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## REASSESSING THE CITIZEN VIRTUES OF HOMEOWNERSHIP

*Stephanie M. Stern\**

*The assumption that homeownership creates more politically and civically engaged citizens who contribute to local communities (as well as national democracy) dominates property law. This belief underlies influential theories of property and land use and justifies housing policies promoting homeownership and expanding homeownership's reach. This Essay challenges the "citizenship virtues" of homeownership and contends that the evidence reveals a far more modest, and particularized, picture of citizenship effects than commonly assumed. I explore psychological, historical, and economic factors that may underlie the variable citizenship effects from homeownership. Some of these factors elucidate not only why owners and tenants perform similarly in certain citizenship measures but, by the same token, why it is not universally true that fear of increased rents constrains local contribution by tenants. I consider the implications of this analysis for legal theory and note potential applications to housing policy.*

### INTRODUCTION

The assumption that homeowners are (much) better local citizens dominates property theory and legal scholarship, to date without serious critique.<sup>1</sup> The claimed "citizenship effects" of homeownership comprise a constellation of positive externalities, including local contribution and investment, political participation, neighboring, and collective action, as

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1. See, e.g., A. Mechele Dickerson, *The Myth of Home Ownership and Why Home Ownership Is Not Always a Good Thing*, 84 Ind. L.J. 189, 191-92 (2009) ("Home ownership is also thought to benefit the individual homeowner's community since homeowners tend to be concerned, involved citizens who are more likely to participate in local civic organizations, who will lobby for long-term or high quality community services..."); Geoffrey D. Korff, *Reviving the Forgotten American Dream*, 113 Penn St. L. Rev. 417, 440-41 (2008) (noting despite homeownership's financial risks, investment limitations, and mobility constraints, there are sociological and psychological benefits including greater political involvement and participation in local voluntary organizations and greater personal satisfaction); Roberta F. Mann, *The (Not So) Little House on the Prairie: The Hidden Costs of the Home Mortgage Interest Deduction*, 32 Ariz. St. L.J. 1347, 1354-55 (2000) ("This 'homeowner activism' creates a better community for all residents. Arguably, homeowners are better citizens than renters, and thus wider home ownership creates economic and political stability." (footnote omitted)).

well as gains to prosperity and stability from industrious and content citizens.<sup>2</sup> There are two influential accounts of how homeownership produces this breadth of citizenship benefits. In the first account, homeownership is morally and psychologically transformative. Ownership, and the act of becoming an owner, inculcate prosocial behavior and “citizenship virtue,” which generalizes across civic and social behavior.<sup>3</sup> In the second account, the investment stake in the owned home (and by some accounts the high-risk, undiversified nature of that interest) motivate socially beneficial local participation and contribution.<sup>4</sup> Under either view, if homeownership is good for society, and powerfully so, then shouldn’t ownership claim center stage in property law? And shouldn’t government fund programs that expand homeownership’s reach?

In contrast to the prevailing politico-legal accounts, the empirical evidence reveals a more modest and particularized picture of citizenship effects. Rather than evincing global personal transformation, homeowners perform similarly or only modestly better than tenants of comparable residential duration in many domains, including most types of community organizational participation, neighboring behaviors, some forms of collective action, and local socializing.<sup>5</sup> The homeownership transformation also does little to promote some of the expected citizen attributes or gains from increased social status as owners: The evidence that homeownership increases life satisfaction and autonomy is equivocal.<sup>6</sup>

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2. For a review of the empirical literature, see William M. Rohe et al., *The Social Benefits and Costs of Homeownership: A Critical Assessment of the Research 11–22* (Harvard Univ. Joint Ctr. for Hous. Studies, Working Paper No. LIHO-01.12, 2001) [hereinafter Rohe et al., *Social Benefits*], available at <http://www.jchs.harvard.edu/publications/homeownership/liho01-12.pdf> (on file with the *Columbia Law Review*).

3. See Lawrence J. Vale, *The Ideological Origins of Affordable Homeownership Efforts, in Chasing the American Dream 15, 20* (William M. Rohe & Harry L. Watson eds., 2007) (describing claimed moral and citizenship effects of homeownership); cf. Eduardo M. Peñalver, *Land Virtues*, 94 *Cornell L. Rev.* 821, 879–81 (2009) (considering role of property ownership in promoting “virtue ethics” such as personal industry and flourishing).

4. See, e.g., William A. Fischel, *The Homevoter Hypothesis 4–12* (2001) (theorizing undiversified, high-risk home investment encourages socially beneficial behavior).

5. See Denise DiPasquale & Edward L. Glaeser, *Incentives and Social Capital: Are Homeowners Better Citizens?*, 45 *J. Urb. Econ.* 354, 374 (1999) (finding only modest renter-owner differences when analysis controls for length of residence); see also William M. Rohe et al., *The Social-Psychological Effects of Affordable Homeownership, in Chasing the American Dream*, supra note 3, at 215, 231–32 [hereinafter Rohe et al., *Social-Psychological*] (finding that compared to renters, homeowners did not report higher self-esteem, more participation in voluntary organizations except neighborhood organizations, or greater leveraging of social networks).

6. See Rohe et al., *Social-Psychological*, supra note 5, at 230–32 (finding home purchase by low-income buyers did not increase self-esteem and increased life satisfaction only among buyers who could afford repairs and maintenance).

The investment stake view of homeownership is similarly incomplete. Investment profit is a significant motive and presumably produces positive externalities, but the subset of investment-motivated behavior appears narrower than commonly assumed. Many aspects of local behavior do not vary substantially between renters and owners, either because noneconomic forces are at play or because the investment model founders in the face of perceptual or informational deficits. Housing and sociology studies have also failed to elicit a correlation between individual investment orientation and certain forms of local contribution and activism.<sup>7</sup> In the legal scholarship, scholars have charged that the investment stake account underappreciates the strength of consumption value (i.e., the value of using local and property amenities) and social ties in promoting citizenship behavior, as well as the influence of residential composition, wealth, and associational preferences.<sup>8</sup>

This Essay offers a behavior-specific and evidence-based examination of the alleged “citizen virtues” of homeownership for local behavior. I draw from multiple, large-sample, national cross-sectional studies, region-specific research, and a longitudinal study, all of which control for varying socio-economic and demographic variables. What emerges from this evidence-based analysis is a more modest picture of homeownership’s local civic dividends and a puzzle of variable effects across subtypes of citizenship behavior. There are minimal differences between owners and tenants on an array of social capital measures and citizenship attributes, including community-level, fraternal, and volunteer organizational participation, neighboring, local social ties and socializing, self-esteem, and life satisfaction.<sup>9</sup> Where owners do make greater social contributions,

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7. See Kevin R. Cox, *Housing Tenure and Neighborhood Activism*, 18 *Urb. Aff. Rev.* 107, 120 (1982) (finding negligible association between homeowner status, which implies investment orientation, and awareness of effect of local investment on home value); Rohe et al., *Social Benefits*, *supra* note 2, at 18 (reviewing research finding that investment orientation does not predict local and voluntary participation).

8. See Lee Anne Fennell, *Homes Rule*, 112 *Yale L.J.* 617, 641–54, (2002) [hereinafter Fennell, *Homes Rule*] (reviewing Fischel, *supra* note 4) (discussing implications for homevoting of residential composition and associational preferences); Lee Anne Fennell & Julie A. Roin, *Controlling Residential Stakes*, 77 *U. Chi. L. Rev.* 143, 162 (2010) (noting homeowners’ consumption interests in community amenities); Peñalver, *supra* note 3, at 834–40 (criticizing law and economics account for overemphasizing investment motives and neglecting role of use value in promoting prosocial, local behaviors).

9. See, e.g., DiPasquale & Glaeser, *supra* note 5, at 355–57, 374–77 (finding only modest differences between owners and renters on social capital variables when controlling for tenure); William M. Rohe & Michael A. Stegman, *The Impact of Home Ownership on the Social and Political Involvement of Low-Income People*, 30 *Urb. Aff. Rev.* 152, 167 (1994) (finding effect of homeownership limited or even negative with respect to socializing and community participation); Peter H. Rossi & Eleanor Weber, *The Social Benefits of Homeownership: Empirical Evidence from National Surveys*, 7 *Housing Pol’y Debate* 1, 29 (1996) (analyzing national survey data and finding “[o]n the bulk of the questions... owners and renters did not differ”).

length of residence, rather than ownership per se, appears to mediate many of the effects.<sup>10</sup> There are, however, positive effects of homeownership for voting, certain forms of local collective action, and private property upkeep and improvement.<sup>11</sup>

This pattern of citizenship effects counsels more modest expectations for homeownership's local civic virtues. The data indicate that neither the transformation nor investment stake theory are entirely correct—and suggest that no unitary, single-root cause theory is likely to fit the pattern of findings. To the contrary, different civic behaviors likely emerge from different motivations and individual behaviors may have multiple causes. And, while this paper focuses the relationship between property tenure and citizenship, it is of course possible, and even probable, that community, culture, or other social forces are more powerful prisms for local civic behavior than ownership.

In this paper, I delineate psychological, historical, and economic factors that may explain the pattern of parities and disparities between renters and owners. Some of these factors suggest not only why owners and tenants perform similarly on certain citizenship measures but, by the same token, why it is not universally true that fear of increased rents constrains tenant support for local investment. Admittedly, this multidisciplinary approach at times lacks specificity. For some behaviors, it is difficult to disentangle which factors are producing (or stifling) citizenship effects. Because this approach more accurately represents the competing motivations and forces affecting local behavior, however, it facilitates future empirical investigation of the comparative contributions of different factors. A multidisciplinary, behavior-specific analysis also suggests potential remedies to citizenship deficits from declining homeownership rates, unstable homeownership, or other causes (and suggests that in many cases these remedies may themselves need to be multifaceted in order to address different barriers to local contribution).

This analysis has implications not only for legal theory, but also for policies privileging homeownership. The United States has long promoted homeownership through a host of incentives and protections: nontaxation of imputed rent, property tax deductions, the home mortgage interest tax deduction, favored capital gains treatment, the nonregulation of lax underwriting, and, most recently, foreclosure relief.<sup>12</sup> A variety of

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10. See DiPasquale & Glaeser, *supra* note 5, at 356 (analyzing role of residential duration in homeownership effects).

11. See DiPasquale & Glaeser, *supra* note 5, at 374 (finding owners are more likely to vote). See generally Fischel, *supra* note 4, at 129–206 (presenting case studies examining how homeownership promotes community investment through desire to protect property value).

12. Of these, the nontaxation of imputed rent is by far the largest and most direct government incentive. See Richard Goode, *Imputed Rent of Owner-Occupied Dwellings Under the Income Tax*, 15 J. Fin. 504, 508–09 (1960) (estimating yield from taxing imputed

programs also seek to extend homeownership to moderate- and low-income buyers through Federal Housing Administration (FHA) loan assistance, first-time buyer tax credits, subsidized loans via the federal HOME program, and federally funded state and nonprofit affordable homeownership programs.<sup>13</sup> Another housing market distortion, less recognized in the legal literature but widely acknowledged in economics research, is that many tax incentives operate primarily on consumption rather than homeownership rate (i.e., subsidized homebuyers purchase larger and more expensive housing).<sup>14</sup>

Incentives and legal protections result in more owner-occupied housing than would otherwise be supplied by the market and exert upward pressure on both homeownership rates and housing consumption.<sup>15</sup> Of course, federal subsidies are not the exclusive driver of homeownership rates. Advances in transportation, preferences for single-family houses, the durability of owned single-family housing stock, and

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net rent). For other incentives, such as lending standards and government homebuying assistance, the federal government has worked in concert with private industry. See, e.g., Office of Policy Dev. & Research, U.S. Dep't of Hous. & Urban Dev., Urb. Pol'y Brief No. 2, Homeownership and Its Benefits (1995) [hereinafter Urban Policy Brief], at <http://www.huduser.org/publications/txt/hdbrf2.txt> (on file with the *Columbia Law Review*) (describing President Clinton's National Homeownership Strategy to "increase ownership opportunities among populations and communities with lower than average homeownership rates"). In addition to federal programs, many states provide special protections to homeowners. State homestead exemptions exempt some or all of the equity in a personal residence from creditors. See Ryan P. Rivera, State Homestead Exemptions and Their Effect on Federal Bankruptcy Laws, 39 Real. Prop. Prob. & Tr. J. 71, 77-91 (2004) (reviewing current and historical applications of several state homestead exemptions). Many states also have tenancy-by-the-entirety ownership, which shields the family residence and other marital property from the creditors of one spouse. See John V. Orth, Tenancy by the Entirety: The Strange Career of the Common-Law Marital Estate, 1997 BYU L. Rev. 35, 48 ("In many states, land may be protected to an unlimited extent from the creditors of either tenant by the entirety . . .").

13. See J. Michael Collins, Federal Policies Promoting Affordable Homeownership, in *Chasing the American Dream*, supra note 3, at 69, 78-95 (reviewing various federal initiatives to increase homeownership rate). In addition, the Community Reinvestment Act obligates banks to meet the needs of borrowers in their market, including borrowers in low-income neighborhoods (though this legislation has had a mixed record of success). See Community Reinvestment Act of 1977, 12 U.S.C. §§ 2901-2908 (2006) (mandating action by banks to "meet the credit needs of the local communities in which they are chartered").

14. See Steven C. Bourassa & William G. Grigsby, Income Tax Concessions for Owner-Occupied Housing, 11 Housing Pol'y Debate 521, 536-37 (2000) (concluding based on review of housing economics research that subsidies are imperfectly capitalized into home prices and thus result in excessive housing consumption).

15. Economists dispute the degree of these effects, but a consensus agree that federal policies, particularly the nontaxation of imputed rent, increase homeownership rates. See, e.g., Harvey S. Rosen, Housing Subsidies: Effects on Housing Decisions, Efficiency, and Equity, in 1 Handbook of Public Economics 375, 395-96 (Alan J. Auerbach & Martin S. Feldstein eds., 1985) (modeling effect of taxing imputed rent on homeownership rates and house values).

economic prosperity have all played important roles in increasing homeownership.<sup>16</sup> As a result of both government intervention and sociodemographic change, homeownership has increased substantially in the past half-century from 55% in 1950 to an all-time high of 69.1% in the first quarter of 2005.<sup>17</sup> The increase has been especially dramatic in recent years for low-income homeowners, with low-income minority households representing 11% of the net increase in homeowners and home purchase loans to low-income families growing by 79%.<sup>18</sup>

By providing ready justification for policies promoting homeownership, political commentary and legal theories of ownership's civic virtue have supported government subsidy and fueled the arguments of housing industry and banking special interests.<sup>19</sup> The belief in the social efficacy of ownership, and the cultural sway of the owned home,

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16. For a review of the economic, historical, and political forces influencing homeownership rates from the late nineteenth century to the present, see Vincent J. Cannato, *A Home of One's Own*, Nat'l Aff., Spring 2010, at 69, 70–81. In particular, transportation has played a strong role. Personal transportation in the early 1900s opened the suburbs and provided a market for eager buyers of single-family homes. See David L. Ames & Linda Flint McClelland, Dep't of the Interior, Nat'l Reg. Bull., *Historic Residential Suburbs: Guidelines for Evaluation and Documentation for the National Register of Historic Places* 21 (2002), available at <http://www.nps.gov/history/nR/publications/bulletins/pdfs/Suburbs.pdf> (on file with the *Columbia Law Review*) (“The rapid adoption of the mass-produced automobile by Americans led to the creation of the automobile-oriented suburb of single-family houses . . .”). Moreover, once homeownership reached high levels, there were constraints on the responsiveness of homeownership rates to changed preferences for ownership or declining market conditions. The durability of housing stock and “tastes for structure” mean that residents seeking single-family living arrangements find negligible rental stock of this kind. See Edward L. Glaeser & Jesse M. Shapiro, *The Benefits of the Home Mortgage Interest Deduction*, 17 *Tax Pol’y & Econ.* 37, 45 (2003) (noting “correlation between living in a single-family detached home (or mobile home) and owning” is 58% nationwide and 73% at the city level).

