

The Shifting Sovereignty of Property

From Lords of the Land to Landlords (and back again?)
in Three Short Steps

Nathanael Lauster, UBC Sociology

The Powers of Landed Lords

Property as Sovereignty

Cohen (1927) on legal theory, as in Magna Carta, “Ownership of the land and local political sovereignty were inseparable.” (p. 9); see, e.g. Harris (2017) continuing.

Common usage

The Feudal inheritance of *Fee Simple* (Feodum Simplex) Ownership (vs. complicated alternatives) & *Landlords* (retaining notion of lordship of land).

State Delegation & Legitimation

Boundaries of states are built, legitimized, and extended by delegating authority over land to landed lords (as well as establishing citizenship), e.g. Lund (2016).

The Powers of Landed Lords

Delegated Powers (“Bundle of rights”)

- Exclusion

- Regulation

 - Use (Current)

 - Use (Set Agenda)

 - Construction & Improvement

- Disposal

 - Inherit

 - Subdivide

 - Lease

 - Sell

Purchasing & Settling into Landed Lordships

First Nations band sovereignty overridden
("IR" reservations on map)

BC as "wild and
unoccupied
Territories"

Settler
Pre-emption
& Purchase

Lower Mainland lots laid out after "purchase" from
Hudson's Bay Company & start of Provincial Governance

MAP
OF
**NEW WESTMINSTER
DISTRICT**
B.C.
1876

Hon^{ble} FORBES G. VERNON, Chief Com^r. Lands & Works.

Scale.

W. E. GRAVELEY
GENERAL
1855

W A S H I N G T O N T E R R I T O R Y

Creating a Municipality

PETITION
for the Incorporation of the
CITY OF VANCOUVER

TO

**THE LEGISLATIVE ASSEMBLY
OF THE PROVINCE OF BRITISH COLUMBIA.**

THE PETITION of the of residents of **VANCOUVER** in the District of New Westminster

HUMBLY SHEWETH

THAT the present Village of **GRANVILLE** with its vicinity has been chosen by the Canadian Pacific Railway Company as the terminus of their railway, and in consequence thereof the said Village is now daily increasing and is likely to increase very largely in population in the immediate future;

THAT in view of the large increase in said population, it is necessary and expedient that the building of **ROADS, STREETS** and **BRIDGES**, and other improvements of a like nature should be provided fo;

YOUR PETITIONERS further shew that the said Railway Company are about letting the contract for constructing their line of railway from **PORT MOODY** to said village of **GRANVILLE** and are about constructing large **WHARVES**, and other buildings and improvements in said village of Granville and in the immediate vicinity which said construction and improvements will give employment to many hundreds of men, and for the reasons aforesaid, and for the better preservation of **LAW** and **ORDER** your petitioners are desirous of obtaining a charter incorporating the said Village of Granville and its immediate vicinity, a city, under the name "**THE CITY OF VANCOUVER.**"

YOUR PETITIONERS THEREFORE PRAY

"**THAT** your Honorable House may be pleased to pass an Act incorporating the said **CITY OF VANCOUVER** in accordance with the desire of your Petitioners. **AND** your petitioners as in duty bound will ever pray."

Signed,

[125 Petitioners – all male; approximately 1/4 of the Village's adult male population]

Creating a Municipality

PETITION
for the Incorporation of the
CITY OF VANCOUVER

TO

THE LEGISLATIVE ASSEMBLY
OF THE PROVINCE OF BRITISH COLUMBIA.

THE PETITION of the of residents of VANCOUVER in the District of New
Westminster

HUMBLY SHEWETH

THAT the present Village of GRANVILLE with its vicinity has been chosen by the
Canadian Pacific Railway Company as the terminus of their railway, and in
consequence thereof the said Village is now daily increasing and is likely to
increase very largely in population in the immediate future;

THAT in view of the large increase in said population, it is necessary and expedient
that the building of **ROADS, STREETS** and **BRIDGES**, and other improvements of a
like nature should be provided for;

It's 1886 & the Railroad is coming!










