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WARSAW REBUILT: INCORPORATING AFFORDABLE HOUSING BY DESIGN

1. INTRODUCTION

There is little credible argument against the need for affordable housing throughout the world. In many countries, the poor struggle to find structurally sound housing that is safe, affordable and in a desirable location. Those countries that seek to build affordable housing struggle with forced integration of existing neighborhoods, struggle against preexisting social structures that are not supportive of the poor, and struggle against established cultural traditions that resist the changes that are required to expand affordable housing. However, when a society has the opportunity to build a new city, will affordable housing be incorporated in the design? Will the redesign of this new city create the same wealth segregation, economic structures, and preexisting conditions that ultimately lead to the need for affordable housing, or will this new city be designed to incorporate affordable housing as an integral part? This Article offers a short examination of Warsaw, Poland, a city utterly destroyed by the Germans in World War II and later occupied by the Soviet Union. Warsaw, after the fall of the Soviet Union, is quickly rebuilding and has the opportunity to design the city to incorporate affordable housing as a central and permanent part of the city and to create a mixed-income society where all residents have a place. Part II of this Article provides an overview of the global need for affordable housing. Part III provides a brief summary of a portion of Warsaw's history that precipitated its destruction. Part IV discusses Warsaw's current redevelopment. Part V offers a framework for Warsaw to rebuild its city by integrating affordable housing into the city's redevelopment.

2. GLOBAL NEED FOR AFFORDABLE HOUSING

Cities in underdeveloped and developed countries alike, struggle with providing affordable housing for their poor and low to moderate-income residents¹. A recent research report by the consulting firm, McKinsey & Company, estimates that 330 million households in urban areas around the world live in either substandard housing or spend more on their housing than the household can afford². In the developing world, McKinsey estimates that approximately 200 million households live in slums. In more developed economies such as the United States, the European Union, Japan, and Australia, more than 60 million households are housing burdened. Within the next decade, over 1.6 billion people will reside in “crowded, inadequate, and unsafe housing or will be financially stretched”³. Addressing this need requires significant financial investment – estimated to be approximately \$16 trillion⁴. McKinsey recognizes that “new approaches are needed” and these new approaches must reflect “a housing ladder that includes affordable housing but accommodates citizens of all income groups and their changing needs”⁵. Warsaw, Poland, like most cities, needs affordable housing for its low and moderate-income residents. Unlike most cities, Warsaw has the opportunity to incorporate affordable housing into the city’s redesign. The next section will discuss a tragic part of Warsaw’s history that precipitated Warsaw’s need to rebuild the city.

¹ Affordable housing should “accommodate a range of sizes, tenure options (purchase vs. rental), and affordability thresholds that take into account households of different sizes and incomes in the area. In many parts of the world, ‘affordability’ is defined as housing costs that consume no more than 30 to 40 percent of household income; we use 30 percent for our estimates”. J. Woetzel, S. Ram, J. Mischke, N. Garemo, S. Sankhe, *McKinsey & Co., A Blueprint for Addressing the Global Affordable Housing Challenge: Exec. Summary*, 2014. Affordable housing reflects “[a] basic socially acceptable standard housing unit” that “is defined by a particular community’s view of what is required for decent living[.]” but “should also include minimum standards for basic amenities (running water, a toilet) as well as access to essential social services such as schools and health clinics” and “should also place workers no more than an hour’s commute from centers of employment”. *Ibidem*. The McKinsey report focuses on the “affordability gap for households earning 80 percent of the area median income or less”. *Ibidem*.

² *Ibidem* (material can be found on the page titled *In Brief: A Blueprint for Addressing the Global Affordable Housing Challenge*).

³ “Based on current trends in urban migration and income growth, we estimate that by 2025, about 440 million urban households around the world – at least 1.6 billion people – would occupy crowded, inadequate, and unsafe housing or will be financially stretched”. *Ibidem*.

⁴ “To replace today’s substandard housing and build additional units needed by 2025 would require an investment of \$9 trillion to \$11 trillion for construction; with land, the total cost could be \$16 trillion. Of this, \$1 trillion to \$3 trillion may have to come from public funding”. *Ibidem*.