17. U.S. Census Bureau, *Historical Census of Housing Tables: Homeownership Rates*, at <http://www.census.gov/hhes/www/housing/census/historic/owner.html> (last updated Dec. 2, 2004) (on file with the *Columbia Law Review*); see also U.S. Census Bureau, *Housing Vacancies and Home Ownership, First Quarter 2008 tbl.5* (2008), at <http://www.census.gov/hhes/www/housing/hvs/qtr108/q108tab5.html> (on file with the *Columbia Law Review*) (showing homeownership rates in United States from 1968 to 2008). The small but steady uptick in homeownership is particularly notable in light of the strong demographic trends of later marriage and childbearing plus greater investment in human capital via postsecondary education, all of which we would expect to exert downward pressure on the homeownership rate.

18. See Anne B. Shlay, *Low-Income Homeownership: American Dream or Delusion?*, 43 *Urb. Stud.* 511, 516 (2006) (citing studies examining period from 1993 to 2000).

19. See, e.g., Mark Andrew Snider, *The Suburban Advantage: Are the Tax Benefits of Homeownership Defensible?*, 32 *N. Ky. L. Rev.* 157, 175–76 (2005) (arguing benefits of homeownership justify tax subsidies); cf. Stephanie M. Stern, *Residential Protectionism and the Legal Mythology of Home*, 107 *Mich. L. Rev.* 1093, 1095 nn.2 & 4–6 (2009) [hereinafter Stern, *Residential Protectionism*] (critiquing theories supporting legal protection of the home).

have encouraged large-scale subsidization of homebuying and buttressed ill-conceived policy initiatives to address housing downturns.<sup>20</sup> In turn, government incentives have reinforced a level of public enthusiasm and corresponding social norms for traditional home ownership that, at least until recently, appear to accept no substitute.<sup>21</sup> These sentiments have ensured broad political support for laws privileging homeownership, and created stumbling blocks for proposals for nontraditional ownership forms and ownership alternatives.<sup>22</sup>

This Essay offers a critical reassessment of the local citizenship virtues of homeownership. Part I describes the dominant legal and political theories of the citizenship externalities from homeownership. Too often, this commentary has either neglected the empirical research or worked backward, focusing myopically on specific positive findings (typically without considering effect size) and then improperly generalizing these findings to most or all local civic behavior. Part II assesses the research on owner versus renter contributions to social capital, voting and local amenity investment, property upkeep, and citizenship character traits. Part III critiques the prevailing theories of homeownership's citizenship virtues and explores the disjunction between theory and empirical evidence. In Part IV, I turn to the puzzle of disparate citizenship effects with an eye toward advancing the development of a more comprehensive, multivariate model of ownership effects. Part V raises some potential implications of my analysis for the legal promotion of homeownership and the development of alternative residential tenure forms.

### I. THE CITIZEN VIRTUES OF HOMEOWNERSHIP

Political commentary and scholarly work extol the citizenship virtues of homeownership in expansive and celebratory terms.<sup>23</sup> The accepted wisdom is that homeownership as a form of property tenure produces a

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20. See Vale, *supra* note 3, at 15–17 (“The high rate of homeownership in the United States . . . has been nurtured by generations of public policy, which were in turn preceded by concerted efforts to instill an ideologically grounded belief in the moral value of the owned home.”); see also *supra* notes 12–14 and accompanying text (discussing government subsidies).

21. See Cannato, *supra* note 16, at 81–82 (describing turning tide in recent months with political and academic commentators, some in reversal of their prior positions, criticizing prevailing homeownership norm).

22. See *infra* Part V.C (discussing how empirical research alleviates concerns about potential social harm from nontraditional homeownership and alternatives to homeownership).

23. See, e.g., Henry E. Hoagland, *The Relation of the Work of the Federal Home Loan Bank Board to Home Security and Betterment*, 16 *Proc. Acad. Pol. Sci.* 317, 318 (1935) (“Governments encourage home ownership on the theory that the man who owns a home is a better citizen than one who does not.”).

breadth of positive local citizenship behaviors and that these effects are sizeable in magnitude.<sup>24</sup> Presidential administrations from Hoover to Bush have framed the near universal promotion of homeownership as requisite to the health of communities and the nation.<sup>25</sup> As early as 1923, one political representative summed up the sentiment: “A homeowner is a . . . better and more useful citizen of the community in all respects . . . [a]nd our community welfare and future are rendered more secure in direct proportion to the increase in homeownership.”<sup>26</sup> This belief has persisted, and flourished, to the present day. Echoing his predecessors, former Housing and Urban Development Secretary Henry Cisneros recently stated: “Expanding homeownership is vitally important to our country, because home ownership is critical . . . to the building of strong communities.”<sup>27</sup> Of course, to the extent that both business and political interests gain from policies promoting homeownership, there will be a ready supply of theories to support homebuying.<sup>28</sup> Yet, given the ubiquity

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24. See *supra* notes 1–2 (describing proponents of theories positing causal relationship between homeownership and positive citizenship behaviors). But see Kristen David Adams, *Homeownership: American Dream or Illusion of Empowerment?*, 60 S.C. L. Rev. 573, 577–85 (2009) (proving median American family cannot afford median American home); Rashmi Dyal-Chand, *Exporting the Ownership Society: A Case Study on the Economic Impact of Property Rights*, 39 Rutgers L.J. 59, 77–87 (2007) (critiquing De Soto’s vision of role of property in generating individual wealth and small enterprise in light of predatory lending and other barriers to successful low-income homeownership in United States).

25. As early as Hoover’s speech in 1931 at the Home Building and Homeownership Conference, presidents have concluded that the homeownership “aspiration . . . makes for better citizenship.” Vale, *supra* note 3, at 32 (citing President Herbert Hoover, Address to the White House Conference on Home Building and Home Ownership (Dec. 2, 1931)). For a more recent account of the benefits of “neighborliness” and “other individual and civic virtues” that accompany homeownership, see generally Urban Policy Brief, *supra* note 12.

26. *Home-Owning and Good Citizenship*, 1 Tax Facts Published in the Interests of Sound Economics and American Ideals 41, 41 (1923), available at [http://books.google.com/books/download/Tax\\_facts.pdf?id=-xoLAQAAlAAJ&output=pdf&sig=ACfU3U0Tc7gnBlkak306vLyzOmCMMGKfRw](http://books.google.com/books/download/Tax_facts.pdf?id=-xoLAQAAlAAJ&output=pdf&sig=ACfU3U0Tc7gnBlkak306vLyzOmCMMGKfRw) (on file with the *Columbia Law Review*); see also Gary Cross, *An All-Consuming Century: Why Commercialism Won in Modern America* 74 (2000) (describing widespread belief of political leaders in 1930s that “government encouragement of home ownership would create ‘good citizenship’”).

27. William M. Rohe & Leslie S. Stewart, *Homeownership and Neighborhood Stability*, 7 Housing Pol’y Debate 37, 38 (1996) (quoting Henry Cisneros).

28. See, e.g., Dickerson, *supra* note 1, at 192 (“The strength of the housing markets is often a bellwether for the general strength of the U.S. economy, and a weak housing market can create volatility across the spectrum of credit markets . . . . Building and selling homes helps increase jobs and boosts the demand for goods and services.”). In particular, housing industry publications illustrate research bias. For example, a 2006 research brief by the National Association of Realtors discussed at length the issues of selection bias and the substantial role of length of residence as opposed to tenure form, but nonetheless concluded that “public policy makers would be wise to consider the apparent immense social benefits of homeownership and stable housing.” Nat’l Ass’n of Realtors, *Social Benefits of Homeownership and Stable Housing* 16 (2006), available at

of such claims among diverse interest groups (including conservatives, liberals, and even special interests who do not benefit from mortgage subsidies such as low-income interest groups), there also appears to be a strong current of genuine belief in the virtues of homeownership—a belief perhaps fundamentally rooted in the country’s founding and the historical conception of the independent, property-holding yeoman.<sup>29</sup>

The citizenship virtue of homeownership is also an established tenet of academic scholarship, including legal scholarship. Scholars have defended subsidies to homeowners based on the benefits to communities, neighborhood cohesiveness, and citizen involvement in community life.<sup>30</sup> Even articles criticizing the legal privileging of homeownership often endorse the view that homeownership broadly promotes prosocial behavior and well-functioning localism.<sup>31</sup> Such accounts have flourished in the scholarship despite their failure to address the empirical research.<sup>32</sup> Even when scholarship does reference empirical research, it typically neglects effect size (i.e., how much citizenship behavior is produced rather than mere statistical significance) and overgeneralizes effects to spheres where ownership-driven externalities are unlikely.<sup>33</sup>

The dominant politico-legal theories of homeownership’s citizenship effects can be grouped loosely into two categories: first, ownership as personal transformation and second, the social incentives emanating from financial investment stake. These two conceptions are not divergent in every instance: Some writings on the personal transformation wrought by

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[http://www.planning.org/conference/previous/2009/materials/pdf/S013\\_NAR\\_Social\\_Benefits\\_of\\_Stable\\_Housing.pdf](http://www.planning.org/conference/previous/2009/materials/pdf/S013_NAR_Social_Benefits_of_Stable_Housing.pdf) (on file with the *Columbia Law Review*).

29. See, e.g., Thomas Jefferson, Notes on the State of Virginia 170–71 (Frank Shuffelton ed., Penguin Books 1999) (1785) (arguing husbandmen laboring on land ensures “republic in vigour” and promotes “permanence of government”); cf. Stanley Elkins & Eric McKittrick, *The Age of Federalism* 198 (1993) (describing mixed political reception of Jefferson’s proposals to distribute parcels of land to small farmers based on his belief in property-holding yeoman as ideal citizen).

30. See, e.g., Snider, *supra* note 19, at 175–76 (arguing individual and social benefits of homeownership justify tax subsidies).

31. See sources cited *supra* note 1 (describing scholarship criticizing legal privileging of the home but still assuming substantial social benefits of homeownership).

32. See *infra* Parts I.A & I.B (describing dominant accounts of the social value of homeownership).

33. See, e.g., Rachel D. Godsil & David V. Simunovich, Protecting Status: The Mortgage Crisis, Eminent Domain, and the Ethic of Homeownership, 77 *Fordham L. Rev.* 949, 973 (2008) (“[I]t seems clear that homeowner status overall generates net positive outcomes for both families and communities.”); Korff, *supra* note 1, at 441 & n.146 (listing “often-cited sociological benefits of home ownership” but acknowledging “there is little supporting empirical evidence regarding some of home ownership’s stated advantages”); Snider, *supra* note 19, at 175–76 (asserting homeownership “increases stability, safety, and security for homeowners, allows taxpayers to live in higher quality residences, gives homeowner’s children access to better schools, and improves neighborhood cohesiveness” without examining extent of increase).

homeownership allude to investment stake and some investment stake scholarship explicitly or implicitly recognizes personal or moral dimensions of homeownership's citizenship effects.<sup>34</sup> However, when the accounts overlap, the central notions of ownership virtues embodied in each conception remain distinct—and are presumed valid.

#### A. Homeownership as Personal Transformation

In many accounts, homeownership is personally and morally transformative with home purchase akin to a developmental milestone. As Edward Goetz has observed, “homebuying is seen as . . . changing not just one's tenure but also a range of individual characteristics.”<sup>35</sup> The owned home and the status it confers—as well as implicitly the mainstream, single-family life it usually entails—transforms individuals into citizens tied to their communities, engaged in local affairs, and willing to work cooperatively to solve collective dilemmas. Correspondingly, tenancy may hinder personal development, either intrinsically or in the eyes of others. This account features heavily in political and interest group commentary and elements of it appear in legal and other scholarship.<sup>36</sup>

The notion that ownership develops one's civic “personality” is well entrenched in American culture, dating back to the early American understanding of property and its linkages to civic republican theory.<sup>37</sup> Hendrik Hartog describes the conception of property, in particular real property, in the seventeenth and eighteenth centuries as “tied to the very possibility of an individualized personality, to a classical notion of

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34. See Nat'l Ass'n of Realtors, *Social Benefits of Homeownership and Stable Housing* 14 (2010), available at [http://www.realtor.org/Research.nsf/files/05%20Social%20Benefits%20of%20Stable%20Housing.pdf/\\$FILE/05%20Social%20Benefits%20of%20Stable%20Housing.pdf](http://www.realtor.org/Research.nsf/files/05%20Social%20Benefits%20of%20Stable%20Housing.pdf/$FILE/05%20Social%20Benefits%20of%20Stable%20Housing.pdf) (on file with the *Columbia Law Review*) (arguing homeownership differs from renting because of “pride of ownership and the sense of belonging in a community where one has a financial stake in the neighborhood”); see also Lorna Fox, *Conceptualising Home: Theories, Laws and Policies* 145 (2007) (describing home as “a complex and multi-dimensional interest, which includes financial, practical, social, psychological, cultural, politico-economic and emotional interests to its occupiers”).

35. Edward G. Goetz, *Is Housing Tenure the New Neighborhood Dividing Line?: The Polarizing Politics of Homeownership*, in *Chasing the American Dream*, supra note 3, at 96, 102.

36. For a review of the political and scholarly commentary on the personality-developing capacity of ownership, see Vale, supra note 3, at 17–24, 39–40.

37. Classical civic republican theory has been superimposed on American notions of homeownership. See Fergus O'Ferrall, *Civic-Republican Citizenship and Voluntary Action*, *The Republic*, Spring/Summer 2001, at 126, 133 (characterizing civic republican theory's articulation of participatory democracy as “highest form of living-together”). Relatedly, Eduardo Peñalver describes Aristotelian “virtue ethics” as stable dispositions for engaging in behaviors conducive to human flourishing and contends generally that virtue ethics should shape the normative goals of property law. Peñalver, supra note 3, at 867–69.

citizenship.”<sup>38</sup> Through the twentieth century to the present, and especially following the Hoover Administration housing propaganda, these beliefs have morphed to focus on homeownership in particular as a moral and political agent.<sup>39</sup> Under this view, homeownership builds “moral muscle”<sup>40</sup> and creates a medium on which citizenship virtues are likely to flourish.<sup>41</sup> This tradition has influenced academic accounts. A thought-provoking body of recent scholarship contemplates (and debates) under what circumstances ownership and other property institutions promote “virtue ethics” or behavior consonant with a well-lived life and societal flourishing.<sup>42</sup>

Another important aspect of the transformation account is that ownership confers greater social status<sup>43</sup> and constitutes a self-fulfilling prophecy of better citizenship behavior.<sup>44</sup> Citizen contentment with the American trump card of homeownership also enhances social stability and offers an “antidote for disintegrating influences”<sup>45</sup> (and, in the darker side

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38. Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York in American Law, 1730–1870*, at 24 (1983).

39. See Vale, *supra* note 3, at 19 (discussing how homeownership “first gained prominence as a *moral* issue rather than a financial calculation”).

40. See, e.g., *id.* at 26 (quoting National Association of Real Estate Board’s 1922 booklet promoting social and moral components of homeownership).

41. As Vale explains, the rise in homeownership was preceded not only by historical and demographic shifts but also by “concerted efforts to instill an ideologically grounded belief in the moral value of the owned home.” *Id.* at 15; see also David P. Handlin, *The American Home: Architecture and Society, 1815–1915*, at 12–26 (1979) (collecting nineteenth century literary depictions of the home’s social meanings).

42. See Peñalver, *supra* note 3, at 864–66, 878–80 (presenting theory of virtue ethics and describing role of property law in incentivizing virtuous behavior). But cf. Eric R. Claeys, *Response: Virtue and Rights in American Property Law*, 94 *Cornell L. Rev.* 889, 892 (2009) (discussing concerns about applying virtue ethics outside of its “historical and political context” to modern property law).

