Response to Comments: The Informal Housing Debate Remains Open

Jonathan P. Bell
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Earlier this summer, I published an article on these pages remarking on the growing scholarship on informality in the U.S. housing market. [1] My article was intended as an opening salvo to planning academics who, as I see it, fail to understand American informal housing from the implementation side of planning—the enforcement and regulatory standpoint. Among my critiques was the observation that informal housing research draws few lessons from the everyday practices of regulatory authorities. [2] I challenged academics to seek a more balanced analysis by attempting to grasp informality from an enforcement perspective. As I argued, academics should be talking to inspectors who are out in the community responding to resident concerns, enforcing and explaining codes, and actually going inside unpermitted dwelling units. To bolster my challenge, the article included a Q&A with UT Austin Assistant Professor Jacob Wegmann, whose dissertation on informal housing in Southeast L.A. both sought out and built-in enforcement perspectives and evidence from the field.

I received a variety of critiques, questions, and comments about my stance advocating appreciation of the enforcement perspective. In fact, this was a relief. In these responses I saw signs of healthy discourse, rather than the one-sided monologue I first suspected. The range of responses represented the diverse voices in the informal housing debate and the differing lenses through which informality is viewed. It quickly became apparent that I could enrich the informal housing debate by responding to the feedback in a follow-up article on UrbDeZine. In the present article, I offer readers some of the substantive comments, followed by my critical response to each remark. [3] My goal in this follow-up article is to ensure that this emerging discourse remains fluid, holistic, and public. I conclude this article with thoughts on where we should go next in this informal housing debate.

Isn't informal affordable?

Some commenters argued that informal dwelling units are the only affordable units left. Over on Planetizen, Kate wrote:

Kate • 3 days ago
Where will all these people go in an already extremely tight rental market? I would guess based upon my experience in real estate and property management that there are many more than 1000 illegal garage conversions.

Kate is correct that the L.A. rental market is getting more costly, and affordable housing is harder to find. [4] But Kate is wrong to suggest that informal housing is the answer. Such a suggestion is exemplary of arguments that view informality as a panacea to affordable housing. But at what cost? As I outlined in the original article, informal housing is inherently dangerous for habitation. In this year alone, unpermitted dwelling units were the sites of fires resulting in injuries and fatalities in Los Angeles, Orange, and Riverside counties. [5] Market forces and “tight rental markets” do not justify sacrificing one’s safety, the safety of one’s family, or the safety of neighbors and the community. To suggest it is irresponsible.

In the original article I wrote that I inspected over 1000 unpermitted dwelling units in the communities I served as a zoning enforcement inspector from 2006 to 2014. Kate seized upon this number and declared that there are more than 1000 informal units in Los Angeles. I agree. Of course there are more than 1000 unpermitted dwelling units across the vast L.A. region. Her observation about the scale of informal housing only reinforces my point. It is why I write this article; it is the very reason I am attempting to initiate this informality dialog. Homeowners, renters, neighbors, community groups, real estate agents, builders, city managers and elected officials need to know the effects of informal housing on communities. Similarly, planning academics and informality advocates should care enough to understand these impacts and consequences, and the purpose of enforcement in this debate. A more holistic discourse helps us all work towards finding common ground and potential solutions rather than ignoring the inherent dangers of informal housing.

On the article’s Comments log, Tommy echoed Kate’s claim but with added distortion:
From the first sentence to the last sentence it is clear that Tommy comes at the informal housing debate from a skewed perspective. Tommy makes a lot of assumptions and declarations about the ethics of regulation, then passes off his disparaging missives as something “we all know.” Tommy declares that unpermitted dwelling units are “literally the ONLY actually affordable housing” options remaining, then blames the substandard conditions of unpermitted housing on the codes themselves. [6] Tommy’s argument is flimsy, irresponsible, shortsighted, and utterly devoid of reason or facts. Furthermore, Tommy’s ad homonym attack on inspectors serves to reinforce my original argument that informality advocates misunderstand and devalue the regulatory role in this debate.

