Broadcasting Exclusion:  
The Representation of “Illegal Housing”  
in Rockland County, NY

A Thesis Presented to the Faculty of Architecture and Planning  
COLUMBIA UNIVERSITY

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Science in Urban Planning

Advisor  
Leah Meisterlin

Reader  
Alejandro De Castro Mazarro

By  
Carsten Rodin

May 2018
Abstract

Broadcasting Exclusion: The Representation of “Illegal Housing” in Rockland County, NY

This is a qualitative study of how planning, instrumentalized by an established and politically active constituent body, contributes to the exclusion of certain marginalized populations. It explores the mechanisms through which this takes place, by looking at the practice of unpermitted subdivision of single-family homes, debates concerning its enforcement, and discussion of possible avenues toward its legalization in Rockland County, NY. Local planning and code enforcement officials participated in semi-structured interviews regarding official responses to illegal housing and its relationship to public opinion in their jurisdictions. Complaints collected through a countywide code enforcement initiative were also analyzed to gauge the social and spatial dimensions of anti-illegal-housing sentiment. Other media including newspaper articles, records of public forums, and recently completed comprehensive plans were used to analyze the evolution of public opinion and how it was communicated to and received by local planners. The study uses a communicative planning theory approach in examining planning’s relationship to public opinion, how it is measured and interpreted, as well as what sources of information and constituent groups are left out of the process, exposing opportunities for planners to better understand and negotiate conflict in suburban areas experiencing rapid demographic change.
Table of Contents

1. Introduction
   a. Background
   b. Research questions

2. Literature Review
   a. New Suburban Gateways, Suburban Decline & Nativist Local Politics
   b. Informal Housing in North America
   c. Zoning as a Vehicle for Enforcement of Dominant Cultural Norms
   d. Technologies of Collective Self-Surveillance and Crowdsourced Governance
   e. Communicative Planning Theory

3. Methodology & Findings
   a. Methodology
   b. Findings
      i. Background & Demographic Change
      ii. Appearance of Informal Housing & Problematization
      iii. Planning Responses & Impacts
         1. Enforcement
         2. Comprehensive Plan & Zoning Changes

4. Discussion

References

Appendix A: Interview Questions
Table of Figures

I. Key Map of Rockland County, NY
II. Language Spoken at Home, Rockland County NY (Change Over Time)
III. “Telltale Signs” of Extralegal Housing from Op-Eds & Workshops
IV. Distribution of Complaints Collected Through Illegal Housing Task Force, 2009-2013 and Rockland Codes Initiative, 2015-2017, overlaid with Language Spoken at Home
V. Source-Destination Analysis of Complaint Data & Complaint Distribution Overlaid with Jurisdictional Boundaries
Introduction/Background

In the era of Trump and Brexit, political rhetoric is increasingly tinged with isolationist and anti-immigrant messaging, aimed at the preservation of a supposedly homogenous national identity. The acts of bordering associated with those messages, however, play out at the scale of the neighborhood as much as at the scale of the nation, through spaces that are photographed, written, coded and drawn as much as ones that are built, and using long-standing exclusionary tools as much as newly created ones. The practice of democracy in such a cultural climate, fractured and compartmentalized by design, becomes increasingly fraught. For planners, who constantly negotiate these multiple scales and spaces and engage in dialog around who they should serve, this presents major challenges.

One context where these challenges are becoming increasingly evident is in the suburbs and exurbs of America’s cities, where a slew of factors including federal subsidies for highway construction and home loans, exclusionary policies limiting access to those loans to nonwhite homebuyers, and racial deed restrictions resulted in high levels of segregation and the stereotype that such places are typically occupied by white, middle-class families.

Recently however, America’s suburbs have been becoming increasingly diverse, in particular as they have started to replace central cities as the primary destination for new immigrants. The subprime mortgage crisis of 2008-2009, responsible for some of
the underlying economic and social changes that have helped produce this new geography of immigrant settlement, is also linked to growing anxieties about the disappearance of the middle-class, and challenges to conventional wisdom that persisted through the 20th century advocating homeownership as the default primary means of investment and wealth accumulation for most households. The confluence of these factors, and fear of fluctuation in the value of these investments, are a constant generator of conflict over who controls local government and its various mechanisms for shaping outcomes around who gets to live where, and how.

Of course, this is by no means a new development. NIMBY (Not In My Backyard) activism was born in the suburban context, through struggles like the one dramatized in the 2015 HBO miniseries *Show Me a Hero* which depicts the struggle between mainly white homeowners in Yonkers, NY and the city’s mayor and elected officials who were ordered by a federal judge to implement scattered-site public housing in existing middle-class neighborhoods. Other narratives include related and ongoing court battles in Westchester County to mandate the construction of affordable housing, and the saga of Mount Laurel, NJ’s journey toward desegregation.

As these histories reveal, exclusionary practices in the suburban context frequently revolve around housing. The most effective way to control what kind of people live in a neighborhood, is to regulate or restrict *how* they’re allowed to live through zoning and related occupancy and health codes. While this has for the most part proven to be a highly successful model for legislating cultural homogeneity, these kinds of
regulation are increasingly challenged by forms of housing that knowingly or otherwise choose to ignore such constraints.

In Rockland County, NY, residents have responded to a severe shortage of affordable housing produced by these legislative patterns simply by going outside of the formal planning framework, ignoring rules intended to control growth and regulate what kinds of people are acceptable as residents. In the last decade, the county has become embroiled in controversy over what opponents term ‘illegal housing’ (and what will be referred to here as extralegal housing), that is, primarily, single-family homes which are subdivided, altered or unconventionally occupied in ways that violate current zoning and occupancy codes. These arrangements exist literally alongside and within the accepted structures of single-family zoning and residential construction seen throughout the American suburb.

To understand the controversy, the lack of affordable housing and its relationship to local planning must be understood. In the early 1970s, the Town of Ramapo, which constitutes Rockland County’s western half, was the focal point in a landmark court case which set a precedent for local control over zoning and provided the legal basis of ‘smart growth’ policy that was to follow. The case, Golden v. Ramapo pitted the town planning board against a developer seeking permits to build an apartment building. Through the case it was ruled that local governments in New York state hold the ultimate power to control the pace and intensity of development & growth. Justice Charles Brietel, in his dissent, however, points out the possibility that “communities intent on walling
themselves off from the mainstream of development”, given local control over zoning matters, would be able to effect “ethnic exclusion or ‘snob’ zoning” without challenge (Court of Appeals of New York, 1972). In several decades following *Golden v Ramapo*, this fear has been at least partially realized: as no significant regional planning apparatus has emerged, leaving the question of where and how growth is absorbed, and how affordable housing is to be provided largely undecided. Individual communities remain free to restrict and prohibit ‘overdevelopment’ which has resulted in slow or nonexistent growth of anything other than single-family houses in most of the county.

Local control over zoning, enabled by *Golden v Ramapo* to severely limit growth, involves three separate levels of government. Counties, the widest level, typically have some influence, possessing planning bodies and issuing comprehensive plans, but no real power in enacting zoning. This power rests with either towns (into which counties are subdivided), or villages (subdivided from towns). Rockland County Contains five towns: Ramapo, Clarkstown, Stony Point, Orangetown and Haverstraw, and numerous villages within each. Unincorporated (non-village) parts of towns are governed by the Towns, while villages enact their own zoning. Figure I provides a general map of Rockland County and the three levels of government therein, showing the county as a whole, the towns in all-caps, and the various villages in sentence case.
Extralegal housing in the county has emerged as a product of stagnant planned growth and is distributed throughout all its inhabited areas. Controversy over such housing revolves mostly around differing views on what kinds of responses should be taken to address these developments, the wide variation in how different villages and towns have chosen to address them, and in some cases, efforts from outsiders to compel certain villages and towns to address them in a specific way. Since the early 2000s, dozens of news articles have described various dimensions of the extralegal housing
issue: its growing presence, its occupation and in some cases creation by marginalized groups: primarily South and Central American immigrants and the local Orthodox Jewish community, the risks it presents for firefighters (and residents), possible impacts on neighboring property values, and ongoing efforts to eradicate it via enforcement initiatives, namely the Rockland Illegal Housing Task Force (RIHTF) and the later Rockland Codes Initiative (RCI), and in particular the phone and internet-based reporting tools set up through each, which allow neighbors and other concerned citizens to report instances of illegal housing and refer them for code enforcement inspections.