43. See Lynne Dearborn, *Homeownership: The Problematics of Ideals and Realities*, 16 *J. Affordable Housing & Community Dev. L.* 40, 40 (2006) (describing different levels of social esteem conferred on owners versus renters); Peñalver, *supra* note 3, at 835 (“[H]omeownership uniquely signifies adulthood and responsibility, as well as the achievement of middle-class status.”); Winton Pitcoff, *Has Homeownership Been Oversold?*, *Shelterforce*, Jan./Feb. 2003, at 8, 10 (quoting Sheila Crowley, President of the National Low Income Housing Coalition, stating that “[r]enting is seen as inferior to owning”). The link between homeownership and status, however, may place homeowners in a financially unstable situation, as they have an incentive to consume more expensive housing in order to enhance status. See Robert H. Frank, *Positional Externalities Cause Large and Preventable Welfare Losses*, 95 *Am. Econ. Rev.* 137, 139–40 (2005) (explaining how social status concerns lead to expenditure shifts towards more expensive housing, hurting social welfare).

44. In considering status-loss compensation for home loss, Rachel Godsil and David Simunovich describe the social status conferred by homeownership as the byproduct of the “societal connection and stability” promoted by ownership. Godsil & Simunovich, *supra* note 33, at 969–73, 998.

45. Vale, *supra* note 3, at 20.

of this vision, encourages citizen acceptance of inadequate welfare and rights protection). Social ties play a role with owners' greater residential stability and proximity to similarly enlightened homeownership neighbors enabling social bonds that promote moral and democratic behavior.<sup>46</sup>

*B. Investment Stake Motives for Civic Behavior*

The second major account of the social gains from homeownership focuses on the propensity of the financial home investment to produce citizenship behavior, particularly at the local level. Homeownership "stake[s] out a man's place in his community. The man who owns a home has something to be proud of and good reason to protect and preserve it."<sup>47</sup> The importance of investment traces back to the Lockean property theory that ownership and a private stake in land increase the productive use of land as well as human happiness.<sup>48</sup> With respect to the citizenship virtues of homeownership, this notion of productivity has been transposed, in a manner that is at least in some respects opposite Locke's vision, to ownership-related civic productivity.<sup>49</sup>

The theme of investment stake is also prominent in recent law and economics scholarship on homeownership and land use. The theoretical argument, expounded by economist William Fischel, is that homeownership cultivates investment in local goods and neighborhoods because homes are large, undiversified, and thus risky investments (and, relatedly, homeowners cannot exit without high transactions costs).<sup>50</sup> The home investment motivates owners (even non-consuming owners) to "organize and make personal sacrifices" for community amenities that increase

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46. See *id.* at 26 (describing National Association of Realtors' historical position that homeownership increased moral behavior in variety of ways, including by enabling "lasting friendships among worthwhile neighbors").

47. President Lyndon B. Johnson, Message from the President of the United States Transmitting a Message on Housing and Cities, H.R. Doc. 90-261 (1968). In a similar vein, Senator Charles Percy explained in 1966, "The mere act of becoming a homeowner transforms him. It gives him . . . a true stake in his community and its well-being." Charles H. Percy, *A New Dawn for Our Cities*, Address to the Kiwanis Club of Chicago (Sept. 15, 1966), reprinted in 112 *Cong. Rec.* 27,258, 27,259 (statement of Sen. Wallace F. Bennett).

48. See Ronald Tobey et al., *Moving Out and Settling In: Residential Mobility, Home Owning, and the Public Enframing of Citizenship, 1921-1950*, 95 *Am. Hist. Rev.* 1395, 1395-96 (1990) ("Although the Lockean notion that citizens should have a property stake in society had persisted as a major theme in American political culture virtually undiluted since the eighteenth century, it was the sheer power of the New Deal state that made possible implementation of the idea.").

49. See John Locke, *Second Treatise of Government* §§ 37-48 (C.B. Macpherson ed., Hackett Publ'g Co. 1980) (1690) (describing productive capacity of private ownership). However, according to Locke, people enter into civil society to protect the right to property and other rights. See *id.* § 222 ("The reason why men enter into society, is the preservation of their property . . ."). Arguably, the current interpretation is the opposite: People should own residential property to protect civil society.

50. Fischel, *supra* note 4, at 4-12.

property values, such as good public schools.<sup>51</sup>

The investment stake scholarship, including Fischel's "homevoter hypothesis," has adopted a decidedly less transcendent view than the ownership-as-transformation account. However, legal scholars have criticized its thin motivational assumptions and disregard of consumption interests (i.e., the value of *using* local public amenities such as schools, parks, property improvements, etc.) and noneconomic attachments (i.e., personal ties to place or generative desires to give back to the community).<sup>52</sup> The investment stake literature also fails to address the propensity of investment motivations to promote exclusionary, and even discriminatory, land use regulation.<sup>53</sup>

Beyond the traditional paradigms of investment stake and personal transformation, a smaller core of writing describes, or at least recognizes, influences other than ownership on civic behavior and local participation. Scholars such as Lee Fennell, Nicole Garnett, and Eduardo Peñalver have discussed "use" or consumption value from investment in local communities,<sup>54</sup> the special motivations of parents of school-age children,<sup>55</sup> and the role of social ties and community loyalty.<sup>56</sup> Other scholars have described the influence of civic republicanism on modern understandings of property's social obligations.<sup>57</sup> This Essay seeks to extend this body of scholarship by analyzing the evidence of local civic benefits from homeownership, considering potential explanations for the pattern of empirical findings, and raising potential implications for housing policy.<sup>58</sup>

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51. *Id.* at 18.

52. See Fennell & Roin, *supra* note 8, at 162 (observing homeowners have consumption interests in community's fortune). For a recent account of the failure of investment stake theory to consider consumption interests and community loyalty, see Peñalver, *supra* note 3, at 832–41.

53. See Fennell, *Homes Rule*, *supra* note 8, at 649–54 (arguing homevoter dynamics promote not only socially beneficial investment but also exclusionary behavior and socially suboptimal outcomes).

54. Fennell & Roin, *supra* note 8, at 162; Nicole Stelle Garnett, *Unbundling Homeownership: Regional Reforms from the Inside Out*, 119 *Yale L.J.* 1904, 1932 (2010); Peñalver, *supra* note 3, at 840–41.

55. Garnett, *supra* note 54, at 1932.

56. *Id.*; Peñalver, *supra* note 3, at 838–41.

57. See Gregory S. Alexander, *The Social-Obligation Norm in American Property Law*, 94 *Cornell L. Rev.* 745, 745–52 (2009) [hereinafter Alexander, *Social-Obligation Norm*] (discussing historical influence of civic republicanism over property law in form of social obligation norm and advocating further development of this norm in modern doctrine); Carol M. Rose, *Property as Wealth, Property as Propriety*, in *Compensatory Justice* 223, 239–40 (John W. Chapman ed., 1991) [hereinafter Rose, *Property as Wealth*] (describing tension in modern takings doctrine emanating from competing influences of civic republicanism and preference-satisfaction).

58. See, e.g., Peñalver, *supra* note 3, at 838–41 (describing importance of social connections and noneconomic interests to homeownership behavior).

## II. HOMEOWNERSHIP AND CITIZENSHIP EXTERNALITIES: A CRITICAL REVIEW OF THE EVIDENCE

What is the evidence for the extravagant vision that has animated legal and political accounts of homeownership? This Part critically reviews the empirical research on the positive citizenship externalities of homeownership. I utilize a broad definition of citizen virtues that accords with common understandings of good local citizenship and addresses a constellation of behaviors, effects, and attitudes that fall along the axes of civic engagement, socially beneficial investment in local goods, and community involvement.<sup>59</sup> Specifically, I evaluate four subsets of citizenship effects frequently ascribed to homeownership: (1) social capital measures; (2) local voting and amenity investment; (3) property upkeep; and (4) the “citizenship traits” of industry, autonomy, and satisfaction. Because the available research employs different measures and varying methodologies, my assessment takes the form of a critical review rather than a statistical meta-analysis.

Before turning to the research findings, a word of caution is in order. As with most areas of empirical study, researchers have not investigated every facet of homeownership effects. For example, we don’t know if immigrant status affects homeownership attitudes or externalities or precisely why length of residence increases most civic behaviors. Also, while recent studies control for hosts of individual and community-level variables, it is difficult to control for innate selection bias—that is, whether people who possess a preexisting orientation toward neighborhood participation, residential investment, and local political activity are more likely to purchase homes.<sup>60</sup> Some research suggests that fixed individual differences may explain most of the variance between renters and owners. A study of German residents surveying the same individuals over time found that the effects of homeownership on social capital and most forms of local amenity provision were slight (lower than the modest results from American studies lacking time-series data).<sup>61</sup> If future research finds that this is also true of U.S. citizens, it would severely undercut the local citizenship justification for promoting homeownership.

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59. The conclusions of such an analysis depend on the definition and scope of citizenship effects—if one looks solely at local voting patterns, for example, the conclusion would be that ownership causes a robust increase in citizenship behavior. See, e.g., DiPasquale & Glaeser, *supra* note 5, at 365 (finding 77% of homeowners voted in local elections compared to 52% of renters).

60. See Rohe et al., *Social Benefits*, *supra* note 2, at 18 (“None of the studies on this topic have totally ruled out the possibility that the association between homeownership and social and political participation is spurious.”). Even longitudinal studies are not well suited to address this confound because of the varying propensities toward civic activity across the life cycle.

61. See DiPasquale & Glaeser, *supra* note 5, at 378–83 (comparing findings from German data set to findings from U.S. survey data).

A. *The Evidence of a Homeownership Effect on Local Social Capital*

Citizens foster community social capital through a variety of behaviors, including participation in local and nonlocal organizations, willingness to cooperate to solve collective problems, reciprocated exchange of favors, and socializing (which structures social networks and fosters trust).<sup>62</sup> Homeowners are more likely to participate in nonprofessional organizations, help solve local problems, know the head of their school board, and engage in neighborhood activism.<sup>63</sup> However, most of these differences are quite modest once the analysis controls for residential duration. A 1999 national cross-section study using General Social Survey data, and controlling for a variety of socio-demographic and economic characteristics, found that homeowners belong to 0.25 more nonprofessional organizations, are 6% more likely to have worked to solve local problems, and 9% more likely to know the identity of their school board head.<sup>64</sup> When the data analysis added controls for length of residence, these differences shrunk to a few percentage points or less on most measures (the only measure virtually unaffected is local voting).<sup>65</sup> This suggests that the majority of citizenship effects operate through residential stability (or personal characteristics associated with high stability) rather than through homeownership.<sup>66</sup>

Not only are the positive externalities of homeownership much

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62. See generally Robert D. Putnam, *Bowling Alone* 31–148 (2000) (describing social capital theory and formation and assessing current trends in levels of social capital).

63. See, e.g., Terry C. Blum & Paul William Kingston, *Homeownership and Social Attachment*, 27 *Soc. Persp.* 159, 171–74 (1984) (“[H]omeowners are relatively more apt to . . . join voluntary organizations, and to be enmeshed in local, neighborhood-based social networks.”); Cox, *supra* note 7, at 111–16 (“[H]omeownership appears to have a nonspurious effect upon neighborhood activism.”); DiPasquale & Glaeser, *supra* note 5, at 356 (finding homeowners are 9% more likely to know their school board head than renters and are more likely to attend church); Rohe & Stegman, *supra* note 9, at 159–64 (finding homebuyers show statistically significant increase in extent and intensity of organizational involvement compared to renters).

64. DiPasquale & Glaeser, *supra* note 5, at 356, 366 (controlling for age, race, gender, marital status, income, high school graduation, educational attainment beyond high school, type of residential structure, and city size but not residential duration); see also Blum & Kingston, *supra* note 63, at 171 (finding ownership has only small effect on increasing membership in voluntary organizations); Glaeser & Shapiro, *supra* note 16, at 68 (reporting 9.3% difference between owners and renters on participation in solving local problems and 10.75% difference in local voting in analyses that controlled for a variety of background characteristics but not for length of residence).

65. Controlling for length of residence means that the analysis compares owners and renters of similar residential durations. DiPasquale & Glaeser, *supra* note 5, at 374.

66. Specifically controlling for length of residence reduces the differentials on organizational membership by 91.7%, of working to solve local problems by 63%, and of knowing your school board head by 60%. See DiPasquale & Glaeser, *supra* note 5 at 374, 377 (finding between 4% and 92% of homeownership’s effect on various measures of social capital occurs because homeownership is associated with lower mobility).

smaller than commonly assumed, these effects fail to accrue to many subsets of local civic behavior. For example, a longitudinal study of over one hundred Baltimore buyers before and after home purchase, compared to economically and demographically matched renters, found that organizational membership and intensity of participation in school, political, social, and religious organizations were not higher for homeowners (controlling for length of residence, presence of children, certain neighborhood characteristics, income, age, sex, education, and marital status).<sup>67</sup> The only significant finding was that homeowners were more likely to join organizations and attend meetings at the sublocal level, specifically neighborhood and block organizations.<sup>68</sup> In a similar vein, Rossi and Weber's analysis of two national survey data sets found that owners were more likely to hold leadership and activist positions in local improvement groups, but did not differ in fraternal, recreational, or union group membership (controlling for age and socioeconomic status).<sup>69</sup>

There is also no evidence of a positive effect of homeownership on local socializing. The study by Rossi and Weber also assessed twenty-two sociability measures, including items such as spending a social evening with others, helping others, and engaging in recreational activities and social organizations, and found no consistent effect of homeownership on local or neighborhood socializing.<sup>70</sup> Other studies similarly find no significant effect of homeownership on sociability and local social networks.<sup>71</sup> And a recent study indicates—contrary to the prevailing assumption that homeownership promotes community and civic ties—

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67. Rohe & Stegman, *supra* note 9, at 159–66. Similarly, a recent study by Grace Bucchianeri found no difference in volunteer work between homeowners and renters. Grace W. Bucchianeri, *The American Dream or the American Delusion? The Private and External Benefits of Homeownership* 17 (2009) (unpublished manuscript), available at <http://real.wharton.upenn.edu/~wongg/research/The%20American%20Dream.pdf> (on file with the *Columbia Law Review*).

68. Rohe & Stegman, *supra* note 9, at 163–64. Rohe and Stegman concluded that “[t]he impact of home ownership seems to be limited, at least in the short run, to immediate concerns in the local area.” *Id.* at 167.

69. See Rossi & Weber, *supra* note 9, at 15–17 (finding minimal differences in socializing between owners and renters from an analysis of over 20,000 subject interviews combined from the General Social Survey and the National Survey of Families and Households); see also Rohe & Stegman, *supra* note 9, at 167, 170 n.10 (finding homeowners show lower levels of neighboring behaviors as measured by five-question scale that assessed recognition of neighbors by face and name, neighborly relations, frequency of social interaction, and close friendships).

70. See Rossi & Weber, *supra* note 9, at 16 tbl.7 (finding effects of homeownership on many sociability measures “not significant”).

71. See Claude S. Fischer et al., *Networks and Places: Social Relations in the Urban Setting* 149–50 (1977) (finding no significant effect of homeownership on neighboring). But see Blum & Kingston, *supra* note 63, at 173 (“People who own their own homes interact with proportionately more people they identify as their neighbors.... [T]he effect of homeownership on neighboring or locally based interaction remains significant after the control variables are entered into the equation.”).

that renters are *more* likely than homeowners to socialize with neighbors.<sup>72</sup>

Importantly, the research does not exclude the possibility that some amount of activity characterized as social capital is socially harmful and inapposite to citizenship “virtue.”<sup>73</sup> Social capital measures that assess the frequency of local participation, socializing, density of social networks, voting rates, volunteerism, or monetary donations may be insensitive to normative valence.<sup>74</sup> While in general local social capital predicts positive community outcomes in safety, health, economic growth, and educational achievement,<sup>75</sup> we should not forget that robust social capital also characterizes gangs, terrorists, hate organizations, and exclusionary group behavior.<sup>76</sup>

### B. *Local Voting and Amenity Investment*

The citizen-making capacity of homeownership is most strongly borne out in local voting and certain subclasses of local investment. A large-sample, national study assessing the citizenship benefits of homeownership found that homeowners are 15% more likely than renters to vote in local elections<sup>77</sup> and rate local voting as more “important” compared to renters.<sup>78</sup> This difference does not disappear when controlling for length of residence<sup>79</sup> (as well as age, race, gender, income, education, marriage, and housing structure type) suggesting that it relates to ownership rather than durational or other differences.<sup>80</sup>

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72. See Bucchianeri, *supra* note 67, at 15–16 (finding in a survey of 809 women in Columbus, Ohio that renters reported spending more time socializing, interacting, and engaging in active leisure).