⁵ *Ibidem*.

3. HISTORY OF WARSAW'S DESTRUCTION

In 1939, Germany, then under control of the Nazis, invaded Poland as part of World War II's commencement⁶. In response, a few days later, France and Great Britain declared war on Germany⁷. On September 6, 1939, Germany ordered the Polish army to retreat, and within days, the German army reached Warsaw⁸. Despite prior alliances with Poland, the Soviet Union joined German forces in occupying Poland⁹. In October 1939, Germany and the Soviet Union divided Poland into two regions to begin the occupation. These occupying forces, particularly Germany, began a systematic destruction of the Polish political structure and population. The German occupying force segregated the population by forcing the Jewish population to live in ghettos such as Piotrków Trybunalski and Łódź, among others in Warsaw¹⁰. Offenses, as determined by the German occupying force, were punishable by death, imprisonment or interment at a concentration camp (such as Stutthof, which was the first concentration camp that began operating in 1939, Majdanek in 1941, and one of the most notorious, Auschwitz-Birkenau in 1940)¹¹.

Residents of Warsaw began to fight back in a rebellion referred to as the "Warsaw Uprising". While the Uprising was a relatively short campaign – it lasted approximately two months – it reflected the residents' willingness to defend their homes. However, the German response was brutal. In October 1944, SS Chief H. Himmler was quoted as stating: "The city must completely disappear from the surface of the earth and serve only as a transport station for the Wehrmacht. No stone can remain standing. Every building must be razed to its foundation"¹². In

⁶ Literature from the Museum of the Warsaw Uprising, *The Beginning of the War*, Warsaw 2015 (on file with author); see also G. L. Weinberg, *A World at Arms: A Global History of World War II*, 2nd ed., New York 2005 (providing an overview of World War II and its history).

⁷ See Museum of the Warsaw Uprising, *The Beginning...*

⁸ *Ibidem*; see also G. L. Weinberg, *A World at Arms...*, pp. 106–109 (explaining the Germans' plans to move west).

⁹ *Ibidem* ("On September 17, 1939, the Soviet Union joins Germany, [v]iolating former agreements with Poland[...] 'If there is no government in Poland anymore, there is no non-aggression pact either.' – Polish Ambassador Waclaw Grzybowski is told in Moscow").

¹⁰ *Ibidem* ("On the areas occupied by the Germans, Jews are particularly persecuted. The Germans force them to live in ghettos: the first was created in October 1939 in Piotrków Trybunalski, the next in Łódź in 1940, and yet another in October 1940 in Warsaw. Starting in December 1941, the Germans murder Jews in extermination camps in Chełmno, Sobibór, Bełżec, Treblinka, and Auschwitz-Birkenau").

¹¹ *Ibidem* ("For the smallest offenses one can be punished with death, imprisonment or interment in a concentration camp. The first camp – Stutthof – is established as early as 1939, to be followed by Auschwitz-Birkenau (1940), Majdanek (1941), Płaszów (1944) and others").

¹² Ł. Bernatowicz, *Reprivatization of Warsaw Properties*, Presentation at Study Space VIII: Warsaw, June 16, 2015 (discussing SS Chief H. Himmler, October 17, 1944, SS officers' conference) (PDF on file with author).

response to the Uprising, Hitler reportedly stated: “Warsaw has to be pacified, that is, razed to the ground”. Pictures of the city’s utter destruction bear witness to how the Germans obliterated Warsaw in retribution for the Uprising. One sanctuary, now named the Church of the Uprising, was a church that also served as a hospital during the Uprising, although the hospital was located in the church’s crypt. During the German siege of Warsaw, the church was bombed, killing approximately one thousand people. For a few months, the hospital continued to operate until the Germans seized the building. The Germans executed the entire medical staff and blew up the building with approximately five hundred people still inside the structure¹³.

Germany continued its destruction of the city for some time, although it ultimately lost the war and left the city in ruins.