Planning, in this situation, is caught between conflicting interests. Zoning and code enforcement come under pressure both from new residents operating outside the realm of legally permitted construction and occupancy, as well as from nativist groups seeking to enforce or even tighten existing restrictions in the name of neighborhood preservation. The way the illegal housing controversy pits recent immigrants, Orthodox Jews, white homeowners and other groups against one another, through various channels of power complicated and shaped by the unique pattern of local government, and how it has affected planning practice relating to regulation of the single-family home (planning understood here as the full range of activities based on local government’s wielding of the ‘police power’, zoning as well as enforcement) provides a unique opportunity to examine the challenges faced by planners dealing with a fragmented society and the exclusionary desires that arise as a consequence.
Research Questions

Within this context, this study asks how the tools of planning, namely code enforcement and zoning, are operationalized in a way that produces disproportionate impact on specific communities, unwanted by constituent groups that hold power. It examines how the appearance of informal/illegally constructed housing in single-family zones has been addressed by planners and code enforcement officials in Rockland County, NY and the impacts of these efforts. To answer these questions, the research first examines the emergence of informal housing, how it was discussed and problematized in public forums (newspaper articles, op-eds and blog posts), and how public opinion expressed in those forums influenced responses from the local planning apparatus including both enforcement and zoning changes. As digital tools become an increasingly prevalent means by which planners engage with constituents, how the online illegal housing complaint form provided by the Rockland County Government influenced outcomes is also of particular interest.
Literature Review

While the increasing presence of immigrant and other marginalized communities in North American suburbs and the various points of tension between those cultures and dominant ones expressed through architecture and existing practices within local government have been well documented and discussed in existing scholarship, the role of planning in interpreting and responding to these changes, and with what results, remains relatively unknown. To support this research, relevant literature on the following topics was examined: the emergence of the new suburban immigration gateways, narratives of suburban decline and the rise of nativist or isolationist local politics, the history of informal housing in North America, zoning control as a vehicle for the enforcement and perpetuation of cultural norms, communicative planning theory, and technologies of collective self-surveillance and crowdsourced governance.

New Suburban Gateways, Suburban Decline and Nativist Local Politics

The extent to which suburban communities have absorbed an increasing share of new immigration to the US over the last two decades, gradually displacing central cities as the primary “gateways” to immigration, has been well documented (Singer, Hardwick, & Brettell, Caroline B., 2008; Tavernise & Gebeloff, 2010). The relationship of these new immigration patterns to growing suburban poverty has also been explored. Singer (2008)
and Suro, Wilson & Singer (2011) describe both the growing trend of the suburban gateway community and its association with poverty.

Saunders (2010) and others discuss policy responses to the growing presence of immigrants in suburban communities. In his book *Arrival City* he situates the suburban immigrant gateway within a larger context of increasing global migration and rural-urban dynamics, and contrasts the experience of two American suburbs, Herndon, Virginia and Wheaton, Maryland, as models of the exclusionary and inclusionary responses that local governments, responding to pressure from mostly white constituencies, are prone to.

Behrens and Kühl (2011) point to the suburban gateway community as an object of concern for urban planners, identifying transportation, public space, schools and housing in particular as critical areas of study and intervention.

Exclusionary policymaking aimed at resisting or reversing flows of migration into suburban neighborhoods has also been well explored, as has the relationship between these exclusionary desires and other factors such as the subprime mortgage crisis, the resurgence of the inner city, continued outward growth of suburbs, and the gradual disappearance of the American middle class. (Hanlon, 2010; Lucy & Phillips, 2000b, 2000a). Vicino (2013) describes how long-term residents have in some cases responded to new immigration by producing physical, legal and extralegal barriers to immigration at the local level through the case studies of Hazleton, PA, Carpentersville, IL, and Farmers Branch, TX. Many of these efforts focus on housing in some way. The so-called “Illegal Immigration Relief Ordinances” adopted in Hazleton, and the related legislation it
inspired in Farmers Branch and Carpentersville required citizenship verification as part of the apartment rental process.

Their discussion of the volatilization of the single-family home as an investment vehicle and opposition to perceived risks to its value and/or stability provides important context for its re-use as low-cost housing for new immigrants. Also closely related to many of these trends and their impact on long-term residents of such communities are analyses of race relations and identity politics in the face of immigration, which often drive exclusionary efforts (Brettell & Nibbs, 2010; Cleaveleand, 2011; Harris, 2012; Lipsitz, 1998). A study of Central and South American Communities in Suffolk County, Long Island produced by the Southern Poverty Law Center focuses specifically on the racial politics of immigration there and its relationship to local politics (Southern Poverty Law Center, 2009). The study references, but does not explore in depth, the use of selective zoning enforcement by anti-immigration public officials to intimidate and exclude immigrants.

**Informal Housing in Formally-Planned North America**

Roy (2005) outlines the challenge planners face in grappling with “the unplannable”, or “exceptions to the order of formal urbanization”, and argues that they must learn to work with this “state of exception” or face irrelevance (Roy, 147). In Roy’s conceptualization, planners dealing with informality (including phenomenal like extralegal housing in the American suburb) must become reactive rather than proactive
actors, dealing with questions of how informal activity can and should be legitimized or modified to ensure health, safety, and equity while managing to ‘learn from’ constituent-generated solutions to urban problems.

While informality is most frequently discussed in terms of cities in the global south, various factors including intensifying flows of global migration and the weakening of the state planning apparatus due to deregulation and privatization make questions of informality increasingly relevant for cities in the global north as well as their suburbs. Durst and Ward (2016) have elaborated on the presence of illegal housing in North America, pointing out its long history and some of its unique characteristics, such as its tendency to overlap or be “interwoven with the formal housing economy” (N. J. Durst & Wegmann, 2017 p. 295). Durst and Wegmann’s article points out the relationship between fragmented local government and what are often highly variable enforcement responses in close geographic proximity:

In the US, local governmental fragmentation ... allows for the existence of both highly regulated and weakly regulated areas within the same ... community. It is this fragmentation...that has led to the development of low-income, incremental housing developments along the urban periphery throughout much of the country. (p.9)

Wegmann’s PhD thesis research (Wegmann, 2014) on the informal housing market in Los Angeles includes a chapter where he speaks with code enforcement officials about their experience with the informal housing landscape there. It highlights the degree to which zoning enforcement can be highly subjective, and of variable
strictness which changes in response to the comings and goings of elected officials who represent different interests. This research also explores the various ways extralegal housing in that context has been brought into the fold of formally permitted construction via accessory dwelling unit legislation.

The question of how to measure the presence of informal housing in a community has also been explored. Wegmann and Mawhorter (2017) describe a method for estimating the amount of informal housing in a given area at a macro level based on the difference between Census Bureau estimates of the number of dwelling units and officially documented/permited additions and new construction.

The development of and debates surrounding informal housing, in particular the basement apartment, in major US cities like New York and Los Angeles is also well-covered (Bruni & Sontag, 1996; Center for Urban Pedagogy, n.d.; Chhaya Community Development Corporation, 2008; Waldrep, 2014; A. Wegmann, 2014; Zraick, 2011). Substantially less attention has been paid to similar developments taking place in the suburban environment, however.