73. There is a growing literature on the “dark side” of social capital. For an overview, see Jan W. van Deth & Sonja Zmerli, Introduction: Civicness, Equality, and Democracy—A “Dark Side” of Social Capital?, 53 *Am. Behav. Scientist* 631, 631–35 (2010) (summarizing contributions by different researchers in special issue exploring dark side of social capital).

74. I thank Tim Iglesias for his comments on this point.

75. See Mark K. Smith, Social Capital: Civic Community and Education, *Infed* (2009), at [http://www.infed.org/biblio/social\\_capital.htm](http://www.infed.org/biblio/social_capital.htm) (on file with the *Columbia Law Review*) (discussing studies showing “communities with a good ‘stock’ of such ‘social capital’” benefit in numerous ways).

76. See Stephanie M. Stern, Assoc. Professor, Chi.-Kent College of Law, Presentation to Association for Law, Property, and Society, Putting Social Capital in Its Place: Subsidizing Residential Diversity 12 (Mar. 6, 2010) (on file with the *Columbia Law Review*) (presenting dark side of social capital and using examples of Nazis and terrorists).

77. DiPasquale & Glaeser, *supra* note 5, at 365.

78. Rossi & Weber, *supra* note 9, at 23.

79. DiPasquale & Glaeser, *supra* note 5, at 374.

80. Some studies have found that homeowners show a greater rate of voting in national elections, but these studies do not control for length of residence, which increases the costs of voter registration. See John L. Gilderbloom & John P. Markham, The Impact of Homeownership on Political Beliefs, 73 *Soc. Forces* 1589, 1596–97 (1995) (finding considerable impact of homeownership on voting in 1992 U.S. presidential election after

Other studies confirm this finding.<sup>81</sup> It is not clear if tenants vote less because they feel socially disenfranchised, assume that voting homeowners in the community will sufficiently protect tenant interests, are ambivalent about voting for certain improvements or officials for fear of rent increases, or, as discussed in Part IV, do not perceive local voting as a citizenship responsibility of tenants.<sup>82</sup> Notably, it is not clear that this result generalizes to political activities beyond voting. At the local level, tenants and owners of similar residential duration report comparable levels of participation in political organizations.<sup>83</sup> Research on national voting finds that owners are more likely to vote, but are not more likely to work to influence other voters, work for political parties or candidates, or attend political rallies.<sup>84</sup>

In addition to political participation through voting, homeowners may also be more likely to politically support investments in (certain) local public goods. There is some case-study evidence showing various suburban localities, driven by homeowner politics, make efficient and socially beneficial investments in high visibility or “big-ticket” items for home values, such as schools, landfills, and property tax rates (particularly as compared to state or regional control).<sup>85</sup> Of course, it is difficult to say whether homeowner status drives these effects or whether they derive, at least in part, from resident or long-term resident (rather than owner) status or from inefficiencies in control at the state or regional level.

There is limited support in the quantitative sociology and housing research for “homevoting.” Studies find that owners are more likely to serve in leadership positions to improve neighborhood or block goods and services and to donate money to local improvements.<sup>86</sup> When the study measure assesses collective action at the community level (e.g., have you

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controlling for variety of demographic factors but not for length of residence); see also Peter Dreier, *Start Your Engines: The Housing Movement and the Motor Voter Law*, *Shelterforce*, May/June 1994, at 10, 10–11 (discussing barriers to tenant voting from cumbersome and complex voter registration laws); cf. Rossi & Weber, *supra* note 9, at 23 (finding owners are more likely than renters to have participated as voters in national elections but are “no more likely than renters to try to influence other voters, work for parties or candidates, or attend political rallies”).

81. See Rossi & Weber, *supra* note 9, at 23 (concluding owners vote more frequently and participate more intensively in local politics than renters but that findings are more mixed for national politics).

82. See *infra* Part IV.B (considering historical and civic republican explanations for divergences in homeownership-effects data).

83. Rohe & Stegman, *supra* note 9, at 159–66.

84. Rossi & Weber, *supra* note 9, at 23

85. See Fischel, *supra* note 4, at 4 (“[H]omeowners, who are the most numerous and politically influential group within most localities, are guided by their concern for the value of their homes to make political decisions that are more efficient than those that would be made at a higher level of government.”).

86. See, e.g., Rossi & Weber, *supra* note 9, at 24 (showing owners are more likely to serve on and donate to local improvement groups).

ever actively participated in working to solve a local problem?) the difference between tenants and owners is only a few percentage points (more than half of the 6% difference between renters and owners disappears with controls for length of residence).<sup>87</sup> To my knowledge, the only quantitative data analyzing how homeownership affects local investment and local government spending comes from an unpublished paper.<sup>88</sup> This study found that homeownership does not increase local investment but rather shifts it from local infrastructure (specifically, sewers, roads, and parks) to increased spending on education, police protection, and fire protection.<sup>89</sup>

Notably, investment stake or homevoter dynamics drive not only socially beneficial investment but also exclusionary behavior, discriminatory practices, and other ill effects. For example, Lee Fennell contends that, because the primary gains to school test scores and local property values derive from parent socioeconomic status, a substantial share of “investment” in public schools takes the form of support for local land-use policies (e.g., low-density zoning) that exclude less affluent incomers.<sup>90</sup> The empirical evidence supports this intuition. A recent study found that parent socioeconomic status, not monetary investment in schools, is responsible for nearly all of the increase in property values from local schools.<sup>91</sup>

### C. *Property Maintenance and Improvement*

There are positive effects of ownership on home upkeep and improvement and, consequently, on home values. Owner-occupants spend more than landlords or tenants on repairs, are less likely to defer repairs, and are more likely to invest in improvements.<sup>92</sup> Homeowners

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87. See DiPasquale & Glaeser, *supra* note 5, at 365, 374 (finding 63% of difference between renters and homeowners in self-reported participation rates in solving local problems disappeared after controlling for duration of residence).

88. Albert Barnett Monroe IV, *The Effects of Homeownership on Communities* 102 (Sep. 25, 2002) (unpublished Ph.D. dissertation, Harvard University) (on file with the *Columbia Law Review*).

89. *Id.*

90. See Fennell, *Homes Rule*, *supra* note 8, at 635–55 (describing homeowner preferences for homogeneity, and exclusion mechanisms).

91. In a recent study, Brasington and Haurin found that while variations in expenditures per pupil and school characteristics did not have a significant impact on test scores, parental characteristics did (e.g., parent educational attainment, poverty status, single-parent headed household, etc.). A change in the parental characteristics score from one standard deviation below to one standard deviation above correlated with a 14% increase in home value, versus no effect on home value based on a comparable increase in school inputs. David M. Brasington & Donald R. Haurin, *Parents, Peers, or School Inputs: Which Components of School Outcomes Are Capitalized into House Value?*, 39 *Regional Sci. & Urb. Econ.* 523, 523–27 (2009).

92. See Urban Policy Brief, *supra* note 12 (reviewing research showing owners spend

occupy significantly less dilapidated housing than tenants, presumably due in combination to less diligent landlord and tenant upkeep as well as quality differences between owned and rented structures.<sup>93</sup> The better property upkeep associated with high homeownership rates creates positive spillovers for home values of neighboring single-family homes. Using national census data from 1980-1990, Rohe and Stewart found that for every percentage-point increase in a census tract's homeownership rate, the value of single-family homes within that tract increased by approximately \$800 per year.<sup>94</sup> Other researchers have observed that most of the value-enhancing force of homeownership appears to derive from better home maintenance and landscaping.<sup>95</sup>

There are, however, circumstances where upkeep and improvement are not beneficial. Many home improvements do not "pay off" for individual property values or spillover to increase local property values (for example, investments in major remodels and new windows rarely pay for themselves at resale).<sup>96</sup> Wealth effects also constrain individual and social benefits from improved upkeep. Low-income owners spend less on upkeep (not only do they have less disposable income in general, but they are likely to be overinvested in the home purchase). When low-income owners do invest in home maintenance or improvement, that spending often pushes them to financial crisis.<sup>97</sup>

#### *D. Industry, Autonomy, and Satisfaction as Attributes of a Thriving Local (and National) Citizenry*

Certain individual attributes may have valuable spillover effects because they increase prosperity, democracy, and security, which in turn presumably enhance local (as well as national) citizenship. The prevailing

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more on maintenance, are less likely than renters to defer repairs, and reported fewer housing problems).

93. See Glaeser & Shapiro, *supra* note 16, at 65 (reporting results of American Housing Survey showing that owners live in less dilapidated homes and noting that it is unclear whether this difference is attributable to homeownership or intrinsic differences between owned and rented units).

94. Rohe & Stewart, *supra* note 27, at 66.

95. See, e.g., DiPasquale & Glaeser, *supra* note 5, at 362 tbl.1, 365 (finding gardening is one of the strongest homeownership effects with 72% of owners gardening versus 40% of renters); Glaeser & Shapiro, *supra* note 16, at 73 (interpreting regression as showing "that most of the benefits from local homeownership comes from better housing maintenance").

96. See Rosen, *supra* note 15, at 378 ("The usual Pigouvian analysis requires that subsidies be targeted specifically at those activities that produce the externalities.").

97. See Josephine Louie et al., *The Housing Needs of Lower-Income Homeowners* 3-5, 23-24 (Harvard Univ. Joint Ctr. for Hous. Studies, Working Paper No. W98-8, 1998), available at [http://www.jchs.harvard.edu/publications/homeownership/louie\\_mcardle\\_belsky\\_w98-8.pdf](http://www.jchs.harvard.edu/publications/homeownership/louie_mcardle_belsky_w98-8.pdf) (on file with the *Columbia Law Review*) (describing how home maintenance and repair can financially overburden low-income buyers).

account is that homeowners are more industrious, autonomous, and satisfied than their tenant counterparts and that these attributes bolster citizenship and economic growth and forestall social unrest.<sup>98</sup> Citizens well satisfied with the “American trump card” of homeownership are more likely to engage in productive activities and eschew disruptive protest and extremist movements.<sup>99</sup> The historical record reveals deep roots to this vision with homeownership “the grandest foundation yet conceived, upon which to build up in our State an industrious, independent, self-sustaining and land-holding yeomanry.”<sup>100</sup> Modern-day federal legislators have echoed these sentiments, proclaiming that homeownership confers psychological benefits by “giving people the confidence, self-esteem and the skills” for success in challenging economic times.<sup>101</sup>

There is limited empirical evidence, however, that homeownership inculcates these citizenship attributes—or that these traits spill over to enhance local or national prosperity. With respect to the effects of homeownership on labor, the research raises issues which rarely enter the public dialogue—the potential costs of homeownership to labor mobility, human capital, and job markets. The evidence of homeownership’s effects on unemployment and underemployment is mixed. The data is inconclusive about whether homeownership decreases the length of unemployment.<sup>102</sup> States with higher rates of homeownership have greater unemployment, controlling for a variety of factors.<sup>103</sup> Yet, data at

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98. See *supra* Part I.A (describing historical account of homeownership as personally transformative).

99. See Vale, *supra* note 3, at 20 (describing historical roots of ideology of homeownership as “antidote” to “radicalizing influences”). If indeed homeownership is the U.S. trump card, then it raises the troubling question of whether that trump card has also satiated citizens and dulled their demands for other types of public goods, such as health care.

100. Report from N.H. Darnell to Hon. E.B. Pickett (Nov. 5, 1875), *in* Journal of the Constitutional Convention of the State of Texas 569, 570 (Galveston 1875).

101. 54 Cong. Rec. S7449 (daily ed. July 25, 2008) (statement of Sen. Reed). The legislative history of the Housing and Economic Recovery Act also includes statements by dozens of legislators referring to the “American dream.” E.g., 154 Cong. Rec. S1359–60 (daily ed. Feb. 28, 2008) (statement of Sen. Martinez) (“People are being foreclosed on, and there are families sitting at the kitchen table to see how to save that precious piece of the American Dream they have—their home.”). The history also includes statements that legislators must act to stop the “American dream [from turning] into the American nightmare,” 154 Cong. Rec. S1407 (daily ed. Feb. 29, 2008) (statement of Sen. Menendez), and prevent “people [from] being thrown out of their castles . . . and thrown into the moat,” 154 Cong. Rec. S5797 (daily ed. June 19, 2008) (statement of Sen. Boxer).

102. In light of the sociodemographic differences between owners and renters in terms of education, income, and age, one of the better methods of studying the employment effects of homeownership has been through unemployment statistics (i.e., owners and renters all previously employed).

103. See Richard K. Green & Patric H. Hendershott, Home-Ownership and Unemployment in the U.S., 38 *Urb. Stud.* 1509, 1517 (2001) (“[H]ome-ownership seems to

the individual level present a different picture: Homeowners experience unemployment less frequently and for shorter periods of time.<sup>104</sup> This is not surprising because homeowners need income to pay the mortgage or they risk losing their homes (and their real estate equity). More rapid reemployment may also be due to the fact that homeowners' decisions to purchase signal a higher demand for their skills and more secure economic prospects<sup>105</sup> or from other variables omitted from the research.<sup>106</sup> Issues of *underemployment* due to limited mobility (or the rush to re-employment) and labor market inefficiency have proven difficult to assess empirically. Notably, however, the arguments about suboptimal sorting of workers to jobs as a result of homeownership's constraints on relocation have not been empirically refuted.<sup>107</sup>

The prognosis for homeownership and autonomy is even shakier. If autonomy is independent decisionmaking and the ability to resist control from external forces or authorities, homeownership does not appear to increase net autonomy, but rather enables certain kinds of autonomy (e.g., control over physical changes to the house and the unilateral ability to elect to stay or move, subject to payment of one's mortgage) at the expense of other forms of autonomy (e.g., mobility and financial flexibility).<sup>108</sup> As a result of the financial demands of homeownership, the

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constraint labour mobility and thus leads to higher unemployment.”); Mark D. Partridge & Dan S. Rickman, *The Dispersion of U.S. State Unemployment Rates: The Role of Market and Non-Market Equilibrium Factors*, 31 *Regional Stud.* 593, 599 (1997) (finding correlation between higher levels of homeownership and unemployment between states after controlling for demographic, market, and institutional factors).

104. See N. Edward Coulson & Lynn M. Fisher, *Tenure Choice and Labour Market Outcomes*, 17 *Housing Stud.* 35, 38–42 (2002) (examining Current Population Survey and Panel Study of Income Dynamics data finding that homeowners experience less frequent unemployment and shorter durations of unemployment); Ernest P. Goss & Joseph M. Phillips, *The Impact of Homeownership on the Duration of Unemployment*, 27 *Rev. Regional Stud.* 9, 12–23 (1997) (finding home ownership significantly reduces unemployment duration because monthly mortgage payments stimulate more vigorous job search).

105. This is not to claim that homebuyers are completely rational evaluators of their earnings or other aspects of their financial status. The current foreclosure crisis, and the number of homebuyers who accepted high-risk loans, suggests that homebuyer rationality is imperfect. Homebuyers likely suffer from over-optimism and bounds on their ability to process complex financial information.

106. See Glaeser & Shapiro, *supra* note 16, at 72 (arguing “omitted variables are likely to explain” relationship between homeownership and unemployment).

107. This argument is reflected in the Oswald hypothesis, which refers to the well-known work of Andrew Oswald on homeownership, unemployment, and sorting. See Andrew J. Oswald, *A Theory of Homes and Jobs* 1–3, 16–17 (Sept. 18, 1997) (unpublished manuscript), available at <http://www2.warwick.ac.uk/fac/soc/economics/staff/academic/oswald/homejobs.pdf> (on file with the *Columbia Law Review*) (presenting theory of how homeownership depresses unemployment).