If zoning, building, and health codes are the problem, as Tommy claims, the answer is to change the codes through the democratic process, not to circumvent them furtively. If property owners cared so much about low income renters, then they should rent out bedrooms rather than the illegal garage apartment, converted patio, or insulting garden shed-to-bedroom conversion. In fact, what “we all know” is that unpermitted dwelling units are dangerous to live in—period. They exist, by default, outside of code compliance. There is nothing noble in creating and perpetuating unsafe housing. To suggest so is absurd. It is unethical to ignore those property owners who rent out unsafe housing units and risk everyone’s safety. It is unprofessional not to respond to community concerns about unpermitted dwelling units, which devalue property values and quality of life. It is irresponsible, unprofessional, and unethical not to initiate lawful enforcement processes to gain code compliance in the community’s interest.

Other informal housing typologies

Commenters inquired about other informal housing typologies. On the Facebook page for UCLA’s Planners of Color for Social Equity, Silvia asked the following of my interview with Wegmann:

Silvia Jiménez Jonathan Bell did the subject of mobile homes/trailers/rv's come up in your conversation?
June 20 at 5:11pm • Like

Enforcement staff interviewed for Wegmann’s dissertation—myself included—described their experiences with recreational vehicles and travel trailers used as residences. I explained to Wegmann the many parallels between occupied RVs/trailers and unpermitted dwelling units, and pointed out examples during inspection ride-alongs. The only difference between the two typologies is the potential “mobility” of the former. The element of danger, the community’s quality of life concerns, and the enforcement response is the same, right down to the same citable zoning code section for unpermitted use.

Silvia’s question was observant and opportune. The U.S. 9th Circuit Court of Appeals recently overturned a City of Los Angeles municipal code that outlawed sleeping in RVs parked on the street. [7] While occupied RVs are an occasional topic in the L.A. homelessness debate, they are infrequently discussed as an informal housing typology. [8] That omission must change. Occupied travel trailers and RVs are as common as garage conversions. Some are stealthily located in the privacy of backyards, like converted garages, while others are plainly visible on public streets. Their jerry-rigged utilities and limited septic capabilities render all of them undesirable and unsafe. Silvia picked up on the importance of discussing lesser known forms of informal housing in L.A. We will certainly explore this topic in future articles.

Between more or less informal housing enforcement lies personal responsibility
In the Code Officials of America group on LinkedIn, a code enforcement professional named Kevin advocated more personal responsibility in the informal housing debate:

Kevin Ezell
Code Enforcement Officer at Town of Dryden, New York

The more I think about zoning & building codes, it becomes more apparent that trying to take on these issues from a Federal or State point is not feasible. The more regulation, the less freedom, but with freedom comes responsibility. That would include failing and in the worse case causing someone's harm or even death. So there should be a balance like stated by Kyle, "if no one is complaining about it or willing to do anything about it, is it even an issue?" It will be when someone dies or is brought in front of a legislative board that the regulations they adopted are not being enforced.

Is so much easier to let someone else deal with the "problem" than try to resolve the issue over a meal or over the fence with their neighbor. We have to start getting back to personal responsibility and talking to each other in civil and understanding ways or we will continue down the road to totalitarian life where we will not have choices to make for ourselves.

Kevin correctly states that “with freedom comes responsibility.” The freedom to develop one's property comes with the responsibility to develop it safely and harmoniously with its surroundings. Development codes “limit” individual freedom to the extent that the codes prevent laissez faire and inharmonious development that undermines safety, property values, and quality of life. Kevin’s point about responsibility goes even deeper when he calls for more personal responsibility from community members concerned about informal housing. Rather than call the law, Kevin says, community members should approach property owners who have unpermitted dwelling units to express their concerns as a community, and to discuss potential solutions. Regulatory intervention would remain an option, if needed. I support more personal responsibility in all aspects of this informal housing debate.

Is informal housing enforcement a losing battle?