Zoning as Vehicle for Enforcement of Dominant Cultural Norms

Previous writing and research examining the intersection of single-family neighborhoods, immigration and exclusionary identity politics in the suburban context is diverse and varied. Existing case studies of both the single-family home and the local political sphere as contested spaces in the face of new immigration will also be useful.
Fan's (2014) study of single-family neighborhoods converted to high-intensity worker housing for Chinese-speaking workers at the Mohegan Sun Casino near Montville, CT focuses on the material conditions (publicly visible and otherwise) that conversion produces and the resulting friction (which references but never fully invokes local laws and enforcement) with neighbors and bystanders documented in interviews. This work shows that housing occupancy is politicized not as an abstract concept but as the root cause of a number of specific, publicly observable conditions that relate directly to the form of the home and assumptions about its proper use.

Pader (1993, 2001, 2002) has written extensively about the origins of and cultural biases which inform these zoning and health codes and will be another important source in analyzing the specific codes used in Rockland County. As these modified dwellings express, places planned according to a specific cultural imaginary and which now carry both built-in and legislated assumptions about how people should live, suddenly find themselves inundated by newcomers, often with completely different needs and desires.

What this research reveals is that extralegal housing practices, while in some cases dangerous to occupants, mostly involve challenges to more subjective determinations around what is culturally acceptable in the context of single-family zoning, and in particular, the way they challenge people’s notions of neighborhood character. The way these subjective determinations are subject to change over time is evidenced in the discussion around the formalization of extralegal housing in single-family zones as accessory dwelling units. But what remains missing from this literature,
and what this study seeks to uncover, is how precisely the instruments of planning, single family zoning and its enforcement, are used to legislate and enforce this dwelling culture to keep out immigrants, the poor, and other undesirables, and how public opinion around acceptable forms of dwelling unit modification and expansion is influenced and shaped by special interest groups.

**Communicative Planning Theory**

Communicative planning theory, some version of which has become the norm in contemporary planning practice, offers a useful framework by which to understand and critique planning responses documented in the case study. Communicative planning builds on earlier models of citizen engagement with the planning process, such as Arnstein's (1969) “Ladder of Citizen Participation.” The framework it provides offers a model for evaluating citizen participation in the political process, ranging from various forms of citizen power, to tokenism, to nonparticipation. Yiftachel (1998) discusses the “dark side of planning” and provides a framework by which the territorial, procedural, socioeconomic, and cultural dimensions of planning can be evaluated. Huxley (2000), in her critique of communicative planning, describes its (seemingly impossible) goal as:

...identifying sources of systematically distorted communication in systematically unequal social structures, and by creating ideal speech situations in which self-reflexive, communicatively competent, and rational human subjects can achieve consensus on matters that affect their lifeworlds. (p. 370)
Beauregard (1984), echoed by Fainstein (2000), offers an additional critique of the communicative model, pointing out that fundamentally, it has no direct relationship to the consequences or outcomes of planning, focusing only on the planning process and the reconciliation of its inputs and motivations.

Innes and Booher (2004) offer an in-depth critique of various forms of citizen participation, focusing particularly on public hearings. They offer several critiques. First, they observe participation is typically limited to specific subgroups of a larger public, most frequently: “avid proponents and opponents of a measure affecting them personally, representatives of organized interest groups and diehard board watchers”. Secondly, they underscore the combative nature of public hearings, evidenced by the language with which they are frequently described (as “battles”), and the way things like the physical layout and rules for speaking act to “frame” the discussion.

Discussing the popularization of ‘visioning’ as a form of public participation underpinning many local communicative planning efforts, McCann (2001) points out the increasing extent to which private consultants are responsible for the design and implementation of public outreach processes, which carry huge influence on zoning and comprehensive plan decisions. In spite of these challenges and critiques, communicative planning and its ideals remain a central part of how local planning is expected to function in the United States. Re-thinking its format and presentation in order to avoid some of these conflict-emphasizing tendencies and unequal openness to various interest groups is an important task for equity-minded planners.
Finally, as digital platforms become increasingly important parts of planning outreach processes, the impact of the design of individual tools and the use of the data they generate has been examined. Offenhuber and Ratti (2017) discuss the evolution of open-source 311 systems in the US and their application to transparency in local government, and compare data collected by two different citizen complaint tools – SeeClickFix and CitizensConnect. They make the claim that the interface of these tools influences the kinds of data they collect as well as impacting the kind of interactions and conversations that are possible through their use.

As these case studies from Boston make clear, digital interfaces do not merely augment public discourse; they produce and increasingly regulate it. The design of feedback systems determines the visibility of the reported issues, the people submitting and discussing them, and the response and actions taken by the city. (p. 197)

As the above studies show, substantial research has already been conducted on the growth of suburban immigrant communities, the increasing w and the material conditions and politics surrounding them. However, what remains missing, and what this study sets out to do is to analyze in depth the relationship between regulation of the single-family built environment by planners and patterns of use and occupancy which increasingly challenge existing norms and regulations.
Methodology

This research addresses the potential of the local planning apparatus to legitimize and enforce the exclusionary desires of certain constituents at the expense of others. It therefore focuses on how planners measure and respond to public opinion, and what factors determine constituents' ability and desire to participate in the planning process, within the context of the rise of extralegally converted single-family homes and planners' responses to it in Rockland County.

At the center of the research are semi-structured interviews with four planners and code enforcement officials at various levels of Rockland County Government were also conducted to gain insight into each stage of the research, ranging from background demographics, to the rise of informal housing and its problematization, to planning responses in the form of enforcement and comprehensive plan revisions and zoning changes. The individuals contacted for interviews represented a range of roles at each level of government as well as representatives of nonprofit advocacy groups and private-sector consultants involved with the development of zoning and comprehensive plan changes. Efforts were made throughout the interview process to identify specific geographies under discussion in order to map them and analyze how the geographies discussed by planning officials correspond with other spatial elements of the research. Questions used to guide the semi-structured interviews were modified slightly to reflect the context/positioning of each interview subject and are listed in Appendix A. Interview
requests were sent to around a dozen other planners, code enforcement officials, housing and immigration advocates and others, however due to various factors including litigation over alleged corruption within the Ramapo city government many of these potential interviewees either declined or did not respond to requests.

Additionally, to better establish the social and political context in which this process unfolds, data describing change over time in language spoken at home, internet access, and other factors tracked by the American Community Survey and 2000 Census were obtained from the US Census Bureau. Data were collected and mapped at the highest level of geographic detail possible in order to present more nuanced correspondences between these and geographic data collected at other stages of the research and in particular their correspondence with jurisdictional boundaries. Through this process, areas experiencing the highest level of demographic change over time were identified, as were borders or edges between disparate linguistic and socioeconomic zones.

In order to understand the origins of this trend and how it entered the public consciousness as a problem to be solved or eliminated, and how it relates to the presence of anti-immigrant sentiment, a combination of quantitative and qualitative methods were used. Further contributing to an understanding of the emergence of illegal housing as well as its framing as a public problem was an in-depth analysis of data produced through various citizen-reporting tools linked to code enforcement drives. These complaint data were collected first by phone as part of the Illegal Housing Task
Force established by Rockland County in 2009, and later through an online form introduced as part of the later Rockland Codes Initiative, as part of a kind of “311-for-illegal-housing” system intended to support stricter enforcement of zoning and occupancy codes throughout the county. Together these initiatives produced around 650 complaints, which were obtained via Freedom of Information Law (FOIL) request and contain subject property addresses, verbal descriptions of the issue, images, and the home zip code of the person making the complaint. Complaints were analyzed to gain insight into the spatial distribution of informal housing, difference in the geographies of complaint locations and where complainants live, as well as language used to describe indicators of illegal practices. This was accomplished partly by geocoding and mapping the addresses of complaint properties, as well as comparing the home ZIP code of the person making the complaint with the actual complaint address. Image attachments submitted as supplemental information through the Rockland Codes Initiative web form were also analyzed in relation to the complaint comments as an extension of the language used to identify and describe illegal behavior in need of enforcement. The complaint form itself, and the website in which it is embedded as a data collection instrument was also analyzed. News articles and op-eds discussing the illegal housing issue from a 15-year period were analyzed and compared with written and visual language used in complaints and legislation to establish a rough chronology of the problematization process and to examine the relationship between language used in a
public context (articles and forums) and in a quasi-anonymous context (complaint hotlines and web forms).