108. Cf. Hartog, *supra* note 38, at 24 (describing historical conception of property's role in creating autonomy defined in terms of “individualized personality” and “classical citizenship”).

home purchase may call the tune for family life (for example, traditional, thirty-year fixed mortgages often impose high demands in the early years of the mortgage whereas balloon ARM mortgages may severely burden a family later in time). There is evidence that families routinely alter their work and childbearing plans to enable the female householder to return to the labor force prior to buying a house and in the early years when traditional mortgage debt is high.<sup>109</sup> And, contrary to the vision of homeowners as autonomous and independent (and renters as beholden and enfeebled), most U.S. homeowners are in some ways “tenants of the bank,” with amortization schedules that defer the bulk of principal payments for many years or non-traditional loan products that result in little or no principal accumulation.<sup>110</sup>

Turning to ownership and satisfaction, the evidence also does not support a robust effect of homeownership on happiness. Earlier studies found that homeowners reported greater life satisfaction than renters, but that the effect is small. For example, using data from over 13,000 household interviews, Rossi and Weber found that that, on a five-point scale, homeowners reported scores only 0.04–0.27 points higher than tenants.<sup>111</sup> In general, life satisfaction is most strongly linked to factors other than homeownership, such as health and the marital relationship.<sup>112</sup> Recent research has similarly found that homeownership does not increase happiness. A study by Grace Bucchianeri reported that owners are not happier than renters once income, housing quality, and health and controlled for, derive more “pain” from their homes than renters even after controlling for financial insecurity, and spend less time on happiness-producing activities such as interacting with friends and neighbors and engaging in active leisure.<sup>113</sup>

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109. See Robert D. Dietz & Donald R. Haurin, *The Social and Private Micro-Level Consequences of Homeownership*, 54 *J. Urb. Econ.* 401, 421 (2003) (summarizing research suggesting women’s total work burden increases in early years of homeownership relative to renters and later declines if mortgage debt is reduced); Jutta M. Joesch, *Children and the Timing of Women’s Paid Work After Childbirth: A Further Specification of the Relationship*, 56 *J. Marriage & Fam.* 429, 436 (1994) (finding 25% greater rate of return to work for homeowning mothers versus renting mothers).

110. See Elizabeth C. Yen, *Borrower Suitability Standards for Residential Mortgage Loans*, 127 *Banking L.J.* 138, 156 n.11 (2010) (illustrating how amortization backloads principal reduction by calculating unpaid principal balance at various points during thirty-year fixed-rate fully amortizing mortgage).

111. See Rossi & Weber, *supra* note 9, at 14 (describing findings of homeownership’s effect on life satisfaction self-ratings).

112. See Rohe et al., *Social Benefits*, *supra* note 2, at 3 (noting limited evidence tends to show positive association between homeownership and life satisfaction); see also Norval D. Glenn & Charles N. Weaver, *The Contribution of Marital Happiness to Global Happiness*, 43 *J. Marriage & Fam.* 161, 163–64 (1981) (finding marital quality is very important to personal happiness).

113. See Bucchianeri, *supra* note 67, at 11, 15, 19 (finding in a survey of 800 Ohio women that homeowners did not report higher life satisfaction, overall mood, or moment-

In summary, the citizenship effects from homeownership are uneven and, for some subsets of behavior, quite minimal. The social benefits of homeownership accrue most strongly in the areas of voting and, less surprisingly, personal property upkeep. In contrast, and contrary to assumptions in the politico-legal commentary, homeownership has only a modest impact on local contribution to social capital and participation in local collective action.<sup>114</sup> Homeownership also has mixed, and in some cases negative, effects on citizenship traits such as industry, autonomy, and satisfaction. Amid the happy vision of civically engaged homeowners, the flipside of ownership, the effect of mobility and financial constraints on human capital, family life, and labor markets, has been largely ignored.

### III. LEGAL THEORY: REVISITING OWNERSHIP'S CITIZEN VIRTUES

It seems that neither of the dominant theoretical accounts of homeownership's citizen virtues has gotten it right. To a significant extent, scholars and commentators have worked backward, taking isolated homeownership effects and inaccurately generalizing them across local civic behavior to conclude that homeownership creates both robust and far-ranging benefits.<sup>115</sup> A particularized analysis reveals that the presence and magnitude of ownership effects vary markedly across types of local civic behavior. Not only are net citizenship gains more modest and variable than assumed, the empirical research does not substantiate a unitary causal mechanism for homeownership effects. For these reasons, it is difficult to reconcile the empirical evidence with *any* single root cause theory of homeownership's social benefits. And, of course, property tenure is only one force (and likely not the most potent one) affecting local contribution: Culture, community cohesion, social norms, preferences, political ideology, and other socio-political factors, all beyond the scope of this Essay, play fundamental roles..

With respect to the moral and political character of homeownership, the empirical research undermines the theory that ownership tenure or status prompts far-reaching personal transformation. If the essence of this theory is prosocial transformation, then we would expect a consistent increase across various citizenship behaviors. Yet, the research shows that homeowners do not join local and nonprofit organizations (other than

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to-moment happiness).

114. See DiPasquale & Glaeser, *supra* note 5, at 356 (finding once length of residency is controlled, homeowners are approximately 2% more likely than renters to work to solve local problems). Other research indicates that owners are more likely to take leadership positions, participate, and donate money to solve problems at the neighborhood and block level. See Rohe et al., *Social-Psychological*, *supra* note 5, at 228–29 (differentiating between findings at local or national level versus neighborhood or block level).

115. See *supra* Part II (describing political and academic theories of homeownership's social benefits).

neighborhood or block organizations), engage in neighboring behaviors, or participate in informal socializing at substantially higher rates than tenants.<sup>116</sup> The claims that ownership prompts personal transformation through increased social ties are also not supported by the research, except to the extent that homeownership correlates with longer length of residence (and, as noted below, other property forms can be structured to increase duration).<sup>117</sup> Similarly, if homebuying increases social status, this change does not prompt the anticipated level of citizenship effects and, surprisingly, has little consistent impact on self-ratings of life satisfaction, happiness, and self-esteem.<sup>118</sup> Although the empirical evidence does not support a theory of global transformation, it may be the case that a more particularized and modest “transformation” occurs for owners with respect to specific civic obligations, historically seen as the purview of property owners.<sup>119</sup>

Also disturbing to the ownership transformation account is the finding that length of residence mediates many citizenship behaviors for both owners and tenants.<sup>120</sup> Ownership as a form of property tenure, socialization to owner status, and pride of ownership do not appear to be the direct drivers of most citizenship effects. Of course, homeownership alters individual behavior indirectly by increasing the costs of exit and prompting longer residence duration, which in turn affects social contribution. But residential stability is not the exclusive province of traditional fee simple ownership: A variety of property arrangements, including long-term renting, life estates, and shared equity ownership, increase residential duration.<sup>121</sup>

The empirical research also reveals the investment stake model as too singular to capture homeowner dynamics. Contrary to politico-legal views that investment stake drives prosocial behavior and local contribution broadly, owners do not make substantially greater contributions than

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116. See DiPasquale & Glaeser, *supra* note 5, at 356 (finding only modest differences between owners and tenants on many measures).

117. For example, social interaction and neighboring are not greater for owners than tenants of comparable residence duration. See *supra* notes 70–72 and accompanying text (reviewing research on impact of homeownership on socializing). But see Rohe et al., *Social-Psychological*, *supra* note 5, at 226–27 (describing increase in social support networks for new low-income homeowners but not “leveraging” social networks for job-seeking and professional advancement).

118. See Rohe et al., *Social-Psychological*, *supra* note 5, at 23–26 (investigating psychological effects of homeownership on sample of low-income buyers).

119. See *infra* Part IV.B (considering how civic republican tradition may affect modern homeowners’ understanding of their obligations and hence their behavior).

120. See DiPasquale & Glaeser, *supra* note 5, at 374 (discussing effect of residential duration).

121. For example, DiPasquale and Glaeser note that “policies that act to limit mobility [will] end up having similar effects to homeownership-enhancing policies on increasing the level of investment by individuals in local amenities and social capital.” *Id.* at 377.

tenants on multiple measures.<sup>122</sup> The research shows that social capital-enhancing behaviors such as social network behavior and neighboring generally do not differ substantially between similarly situated owners and renters.<sup>123</sup> Contrary to the homevoting model, owners are not more likely than sociodemographically matched tenants to participate in school and political organizations (interestingly, the data may be consonant not with localism but with “sub-localism” in light of the evidence that the only organizations homeowners participate more frequently in are block and neighborhood groups).<sup>124</sup> Even the findings for participation in local collective action, a paradigmatic form of local amenity provision predicted by the investment stake theory, are modest (a few percentage points with duration controls).<sup>125</sup> In addition, the importance of length of residence to local contribution calls into question the investment model prediction that recent, more leveraged homebuyers will be more protective of homes (and home values) and thus more locally engaged than long-time owners.<sup>126</sup> And of course, the investment stake theory presumes an investment stake in the owned home—an interpretation strained by recent trends with respect to home equity.<sup>127</sup>

In keeping with an investment-incentive explanation, homeownership does promote better private upkeep (lease restrictions on alterations by tenants also explain this data).<sup>128</sup> Homeowners also vote more in local elections,<sup>129</sup> although this finding appears equally consistent with an investment stake rationale or a civic republican model of cultural influence. With respect to political actions other than voting, however, the evidence of modest differences between duration-matched tenants and owners on active participation in political organizations and solving local problems may undercut the homevoting hypothesis that owners engage in greater political agitation for value-enhancing local amenities; answering

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122. See *supra* Part II.A (reviewing empirical research and finding modest homeownerships effects on social capital measures are largely attributable to length of residence).

123. See *supra* notes 63–72 and accompanying text (reviewing empirical research and finding only slight differences between owners and renters).

124. Rohe & Stegman, *supra* note 9, at 163–64.

125. See DiPasquale & Glaeser, *supra* note 5, at 356 (noting owners 6% more likely than tenants to work “to solve local problems”). This result may be due to the measure’s failure to differentiate between problem-solving likely to improve property values versus other local collective action and philanthropy.

126. See Fischel, *supra* note 4, at 12 (discussing new owners’ increased protectiveness with respect to local land use decisions).

127. See U.S. Census Bureau, American Housing Survey National Tables: 2009, at tbl. 3-15 (2009), available at <http://www.census.gov/hhes/www/housing/ahs/ahs09/ahs09.html> (on file with the *Columbia Law Review*) (reporting national mortgage, loan, and value characteristics).

128. See *supra* Part II.C (describing research on tenant and owner home upkeep and improvement).

129. DiPasquale & Glaeser, *supra* note 5, at 365.

this question requires more nuanced data specifying the nature of the political organizations and collective action problems.<sup>130</sup>

Research assessing social versus profit motivations for homeownership also undermines investment stake as a comprehensive theory of local behavior.<sup>131</sup> Studies that have investigated homeowners' profit orientation, based on their reported reasons for buying, find no statistically significant difference between owners with "economic/profit orientation" versus "social orientation" in membership or number of meetings attended in social, school, political, neighborhood, and block community organizations.<sup>132</sup> Another study found that profit orientation had no effect on local activism;<sup>133</sup> it is not clear whether the results would differ if measures targeted property-enhancing local investment rather than general activism. In addition, research suggests that investment may play a lesser role in home buying than other considerations: in self-report measures, two-thirds of owners state that the most important reasons for buying were social rather than investment.<sup>134</sup> Of course, the methodologies to determine owner profit orientation are imperfect and, standing alone, this body of research may not be determinative. But taken with the other available evidence, these findings are consistent with the basic points that the investment stake model does not explain many aspects of local contribution.

This discussion is not meant to claim that investment motivations have no importance to individual behavior or to localism. Rather, the variable pattern of findings in the empirical research suggests that people may have different motivations for different types of civic behaviors. And in some instances they may have multiple motivations for a single civic behavior. Investment and profit are undeniably motivations in certain contexts. Arguably, however, some of the scholarly discussion has overextended Fischel's "homevoting" hypothesis beyond the context of political agitation for certain property value-enhancing local amenities to encompass local civic engagement as a whole. Even Fischel, who attributes much locally beneficial action to "homevoting," notes that not every instance of homeowner political action or local behavior derives

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130. Rohe & Stegman, *supra* note 9, at 159–66 (finding no differences between tenants and owners in joining political organizations once they controlled for a number of resident characteristics); see DiPasquale & Glaeser, *supra* note 5, at 374, 377 (reporting minimal differences between duration-matched owners and renters on non-specific, undifferentiated measure "working to solve local problems").

131. See Rohe et al., *Social Benefits*, *supra* note 2, at 19 (noting there is little evidence to support investment orientation as mediator of social and local participation).

132. See Rohe et al., *Social Benefits*, *supra* note 2, at 18 (concluding research does not support correlation between investment orientation and local and social participation).

133. Cox, *supra* note 7, at 120–23.

134. Rohe & Stegman, *supra* note 9, at 165.

from investment motivations.<sup>135</sup> And, in circumstances where profit motivations *are* highly salient, market or informational imperfections may stymie investment-protective civic behavior (and thus increase parity between tenants and owners).

Even if we were to accept investment stake theory uncritically, gains to localism do not require near-universal homeownership or even the present rate of homeownership. First, tenants have consumption interests that frequently align with owners' motivations.<sup>136</sup> Tenants appreciate investments in public amenities (e.g., parks, good schools), unless such improvements make rents unaffordable. Second, it is unlikely that a modest uptick in the tenant rate will undermine homevoter dynamics in the suburbs given strong owner-tenant residential segregation between communities and the high suburban homeownership rate.<sup>137</sup> If tenancy rates increase in the suburbs, as a practical matter (and not a normative endorsement of the muting of minority interests) tenant numbers may be too low to generate policy-determinative political agitation or to sway outcomes on formal votes.<sup>138</sup> We also lack information about whether there are diminishing citizenship returns to increasing homeownership rates, or "tipping points" in owner-tenant composition, beyond which we see declines, or less dramatic improvements, in civic behaviors where owners traditionally outperform tenants.

With respect to the legal scholarship, the empirical research on homeownership lends support to scholars' laments about the underinclusiveness of rational choice models and the omission of noneconomic motivations from some theories of ownership.<sup>139</sup> The findings of minimal owner-tenant differences in local collective action, neighboring, and participation in most types of organizations, for example, suggest that forces other than investment stake are at play in producing local citizenship. The evidence of the mediating role of length of residence<sup>140</sup> and the similarity in local activism and community

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135. Fischel, *supra* note 4, at 12 (noting home asset is not only motivation for owners to be major political actors and that attachments to community developed over time may also play role).

136. See Lee Anne Fennell, *The Unbounded Home: Property Values Beyond Property Lines* 178–95 (2009) [hereinafter Fennell, *Unbounded Home*] (describing role of use and consumption interests).

137. See Fischel, *supra* note 4, at 15 (observing more than half of U.S. population now lives in suburbs and homeowners are most numerous group within most localities).

138. This is particularly true given tenants' lower voting rates in local elections. Cf. Fennell, *Homes Rule*, *supra* note 8, at 629–30 (arguing exclusionary zoning that maintains tenant minorities in suburbs has troubling implications for political participation and homevoting).

139. See, e.g., Peñalver, *supra* note 3, at 835 ("The investment model of landowner behavior privileges the motivating power of exchange value to the detriment of 'use value' . . .").

140. Or, the role of length of residence could support an exit cost explanation: Owners

organization participation between owners with investment versus social orientations<sup>141</sup> also supports (but does not prove) recent claims about the role of consumption value and social interests in motivating local behavior. Of course, the data correlating increasing civic contribution with length of residence may also support a somewhat different version of the investment stake approach, with longer duration signaling a greater equity stake at risk of diminution (presuming people do accumulate increasing equity over time, are more risk averse to loss of equity than loss of debt, and have legal mechanisms for relieving themselves of mortgage debt). If this is the only explanation, however, it is surprising that tenants show the same pattern of civic behavior increasing with residential duration.<sup>142</sup>

#### IV. EXPLAINING THE PUZZLE OF VARIABLE CITIZENSHIP EFFECTS

To date, many accounts have inflated homeownership effects and failed to particularize the presence or absence of these effects to specific behaviors. As a result, the pattern of citizenship effects across behavioral subtypes has not been recognized, much less examined. In addition, much of the commentary and scholarship has: (1) focused on economic and investment motivations to the neglect of psychological, social, and historical determinants; and (2) within the investment model, failed to anticipate predictable problems in the translation of investment motivation to citizenship behavior.

