacement and the markets this constitutes; it is how these are managed afterward that is arguably more interesting and relevant to understanding contemporary urban governance assemblages.

If “police” is patriarchal in treating the object of government as a household,<sup>63</sup> it is perhaps not inconsequential that Keith Romney, who helped draft the first continental US legislation in Utah in 1960 and was the developer’s lawyer, is called the ‘father of condominiums’. His first off-spring was a condo created from a planned “co-operative” called “Graystone Manor” in Salt Lake City. The condo is thus an invented form combining the common ownership of “co-ops” with traditional individual (detached) home ownership. In 1961 the US Federal Housing Authority (FHA) used a 1958 Act from Puerto Rico to draft model condo legislation, later used in many US states. Puerto Rico had earlier encountered a shortage of housing, high housing costs, and land scarcity. The first two of these were occurring in some US cities.<sup>64</sup> Since the FHA drafting of model condo legislation to solve these distinctively urban problems and construction of “Graystone Manor” the

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<sup>60</sup> Berg, “Governing Security in Public Spaces”, 170.

<sup>61</sup> *Ibid.*, 163.

<sup>62</sup> Lippert, “‘Clean and Safe’ Passage”.

<sup>63</sup> See Dubber, “‘The Power to Govern Men and Things’”.

<sup>64</sup> See Robert H. Nelson, *Private Neighborhoods and the Transformation of Local Government* (Washington, DC: Urban Institute Press, 2005).

following year,<sup>65</sup> condos have proliferated across North America at a breathtaking rate. Condo legislation had formed in all states by 1967. Condo law and housing schemes emerged in Canada in the late 1960s and have since grown rapidly.<sup>66</sup>

The recognition of a “free rider problem” in relation to the shift from co-operative to condo cohered with assignment of risk in residential living arrangements to individuals. Yet, the commonly-owned elements needed ongoing maintenance. Residents with a propensity to consume non-excludable resources were imagined drawing common resources at individual owners’ expense. The condo, with its mandatory fee collection, resembles the BID’s defining feature, a state-enforced levy to overcome the free rider in designated space. Condo law anticipated the free rider and its primary solution was a regular mandatory fee levied on unit owners to maintain the condo’s common elements and spaces. This sought to stop the free rider via requiring these fees from all unit owners; measures and procedures to ensure unit owners’ compliance with by-laws and rules; and a democratically-elected board drawn from the membership to oversee these arrangements.<sup>67</sup> As with BIDs as general purpose governments, condo corporations are often referred to as a “fourth level of government.”<sup>68</sup>

Condo law anticipated the free rider; its solution was a regular and adjustable mandatory fee levied on each unit owner to maintain the common elements. However, as condos flourished, this notion of the free rider became a way of conceiving of many governance problems. The free rider problem remained salient across a spectrum of condo governance issues,<sup>69</sup> including, as noted below, the issue of unit owner participation on condo boards.

Exploring private condo living arrangements via ethnography reveals rules are intensive; they specify whether and how you can make noise after 10 PM; the size of your cat; what you can wear in recreation areas; how long you can leave your vehicle in front of the building; how long and how many guests can stay with you (so as not to become free riders); whether you can place laundry or your favorite sports team symbols on the balcony; and whether and how you can remodel your kitchen or paint your exterior door. Many of these rules are about positioning, visibility, and flow through space, as one of many possible examples from interviewee accounts and the minutes of meetings from a condo reveal:

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<sup>65</sup> Keith B. Romney, *Condominium Development Guide: Procedures, Analysis, Forms* (Boston: Warren, Gorham and Lamont, 1974).

<sup>66</sup> See Kern, *Sex and the Revitalized City*; Douglas C. Harris, “Condominium and the City: the Rise of Private Property in Vancouver,” *Law and Social Inquiry*, vol. 36, no. 3 (2011).

<sup>67</sup> See also, R. C. B. Risk, “Condominiums and Canada,” *University of Toronto Law Journal*, vol. 18, no. 1 (1968).