Finally, to investigate how this public problematization impacted the planning process, specifically the enforcement of current zoning and the discussion and implementation of zoning changes, documentation of both from various local governments were examined. The earlier of the two complaint datasets (collected through the Illegal Housing Task Force) contains comments on the enforcement actions taken resulting from the investigation of each complaint. Publicly available documentation of planning board meetings and public outreach sessions surrounding proposed zoning changes and comprehensive plan revisions were also examined, with particular emphasis on the documentation of public comments on housing issues by members of the general public. Here, as with the section exploring the construction of the illegal housing problem, particular attention was paid to the language used and the possible connections between comments made in the hearings, complaints, and earlier writing and public discussion of the issue.
Findings

Background & Demographic Change

Language & Population Growth

While the narrative of a massive demographic shift (or at least the threat of one) appeared throughout interviews and public discussion of the illegal housing issue, that narrative is only partially supported by data from the census. Language spoken at home was used as a proxy for the two communities most frequently referred to in interviews and public discussion as newcomers at odds with the established order: Hasidic Jews and recent South and Central American immigrants, who appear in the tables under “Other Indo-European Languages” (which includes Yiddish) and Spanish. Between 2000 and 2015, the county saw its population grow by approximately 12%, from 265,002 to 296,706. Nearly all of that growth was accounted for by increases in both the Spanish-speaking population and speakers of other Indo-European languages, while the number of residents speaking English only declined slightly. During this period the Spanish-speaking population increased by 59% and speakers of other Indo-European languages increased 40%. However, even with such dramatic increases, those populations remain minorities within the overall population, with Spanish speakers making up 13% of the total in 2015 and speakers of other Indo-European languages representing 19%. It should be noted however that the American Community Survey may not be a reliable measure
of certain populations, such as undocumented immigrants, particularly if the dwelling units they reside in are also undocumented.

The geographic distribution of these populations as well as the geography of growth are also important to the overall narrative. Nearly all growth in Rockland County since the early 2000s has taken place in the Town of Ramapo, near Spring Valley in particular, and near the Village of Haverstraw. Figure II shows the percentage of each census block group speaking both Spanish and Other Indo-European languages in both 2000 and 2015. As the map indicates, speakers of Other Indo-European languages remained clustered around the Village of Spring Valley in the Town of Ramapo, and increased their relative density in places where they were already present. Spanish speakers maintained a concentration in the Village of Haverstraw while also appearing in higher densities than before around Spring Valley and parts of Clarkstown, reflecting a somewhat lower degree of spatial segregation.
Figures II.1, II.2: Change in Indo-European (incl. Yiddish) and Spanish-Speaking Population as Percent of Total

Language Spoken at Home:
Other Indo-European Languages (Including Yiddish)

Language Spoken at Home:
Spanish
Internet Access

Data from the American Community Survey also indicates substantial disparities in the level of internet access between the Town of Ramapo, and Rockland County as a whole. As of the 2015 American Community survey, only 67% of households in Ramapo were estimated to have an internet subscription, compared with 78% countywide and 84% in neighboring Clarkstown. Notably, in Ramapo, an estimated 29% of households with internet access were mobile broadband users.

These data support the narrative of an influx of non-English speakers into Rockland county and a rapidly changing demographic makeup over the last 15 years. They also introduce an under-discussed yet important element to the discussion, however, which is the high degree of apparent spatial segregation maintained throughout this shift, with new population growth occurring mostly in a few areas. These areas correspond closely to units of local government responsible for the enforcement of housing codes. While the areas in question are not geographically isolated from their surroundings, the data also suggests they may be less well connected in terms of communications infrastructure that is increasingly relied on as part of the local planning and political process. These were the areas that became the focal points of the illegal housing controversy as it was recast from a widespread but under-the-radar practice into a highly politicized issue at the center of local politics.
Appearance of Extralegal Housing & Problematization

Extralegal housing has been present in Rockland County for many years. As Haverstraw building inspector Ruben Barrios put it in an interview, “I’ve been working here 20 years, I’ve been dealing with it for 20 years”. Only in the last decade however has it become the highly politicized and much publicized issue that it is today. Understanding how its regulation and enforcement relates to broader exclusionary desires and practices within the context of local government and planning requires a closer understanding of how illegal housing has been both publicized and problematized, or, transformed from a persistent but incrementally enforced issue outside of the public eye into one of the most hotly contested issues in local politics, discussed in op-eds, community forums, and campaign ads. This problematization process revolves around a form of public education and awareness raising, through which explicit and implicit connections were made to immigration issues, and a visual vocabulary of markers and signs indicating the presence of informal housing was formed that would eventually be mobilized in citizen reporting initiatives. While the nature and outcomes of these reporting initiatives are discussed in the next section, it is important to point out that they were developed in explicit relation to a broader media campaign to heighten public conversation around illegal housing, forming a feedback loop of reporting and problematization. Some themes arising in interviews and news coverage from the period of problematization are listed here.

There was a high degree of consensus on the underlying causes and motivations for illegal housing in the county. Multiple sources, including interviews with Haverstraw
Building Inspector Ruben Barrios, BFJ Planning Principal Frank Fish, and Clarkstown Planner James Creighton, point to underlying economic conditions as the basic motivation for illegal housing in the county. In particular, fallout from the subprime mortgage crisis was mentioned as a motivation for homeowners to take on boarders and rent out subdivided portions of homes as a way to avoid having to sell them. On the other hand, growing numbers of undocumented immigrants seeking cheap rents provided substantial demand (Liebson & Valenti, 2013). Barrios emphasized, however, that participation is universal, and not restricted to any one specific group:

> Everybody has done it, in my opinion. Just generally people do it. For one thing, the taxes are high, people are hurting. On the other hand you have people who are just greedy landlords. So you have all kinds of people doing it. Different ethnic backgrounds, everybody, It’s just people in general.

To complicate things further, he also pointed out that more complex arrangements than the typical landlord-tenant setup frequently arise, with tenants themselves sometimes subdividing and re-renting space: “sometimes the tenants do it, (talks about subletting) in some cases the property owner doesn’t even know.”

Concerns about the safety of firefighters were frequently cited as reasons to pursue urgent enforcement action. In several cases, firefighters themselves were responsible for raising concerns, and were also part of the core group of local officials who would eventually form the Illegal Housing Task force. This involvement appears to be partly due to a 2006 decision by the State of New York to send safety inspectors to
the site of each house fire in the area to assess risks to firefighters (Beg, 2006). Op-eds from firefighters in local newspapers helped create public consciousness around the issue and highlighted the visual language of code violations used in many neighbor complaints (Kryger, 2015).

Similar forms of image-making were instrumental in connecting the illegal housing issue with stereotypes about undocumented immigrants and the Hasidic community. While planners and code enforcement officials interviewed were hesitant to name any specific xenophobic tendencies that arose in public outreach processes they were involved with, various op-eds and letters to the editor make it clear that many residents perceived a connection between illegal housing and illegal immigration.