In this Part, I attempt to fill this theoretical gap. My analysis advances the development of a multifactor theory to better predict citizenship behaviors expected to follow (or not) from homeownership. Different civic behaviors likely have different causes (and individual behaviors may stem from multiple motivations). I do not claim that property form is the exclusive or dominant driver of citizenship effects, or that I have

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produce higher levels of positive externalities regardless of investment or future value because their exit costs are high. It is also likely the case that many long-term tenants have idiosyncratically high exit costs, both independently and as a result of each increasing year of tenure.

141. See Rohe & Stegman, *supra* note 9, at 165 (finding profit orientation does not influence participation in social connection and local participation measures); Cox, *supra* note 7, at 120–23 (finding profit orientation had no effect on local activism).

142. It may be the case that long-time tenants have an “investment” in below-market rent accorded informally by landlords to minimize turnover, or for other reasons. This form of investment, however, is quite different and less certain than a saleable property interest. We might expect that if investment drives this effect for tenants, it would be a weaker effect than for owners because the “investment” in rent is typically of lower value and greater uncertainty than the investment in owned homes. This is not supported by the data which shows, for several measures, no or negligible differences between tenants and owners, controlling for duration. See DiPasquale & Glaeser, *supra* note 5, at 374 (“[T]he impact of homeownership decreases substantially when we control for length of community residence.”).

established a comprehensive theory of all social forces affecting local behavior. Rather, I focus on property form as one predictor of local civic output and endeavor to describe factors underlying the pattern of ownership effects. While the data does not “prove” these explanatory factors, individual findings and the overall pattern of effects suggest whether certain motivations are at play, or can be ruled out, in specific contexts of civic contribution.

Some of the factors considered in this section expand substantially on the considerations that influence individual action: Not only is investment important, but so are psychological orientations, exit costs, perception biases, and historical and cultural understandings of ownership. Other factors refine the investment stake theory by identifying circumstances that forestall ownership-motivated production of citizenship behavior. Overall, my analysis advances the scholarship by proposing a civic-republican rationale for certain citizenship effects, delineating how perceptions of “investment” can derail the investment stake model, and considering the evidence for consumption and sociability motivations.

Admittedly, it is difficult to discern the relative strength of various factors in producing or dampening specific citizenship behaviors. However, a multidisciplinary theoretical framework enables the type of empirical inquiry necessary to resolve questions of joint contribution and causality. This approach also reflects competing motivations and forces affecting local behavior and offers the best fit to the empirical findings, which presently cannot be explained solely by investment stake, personal transformation, or social ties. In addition, a multivariate model underscores the benefits of legal and social strategies that are similarly multifaceted in order to address manifold barriers to civic contribution.

*A. Motivations for Citizen Behavior: Consumption Interests and Psychological Orientations*

Unpacking the puzzle of disparate citizenship effects requires closer examination of the roles of consumption value and social-psychological motivations in residential behavior. One likely reason that the divide between owner-tenant citizen effects for social-capital-producing behavior versus private upkeep and certain local amenity investments appears a puzzle is property theory’s relative neglect of consumption value and intrinsic sociability drives. The variability in homeownership effects, and the mediators of these effects, suggests motivations in addition to ownership and investment. Consumption benefits, personal attachments, social interests (and even the “investment” in below-market rent often accorded long-time tenants) may explain tenant contribution to beneficial local goods and social networks despite the risk of increased rents. Scholars have criticized the “homevoting” model for its neglect of

consumption and sociability motivations.<sup>143</sup> The discussion in this section supports (but does not prove) these claims and deepens the analysis within the context of discrete civic behaviors.

Consumption value refers to an array of interests in the *use* of local public amenities, organizations, and, in my view, social networks. Residents are frequently motivated to invest in local schools, services, and organizations not for future financial gain, but because they or their children use these amenities.<sup>144</sup> Citizenship behavior can be triggered by consumption benefits exceeding the costs of action, consumption plus investment benefits exceeding the costs of action, or investment benefits only exceeding the costs of action.<sup>145</sup> Unlike homeowner investment motives, consumption value does not enlist the support of nonconsuming residents.<sup>146</sup> However, this does not inevitably block local action. As game theory illustrates, many social capital-producing behaviors and instances of local collective action require only a critical mass, not a voting majority.<sup>147</sup>

For many citizenship behaviors, such as participation in social, school, and nonprofit organizations, neighboring, and even certain kinds of local collective action, the costs of action may be less than the anticipated gains from the consumption value and personal utility derived from social participation. This dynamic motivates prosocial local behavior by tenants as well as owners. For example, a tenant who derives significant satisfaction from attending a local recycling advocacy group, feels that the group has improved littering in her community, and finds that participation does not require too much time or energy, may participate despite the fact that she lacks an investment stake in the form of an owned home. In some contexts where homeowners typically outperform tenants, such as block-level collective action, tenants may derive consumption

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143. See Fennell, *Unbounded Home*, supra note 136, at 140–42, 197–217 (describing role of consumption value and proposing new paradigm of homeownership that separates investment and consumption interests); Peñalver, supra note 3, at 834 (contending Fischel's work neglects use value and personal attachment to community).

144. See, e.g., Garnett, supra note 54, at 1932 (“[C]oncerns about home values are not the only, or even the primary, reason homeowners demand high-quality schools. Parents’ primary motivation for moving to districts with high-performing public schools likely is a desire to secure a high-quality education for their children.”).

145. While it may be the case that a tenant’s consumption interest is on average lower than an owner’s aggregated consumption plus investment interest, this difference does not matter when the consumption interest alone exceeds the threshold for action.

146. See Fischel, supra note 4, at 4–6 (contending large, undiversified investment in home prompts homeowners to support local amenities that increase property values even if they do not use particular amenity).

147. See Pamela E. Oliver & Gerald Marwell, *Whatever Happened to Critical Mass Theory?: A Retrospective and Assessment*, 19 *Soc. Theory* 292, 308–09 (2001) (describing their “empirical claim that relatively small groups of people are often at the core of action. . . . [T]he initial participants motivate future participants . . .”).

value but not enough to tip the scales toward action.<sup>148</sup>

The importance of residential stability to citizenship effects may also support, albeit indirectly, the role of consumption interests in resident behavior. Consumption value may be particularly important when exit costs are high because residents cannot easily move to new communities in order to satisfy consumption desires.<sup>149</sup> Homeownership carries high exit costs due to the transaction costs of selling and relocating. However, a subset of tenants may also have high exit costs from aspects of their personal situations, such as school-age children, commuting limitations, or below-market rent. In particular, a long length of residence may be a signal that a tenant has high consumption gains and idiosyncratically steep exit costs from a given residence; such tenants are more likely to work to solve local issues and exercise their political voice rather than relocate.<sup>150</sup> An interaction between residential duration, consumption value, and exit costs is not the only explanation for the importance of length of residence to civic contribution; but it may account, at least in part, for the minimal differences between long-term owners and comparable tenants on multiple measures.<sup>151</sup>

My analysis also frames sociability as a specific kind of consumption interest. In some instances, the process of working toward a collective goal is as important, or even more important, than the desired outcome.<sup>152</sup> Participation and interaction tap universal drives for sociability—drives which exist whether cultures espouse private property, common property, or nomadic residential forms.<sup>153</sup> The work of John Cacioppo and other

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148. For example, tenants may contribute less to block and neighborhood collective action because they have greater mobility within communities or even because they feel unwelcome in neighborhood initiatives traditionally viewed as the province of homeowners.

149. See Lee Anne Fennell, *Exclusion's Attraction: Land Use Controls in Tieboutian Perspective*, in *The Tiebout Model at Fifty: Essays in Public Economics in Honor of Wallace Oates* 163, 166–67 (William A. Fischel ed., 2006) (describing Tiebout model, which suggests people vote with their feet through residential choices for preferred local services and amenities, and discussing constraints on model such as commuting); see also Garnett, *supra* note 54, at 1932 (noting parents' desire for strong and stable educational settings for their children).

150. See generally Albert O. Hirschman, *Exit, Voice, and Loyalty* (1970) (proposing members of group can react to deteriorating conditions either by exiting or by voicing their grievance or protesting).

151. The impact of length of residence on civic contribution may be due to a variety of other factors: the effect of an increasing equity stake, a predisposition for both stability and civic behavior, or deepening community and social ties over time. For research establishing the critical role of residential duration in producing homeownership effects, see DiPasquale & Glaeser, *supra* note 5, at 356 (describing homeownership effect findings and investigating what portion of those effects operate through residential stability).

152. For example, many people derive great satisfaction from the social and group aspects of political campaigns, voluntary activities, and religious organizations.

153. See John T. Cacioppo & William Patrick, *Loneliness: Human Nature and the Need*

researchers has described how the need for sociability is so fundamental to human existence that loneliness affects not only mental health but also eating habits, sleep, blood pressure, and mortality.<sup>154</sup> Indeed, some researchers have theorized that the human drive for social contact and orientation toward group cooperation is the major evolutionary advantage of humans, who lack the speed, strength, and natural defenses of other species.<sup>155</sup>

The social psychology research illuminates the central importance not only of sociability as a general matter, but specifically of face-to-face contact and group formation.<sup>156</sup> With this research in view, it is apparent how many citizenship behaviors may appeal to intrinsic sociability drives. This research affords a new perspective on why renters may perform similarly to owners on measures such as participating in local or national organizations,<sup>157</sup> spending social evenings with friends in the community, and neighboring behaviors.<sup>158</sup> Social-psychological motivations also offer a thought-provoking rationale for why owners engage in local collective problem-solving at levels only modestly higher than tenants, controlling for length of residence.<sup>159</sup> Such efforts frequently entail not only instrumentally productive but also intrinsically satisfying face-to-face contact with others, collective membership and identity, and realization of

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for Social Connection 57–61, 64–72 (2008) (describing sociability in hunter-gatherer tribes and theory of common evolutionary basis of desire for social connection).

154. See John T. Cacioppo et al., *Loneliness Within a Nomological Net: An Evolutionary Perspective*, 40 *J. Res. Personality* 1054, 1081 (2006) (finding lonely young adults are higher in anxiety, anger, negative mood, and fear of negative evaluation and lower on variety of mental health measures, including emotional stability, sociability, and optimism than young adults who are not lonely); Mark Snyder & Nancy Cantor, *Understanding Personality and Social Behavior: A Functionalist Strategy*, in 1 *The Handbook of Social Psychology* 635, 657 (Daniel T. Gilbert et al. eds., 4th ed. 1998) (noting importance of social ties and interaction).

155. See Cacioppo & Patrick, *supra* note 153, at 12–23 (describing centrality of sociability and cooperation to human survival and advancing hypothesis that pain of loneliness is evolutionary cue to repair social bonds and share resources and defenses with others).

156. See *id.* at 258–60 (describing limitations of electronic communication such as e-mail).

157. This is not to claim that residential communities are romanticized “Our Towns” comprised of intimate and longstanding ties—they are not. For a description of the weak ties characterizing modern residential communities, see Stern, *Residential Protectionism*, *supra* note 19, at 1122–24.

158. Indeed, there is some evidence that tenants socialize more frequently than owners, perhaps because tenants experience less conflict with neighbors over their property upkeep or because landlord responsibility for maintenance enables more free time for socializing. Sociable tenants thus may create positive spillovers for homeowners and communities, including greater “bridging capital” which links different social groups and promotes the flow of information. See Putnam, *supra* note 62, at 22–23 (distinguishing bridging social capital from bonding social capital).

159. See DiPasquale & Glaeser, *supra* note 5, at 356 (reporting modest differences between tenants and owners on working together to solve local problems).

group efficacy. In contrast, voting and investing in certain types of local amenities do not offer the same immediate social reward, at least absent involvement in campaigns or activist groups.<sup>160</sup>

Of course, the homeownership data does not “prove” a role for consumption and sociability or exclude other explanations. But, the findings of owner-tenant parity in certain civic domains, the impact of length of residence, and the psychology research on the centrality of sociability to human motivation all strongly suggest that these noneconomic interests factor significantly in local civic behavior.

### B. *Historical and Cultural Understandings of Owner-Citizen Obligations*

It may be that owners do not perceive actions such as voting and local governance as investments but rather as civic obligations grounded in their status as property owners. Historically, under the influence of civic republican ideals, traditional governance authority and voting were the province and obligation of property owners.<sup>161</sup> At the local level, citizen-owners held local political office and led efforts to provide infrastructure. From the pre-Revolutionary era to the mid- to late-nineteenth century, the right to vote depended on property ownership, typically real property.<sup>162</sup> The view, expounded eloquently by Jefferson, was that property in land was requisite to independence and consequently to civic virtue, common self-rule, and participation in governance (industry and other forms of property lent themselves to autonomy-threatening involvement in nonagrarian commerce).<sup>163</sup> Voting restrictions thus excluded “persons as

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160. In addition, with respect to some kinds of local voting and certain (not all) local investments, tenants may also face conflicting consumption interests between improved local goods or services and the risk of raised rents. See Fennell & Roin, *supra* note 8, at 162–63 (discussing tenant stakes and problem of displacement from gentrification).

161. See Rose, *Property as Wealth*, *supra* note 57, at 235–36 (observing civic republican thought viewed property as conferring independence and autonomy required for self-rule).

162. See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* 2–15 (rev. ed. 2009) (noting most colonies required ownership of a quantum of land or land value but some property requirements focused on personal property of a certain value or payment of a certain amount of taxes); see also Clive Crook, *Housebound*, *Atlantic Monthly*, Dec. 2007, available at <http://www.theatlantic.com/magazine/archive/2007/12/housebound/6419> (on file with the *Columbia Law Review*) (“The cultural importance of homeownership has deep roots. In many societies, owning property was once a requirement for full citizenship, and almost all Western democracies gave property owners the vote first.”).

163. Gregory S. Alexander, *Commodity and Propriety: Competing Visions of Property in American Legal Thought 1776–1990*, at 29 (1997) [hereinafter Alexander, *Commodity and Propriety*]. Virtue was a byproduct of ownership and described the “willingness of a citizen to subordinate his or her individual wants for the well-being of the entire polity.” *Id.* As J.G.A. Pocock described, “[t]he citizen possessed property in order to be autonomous and autonomy was necessary for him to develop virtue or goodness as an actor within the political, social and natural realm or order.” J.G.A. Pocock, *Virtue, Commerce, and History*

are in so mean a situation that they are esteemed to have no will of their own . . . [and who] would be tempted to dispose of [their votes] under some undue influence or other.”<sup>164</sup>

The civic republican tradition permeates modern-day property law and ownership conceptions. Carol Rose has described the tensions in property law emanating from the conflict between the historical legacy of civic republicanism, or property as propriety, and the emphasis on property as an economic commodity.<sup>165</sup> She notes that contrary to modern investment-stake and other value-maximizing theories, “[r]epublicanism . . . associate[s] property with governance and good order” and was “more or less indifferent to encouraging accumulation or aggregate wealth.”<sup>166</sup> She attributes the “muddle” of the takings doctrine to the competing influences of modern utilitarian-economic views versus a land-focused conception of civic republicanism and obligations to the public interest.<sup>167</sup> Gregory Alexander’s research also explores in depth the influence of civic republicanism in both historical and modern property law.<sup>168</sup>

This historical perspective provides an alternative, or at least an additional, explanation for “homevoter” behavior: Homeowners assume their historical and culturally understood obligations to vote and support local governance.<sup>169</sup> Civic republican thought, as well as the ideological construction of the owned home as an anchor to democratic society, fuels this vision of ownership.<sup>170</sup> The civic republican explanation is consistent

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103 (1985); see also Rose, *Property as Wealth*, supra note 57, at 235–36 (describing link between autonomy and property in land in early American civic republican thought).