4. WARSAW REBUILDING

After the war, the Soviet Union claimed Poland as part of the Soviet Union and governed it until the fall of the Soviet Union in approximately 1989. During that time, the Soviet Union began the arduous task of rebuilding the city. However, the extensive destruction of the city made reconstruction legally challenging. With streets, buildings, alleys, trees, and other markers obliterated, the city was faced with the question of how to determine boundaries denoting individual parcels and coordinate with a parcel’s owner to redevelop the property. Beyond that, when so many of the city’s residents left to escape the violence, were forcibly removed, or exterminated in concentration camps, who remains to claim ownership of land to rebuild it? If the private owner does not reclaim the land and rebuild it, redevelopment of privately owned parcels of land either falls to Warsaw or the Soviet Union to rebuild it or to leave large portions of the city in ruins. Without each private owner’s consent, neither Warsaw nor its governing body, the Soviet Union, could redevelop the destroyed city. To address the risk of leaving the city undeveloped, in October 1945, the Soviet Union, through the city of Warsaw, passed the Warsaw Decree¹⁴. The Warsaw Decree declared that the ownership of all real estate in Warsaw, including privately owned property, would be transferred to the municipality of Warsaw¹⁵. This law purportedly was designed to facilitate the reconstruction of the city, particularly the removal of the

¹³ According to the memorial located outside of the church, “after the war, it turned out to be impossible to exhume the remains of all the victims. Therefore, the ruined crypt was totally covered with a new marble floor, with the remains entombed underneath”.

¹⁴ L. Bernatowicz, *Reprivatization of Warsaw...*

¹⁵ *Ibidem*.

extensive rubble remaining from the bombing response to the Uprising, and to repurpose the damaged properties for productive use.

The Warsaw Decree allowed former owners and their legal successors to submit a claim for ownership of the property, but only within six months from the date the municipality of Warsaw assumed ownership of the property via the Decree¹⁶. Obviously, with the majority of the population vacated from the city at that time¹⁷, the right of reclamation was illusory. Even for those residents who returned to Warsaw and submitted a claim for ownership, the municipality routinely declined the claim – of the approximately 17,000 applications submitted, an estimated 98% were denied¹⁸.

Warsaw began to rebuild through use of this legal maneuvering. Most notably, the Soviet Union initiated the reconstruction of Warsaw's ancient city center, which is known as Old Town¹⁹. The city's redevelopment has been a successful effort to repopulate the city from the losses sustained during the war. In 1938, the city's population was 1.3 million residents. By the end of the war, the city's population plummeted to only 380,000 people. However, the city's current population is estimated at 1.7 million residents²⁰, surpassing the city's prewar population. With this surge in population, Warsaw, like most major cities, needs to house its residents and do so in an affordable manner.

5. INCORPORATING AFFORDABLE HOUSING IN WARSAW'S REDESIGN

With this need for affordable housing and the city's rebirth, Warsaw has an opportunity rare for metropolitan cities – the opportunity to intentionally develop the city with affordable housing integrated into its design. As mentioned earlier, Warsaw, like other developed municipalities, needs to provide affordable housing

¹⁶ *Ibidem*.

¹⁷ In 1938, the population of Warsaw was 1,300,000, but by the end of the war in 1945, the population plummeted to only 380,000. H. Izdebski, *Planning v. Metropolitan Planning*, Presentation at Study Space VIII: Warsaw, June 17, 2015.

¹⁸ Since the collapse of the Soviet Union, the new government of Warsaw allows previous owners and their legal successors, *who previously submitted an application in 1945*, to apply for return of the property or compensation for the taking. However, if no application was submitted in 1945, there is no current legal mechanism for reclaiming the property. Clearly, for those families who were forcibly removed from Warsaw, stayed away because of the violence experienced there, or who were killed, the requirement that the legal owner, or a legal successor, had to submit a claim within six months was knowingly unrealistic. L. Bernatowicz, *Reprivatization of Warsaw...*

¹⁹ The reconstructed Old Town is now a World Heritage Site.

²⁰ See The World Factbook, *Europe, Poland*, CIA, at https://www.cia.gov/library/publications/the-world-factbook/geos/print/country/countrypdf_pl.pdf.

for its citizens. However, to provide affordable housing, Warsaw must determine how to pay for the housing and also determine where to build it.