<sup>68</sup> E.g., Alan Silverstein, “First fluffy, now Old Mickey, are booted out,” *Toronto Star*, October 10, 1992; see also David J. Kennedy, “Residential Associations as State Actors: Regulating the Impact of Gated Communities on Non-members,” *Yale Law Journal*, vol. 105, no. 3 (1995).

<sup>69</sup> See Nelson, *Private Neighborhoods*, 116-8.

There have been concerns that due to the location of the doors to the hallways from the wash-rooms that the rights of privacy from homeowners changing for the pool could become a concern. Notices will be posted in the change rooms to bring this to the homeowner's attention.<sup>70</sup>

Often surveillance is demanded by "police."<sup>71</sup> Sometimes this mirrors developments in private retail spaces and BIDs, via camera surveillance:

Council will make the necessary arrangements with *Spy vs. Spy* to have a demonstration put on regarding the camera and how to monitor the mailroom. Electrical Motion: Moved and seconded, to rescind the motion put forward by the past Council to have John's Electric install another light in the mail hut. It was decided that this electrical light was not needed.<sup>72</sup>

These are in place, as one board member noted, to record myriad rule infractions:

We have cameras in the elevators and then we have cameras all around the building and in the common elements but I don't have any cameras on the floors so if somebody decides to leave their pizza boxes outside the elevator door I don't know who's done it... [so we have to] check the garbage chute rooms on every floor to see what some idiot has dumped on the floor.<sup>73</sup>

Interviews with those working and living within BIDs and condos revealed a preoccupation with and resistance to a dizzying number of rules that sought to control all manner of "little things." As another owner aptly remarked, her condo board decides rules on the "granular level":

The board meets monthly. I know that they tend to discuss issues that are on a pretty granular level. Our board is quite hands-on and if... in doubt they tend to issue a rule... They tend to be pretty heavy-handed with rules and signs everywhere.<sup>74</sup>

Surveillance consistent with "police" also activates human agents in condos, sometimes as property managers, or security patrols, as in BIDs, and sometimes as doorpersons or concierges, who become aware of rule infractions concerning "little things", such as admitting visitors to recreational areas in the building late at night, due to their temporal and spatial positioning at points of access and egress. Unlike the notice given regarding state-sponsored surveillance in public spaces, as limited and inconsistent a practice as it may be where liberal subjects are concerned,<sup>75</sup> there

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<sup>70</sup> Minutes of Condominium Board Meeting held June 19, 2005, British Columbia, Canada, *Anonymous Condominium Corporation File 1*, 14.

<sup>71</sup> Randy K. Lippert and David Murakami-Wood, "The New Urban Surveillance: Technology, Mobility, and Diversity in 21st Century Cities," *Surveillance and Society*, vol. 9, no. 3 (2012).

<sup>72</sup> Minutes of condominium board meeting, June 19, 2005.

<sup>73</sup> Interview with condominium resident, May 15, 2006.

<sup>74</sup> Interview with condominium resident, October 23, 2013.

<sup>75</sup> See Randy K. Lippert "Signs of the Surveillant Assemblage: Privacy Regulation, Urban CCTV, and Governmentality," *Social & Legal Studies*, vol. 18, no. 4 (2009).

is typically little or no effort to alert subjects of their rights regarding practices conducted by these various agents. And there are also those called “strata Nazis” or “condo commandos” in condo governance and the equivalent in BIDs; owners who voluntarily patrol and collect intelligence about other owners’ conduct and about the changing condition of common elements and spaces. These agents are bent on enforcing rule infractions themselves or they demand this from condo and BID boards and other agents above. While the extent of their role in relation to the other “police” agents above remains uncertain, their very existence is often kept hidden to avoid others from wanting to purchase their way into the BID or condo club. Thus, it is difficult to imagine understanding this complex network of agents and the corresponding rule enforcement and avoidance that sometimes involves covert practices known only to insiders, without ethnographic methods.