One resident, L.A. Mangano, wrote in 2006:

...most times it's the tenants who created the "unsafe conditions." It's well known you can rent an apartment to two people and before you know it, 15 people live in it, without the landlord's consent. I also take offense to the statement that landlords "take advantage of poor immigrants." Well, it's my opinion that these illegal immigrants are taking advantage of me, and all other Americans and naturalized citizens, and those who are here with work visas, and those who pay income taxes and school taxes to educate our children. These people are here illegally. Illegals are, most times, the ones who have created the overabundance of overcrowded housing. Illegals are, most times, the ones who are filling up our courtrooms. Illegals are, most times, sapping up our resources. Stay focused; they violate our laws; they are here illegally! Either uphold our laws or give the illegals Social Security numbers and make them pay their own way. (“Group-home debate is about all of us,” 2006)
These letters to the editor are interwoven with others discussing the need for legal pathways to immigration or concerns about the impact of immigration on communities, or expressing a sense of loss with respect to changing demographics and call for the replication of other municipalities' efforts to bar or deport illegal immigrants (Grieco, 2005)

A 2013 article in the Journal News titled “Haphazard Housing” gave a critical portrayal of the enforcement environment in Ramapo, soliciting substantial reader feedback and numerous letters to the editor. One wrote “until the fines surpass income taken in this will not stop. [Slumlords] will continue preying on the illegals who will pay for substandard housing and remain quiet” (“Editorial,” 2013a). In spite of interviewees’ assertions that most illegal housing occurs as the result of individual homeowners renting rooms to make ends meet, the article characterizes ‘slumlords’ as repeat offenders who purchase, subdivide, and rent multiple properties while using complex legal tactics to evade responsibility. Though subtler than the language used to characterize tenants as undocumented immigrants, language around the actions of slumlords was racialized to imply that the Hasidic community was responsible for the phenomenon.

The connection between the Hasidic community and extralegal housing was further reinforced by using specific places as examples of the problem, despite assertions from planning and code enforcement officials that the problem exists throughout the county. Officials quoted in a 2009 article announcing the Illegal Housing
Task Force listed specific properties in Ramapo and Spring Valley as examples (Lieberman, 2009).

News coverage was also used to train citizens to spot illegal occupancies, and to encourage reporting. One op-ed, following the announcement of the Task Force, urged readers to watch for and report “problem propert[ies] in your neighborhood.” It listed what it described as telltale signs of illegal occupancy (shown in Figure III below), none of which are in themselves illegal, including “multiple people coming and going into a single-family residence at all hours”, “numerous vehicles constantly parked in single-family driveways”, and “persons who use multiple entrances to a residence” (Kryger, 2015).

![Figure III: Signs of Illegal Occupancy/Subdivision, from Journal News Op-Ed “Report Illegal Housing Death Traps”](image)

Another article covered a workshop held in 2016 in Clarkstown, ostensibly to brief enforcement officers on techniques to identify and correct code compliance problems. The article quotes County Supervisor Ed Day, who urges citizens to keep a watchful eye
for illegal housing and to file complaints with the Housing Task Force whenever possible. The workshop listed some of the same signs referenced by Kryger, as well as additional indicators of 'suspicious misuse' including numerous mailboxes, too many satellite dishes, several cars parked in the driveway of a single family home or a large amount of people coming and going from a dwelling (also illustrated in Figure III). An image of multiple mailboxes was provided by the event organizers to the Rockland Times to promote the event and its content. (rctadmin, 2017)

In spite of the dominant narrative of the need for stricter enforcement, dissenting voices also emerged. Some op-ed contributors floated the idea that cracking down may not be the only option in dealing with the emergence of illegal conversions. One writer, while advocating for some “crackdown”-style solutions like increased frequency of inspections and steeper fines, also proposed that municipalities should “work with homeowners who seek to legally convert single-family housing to include rental units.” (Gunther, 2012). Others pointed out the apparent futility of crackdown efforts in the face of the underlying economic logic – one claiming that even while “similar stories have appeared at least once yearly for the past 15 years,” nothing has changed.

**Planning Responses & Impacts**

In Rockland County, as in many parts of the US, the planning apparatus is split into two parts, legislation and enforcement, which primarily operate at a distance from one another. Although the conversation around illegal housing has primarily focused on
the enforcement or lack thereof of existing zoning and building codes, the other half has seen pressure as well, in particular manifested in proposed zoning changes that allow for “accessory dwelling units” as-of-right and the creation of pathways to legalization for existing illegal units. In this section, responses to the “illegal housing problem” by local planning bodies, both through enforcement and zoning changes are examined.

**Enforcement**

News coverage of code enforcement efforts discussed early efforts to address illegal housing through increased fines (Lieberman, 2000), and outlined barriers to comprehensive enforcement, including the requirement that inspectors possess warrants to enter single-family homes, where the bulk of illegal conversions take place (Liebson & Valenti, 2013).

**The Illegal Housing Task Force**

An Illegal Housing Task Force was formed in 2009, introducing a reporting hotline along with several other measures aimed at identifying and cracking down on illegal conversions (Lieberman, 2009). The task force was conceived of as early as 2004, when it was presented in an article as a form of policing: “a code enforcement SWAT team” (Howard, 2003). The same article draws a comparison with counterterrorism enforcement efforts, advising neighbors and other concerned members of the public: “if you see something, say something.” In keeping with their policy of generating press out
of complaint collection, representatives of the Housing Task Force penned an op-ed claiming half of complaints about violations come from within Ramapo and Spring Valley. Exposing a clear anti-growth agenda, the article contains dubious claims that zoning changes promote a culture where higher-density development seems acceptable (“Editorial,” 2013b).

Officials representing the task force emphasized a goal of bringing visibility to the issue and its enforcement by supplying the press and other local media with information on enforcement and prosecution as it became available. Publicity surrounding the task force’s results included a 2012 article on massive fines and jail time facing landlord Joseph Klein, labeled “number one violator” by Spring valley, listing the properties in question and including a note that firefighters concerned about their health and safety attended the court proceedings (Lerner, 2012). A separate article, also listing the properties, discussed the restoration of those properties back to their original condition as single-family homes. (Lieberman, 2012).

The Rockland Codes Initiative

In April 2015, the county Department of Health along with a handful of other agencies launched the Rockland Codes Initiative. The Codes Initiative borrowed from and expanded on the framework used in the earlier Task Force, including media outreach and a public complaint collection system. Media outreach in particular was similarly styled, with one an article listing offending properties and naming similar
concerns from firefighters etc. the Codes Initiative in some cases goes further, incorporating the publication of results and offenses into a county-run website, effectively taking direct control over part of the media outreach strategy previously used (dskriloff, 2015a). Several news articles cover the enforcement actions which followed, describing a pattern of locating illegal dwellings, inspecting them, forcing out tenants and compelling landlords to restore properties to their former condition (Taylor, 2015b).

Possibly due to the highly politicized nature of the Illegal Housing Task Force and Codes Initiative, Haverstraw Building Inspector Ruben Barrios sought to distance the day-to-day operation of his department from the initiatives and their associated complaint systems, stating:

We really kind of do our own thing... we’re two different entities. We do work with the county, now and then, we call them, they call us. I used to be a part of the task force... I generally just deal with the health department now for the most part. With or without the task force, we’ve been doing it for years.

Complaint Data

A partial list of 211 complaints collected by phone as part of the Illegal Housing Task Force between 2009 and 2013 was geocoded and mapped (Figure IV), revealing clusters of complaints in and around Spring Valley in the town of Ramapo, smaller clusters in the Village of Haverstraw and unincorporated Orangetown, and a scattering
of others throughout populated areas of the county. Of the 211, 46 were in Spring Valley and 59 in other parts of Ramapo.