Before addressing how to pay for the housing, it is important to set forth a broad understanding of the major costs involved in creating and providing affordable housing. There are five major cost areas that contribute to the expense of providing affordable housing. First, is the cost of acquiring the land on which to building the affordable housing. Second, is the cost of constructing the affordable housing. Third, is the cost of renting or selling the affordable housing after it is built. Fourth are the costs of operating and managing the affordable housing after it is built and rented or sold. Fifth and last, are the transactional costs associated with the acquisition, construction, renting, and operation of the affordable housing development. To address the cost of creating and providing affordable housing, governments and developers must find a way to increase the resources available to pay these costs or find a way to reduce these costs to a level where current resources are sufficient to pay them.

An article in the Harvard Business Review by the authors of the recent report by McKinsey & Company suggested addressing the need for affordable housing in cities such as Warsaw by addressing four “levers” to manage the aforementioned costs²¹. The first lever seeks to address acquisition cost barriers by pushing governments and developers to acquire land at the “right cost”, discussed below in more detail²². The second ‘lever’ seeks to address the cost of construction by “adopting more efficient construction processes”²³. The third ‘lever’ seeks to address the costs of operating and managing the affordable housing by “reducing operations and management costs”²⁴. The fourth and final ‘lever’ looks to address the costs of selling or renting the property and the associated transactional costs of affordable housing development by “improving access to financing for home buyers and builders”²⁵. The authors conclude that these levers can aggregate cost savings between 20% to 50% for low and moderate-income households earning between 50% to 80% of the area median income²⁶.

Of the listed ‘levers’, the most significant is the researchers’ first lever to acquire land at the “right cost”. As most current and former real estate developers, such as myself, can attest, the right cost of land is dependent on a number of factors, including the location of the land, the permitted uses of the land, the size and condition of the land, and the developer’s intended use. For example,

²¹ J. Woetzel, S. Ram, J. Mischke, N. Garemo, S. Sankhe., *The World’s Housing Crisis Doesn’t Need a Revolutionary Solution*, Harv. Bus. Rev., December 25, 2015, at <https://hbr.org/2014/12/the-worlds-housing-crisis-doesnt-need-a-revolutionary-solution>.

²² *Ibidem*.

²³ *Ibidem*.

²⁴ *Ibidem*.

²⁵ *Ibidem*.

²⁶ *Ibidem*.

if the property has environmental hazards, the acceptable cost of the land must be reduced to account for abating those hazards. If the property is located in a gentrifying area or in the path of oncoming gentrification, the developer is more likely to pay a premium to account for the anticipated increase in property value. If the property is not zoned for the developer's intended use at the time of acquisition, the developer might discount the seller's requested sales price to account for the developer's risk of being denied a zoning change. In the study, the authors note a number of mechanisms that could be useful for Warsaw in addressing this lever, including transit-oriented development, releasing public land, ensuring clear titles, and improving land-use rules²⁷.

Warsaw has a rare opportunity for a city – the opportunity to build a major metropolitan urban area as a planned city. As part of its rebuilding, Warsaw should follow the first mechanism and continue developing a robust public transportation system. Public transportation reduces emissions, is often a timesaving means of commuting in metropolitan areas, and unclogs crowded highways. Incorporating space for multiple modes of public transportation and building housing development around public transportation nodes will allow lower income residents to avoid the expense of owning a car and, thus, make living in Warsaw more affordable for that population.

Warsaw also can utilize the next mechanism of releasing public land by redeveloping the land acquired by the city as a result of the Warsaw Decree. Much of the land in Warsaw that is undeveloped likely belongs to the city. The city, if it will not return the land to its original legal owners, might consider developing the land for lower income residents or for the descendants of prior landowners. The mechanism of ensuring clear titles can be addressed similarly by establishing an efficient and fair process for investigating prior claims on the land and eliminating any administrative backlog that might exist in responding to the claims. The report's suggestion to use the final mechanism, improving land-use rules, raises challenges, however. The authors propose increasing density by changing zoning rules to "lower the amount of land used per housing unit, usually by adjusting the permitted floor-area ratio"²⁸.