### **Free Rider Problems and “Police” Marketization**

#### *Free Rider Problems*

The foregoing suggests that whether BIDs and condos are essentially or wholly neo-liberal is questionable. If BIDs and condos are increasingly “multi-purpose governments” and “fourth level of governments,” respectively, they may well be understood better by reference to “police.” This should not be surprising since, while these two forms have neo-liberal features, and are known to yield regressive and exclusionary effects typically attributed to urban neo-liberalism, they also predate neo-liberalism’s arrival in earnest. While these two forms first appeared in the 1960s, as described above, neo-liberal governance commenced in the 1970s.<sup>76</sup> For both BIDs and condos, what was novel at their inception was not obviously neo-liberal; rather it was a perceived need to coerce free riders. To be sure, imagining subjects to be pursuing economic incentives like this, as “economic man”, is a cornerstone of neo-liberal thought and is based on “narrow psychological assumptions of market conceptions of interests and benefits.”<sup>77</sup> There are demands for state intervention in a number of areas consistent with neo-liberalism, including establishing private property and backstopping markets.<sup>78</sup> However, both BIDs and condos as forms of urban governance go beyond merely guaranteeing private property. There is little concern in “police” about free riders’ motivations, such as whether they are responsible or rational. Rather, the worry is that they are overloading the train at the expense of the welfare of other travellers. The motivation of those boarding or stepping off is unimportant. That the riders on the rails are reckless risk takers or more responsible agents is largely irrelevant.

Proffering this relation between urban neo-liberalism and “police” in this article is not the equivalent to observing that neo-liberalism abstractly demands regulation, or that neo-liberal re-

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<sup>76</sup> David Harvey, *A Brief History of Neo-Liberalism* (New York: Oxford University Press, 2005), 2.

<sup>77</sup> Amy Bartholomew and Alan Hunt, “What’s Wrong with Rights?,” *Journal of Law and Inequality*, vol. 9, no. 1 (1990), 54.

<sup>78</sup> Harvey, *A Brief History of Neo-Liberalism*, 2.

gimes often entail much state regulation in practice. Isin, for example, notes in his account of cities:

Every political regime that has been associated with neo-liberalism ... has passed more legislation and regulation than its predecessors have. The irony that should not be lost on anyone is that neo-liberal regimes have enacted more legislation and regulation than social democratic regimes.<sup>79</sup>

Rather, the point here is a more specific assertion about a discernible and particular “police” and its relation to situated urban problems. “Police” can articulate with urban neo-liberalism, and exploring the former can illuminate the latter, as shown in the next section.

### *Marketization of “Police” Practices*

As initially conceived in condos and BIDs, “police” practices would stem from boards only. There was no anticipation these practices would be marketized. A private institution of relevance here is insurance.<sup>80</sup> This institution benefits from increased reliance on privatized (rather than state or public) forms of risk avoidance. The more risks identified in relation to the workings of private condos and BIDs and packaged as commodities to be bought and sold, the more this institution will seek to take over some “police” practices. The influence of insurance on “police” practices has rapidly expanded and intensified in the condo world in particular (though also in the workings of BIDs) and is now profound. This influence is especially evident in specialized insurance markets for board decision-making and common areas.<sup>81</sup> Property managers can be observed working in conjunction with the dictates of private insurance. The residential property management industry is also expanding rapidly as condo life and, specifically, solutions to the free rider problem are increasingly commodified. There is a sense in which condo property management is premised on a “free rider problem” since unit owners are notoriously reluctant to participate on boards,<sup>82</sup> preferring to let others manage condo life on their behalf.<sup>83</sup> Property management’s entry into the condo world presumes this problem’s presence, one that was not anticipated in original condo legislation that assumed all owners would reside in, and willingly manage, the intimate affairs of condo living. Finally, private security firms are increasingly contracted to carry out “police” practices provide patrols in BIDs and provide concierges or doorpersons to monitor access

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<sup>79</sup> Engin Fahri Isin, “Governing Cities without Government,” in E. Isin (ed.) *Democracy, Citizenship and the Global City* (London: Routledge, 2000), 162.

<sup>80</sup> See Richard Victor Ericson, Aaron Doyle and Dean Barry, *Insurance as Governance* (Toronto: University of Toronto Press, 2003).

<sup>81</sup> See Randy K. Lippert, “Governing Condominiums and Renters with Legal Knowledge Flows and External Institutions,” *Law and Policy*, vol. 34, no. 3 (2012).