A second complaint dataset, collected via an online form as part of the Rockland Codes Initiative between January 2015 and October 2017, contained 438 complaints. Geocoding and mapping these complaints revealed a similar distributional pattern to the 2009-2013 data, with significant clustering in and around Spring Valley, as well as the village of Haverstraw, Clarkstown near the Village of Orangetown, as well as numerous other isolated complaints throughout the county. The overall distribution of complaints (Figure IV.1), and its relationship to concentrations of speakers of Other Indo-European Languages (Including Yiddish, Fig. IV.2) and Spanish (Fig. IV.3) are shown below.
Figure IV.1

Distribution of Complaints
Collected Through
Illegal Housing Task Force, 2009-2013
Rockland Codes Initiative, 2015-2017
Figure IV.2

Complaint Locations vs. Language Spoken at Home:
Other Indo-European (Incl. Yiddish)
Figure IV.3

Complaint Locations vs. Language Spoken at Home:
Spanish
Although precise addresses of complainants were redacted from the Rockland Codes Initiative complaint dataset, their zip codes remained in the table, allowing for analysis and comparison of the relationship between complaint subject properties and the home zip codes of the complainants. This analysis revealed a substantial divide between the parts of the county where complainants reside versus the places being complained about. What this means is the complaint collection tool is not being used by victims of 'illegal housing' to report intolerable living conditions, nor is it being used by residents of neighboring properties to report suspicious behavior in their own neighborhoods. Rather, it appears to indicate that the complaint tools are being used by residents of other towns and villages, from entirely different parts of the county, reporting on potentially illegal practices observed well outside of their home jurisdictions. These patterns are illustrated in Figures V.1 and V.2 below.
Figure V.1: Complaint Subject Locations vs. Home ZIP Code of Complainant

Rockland Codes Initiative
complaint sources vs. complaint sites
Figure V.2: Complaint Distribution
Vs. Town of Ramapo and Village of Spring Valley Boundaries
The content of the complaint datasets varies highly in its level of specificity and veracity. In the Task Force dataset, the conditions described in the phone call are summarized briefly, as are the findings and results of any associated enforcement action. Many of the responses indicate that the suspicions expressed in a given complaint referred to either practices that were taking place but were legal (“Single family house, there is an apt in the basement and other apartments / Legal four-family dwelling as of 2010”), situations where no evidence of the alleged activities were taking place (“3 or 4 families sharing kitchen / inspection found no evidence of boarders”), to situations where not enough evidence was present to investigate further (“Numerous partitions in apartments / Too vague for probable cause, no apt. #”), as well as numerous legitimate complaints that resulted in a range of actions including fines, orders to restore buildings to previous configurations, and evictions.

Complaints collected as part of the Rockland Codes initiative were more detailed, with complaint comments recorded in the words of the complainant (as they were typed directly into the web form by those users themselves). Divisions between primarily English-speaking parts of the county and concentrations of other language groups correlate positively to the locations of the complaints. The largest cluster of complaint locations is around Spring Valley, which appears both as a significant hole in the ‘English only’ map, the other Indo-European (Yiddish) map as well as the Spanish-speaking map.
Enforcement Outcomes

After a fire at one property, which revealed a large group of residents living there, an article was published containing interviews with tenants and noting the mounting fines against Landlord Klein in several municipalities. Tenants quoted in the article note that the fines and crackdown have forced them to move: “We just found out today it’s illegal”... “Living here isn’t great, but this is what we can afford. We were told they were going to shut it down in 30 days. We’re going to be looking” (Lieberman, 2013). This contradicts a later statement by County Executive Ed Day discussing the results of the codes initiative, after its first year, claiming “to date, not one resident has been evicted by an RCI complaint” (dskriloff, 2016a). Clearly residents are being displaced, if not evicted, when owners of illegal units are ordered to restore them to their original condition.

Comprehensive Plan & Zoning Changes

In most of Rockland’s towns and villages, even permitted accessory units that meet building codes are not allowed as-of-right. In Haverstraw, according to Ruben Barrios, an accessory unit would have to be approved by the zoning board, and even then it would likely be required to be owner-occupied. This kind of zoning is prevalent throughout the county. However, as an alternative to stricter enforcement, zoning changes allowing for accessory dwelling units as-of-right under certain conditions and pathways to legalization for existing accessory units constructed without permission were explored by several municipalities. Interviews with planners from the town of

42
Clarkstown and the consulting firm involved with research and writing of the current Rockland County comprehensive plan, as well as news coverage and documentation of public hearings illustrate the role the extralegal housing discussion played in both encouraging and generating resistance to such zoning changes. Summarized here are changes to comprehensive plans for Rockland County as a whole, the Town of Ramapo, and the Town of Clarkstown.

General zoning changes to allow for various forms of higher density were considered in multiple municipalities throughout the 2000s and 2010s to allow for higher density and apartment conversions in commercial areas, including Spring Valley (Clarke, 2007), Ramapo (Walsh, 2004) and nearby Port Chester (“Proposed zoning changes in Port Chester require more study,” 2009) (Taxin, 2000). In most cases, however zoning changes allowing for legal pathways to higher density were vocally opposed by Day and other anti-growth officials at the county level (Matsuda, 2014). Several of these articles point out the unofficial ways certain municipalities influence zoning decisions by others, particularly when hearings over zoning changes in one municipality would be attended by officials from neighboring jurisdictions who voiced strong opposition based on anticipated effects of increased density.

**Rockland County Comprehensive Plan**

The current Rockland County Comprehensive Plan was executed by consultants BFJ Planning and adopted March 2011, and represents the strongest anti-growth position
of the three plans presented here. Describing the county's demographics, it notes increases in Hispanic, foreign-born, Spanish and Yiddish speaking populations.

Population growth over the last decades has been concentrated in the towns of Ramapo and Haverstraw, and specifically in the villages of New Square and Haverstraw. In its recommendations for housing it states:

More diverse housing development is demanded by the expansion in youthful and elderly population. With a strong focus on affordable, workforce and moderate density housing, with more opportunities for rental and apartment living, the new stock should accommodate needs for public transportation, access to health care and community facilities, and in some cases assisted living. With extremely limited growth in home buying ages, Rockland’s single-family housing market may not continue to increase significantly in value. (p. 32)

Despite acknowledging the presence of new immigrants whose needs clearly include affordable housing, the plan's text repeatedly frames affordable housing solely in reference to the needs of more desirable populations:

Encourage a range of affordable housing options for the county’s young adult and senior populations. Diverse housing options can include mixed-use... it can also include accessory apartments, in-law suites attached to existing homes, smaller lots... (p. 340)

This is the only mention of accessory dwelling units in the text. Much more space is reserved for the primary housing recommendations including to “encourage conservation (cluster) subdivision development,” to seek grants for affordable housing (as separately sited, multifamily buildings), to protect against “out-of-scale development patterns”, increase opportunities for a “diverse population” (volunteer & caregiver
workforce, affordable housing for seniors, nursing homes), and to encourage “context-sensitive townhouse and multifamily development”. For the most part, the plan is careful to maintain a divide between affordable housing described as isolated multifamily developments and single-family homes.

Frank Fish, a consultant at BJF Planning which prepared the study on behalf of the county, was able to elaborate on some of the points in the Rockland plan and some of the decision-making processes behind it. Most striking was the way Fish characterized the public outreach process behind the comprehensive plan as “significant”, and taking place over the course of a year: “we did several big public workshops, we had focus groups, we had meetings with all the mayors.” When asked about accessory dwelling units, he responded that as a planning consultant,

That’s something we’re into, it’s a way to achieve affordable housing for people. It’s a way to enhance income, a way for people to keep their single family homes. They can be above the house, above the garage, especially when it’s limited to one. For a relative, for someone else, even if it might mean an added car in some places.