While this would increase the supply of housing, and thus, by economic-theory reasoning, decrease the overall price of those houses, such an increased supply of housing in an urban area can create too much density. A city's infrastructure must be allowed to gradually adjust to increasing density to avoid overcrowding schools, roads, public transit and social services. In addition, Warsaw must be careful not to concentrate too much affordable housing in a single location. American public housing showcased the consequences of creating pockets of poverty, which included increased crime, increased demands on city services, and

²⁷ J. Woetzel, S. Ram, J. Mischke, N. Garemo, S. Sankhe, *McKinsey & Co., A Blueprint for Addressing...*, pp. 8–9.

²⁸ *Ibidem*, p. 9.

decreased economic mobility for those residents. If Warsaw is able to manage these issues, Warsaw should be able to use the first lever to address its need for affordable housing.

The second lever the report recommends is to adopt more efficient construction processes. Among many options provided, the report suggests ‘de-specifying’ building requirements to standardize building tasks²⁹. Generally, when a residential building is constructed, the developer hires an architect to draft a set of drawing specifications showing the contractor how to construct the building. The specifications will display the mechanical, electrical, and structural details needed for construction. Each building can be designed and built for unique usage and space needs, as well as to reflect each architect’s design preferences. Such a design and construction process is inefficient when compared to a more routinized design and construction method. To visualize the difference, contemplate the efficiency in designing and building a special order car for each buyer as opposed to a manufacturer’s efficiency in designing and building a small number of cars for multiple buyers. The report, in essence, argues that if the housing industry designed and constructed housing with less specificity, housing costs would decrease similar to how the factory assembly line allowed early Ford cars to be mass produced at a much more affordable cost.

While the idea is intriguing, there are a few challenges. First, most residential housing is primarily constructed onsite, instead of in a factory. If the housing industry, and more importantly, home buyers, were willing to build and buy more manufactured housing, such a move would ‘de-specify’ housing construction and allow for more assembly-line production of housing units in a factory-like setting. It is questionable whether homebuyers, who are long accustomed to customizing their homes, would accept uniform homes for reduced costs. Further, it is easier to pre-manufacture components of single-family buildings than it is for multi-family buildings. De-specifying multi-family buildings requires additional precautions. For example, cities prone to natural disasters must construct buildings that can withstand nature’s most powerful forces and such structures are neither inexpensive to build nor easily mass-produced. Notwithstanding these challenges, consolidation amongst the housing industry – including closer collaboration amongst designers, construction companies, and sales companies – could produce cost savings.

The third ‘lever’ of reducing operations and management costs includes, along with other proposed mechanisms, improved energy efficiency and reduced maintenance costs³⁰. Many major cities in developed countries currently have programs to promote energy-efficiency, so this cost reduction mechanism may not hold as much promise. However, reducing maintenance costs in multi-family properties is a viable means of keeping affordable housing safe and affordable,

²⁹ *Ibidem*, p. 11.

³⁰ *Ibidem*, p. 12.

though it often is at odds with increasing building density. Chicago's Public Housing Authority experienced similar challenges with many of its high-rise public housing developments³¹.

Of note, the Cabrini-Green public housing development demonstrated the challenges of keeping maintenance costs low in a high-rise, high-density development. Cabrini-Green, like public housing developments in many American urban cities, had a number of high-rise developments similar to those high-density developments promoted by the report. However, not only did Cabrini-Green suffer many of the social challenges noted in this Article that often result from high-density developments, Cabrini-Green also suffered disrepair from high-maintenance costs. High-rise developments have very high elevator maintenance costs and the sheer number of residents in a high-rise development causes significant wear and tear on the common areas of the development. While high-density developments will spread the land acquisition costs across more units making those individual residential units more affordable, high-density, high-rise developments will often have higher maintenance costs reducing some, if not most, of the cost savings.

The fourth and final 'lever' of reducing the associated transactional costs of creating and selling or renting affordable housing development by lowering borrowing costs for buyers and sellers, is a lever that many policy makers and government agencies have tried to tackle in the United States. Through public and private efforts, such as closing cost and down payment assistance, soft second mortgages, and equity sharing mortgages, affordable housing production increased. However, Warsaw should proceed carefully with government intervention in the housing market to ensure that there is public support for such expenditures, dedicated public revenue to protect these public investments from political changes, and in-depth, first-time homebuyer training programs available (if not required).