<sup>82</sup> See Nelson, *Private Neighborhoods*; Simon C. Y. Chen and Chris J. Webster, C. “Homeowners Associations, Collective Action and the Costs of Private Governance,” *Housing Studies*, vol. 20, no. 2 (2005).

<sup>83</sup> See Frank G. Mittelbach and Joe Ebin, “Condominium Housing: Some Social and Economic Implications,” *Journal of Sociology and Social Welfare*, vol. 3 (1975), 178-9.

and egress in condos. To the extent “ambassadors” are being contracted out to private security firms in BIDs this manifestation of “police” is plainly undergoing marketization.<sup>84</sup> In condos various institutions manage myriad little issues consistent with the “condos and *condon'ts*” that arise in living on urban private property. Governance is therefore increasingly provided as much through these various private institutions with specific designs on outcomes, despite legal responsibility for governing condos and BIDs assigned to boards. The free rider problem and “police” are becoming more closely tethered to the goals of commercial institutions implicated in these increasingly marketized arrangements.

### Concluding Remarks

BIDs and condos are not obviously being “responsibilized” via carrying out municipal government instructions “at a distance” within defined spaces,<sup>85</sup> BIDs and condos are, however, more clearly evinced operating in ways consistent with “police” in being concerned with positioning of objects and persons in and flow through their defined spaces. Their power to effectively extract mandatory resources from members, make and unmake rules of conduct and positioning, provide or withdraw physical security, and include or exclude persons in relation to these new urban realms is significant. “Police” is therefore not merely an unforeseen obstacle or merely something with which neo-liberalism must roll or roll over. It is more than this and fully understanding contemporary urban governance requires study of “police” too.

The close connection to property and consumer markets associate condos and BIDs with neo-liberalism. To this extent, these two forms show neo-liberalization entails combining with elements already in place rather than relying on novel invention. If governmentality is about inventiveness, it is more about how to use what is available and less about deploying technologies fresh from “eureka” moments. The foregoing reveals one way neo-liberalism can sustain itself or at least avoid conflict. Neo-liberalization seems to entail working alongside alien elements - attributes not necessarily befitting neo-liberalism - that nonetheless remain in place after neo-liberalism’s arrival. All this underscores the need for more research into private arrangements and practices that comprise urban governance assemblages using ethnography as a key method.

To explore BIDs, condos, and “police” is not to valorize them or growing private realms more broadly. Especially because “police” is claimed to be patriarchal, ostensibly uninterested in subjects’ motivations, and seems to work largely without external legal or other scrutiny in practice, there is also reason to question its potential role in progressive urban governance.<sup>86</sup> As Foucault starkly states, “Police is not justice”.<sup>87</sup> This matters because there is no shortage of social and spatial exclusion and other regressive practices in this new urban world and it is therefore essential to

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<sup>84</sup> See for example, Huey, Ericson, and Haggerty, “Policing Fantasy City”.

<sup>85</sup> See Nikolas Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge: Cambridge University Press, 1999), 49-50.

<sup>86</sup> But see Valverde, “Seeing like a City”, 279.

<sup>87</sup> Foucault, *Security, Territory, Population*, 339.



know how and which specific logics lead to these effects before conceiving of alternatives. Foucault's later work provided socio-legal and other scholars with a relevant legacy of concepts like "police" to use. Given that he wrote relatively little about how neo-liberalism shapes particular policy domains of practices as opposed to how key thinkers articulated this rationality, it is perhaps surprising how much governmentality work has invoked neo-liberalism while neglecting "police" and other logics alone and in combinations. For now it remains uncertain whether "police" merely plays a supporting role for urban neo-liberalism's popular performance or whether "police" remains the venerable star of urban governance at municipal and lower levels. Neo-liberalism may be but a newcomer demanding revisions to an old urban script, at least to the extent the "police" function in these two forms is becoming marketized. Examining BIDs and condos reveals that "police" and neo-liberalism co-exist and articulate in urban residential and commercial life. But such police-neo-liberal configurations cannot be determined ahead of time. They must be studied in context, where myriad little urban things become concerns, and, if examination of these two forms is illustrative, ethnography ought to be an effective means of doing so.

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