We're about to have a population boom

We're going to want to coordinate to
build common infrastructure

We're going to want more powers to
preserve "LAW & ORDER"

[125 Petitioners – all male; approximately 1/4 of the Village's adult male population]

Step #1 First Bylaws

Number	Name	Date	Status	Report
1	Appointment of Officers By-law	May 18, 1886	Repealed	
2	Vagrancy By-law	May 25, 1886	Repealed	
3	Ward By-law	May 31, 1886	Repealed	
4	Assessment Property By-law	June 7, 1886	Repealed	
5	License Liquor By-law	August 3, 1886	Repealed	
6	Fire By-law	July 19, 1886	Repealed	
7	Health By-law	March 7, 1887	Repealed	
8	License Cabs Drays By-law	September 13, 1886	Repealed	
9	Debenture By-law	August 30, 1886	In Force	
10	Local Loan By-law	September 6, 1886	In Force	

The Powers of Landed Lords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

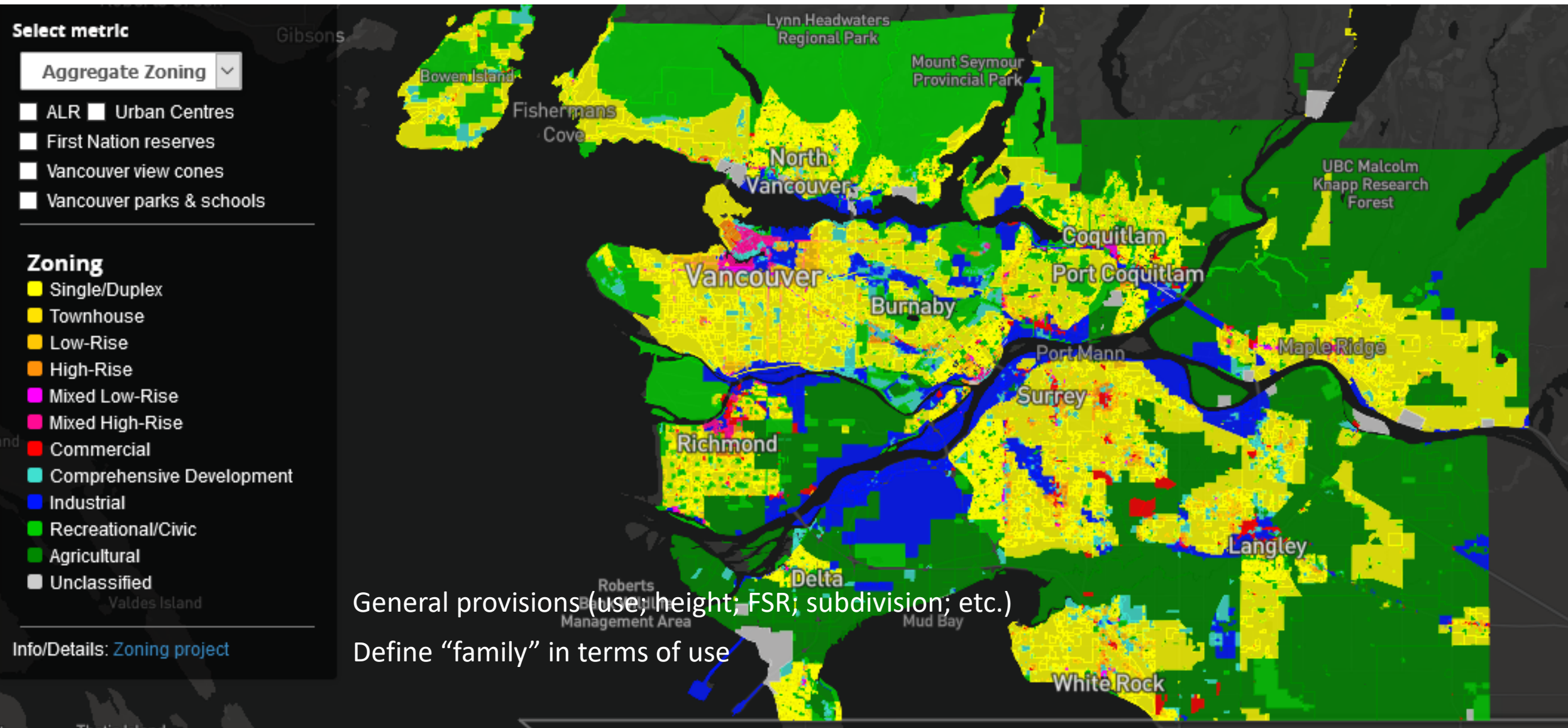
Property subject to inspection

Limiting Regulatory Powers:

Specific uses &
buildings forbidden

Step #2 Zoning

(1920s on-)



The Powers of Landed Lords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

Property subject to inspection

Limiting Regulatory Powers:

Only specific uses &
buildings allowed

Subdivision strictly limited

Step #3 Tenancy Regulations (esp. Residential)

Contract Protections Rent Control

NDP: Landlord & Tenant Act 1974

SoCred: Repeal 1983

NDP: Reinstate 1990s

BC Liberal: Retain, but limit 2000-2010s

NDP 2017: Strengthen & Freeze (COVID)

Eviction Protections

This Act is current to May 19, 2021

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

RESIDENTIAL TENANCY ACT

[SBC 2002] CHAPTER 78

This Act is current to May 19, 2021

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

COMMERCIAL TENANCY ACT

[RSBC 1996] CHAPTER 57

The Powers of Landed Lords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

Limited Powers to Evict

Limiting Regulatory Powers:

Only specific uses &
buildings allowed

Subdivision strictly limited

Regulated Leasing

Landed Lords to Landlords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

Landed Lords to Landlords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

Two Implications

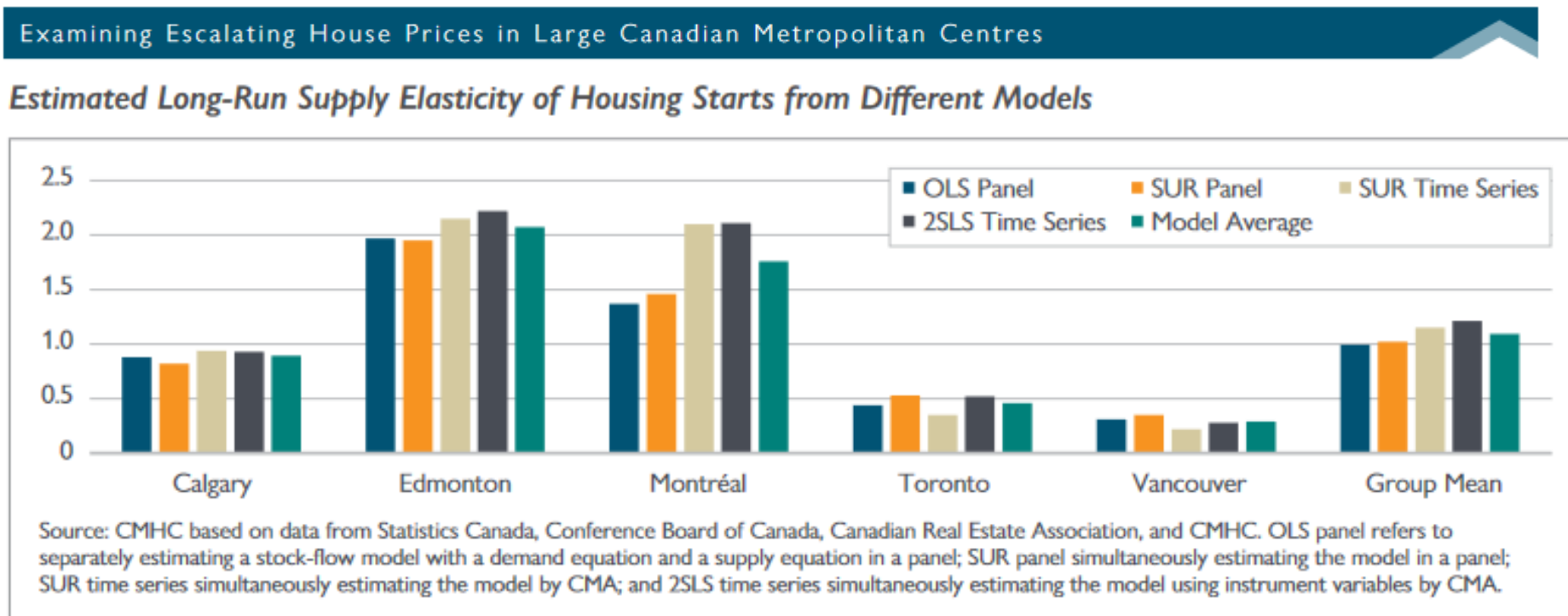
1. Potentially Less
Responsive Housing

2. Commodification

Implication #1 Less Responsive Housing

Removal of Agenda-Setting from Landed Lords to Collective & Complicated Municipal Governance (Zoning & Permitting Regimes)

...eventually resulting in limits upon housing system response to changes in demand



Implication #2 “Commodification” of Housing

Municipal standardization of property use (& leasing) as key component of transformation of land into specific exchangeable form(s) of housing

Exchange-ability (and inheritance) remains key unhindered right of property ownership

de-commodification trajectories?

	Use Standardization	Use De-Standardization
Easy Exchange-ability	Landlords ↓ ↘	Landed Lords
Encumbered Exchange-ability	State / Trust Managers	Complex Feudal Landed Lords


And Back Again?

Possible Steps Back...

Loosening Regulations upon
Detached House Landed Lords

Returning Stolen Land to First
Nations Sovereignty

de-commodification trajectories?

	Use Standardization	Use De- Standardization
Easy Exchange- ability	Landlords 	Landed Lords
Encumbered Exchange- ability	State / Trust Managers	Complex Feudal Landed Lords

Detached House Landed Lords

Delegated Powers (“Bundle of rights”)

Exclusion

Regulation

Use (Current)

Use (Set Agenda)

Construction & Improvement

Disposal

Inherit

Subdivide

Lease

Sell

More powers to evict