Discussing immigration and the presence of illegal housing in the county, he responded that in the planning process at least, he didn’t “think it [immigration] was a very big issue” and that dealing with the illegal housing “conundrum” had more to do with accommodating the Hasidic population. He characterized the spatial extent of the issue as primarily contained within the town of Ramapo, in “two or three villages that are controlled by the Hasidics.” Because of that, he said, it is typically not being enforced.
When asked to describe what the most important drivers of the plan were, he responded that the plan was focused on “preserving character”. Pointing out the predominantly single-family makeup of Rockland’s neighborhoods, and emphasizing that for most Americans, “the major investment of their lifetime is in their home” planning needs to make sure that investment is protected.

**Town of Ramapo Comprehensive Plan**

The Town of Ramapo Comprehensive Plan, adopted January 2004 and prepared by staff of the Town of Ramapo Staff along with consultants Frederick P. Clark Associates Inc. is much more permissive of accessory units, including the following as a way to increase the stock of affordable housing in the town: “The Town should amend its Zoning Law to allow accessory apartments within the R-15 and R-15C District” (p. 12). However this is moderated with several provisions aiming to balance increased supply with maintenance of the character of the neighborhoods in which they are located. Accessory units must be on sites that are homeowner occupied, must be subordinate in size to the primary unit, are subject to aesthetic regulations/design review, may be subject to age-based restrictions, and require a door location at side or rear.

More permissive zoning in Ramapo was criticized by an editorial from the *Journal News* decrying “overdevelopment” in the county, claiming that Ramapo “is a town with a "comprehensive plan" that allowed adult student housing in certain parts of town, and turned neighborhoods of one-family homes into areas where six-unit complexes could
spring up with nary a variance” adding, “that is not considerate planning; that is chaos” (“Ramapo’s haphazard growth rattles residents,” 2017). This critical tone is echoed again in an editorial later that year, which rails against “rapid, unchecked growth” and suggests current local politicians are corrupted with developer money to the point that they put all residents at risk, while failing to mention the underlying conditions of restrained growth that arguably create the need for alternative means of affordable housing in the first place.

Town of Clarkstown Comprehensive Plan

Prepared and adopted around the same time as the announcement of the Illegal Housing Task Force, the 2009 Town of Clarkstown Comprehensive Plan and the process behind its creation are interesting for two reasons: because it was prepared in-house as opposed to by outside consultants, and because it was a case where as-of-right accessory dwelling units and pathways to legalization for existing legal units were explored but ultimately rejected as a result of a public outreach process.

An interview with Town of Clarkstown Planner James Creighton was able to clarify some of the dynamics of this outreach in detail. He described initial enthusiasm from planners regarding accessory dwelling units as potential “avenues of affordable housing for our seniors and younger people.” Unfortunately, “residents” represented in public outreach efforts mostly opposed the idea. The fear, he said, “was the alteration of our
single-family zoned neighborhoods into a density that they just didn't want. We have to respect our residents wishes, that's who the plan is for."

He characterized enforcement as well as something that responds to the desires of the residents:

They're out there, our enforcement tries to pick up on them and shut them down, because if they get out of hand they can alter the character of a neighborhood. The residents of the town spoke and they said they really are interested in preserving the suburban quality of this area, they don't want the density getting out of control, that was the appeal of this area.

When asked whether the comprehensive planning process used complaint data generated by the Task Force, or if planners from Clarkstown had used that data since, Creighton responded that they had not, adding:

That's not to say in the future I won't [use data]. We're more involved with making sure that the zoning we're implementing is what the residents want and what is the best in following the vision of our adopted comprehensive plan. As far as seeking out the errors, that's outside of our department.

The outreach process used involved two phases, first, an initial series of visioning workshops wherein participants were prompted to generate ideas to be used in the plan, and a second round where the merits of the suggestions were debated, leading to revisions. In the initial workshops, he said, the idea of permitting some kind of accessory unit it did come up: “we went to every hamlet. We had a couple of people suggest something like permitted accessory housing. It was also seen as a possible solution for our seniors to stay in town.”
But other residents demanded action on illegal accessory units already present, leading to contradictory demands: “we heard people complaining: you’ve got to do something about these accessory apartments. We heard people saying: you should legalize these: we need an extra means of income to be able to stay here."

Turnout at the outreach sessions was homogenous, Creighton stated that “most people that came out were resident homeowners,” without many young people or renters in attendance. Comments by resident Gerry O’Rourke documented in the comprehensive plan report reveal the anxieties of homeowners present at the outreach sessions:

I mean, most of our town is in single-family zoning, and I don't think people living on Strawtown Road or Little Tor or any of our residential single-family areas would appreciate the next-door neighbor adding or renovating the house to allow for accessory apartments. There is danger here that there could be more than one accessory apartment in a building. It could be a house behind a house called an accessory apartment. The plan admits that it's not enforced or there is no code enforcement of this, and I wonder how we can do it if we allowed it, or we wound up legalizing what's been built as illegals. I think [allowing accessory apartments] could endanger [the Town], it could bring in residents, could impact the schools, extra cars, the lawns [could] become parking lots. (p. 104)

Creighton also discussed the role planners have in attempting to educate or reveal underrepresented viewpoints to residents through the public process. In a town where rents are high, property values are high, he said, they try to convey that some kind of diversity of housing choice is necessary. Planners’ own viewpoints play a role in the process as well, as Creighton stated: “we’re striking some kind of balance. There would
be concerns if just, all the sudden all single family homes could have an accessory apartment, that would not lead to good things, in my opinion.”

Prejudices ultimately “shifted the direction we went” on the question of accessory units. Despite efforts to explain their benefits, pushback against the accessory unit provisions ultimately resulted in their deletion from the plan, as well as the addition of extra measures to “ensure that proposed housing will be in compliance but also ensure that any illegal units will not become legitimized” (p. 77). Asked if he thought the issue would eventually be raised again:

I don’t think the door is shut on accessory apartments, and maybe some more permissibility for them in the town views change over time. The single family home in a suburban neighborhood might not be the goal of as many people as it used to be.

Ultimately, however, Creighton represented planners as moderators for public debate and self-determination: “As planners we’re here to carry out the vision of our residents. We’re public servants at the end of the day”. Architectural review and design guidelines were explored as possible ways to maintain appropriate ‘character’ while allowing for more experimental forms of housing.

While permitting residential units above businesses in hamlet centers and allowing for accessory apartments in the Town’s neighborhoods may open new opportunities for affordable housing, this process could potentially alter the character of Clarkstown’s neighborhoods. Through proper architectural oversight the Town can accommodate new development, residential and otherwise, without jeopardizing the traditional composition of its neighborhoods. (p. 76)
In 2015 Clarkstown proposed a 6-month moratorium on all new residential development to "preserve [its] residential character from over-development and help maintain property values". The move was criticized as a politically-motivated gesture against extralegal housing by officials seeking re-election, suggesting that voters there saw overdevelopment and illegal conversions as a significant issue, even while the task force and codes initiative complaint datasets showed a relative lack of complaints within the town's borders (dskriloff, 2015c).
Analysis & Discussion

The choice of terms over informal, extralegal, or illegal housing is an important one. By choosing to frame the issue in terms of illegality, anti-growth advocates were able to form a clear association between housing units and “the illegals” themselves – a population of unwanted, supposedly dangerous individuals living in their neighborhoods requiring expulsion. Failing to distinguish between illegality as the absence of proper permitting or documentation and actual criminal acts (e.g. property crime or violent crime) frequently ascribed to these communities, the dangerousness and undesirability of extralegal housing practices is also underscored. Finally, by describing it as something officially not allowed, it frames the issue as an already-decided fact rather than an ongoing conversation around how patterns of use and occupation might be allowed to change in the low-density suburban neighborhoods of the near future.