164. Ed Crews, *Voting in Early America*, Colonial Williamsburg J., Spring 2007, at 22, 26 (quoting William Blackstone).

165. See Rose, *Property as Wealth*, supra note 57, at 225–28, 232–35 (discussing ideological constructions of property as preference satisfaction and as propriety). For example, in her analysis of takings jurisprudence, Rose describes how seeming anomalies, such as its strong protection against physical invasion, the lesser protection accorded to regulatory takings, and the balancing of private loss against public advantage all echo the vision of property as both governance authority and community obligation. *Id.* at 239–40.

166. *Id.* at 236. Indeed, the concern was that grossly unequal wealth distribution threatened to corrupt civic virtue. See *id.* at 235–37 (“[I]n a republic, the people rule themselves, and as a consequence a much broader range of citizens needed to have property.”).

167. Carol M. Rose, *Mahon Reconstructed: Why the Takings Issue Is Still a Muddle*, 57 S. Cal. L. Rev. 561, 594–95 (1984) (observing that conflicting views of what it means to own property underlie confusion in takings doctrine).

168. See generally Alexander, *Commodity and Propriety*, supra note 163, at 21–72, 311–51 (providing historical and sociopolitical analysis of civic republican theory in American property law and thought); Alexander, *Social-Obligation Norm*, supra note 57, at 746–52 (discussing history of civic republicanism and advocating further development of social obligation norm in modern doctrine).

169. I thank Larissa Katz for her insights and comments on this point.

170. See Vale, supra note 3, at 15–20 (describing ideological construction of homeownership).

with the findings that owner-citizens vote more frequently in local (and national) elections and participate disproportionately in neighborhood leadership and local governance, but do not show increased general organizational participation, socializing, or neighboring.<sup>171</sup> In this sense, it may be that the account of ownership transformation holds true, but much more narrowly than it is currently framed. Home purchase may activate a set of traditional understandings and responsibilities for new owners. Conversely, compared to owners of similar income and residential duration, tenants may not perceive local voting or certain forms of local leadership and amenity investment as their obligation or even within their proper role (perhaps particularly for the election of officials with long-term governance responsibilities). It seems uncommon and even controversial, for example, for residents who rent rather than own to run for local office.

Of course, there are elements of the civic republican philosophy that do not map as neatly onto ownership behaviors, perhaps because they are aspirational rather than descriptive. For example, despite the primacy of owner philanthropy in civic republican writing, a question remains whether owners historically engaged (or engage today) in greater philanthropy toward the less fortunate compared to economically and demographically matched renters.<sup>172</sup> The research also indicates that there is a smaller differential between tenants and owners with respect to participation in local political organizations, collective action, and political and activist campaigns than the civic republican tradition might suggest.<sup>173</sup> This may be due to the strong emphasis on voting in civic republicanism or a cultural view that political agitation has a grassroots ethos culturally ascribed to tenants as well as owners.

An alternative interpretation of the voting data is that it supports the investment stake or homevoting model: Homeowners vote more frequently in local elections to protect their home investment. However, the homevoting model avowedly focuses on political pressure for amenities rather than voting within local representative democracy (on the theory that the election of local representatives is too attenuated and indirect to support the homevoting claim that political agitation by owners promotes efficient and beneficial local investment). The empirical data shows somewhat opposite effects: Owners vote more in local elections than tenants but do not participate more intensely in some other forms of

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171. See *supra* Part II.A–B (reviewing empirical research examining connection between homeownership and social capital measures).

172. See Rose, *Property as Wealth*, *supra* note 57, at 237 (noting “it was understood that the ill-fortune of others presented the propertied with a duty to assist, and not with an occasion to revile or shame those in need” but that “the practice of generosity and contribution was certainly subject to the predictable limitations of personal cupidity”).

173. See *supra* notes 67–69 and accompanying text (finding little difference between homeowners and renters on organizational participation measures).

political activity (e.g., political organizations).<sup>174</sup> Also, the ownership effect in local voting does not diminish when studies control for length of residence. Yet, presumably investment motivations vary over time based on the degree to which an owner is overleveraged or values protecting increasing equity in the home. On balance, it seems at least as likely, if not more, that the voting data supports a civic republican explanation than an investment stake one.

C. *The Role of Perception: When Investments Don't Seem Like Investments*

Investment plays a significant part in certain homeownership effects, though not so overriding or ubiquitous a role as some commentary and scholarship suggest. For certain behaviors, such as private upkeep, the investment incentive for owners is both strong and salient. In other instances, owners and tenants possess similar consumption value or social motivations and thus investment stake explains much of the variance in homeownership effects—not because it is the dominant or exclusive motivation for producing citizenship behavior, but because it is one of the few ways that socio-demographically matched tenants and owners differ. In these cases, if the prerequisites of the investment model are not firmly in place, differences between tenants and owners may fail to emerge.

Investment stake effects require that owners understand the value of local action and anticipate attractive yields from such investments. Perceptions of what constitutes investment determine the positive externalities produced from owner profit motivation. Researchers have shown that local social capital and networks bolster economic prosperity, reduce crime, and increase health—this counterintuitive finding is part of the insight (and academic allure) of social capital theory.<sup>175</sup> However, owners frequently do not perceive social-capital enhancing behaviors as “investments” that will pay off at resale. Why should joining a bowling league, the vivid example in Robert Putnam’s book *Bowling Alone*, or participating in neighborhood block parties improve community outcomes and property values?<sup>176</sup> For tenants, these perceptions may be a reason why fear of rising rents does not inevitably constrain local contribution. For many behaviors, such as most forms of organizational participation, neighboring, and certain kinds of local collective action, tenants may see these actions as unlikely to increase property values and

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174. For example, controlling for residential duration, owners do not participate more frequently than tenants in political organizations, including local political organizations. Rohe & Stegman, *supra* note 9, at 163–64 (finding differences in participation only in neighborhood and block organizations, not political organizations).

175. See Putnam, *supra* note 62, at 305, 314, 319, 328 (reviewing research on social capital’s positive effect on crime, education, community health, and individual, firm, and community economic prosperity).

176. *Id.* at 112–13.

make rents unaffordable.

The nonintuitive relationship between certain civic behaviors and property values may reconcile seeming discrepancies in the research. With other factors held equal, when it is not intuitive that action will affect property values in a nontrivial way, we might expect the differential between renters and owners to shrink precipitously. And in many cases this is exactly what we see. Joining a neighborhood or block association (behaviors which homeowners do engage in more frequently than renters) has a more obvious and certain return on investment than joining recreational, fraternal, or other local organizations (behaviors that are more evenly dispersed between owners and renters).<sup>177</sup> Perception also suggests an explanation for why owners and renters report slight or no differences on most measures of neighboring and social connection: The property-value-enhancing effects of socializing with neighbors are not obvious to residents. Moreover, both owners and renters presumably engage in social behaviors based in significant part on nonfinancial, personal utility.

For some behaviors, such as local volunteering, participation in local events, or working to solve certain types of local problems, residents probably have a vague sense that a critical mass of people doing some number of these things is “good for the community.” But, the motivation to invest in order to enhance one’s property value is attenuated by the nebulous link between specific social capital inputs and property value outputs. It has been a challenge for social capital researchers—much less local residents—to determine what types and levels of individual and community action will produce specific community outcomes. In addition, there may be collective action impediments to sufficient participation (an unresolved circularity to the social capital literature is that social capital seeks to resolve the collective action problems caused by lack of social capital).

#### *D. Information Costs and Social Capital*

Even if owners perceived the economic value of social capital-producing action and related citizenship behaviors, they would still underproduce these behaviors because homebuyers lack information (or themselves don’t perceive these activities as important to community outcomes). For the typical behaviors addressed in the homevoting literature, capitalization of certain local investments into home values occurs because buyers have ready access to information. School-quality information is compiled in various independent ratings and state scores, parent sociodemographic characteristics are usually readily apparent,

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177. See *supra* Part II.A (reviewing empirical research on homeownership and organizational participation).

landfills and other environmental hazards attract strong media attention, and growth controls are visible in average lot sizes and town conservation areas.<sup>178</sup>

In contrast, information about local participation, cohesion, and social capital is neither as salient nor as readily available to buyers as, for example, school quality measures. Data about the intensity of resident participation in local associations, volunteering rates, collective problem solving, or friendliness of a locality are often costly for buyers to obtain. Certainly buyers notice the outcomes of high social capital—there is robust evidence that communities high in social capital experience better educational, safety, and economic outcomes—but they have limited information about the individual precursors.<sup>179</sup> It is quite likely that buyers attribute these outcomes to location, community affluence or education level, or other factors.

The information gap between local amenities and social capital measures may close in the future—there is increasing information available on town internet sites and in regional publications about local participation and various markers of community health (e.g., number of nonprofits and local organizations, etc.).<sup>180</sup> In addition, a major educational initiative by the Saguaro Seminar is studying ways to promote local social capital and raising awareness of the role of social capital.<sup>181</sup> Even increased information availability, however, will not eliminate the dampening of owner motivation due to both owner and buyer misperceptions of the investment value of social capital and the link between specific social capital inputs and community outcomes.

This analysis raises the question of whether investment motivation, and perceptual and informational failures impeding investment, explain entirely the pattern of empirical findings for homeownership effects (i.e., the lack of homeownership effects for social capital measures as compared

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178. See, e.g., Great Schools, at <http://www.greatschools.org/> (last visited Jan. 29, 2011) (on file with the *Columbia Law Review*) (providing ratings and information about socioeconomic student composition of individual schools nationwide); Me. State Planning Office, Where Does My Garbage Go?, at <http://www.maine.gov/spo/recycle/residents/wheregarbagegoes.htm> (last visited Jan. 29, 2011) (on file with the *Columbia Law Review*) (providing location information for all of Maine's landfills).

179. See Putnam, *supra* note 62, at 305, 314, 319, 328 (describing social capital outcomes research); *supra* text accompanying note 177 (discussing how salience of profit potential from local participation affects investment motivations and homeowner behavior).

180. See sources cited *supra* note 178 (listing examples).

181. See Saguaro Seminar on Civic Engagement in America, *Better Together* 4–7, 89 (2000), available at <http://bettertogether.org/thereport.htm> (on file with the *Columbia Law Review*) (suggesting potential “institutional responses” to promote “civic revival” and enhanced social capital). This initiative is also studying local efforts to enhance civic engagement. *Id.* at 32–87 (discussing social capital efforts nationwide).

to upkeep or certain forms of local amenity investment). On balance, it seems unlikely that investment is the exclusive motivation for civic contribution. Duration-matched buyers and renters do not differ substantially on some measures obviously connected to property values in contexts where information is readily available to buyers. For example, buyers can generally obtain information about school quality and parent involvement, yet owners do not appear to participate more than duration-matched tenants in school organizations and groups.<sup>182</sup> There are similar findings for participation in local political organizations.<sup>183</sup> Also, an investment interpretation of the data does not explain the strong role of residential stability in predicting civic contribution for both tenants and owners. Even if it were the case that investment motivation, either realized or failed, explained the variable pattern of homeowner effects, the pervasiveness of perception problems and information failures minimize the practical import of this theory. If investment motives fail to elicit broad swathes of civic behavior due to perceptual and informational deficits, investment stake cannot serve as a predominant, much less comprehensive, theory of local contribution.

#### V. HOMEOWNERSHIP AND POLICY: SOME THOUGHTS AND POTENTIAL IMPLICATIONS

The primary goal of this Essay has been to unseat assumptions about the breadth and intensity of homeownership effects and to expose fault lines in prevailing theories of homeownership. Taking an evidence-based, wide-angle view of the social benefits of homeownership reveals that, overall, the positive externalities from homeownership are more modest and particularized than much of the commentary suggests. Although not the focus of my paper, I raise some potential implications of my analysis for housing policy. The research on homeownership effects calls into question homeownership as a social strategy, suggests possibilities for targeting incentives to specific civic behaviors, and alleviates concerns about the civic effects of nontraditional ownership and alternatives to homeownership.

Of course, within a body of empirical research, there are inevitably gaps in the data and limitations to the state of the knowledge. We know, for example, that length of residence is important, but it is not clear whether this is due to preexisting dispositional differences of stable residents, growing attachments and ties to community, idiosyncratic exit costs underlying long-term tenure, or other factors. There are also gaps in the research with respect to possible differences for immigrant residents, any effects of debt to equity ratio on homeowner behavior, and the

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182. Rohe & Stegman, *supra* note 9, at 159–66.

183. *Id.*

comparative contribution to local citizenship from ownership versus other social forces or structures. Accordingly, policy implications are subject to revision with future research, and my consideration of the policy issues is often exploratory rather than prescriptive.

A. *Re-Thinking Ownership as a Social Strategy*

An important justification for the legal privileging of homeownership is that ownership creates more politically and civically engaged citizens who contribute to local communities (as well as national democracy).<sup>184</sup> This justification is presented in some instances as a tenet of sincere belief; in other cases, the civic virtues of homeownership are gloss applied to the self-interest of housing industry, banking, realty, and other special interests.<sup>185</sup> To the extent positive citizenship externalities and robust localism have justified homeownership subsidies, the empirical research calls into question both the rate and form of subsidy.<sup>186</sup>

Analysis of the empirical research reveals a more modest level of social benefit as well as gaps in ownership's capacity to produce local civic behavior. The pattern that emerges across multiple, large-sample size, well-controlled studies is that homeownership increases voting, property upkeep, and some forms of local investment, but has no or modest effects on neighboring, socializing, working to solve a local problem, or participating in voluntary or local organizations (with the exception of neighborhood and block groups). The finding that in most instances length of residence, rather than homeownership, drives citizenship effects suggests that the true civic value of housing policy may be the subsidization of housing forms that constrain exit and promote stability.<sup>187</sup> Notably, the belief in the intrinsic civic value of ownership has masked the mediating role of residential stability and forestalled honest

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184. See Glaeser & Shapiro, *supra* note 16, at 48 (“The efficiency arguments for subsidizing either the level of housing consumption or homeownership rely on the existence of externalities.”). Citizen-making is not the only positive societal externality attributed to homeownership, but it has been a dominant one, both in the present and historically. See Rohe & Stegman, *supra* note 9, at 153 (describing “variety of claims . . . about the benefit of homeownership over rental occupancy”).

185. See Stern, *Residential Protectionism*, *supra* note 19, at 1105.

186. Even with diminished subsidies, a large share of the population will purchase homes based on “taste for single family housing” and need for highly stable housing and schooling. See, e.g., Glaeser & Shapiro, *supra* note 16, at 43, 80 (noting “homeownership depends to a considerable degree on taste for structure” and concluding from their analysis “the home mortgage interest deduction doesn’t have much to do with the homeownership rate”).

187. It is not clear whether the civic benefits of residential stability operate through deeper social ties, strong consumption interests, increasing equity investment in real estate either through increased principal or investment in below-market rent, or another, “omitted variable” such as correlations between civic behavior producing personality traits and residential stability.

discussion of when (or whether) law should constrain or disincentivize exit.

Moreover, the social benefits of homeownership (i.e., increased voting, investment in certain types of local amenities, and participation in neighborhood and block organizations) are the dividends of *stable* homeownership.<sup>188</sup> The citizenship virtue of homeownership is, at best, a theory for good economic times. Any reliance on ownership as a social strategy founders during economic shocks and housing downturns.<sup>189</sup> Struggling owners are not focused on local investment or social contribution but rather upon the immediate stressor of potential residential dislocation; in light of looming short sales or foreclosures, they lack investment motivation entirely. As a result, the contributions of financially stressed homeowners, even in areas of traditional homeowner advantage such as private upkeep and voting, are likely well below the contributions of stable tenants and landlords.<sup>190</sup> Ironically, in the current foreclosure crisis, the vision of the social benefits of an “ownership society” encouraged presidential initiatives that sanctioned, and by some

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188. Cf. Fennell & Roin, *supra* note 8, at 147–51 (describing social harms from foreclosure clusters and “understaked” homeowners).

189. See, e.g., Joshua Rosner, *Cleaning House: Too Many People Own Homes*, *The New Republic*, May 7, 2008, at 12, 12 (“Home owners now have less equity in their properties, and, as a result, the social benefits of home ownership have decreased; their ties to their communities have been weakened.”).