More flexible “family”
Secondary Suites &
Laneways

Less Regulated Leasing

*(Now a large source of
rental housing!)*



Restoration of First Nations Sovereignty

SEÑÁKW



+

(Also a lot of housing!)

10.5 acres

4,000,000 sf

6,000+ rental homes

950+ affordable homes

Largest net zero carbon residential project in Canada

Largest First Nations economic development project in Canadian history

Historic architectural, cultural, artistic, construction, and entrepreneurial opportunities for the Squamish Nation

<https://senakw.com/vision>


And Back Again?

Possible Steps Back...

Loosening Regulations upon
Detached House Landed Lords

Returning Stolen Land to First
Nations Sovereignty

More responsive housing &
de-commodification trajectories...

	Use Standardization	Use De- Standardization
Easy Exchange- ability	Landlords 	Landed Lords
Encumbered Exchange- ability	State / Trust Managers	Complex Feudal Landed Lords

Rethinking Delegation of Sovereignty

via Landed Governance Orders

Crown

Federal

Provincial

Regional (Corporate)

Municipal (Corporate)

Strata (Corporate)

Landed Lord

First Nations

A variety of
governance
structures

The Shifting Sovereignty of Property: From Lords of the Land to Landlords (and back again?) in Three Short Steps

I draw from Vancouver history and the legal perspective of property as sovereignty to document shifts in the sovereignty afforded by urban property. Initially through colonial history the landed lords of Vancouver could improve, construct upon, regulate, subdivide, lease, and dispose of their properties with few constraints. Provincial law and municipal incorporation into the City of Vancouver bound lords to one another and a set of ever-growing regulations, stripping away key aspects of sovereignty. I work through three moments in this transformation, including early bylaws, zoning, and residential tenancy regulation. These moved lords of the land closer to landlords, standardizing housing while removing lordly powers to build, regulate, subdivide, and lease as they would. I briefly consider two implications: 1) Evidence suggests that limitations on lordly powers to build and subdivide have dramatically constrained housing options in Vancouver, though semi-illicit persistence of such powers has continued. 2) The stripping of landed sovereignty and municipal (as well as provincial) standardization of housing provides the basis for at least one understanding of the commodification of housing as a process. Finally I describe recent walking back of municipal (and provincial) constraints along with contestation of underlying sovereignty claims by local First Nations.