6. CONCLUSION

Warsaw's history in World War II including the Soviet Union's occupation is wrought with tragedy. Through this tragedy, the city seeks to rebuild. This Article encourages the city to rebuild in a manner that allows all of its citizens to remain a part of the city. To accomplish this, Warsaw must incorporate affordable housing into its redesign. This housing should be integrated into the city to enable citizens of all incomes the opportunity to have a safe and affordable place to reside. The housing should be integrated into the city's housing stock so that it is indistinguishable from market-rate housing to avoid much of the stigma that is

³¹ Public housing in the United States is often called "social housing" in European countries.

associated with affordable housing. It should be, as stated in the McKinsey report, near public transportation nodes and built in a manner that advantages unit production over profit. Warsaw has shown its resilience in rebuilding after such tragic destruction, and it has the capacity and resources to regain its vibrancy and accessibility for all of its citizens.

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Summary

There is little credible argument against the need for affordable housing throughout the world. In many countries, the poor struggle to find structurally sound housing that is safe, affordable and in a desirable location. Those countries that seek to build affordable housing struggle with forced integration of existing neighborhoods, struggle against preexisting social structures that are not supportive of the poor, and struggle against established cultural traditions that resist the changes that are required to expand affordable housing. However, when a society has the opportunity to build a new city, will affordable housing be incorporated in the design? Will the redesign of this new city create the same wealth segregation, economic structures, and preexisting conditions that ultimately lead to the need for affordable housing, or will this new city be designed to incorporate affordable housing as an integral part? This Article offers a short examination of Warsaw, Poland, a city utterly destroyed by the Germans in World War II and later occupied by the Soviet Union. Warsaw, after the fall of the Soviet Union, is quickly rebuilding and has the opportunity to design the city to incorporate affordable housing as a central and permanent part of the city and to create a mixed-income society where all residents have a place.

WARSZAWA ODBUDOWANA: ZAPEWNIENIE DOSTĘPNEGO FINANSOWO MIESZKALNICTWA PRZEZ PROJEKTOWANIE PRZESTRZENI PUBLICZNEJ

Streszczenie

Brak jest wiarygodnych argumentów przeciwko potrzebie inwestowania w tanie budownictwo socjalne na świecie. W wielu krajach ludność uboższa boryka się ze znalezieniem bezpiecznego mieszkania w przyzwoitej cenie w dobrej lokalizacji. Państwa,

które chcą inwestować w budownictwo socjalne, walczą z narzuconą integracją funkcjonujących już osiedli, borykają się z zastałą strukturą społeczną, która jest zamknięta dla ludzi ubogich, i w końcu zmagają się też z utrwalonymi tradycjami kulturowymi, które powstrzymują zmiany konieczne dla rozwoju budownictwa socjalnego. Jednakże, kiedy społeczeństwo ma możliwość zbudowania nowego miasta od podstaw, czy uwzględni w projekcie mieszkania socjalne? Czy projekt nowego miasta wytworzy taki sam podział dóbr, takie same struktury ekonomiczne oraz dotychczasowe warunki, prowadząc do zapotrzebowania na budownictwo socjalne, czy może owo miasto będzie zakładało w swoim projekcie budownictwo socjalne? Niniejszy artykuł posługuje się przykładem Warszawy, miasta zniszczonego przez Niemców w czasie drugiej wojny światowej, a potem okupowanego przez ZSRR. Warszawa po upadku Związku Radzieckiego szybko została przebudowana, a władze miały możliwość stworzenia miasta, którego częścią jest budownictwo socjalne, jako centralną i stałą część miasta, co stworzyło społeczeństwo o zróżnicowanych dochodach, gdzie każdy ma dla siebie miejsce.

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SŁOWA KLUCZOWE

tanie budownictwo, rozwój rynku nieruchomości, konstrukcja, Dekret Bieruta, mieszkania socjalne