Other regulatory professionals called the politics of informal housing exhausting. For example, in LinkedIn’s Code Officials of America group, plans examiner Kyle characterized enforcement of informal housing as a losing battle:

Kyle Klatke
Commercial Plans Examiner at City of Brooklyn Park

I read the entire article with much interest. However, I am having difficulty trying to think of how to comment in short on this issue. My mind is overflowing with more questions. If no one is complaining about it or willing to do anything about it, is it even an issue? A small problem that was never dealt with properly from the beginning is now a big problem. The problem seems so widespread in that area now that no city would have enough staff or resources to deal with it. Even if you change the rules to allow it, you still would not have the resources to deal with all that is already existing. Even if you had the staff and resources to deal with it, my experience is that the vast majority of people who choose to live that way do not give a rats ass about zoning or building code requirements and would never willingly comply. Some of you may disagree. How much of this problem is due to undocumented (illegal) immigration. What is the authors definition of (Death of) “Official affordable housing”. I guess my point is that there are no easy answers and I would not expect the problem to get any better in the near future.

Kyle's first question is an adaptation of the philosophical thought experiment “If a tree falls in the forest and no one hears it, does it make a sound?” Just as I argue that auditory waves exist without the presence of a receiver, the problem of unpermitted dwelling units exists in the absence of a complainant. Unpermitted housing is a risk in waiting. Built without the benefit of inspection, there is no guarantee (let alone a legal entitlement and permit sign-off) that the space is up to code standards. By default, an unpermitted dwelling unit is not safe for habitation. Other problems arise, too. California law authorizes cities to establish “inspection before sale” ordinances requiring sellers to disclose unpermitted development to potential buyers. [9] Properties out of compliance with development codes stall real estate transactions. In other words, even the most beautifully rehabbed informal garage conversion is a
problem. Failure to fix issues at the single parcel scale leads to informality at a larger scale, says Kyle. Yet Kyle does not think making the codes more permissive would matter because, in his experience, violators will always disregard the codes and “would never willingly comply.” He also wonders if there is a link between unpermitted housing and undocumented immigration.

I firmly disagree with Kyle on these last two points. Firstly, people do not want to be caught up in the bureaucratic process that is code enforcement. Reducing permit hurdles will invite more people to take part in the development process legally. Secondly, I reject the claim of a causal connection between unpermitted housing and undocumented immigration. Unpermitted housing is not only a problem in communities of color; it is not a matter of “the Other.” Unpermitted dwelling units exist in every community regardless of demographics, economics, or geography. The reasons are the same: people need housing; owners need income. Clearly we have an opportunity for fruitful discussion. With all sides talking to each other, we can finally work in unison towards mutual understanding and reasonable housing solutions.

Another Code Officials group commenter named Jim cited the politics of informal housing as a vivid reminder of why he retired from municipal service after 20 years:

Jim Snyder
Retired

Because of issues such as this I am glad I retired from Code Enforcement 2 years ago. Even in Tennessee we have the same issues with “extra legal” housing. In almost 20 years of code enforcement we never solved the “oil vs. water” mixture between planners and inspectors. The issue of zoning compliance will be solved when local elected officials and administrators realize they can fix their budget issues by finding additional areas to increase tax collections. As far as code enforcement, it is rare to find an official who likes to see any shortcuts taken that can protect the health, safety and welfare of the public.

I understand Jim’s sentiments. The scenario is similar whether you are in Memphis or Los Angeles. There will always be more informal units than there are inspectors. Today’s technology also affords easier access to municipal codes. Services like Open City publish open source versions of city ordinances on the Web. Jurisdictions post standards, guidelines, and development FAQs on their websites. And online code enforcement resources are readily available. These various web resources make it easier for concerned neighbors to research and confirm for themselves that the guy next door should not be living in a converted pool cabana, or, by the same token, that there might be ways to legally convert the cabana into a guest house. In addition to analog ways of sending complaints, violation reporting is now available on smartphone apps. Conceivably, you can quietly and furtively report your neighbor’s unpermitted dwelling unit while standing inside it. Meanwhile, budget cutbacks have led to reductions in inspection staff, all while complaints continue coming in. Hence Jim’s bold suggestion to increase taxes in order to rebuild municipal budgets to fund code compliance programs. That is a call for the local jurisdiction. They might also consider more education and outreach explaining the purpose of codes and the benefits of code compliance.