The construction and occupation of modified single-family homes, despite their nominal illegality, constitute reasonable responses to a local planning environment where the production and consumption of higher density, lower-cost forms of housing have been actively discouraged for decades. The material examined here suggests that these and similar practices could (and would) be at least partially legalized or mainstreamed were it not for the disproportionate amount of influence certain groups of anti-growth single-family homeowners are able to exert over local planning bodies, resulting in the effective exclusion of would-be residents of such dwellings, and
infringements on the rights of would-be landlords to provide them. Current practices and structures of public outreach around potential changes to and enforcement of single-family zoning privilege certain voices over others, suggesting the need for additional or alternative practices.

The research conducted found that both the structure of local government and current public engagement practices complicate this process, creating barriers to appropriate planning responses to informality that meet public needs in a safe and equitable way. In terms of structure, this was manifested in the conspicuous organizational divide between legislative and enforcement branches of planning, in other words, between officials who survey and police the built environment and those who work between evolving public opinion and the continual revision of zoning and other legislation that states what is allowed and what is not. Although in this case, enforcement bodies gather a substantial amount of knowledge around extralegal housing practices through their daily activities, the housing task force, codes initiative, individual town and village code enforcement bodies function independently from the planning bodies responsible for evaluating and enacting changes to zoning that would allow for a greater diversity of housing practices. The divide between these two branches of planning represents a missed opportunity to make policy that engages and responds to the needs and possibilities expressed through extralegal housing patterns and other phenomena that appear in the built world. By treating these things as anomalies or errors in the intended order of the built environment, planners ignore signals of what
their constituents needs actually are and suggestions for how they might be met with minimal encouragement or effort from outside.

Additionally, the hyper-localized and fragmented nature of local government, and the high level of variability in zoning rules and enforcement from one jurisdiction to the next allows for substantial variation in the built environment across the county, leading to inter-jurisdictional conflict. In theory, this fragmentation would allow for the formation of enclaves, which, desirable or not, would be able to self-determine their own zoning laws based on the needs of their residents. These residents, in that model, would vote with their feet and move to areas where their living preferences would be best provided for. However, the formation of inter-agency task forces in this case study and attendance by neighboring public officials at public hearings specifically targets this interjurisdictional flexibility, asserting the interests of voters in one jurisdiction over those in others, and undermining the ability of local governments to serve their own constituents. This ultimately privileges groups who are able to effectively mobilize resources at their disposal to influence and sway outcomes in neighboring areas, in particular, those groups who are able to do this through coordination with media outlets and intergovernmental coalitions that operate at the county level.

Other barriers appear in the analysis of outreach approaches taken by planners during the revision of comprehensive plans. Owing to the widespread influence of participatory planning theory, the town-hall meeting or public forum is widely used as a primary point of access to public opinion, and the feedback produced in those forums is
valued and taken seriously by the planners involved. Even so, planners interviewed as part of the research acknowledged that these meetings tend to be attended by only certain subsets of local residents, in particular by homeowners concerned about possible risks to the value of their homes. Interviews revealed that such constituents, even in cases where they were open to zoning changes that would allow for legalized accessory units, preferred proposals that included potentially exclusionary caveats which promised to preserve the cultural makeup of neighborhoods even while allowing for slightly higher density. Such caveats included architectural review (the units would have to physically resemble existing single-family homes nearby) and stipulations that any such units would be occupiable only by immediate family members of the homeowner (and described as “Mother-in-Law Units” or “Mother-Daughter Units,” emphasizing the continued presence of nuclear families), ensuring that the appearance and habits of its occupants would be similar to those of the existing population. Other constituents vocally oppose any change at all to the status quo. In general, these desires, expressed at the podium during comment sessions at public forums, appeared to be interpreted at face value as expression of the will of the public and are legislated as such.

The research also revealed how strategic use of news media by power-holding groups and pro-enforcement coalition is able to influence public opinion and enables the construction of a narrative around strict enforcement being in the public’s best interest. The primary means by which this takes place is the creation of a visual language of zoning and occupancy wrongdoing, by listing signs of illegal occupancy in op-eds and
workshops such as too many parked cars, too many satellite dishes, having a lot of visitors, having a lot of mailboxes, or entrances to a dwelling. Of course, none of these things are illegal in themselves, but the way their presentation as a collection of warning signs encourages a kind of hyper-vigilance and suspicion that may preclude more open-ended or inquisitive relationships between neighbors around housing practices that would lead to better tolerance or understanding. This visual language and the suspicion it generates is echoed repeatedly in the text of the complaints as well as in quotes from people attending public hearings.

The mechanisms of complaint data collection themselves also illustrate the possibility that new kinds of public forums around housing issues could be created, while at the same time showing of some of their risks and shortcomings. Despite claims by code enforcement officers that illegal housing occurs everywhere and is practiced by everybody, complaints were mainly concentrated in the few jurisdictions that were the subject of negative press, suggesting that reporting through these tools is at its heart discriminatory, as it targets a specific subset of extralegal housing residents and landlords. The fact that complaints about these places also overwhelmingly came from outside the jurisdictional entities responsible for enforcing any applicable zoning codes, also support the claim that countywide interagency efforts like the Task Force allow for a kind of “not in your backyard” policymaking that interferes with the ability of local jurisdictions to create and enforce zoning according to input from their own constituents. The distribution of complaints in relation to concentrations of linguistic otherness also
provokes suspicion that reporting is on some level discriminatory, in the case of both Indo-European languages (acting as a proxy for Yiddish) and Spanish-speaking populations, a strong visual correspondence is visible between linguistic enclaves and concentrations of illegal housing complaints. Finally, the way that the online complaint collection tool limits its immediate public visibility to a kind of pillory for offending landlords (listing “Worst Landlords” on its landing page) while limiting the detailed narrative of each complaint to a one-on-one relationship between the complaint-maker and the anonymous bureaucrat presumed to be reading the complaint on the other end, rather than revealing complaints publicly, leaving them open for discussion mirrors Offenhuber & Ratti’s observations about the relative success of SeeClickFix and CitizensConnect as public forums (one facilitates public feedback and discussion, creating an atmosphere of accountability and space for learning while the other does not). Like SeeClickFix, the Rockland Codes Initiative Complaint form is limited by its design. The form operates only as a way to make a specific kind of complaint, implicitly demanding enforcement and encouraging anger and frustration with the anonymous other, instead of providing a means of public discussion and mutual influence.

These findings suggest ways for planners working in similar contexts to rethink aspects of their practice to adequately cope with emerging patterns of demographic change and spatial practice, in particular, finding ways to treat enforcement data as a kind of public feedback system and to treat its collection as an opportunity for public debate, discussion, and learning. These practices should confront head-on the need for
strategic use of public media, and for close scrutiny of the inter-jurisdictional complexities arising from the project of representing a constituent public in a fragmented political context. The extent to which the practices in question in this case study were represented, debated, discussed, and ultimately judged well outside the limited space of the formal public forums held by planners illustrates a failure of suburban planning to support the democratic production of space. Suburban planners of the future will need to actively engage with this expanded territory of discussion and negotiation, working to influence and enhance its performance as a tool for producing an equitable built environment.


References


Illegal Housing Task Force Dataset. Published via web app by the Journal News and obtained via download, February 2018.
Rockland Codes Initiative Dataset. Obtained via FOIL request from Rockland County Department of Health, January 2018.
American Community Survey, Language Spoken at Home and Internet Access Data, 2010 and 2015.
Appendix A: Interview Questions

Was your office actively dealing with illegal housing before the Rockland Codes Initiative? If so, when and how did the issue surface?

How was your office involved in the development of the Rockland Codes Initiative? Were you involved in discussions around the reporting tool?

What kinds of public outreach or contact with outside groups were conducted during the development of the codes initiative?

What kinds of citizens/constituents tended to be at these meetings?

What kinds of concerns did they typically voice?

When and where were these meetings held?

Was there anything notable about the geographic distribution of concerns?

Has the codes initiative made it easier for your office to protect public safety and welfare? Does it introduce any challenges?