I can attest to my own frustrations with the politics of informal housing. The “oil vs water” disconnect between planners and inspectors, or planning practitioners and academics, stifles the informal housing debate. We are needlessly talking past each other. With few exceptions, it has been politically expedient for elected officials to offer no solutions to unpermitted housing in their communities. Development codes do not adapt well to changing times, so people circumvent them. Out in the field, proactive enforcement is increasingly rare since it leads to accusations of singling-out people for enforcement action. As a consequence, inspection is largely a reactive and complaint-based service. Complaints, though, are uneven at best. Relying solely on complaints results in enforcement action taken at properties that are formally reported to authorities, while many other informal units remain hidden from scrutiny. The lack of an obvious deterrent effect encourages the proliferation of unpermitted housing.

All of this can make even the most dedicated inspectors want to quit. But they do not quit. Inspectors get back out there to perform the core public service of ensuring safer communities through regulation and education.

Conclusion

As the above comments demonstrate, the informal housing debate remains open. Where should we go next? As I have argued on these pages, we need a robust and holistic discourse on informal housing. All sides of the informal housing debate need to talk, listen, and learn from each other. In the interest of improving research and practice, planning academics should be consulting with regulatory authorities to gain their perspectives on informal housing. Inspectors, more than anyone else, have an intimate understanding of the causes and consequences of informality, and the effectiveness of municipal responses to it. More planners and inspectors should be jumping into this informality debate as well. Instead of ignoring or talking past each other as we do today, we must come together to toss around the same vexing questions. Together, we can collectively look for solutions to the issue of informal housing in
Disclaimer: The opinions expressed in this article are those of the author and do not reflect the official views or positions of the County of Los Angeles.

Notes


3. I chose comments that are published online and verifiable by readers.


10. The key difference between unpermitted housing in affluent communities and disadvantaged communities is construction quality. In affluent areas, given the additional monetary resources available, unpermitted development tends to be of higher quality and appearance.

11. See, for example, the Code Enforcement Outreach Program of the City and County of San Francisco, Department of Building Inspection, [http://sfdbi.org/code-enforcement-outreach-program](http://sfdbi.org/code-enforcement-outreach-program) (accessed November 11, 2014); also see this rental housing outreach flyer from San Francisco Department of Health, Environmental Health Section, [https://www.sfdph.org/dph/files/EHSdocs/ehsPubldocs/housing/HousingOutreachEng.pdf](https://www.sfdph.org/dph/files/EHSdocs/ehsPubldocs/housing/HousingOutreachEng.pdf) (accessed November 11, 2014).


About Jonathan P. Bell

Jonathan Pacheco Bell is a proud public sector professional with over 17 years of diversified experience spanning the fields of urban planning, architecture, and information/library science. Since 2006, Jonathan has worked as an urban planner at the County of Los Angeles, Department of Regional Planning – the municipal planning agency for L.A. County’s unincorporated communities. From 2006 to 2014, Jonathan served in the land use regulation division where he implemented policies and zoning codes to abate unpermitted land uses and improve quality of life, mainly in South Central Los Angeles. In March 2014, he joined the advance planning division to take on community planning initiatives in South Central Los Angeles, countywide zoning ordinance updates, and aviation projects for L.A. County’s Airport Land Use Commission. His background includes work in architect’s offices, public and private libraries, and university research centers. Jonathan received his M.A. in Urban Planning from the UCLA Luskin School of Public Affairs and studied political science and architecture as an undergraduate. He is currently completing an MLIS with an emphasis in public library leadership through San Jose State University.

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