190. Current federal policy disproportionately directs foreclosure relief to individuals who meet certain financial requirements rather than to communities at risk of tipping into social and economic decline or foreclosure spirals. For example, while the Obama foreclosure relief plan pledges \$75 billion in funding to programs that enable individuals to refinance or modify mortgages, only a little over \$2 billion has been devoted to programs that spatially target foreclosure relief to neighborhoods, or more recently, states experiencing foreclosure spirals or at high risk of such decline. Source Watch, *Home Affordable Modification Program*, at [http://www.sourcewatch.org/index.php?title=Home\\_Affordable\\_Modification\\_Program](http://www.sourcewatch.org/index.php?title=Home_Affordable_Modification_Program) (on file with the *Columbia Law Review*) (last visited Jan. 29, 2011). Compare U.S. Dep’t of Treasury, *Making Home Affordable*, at <http://www.treasury.gov/initiatives/financial-stability/housing-programs/mha/Pages/default.aspx> (last visited Feb. 17, 2010) (on file with the *Columbia Law Review*) (describing Making Home Affordable program that enabled more than eight million homeowners to “refinanc[e] their mortgage to more affordable levels”) with U.S. Dep’t of Treasury, *Hardest Hit Fund*, at <http://www.treasury.gov/initiatives/financial-stability/housing-programs/hhf/Pages/default.aspx> (last visited Feb. 17, 2010) (on file with the *Columbia Law Review*) (listing “targeted aid to families in states hit hard by the economic and housing market downturn”). The first and second federal “Hardest Hit Funds” provided federal money to five states with a 20% or greater housing decline (Arizona, California, Florida, Michigan, and Nevada) and the five states with high areas of concentrated unemployment (Rhode Island, South Carolina, North Carolina, Oregon, and Ohio). Press Release, U.S. Dep’t of Treasury, *Administrations Announces Second Round of Assistance for Hardest-Hit Housing Markets* (Mar. 29, 2010), available at <http://www.treasury.gov/press-center/press-releases/Pages/tg618.aspx> (on file with the *Columbia Law Review*).

accounts affirmatively promoted, lax mortgage underwriting.<sup>191</sup> In addition, subsidizing mortgage debt through interest deductions motivated buyers to overleverage themselves (because, subject to some tax limitations, greater debt produces a higher deduction) and increased their vulnerability to housing downturns.<sup>192</sup>

The civic value of subsidizing homeownership is also called starkly into question by the effect of subsidies on housing consumption. While the popular narrative of subsidies assumes their primary effect is to increase homeownership, the reality is that many government incentives affect the amount of house consumed rather than the homeownership rate.<sup>193</sup> Buying a bigger house makes little difference to local civic contribution or the homevoter dynamic if the increased capital investment is funded by public subsidy (the potential exception would be if tax subsidies enabled low-income owners to buy and maintain homes in higher quality, lower risk neighborhoods but there is evidence that this is not the case).<sup>194</sup> If the subsidy encourages buyers to spend more of their personal funds in excess of the subsidy benefit, there is still a question of whether an inflated ownership stake (or, more accurately, mortgage balance) increases social contribution and local investment. We lack information about whether inflated spending is likely, for example, to shift owners from efficient investors to hyperprotective NIMBYs (“not in my backyard”).<sup>195</sup>

A barrage of recent literature critiques other individual and social

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191. See Stan J. Leibowitz, *Anatomy of a Train Wreck: Causes of the Mortgage Meltdown*, in *Housing America: Building Out of a Crisis* 287, 292–98 (Randall G. Holcombe & Benjamin Powell eds., 2009) (describing how government policy encouraged lax underwriting). But see Gary B. Gorton, *The Panic of 2007*, at 74–76 (Yale Sch. of Mgmt. & Nat’l Bureau of Econ. Research, Working Paper No. 08-24, 2008), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1255362](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1255362) (on file with the *Columbia Law Review*) (arguing information loss due to complexity of mortgage products and declining home values, not underwriting standards, were primary causes of mortgage meltdown).

192. See Edward L. Glaeser, *Killing (or Maiming) a Sacred Cow: Home Mortgage Deductions*, *Economix*, Feb. 24, 2009, at <http://economix.blogs.nytimes.com/2009/02/24/killing-or-maiming-a-sacred-cow-home-mortgage-deductions/> (describing how subsidizing interests payments encourages people to leverage themselves to the hilt so price swings can easily wipe people out and proposing current one million dollar cap on qualifying loans be reduced over seven years to \$300,000).

193. With respect to the home mortgage interest deduction, Ed Glaeser describes how the primary effect of the subsidy is to increase the size and cost of the home purchase for middle- and upper-income citizens who were likely to purchase anyway. Glaeser & Shapiro, *supra* note 16, at 40.

194. See *id.* at 50 (describing how home mortgage tax deduction primarily benefits middle and upper income taxpayers who itemize deductions).

195. Anecdotally, Fischel suggests that new buyers with greater debt and less accumulated wealth in the house are particularly sensitive to investment dynamics. See Fischel, *supra* note 4, at 12 (noting “the size of the down payment and the newly acquired mortgage make new homeowners especially watchful of local activity”).

justifications for governmental promotion of homeownership and similarly concludes that we are not at the optimal rate of subsidy.<sup>196</sup> Given the abundance of recent attention, I don't wish to belabor the subsidy point. But, it is worth noting that the positive civic externalities do not seem to outweigh the sizeable aggregated costs from the federal home interest mortgage deduction<sup>197</sup> and capital gains exclusion for qualifying sales of primary residences,<sup>198</sup> the non-taxation of imputed rent, foreclosure relief such as the Obama Administration's Making Home Affordable program,<sup>199</sup> state and federal homebuying assistance,<sup>200</sup> and home-protective common law and state statutory creditor protections.<sup>201</sup> Moreover, reducing tax deductions and other subsidies will modestly decrease, not devastate, the homeownership rate because of the strong preference for single-family structures (and the predominance of such housing in sale rather than rental markets) and the ability of many households to reshuffle their portfolios and finance homebuying with

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196. Ed Glaeser, Paul Krugman, and other economists have been at the forefront of critiques of government intervention. See, e.g., Glaeser & Shapiro, *supra* note 16, at 58 (arguing while there are positive externalities from homeownership, "the home mortgage interest deduction may create negative effects by disproportionately encouraging spending on housing among the wealthy, and not among the poor"); Paul Krugman, Op-Ed, Home Not-So-Sweet Home, *N.Y. Times*, June 23, 2008, at A21 (suggesting government "drop the obsession with ownership, and try to level the playing field that . . . is hugely tilted against renting").

197. For some consumption subsidies, such as the home mortgage interest deduction, national savings will be less than current tax "expenditures" to fund the deduction because many homebuyers will reshuffle their portfolios so that they reduce investments elsewhere in favor of more equity and less debt in their primary residence, buy less expensive houses, or rent. See James R. Follain & Lisa Sturman Melamed, The False Messiah of Tax Policy: What Elimination of the Home Mortgage Interest Deduction Promises and a Careful Look at What it Delivers, 9 *J. Housing Res.* 179, 194 tbl.7, 195 (1998) (analyzing effect of eliminating home mortgage interest deduction and finding reduction in mortgage debt demand). Nonetheless, there is still significant savings, not only from reducing the home mortgage interest deduction but also from the panoply of subsidies and protections—savings which could be employed in more direct and targeted efforts to incentivize localism and local citizenship behavior.

198. I.R.C. §§ 163(h), 121(a) (2006).

199. Affordable Housing Programs Amendments: Federal Home Loan Bank Refinancing Authority, 75 *Fed. Reg.* 29,877 (May 28, 2010) (to be codified at 12 C.F.R. § 1291); U.S. Dep't of Hous. & Urban Dev. & U.S. Dep't of Treasury, Making Home Affordable: Act Now to Get the Help you Need 1-5 (2010), available at <http://www.makinghomeaffordable.gov/programs/Documents/MHA%20Brochure.pdf> (on file with the *Columbia Law Review*) (describing various homeowner relief programs).

200. There are a variety of affordable and low-income homebuying assistance programs. For a review, see Collins, *supra* note 13, at 69, 85-90 (reviewing federal policies and grants to states).

201. See, e.g., Homestead Exemption Act of 1981, Ark. Code Ann. § 16-66-210 (2005) (exempting homesteads from various liabilities); Mass. Gen. Laws ch. 188, § 1 (LexisNexis Supp. 2010) (same). For debtors filing bankruptcy, federal law limits the exemption to \$125,000 for debtors who acquired property during "the 1215-day period preceding the date of the [bankruptcy filing]." See 11 U.S.C. § 522(p) (2006).

greater equity.<sup>202</sup>

Admittedly, this Essay has focused on local civic effects and has not considered every positive externality of homeownership. However, some of the other common justifications for privileging homeownership also appear modest in impact, or even weak or inconsistent. For example, one frequently cited justification for homeownership is its role in wealth accumulation, primarily as a forced-savings device.<sup>203</sup> However, recent data reveals remarkably modest wealth accumulation and a growing trend toward debt accumulation through loan products that allow owners to extract home equity.<sup>204</sup> Another issue is the effect of homeownership on crime. The evidence here is mixed. There is data indicating that high homeownership rates reduce crime, though far less than factors such as reducing female-headed households.<sup>205</sup> Other studies have found an uneven pattern of homeownership effects with ownership rate reducing the incidence of some crimes, specifically non-sexual violent assault, but not the incidence of crimes such as robbery or rape.<sup>206</sup> On the whole, it seems unlikely that the benefits of personal savings or crime-prevention justify the current level of global homeownership subsidies and protections, particularly if direct, targeted subsidization or other initiatives can yield the same benefits with fewer public dollars.

#### *B. Subsidizing Citizenship: Targeting Incentives to Civic Behavior*

Incentivizing specific behaviors may be more effective than attempting to indirectly induce citizenship through homeownership.<sup>207</sup>

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202. See Follain & Melamed, *supra* note 197, at 194 tbl.7, 195 (describing how portfolio reshuffling lessens both individual impact of and national savings from reducing mortgage interest deduction); Glaeser & Shapiro, *supra* note 16, at 43 (concluding “homeownership depends to a considerable degree on taste for structure”).

203. See Ron Lieber, *In Defense of Homeownership*, N.Y. Times, Aug. 28, 2010, at B1 (noting that, compared to renters, homeowners benefit from forced savings inherent to many residential mortgage products).

204. See Dickerson, *supra* note 1, at 196–97 (describing loan products that enabled consumers to provide minimal or no down payment and to extract home equity to pay down consumer debt, make home improvements, or for other purchases).

205. Edward L. Glaeser & Bruce Sacerdote, *Why Is There More Crime in Cities?*, 107 J. Pol. Econ. S225, S228 (1999) (“In the cross-city UCR data, the most important variable is the percentage of female-headed households in the city.”). Other studies have found that homeownership maintains a significant relationship to crime, but loses some of its explanatory power when community-level variables are included in regressions. Richard D. Alba et al., *Living with Crime: The Implications of Racial/Ethnic Differences in Suburban Location*, 73 Soc. Forces 395, 417–25 (1994) (concluding homeownership predicts crime levels in individual communities, but cannot explain why various groups, in particular blacks, suffer differing exposure to crime).

206. Robert D. Dietz & Donald R. Haurin, *The Social and Private Micro-Level Consequences of Homeownership*, 54 J. of Urb. Econ. 401, 430 (2003).

207. Directly subsidizing positive externalities also has the advantage of “diversifying” social strategy to attenuate, to a degree, the community impacts of housing downturns. Of

Economist Harvey Rosen observes that federal housing subsidies are inefficient because they attach bluntly to ownership rather than to externality-producing behaviors or social benefits.<sup>208</sup> In part because the national (and legal) discussion has not particularized the effect of homeownership to individual civic behaviors, there has been limited attention to the project of targeting subsidies.

The empirical research points to an array of “ownership virtues” that can be produced via direct subsidy or nonmonetary incentives rather than exclusively through ownership subsidy. To counteract low or declining homeownership rates, for example, subsidies and interventions can target the primary benefits of homeownership—voting, private upkeep, and certain kinds of local amenity investment. In this vein, Ed Glaeser notes that one of the strongest benefits of homeownership is gardening and that directly funding community “beautification” could produce that benefit absent a subsidy to homeownership.<sup>209</sup> Alternatively, tax deductions or other tax benefits for maintenance or value-enhancing modifications, either instead of, or in addition to, the home mortgage interest deduction may increase upkeep (and property values). Subsidies and other initiatives can also target social-capital enhancing behaviors and other actions that homeownership, or at least short-term homeownership, fails to produce, such as participation in community organizations. Another variant of the targeting approach is to apply subsidies narrowly to populations likely to capture the benefits of homeownership or produce desired externalities.<sup>210</sup>

In addition to monetary subsidies, targeted initiatives, community group and nonprofit involvement, political mechanisms, and public awareness campaigns can also produce specific local civic behaviors. For example, increasing the density of local nonprofit and advocacy groups can ameliorate local social capital loss from diminished

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course, this would not remedy all of the negative effects of foreclosure clusters and downward spirals in local property values. But, smaller subsidies would encourage more modest and thus less risky amounts of housing consumption.

208. See Rosen, *supra* note 15, at 378 (“It is pretty certain that the federal subsidies for owner-occupied housing, which in effect lower the cost of housing in general, are inefficient.”).

209. DiPasquale & Glaeser, *supra* note 5, at 362 tbl.1, 365 (finding strong correlation between homeownership and gardening and suggesting it represents investment in local amenity).

210. For example, Don Haurin has suggested targeting subsidies at renter households with young children in order to produce better behavioral and cognitive child outcomes. Donald R. Haurin et al., *Does Homeownership Affect Child Outcomes?*, 30 *Real Est. Econ.* 635, 660 (2002). Targeting should not be employed, however, to discriminatorily target middle-income and predominantly white homebuyers based on evidence that they contribute more to local public goods and social capital—but, arguably, that is precisely what current tax subsidies do.

homeownership.<sup>211</sup> Targeted incentives can be combined to address multiple barriers to behavior change: To the extent multiple motivations and forces affect local civic behavior, problems may require tailored approaches layering legal or structural changes, monetary subsidy (or lack of subsidy), and education.<sup>212</sup> Local voting and political participation offer an example. Adaptive political mechanisms, such as voter initiatives and ward voting, can increase political participation and efficacy in the absence of homevoter dynamics.<sup>213</sup> Streamlining voter registration may increase voting by nonowners who have higher transaction costs associated with voting because they move more frequently.<sup>214</sup> Increasing public awareness that residency requirements for voting are generally thirty days or less may also increase tenant voting.<sup>215</sup> It may be that a portion of the renter-tenant disparity is due to tenants inaccurately believing that only resident-owners may vote or that lengthy residency requirements prevent them from voting. To the extent cultural sentiments linking ownership to voting are obstacles, social norms campaigns, such as those being initiated by the Saguaro Seminar, may effectively reframe the importance of all residents participating in local politics (and reducing global homeownership subsidies may in itself suggest greater social parity and alter tenants' views of their social standing and local voting obligations).<sup>216</sup>

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211. Robert J. Sampson et al., *Civil Society Reconsidered: The Durable Nature and Community Structure of Collective Civic Action*, 111 *Am. J. Soc.* 673, 679–80, 697–98 (2005) (finding density of nonprofit organizations increases collective action and social capital).

212. For example, let us assume the goal is to increase owners and tenant participation in voluntary and local organizations. In combination, greater funding to increase the number of non-profits, structural initiatives to increase the convenience of participation (such as funding pilot projects for internet or online participation), and greater subsidies for personal costs associated with volunteering address different barriers to participation more effectively than a global homeownership subsidy.

213. See Fischel, *supra* note 4, at 92–94 (describing how laws enabling easy access to information about political process, voter initiatives, and ward voting make cities more responsive to “resident shareholders”); Kristopher S. Gerardi & Paul S. Willen, *Subprime Mortgages, Foreclosures, and Urban Neighborhoods* 8 (Fed. Reserve Bank of Bos., Public Policy Discussion Paper No. 08-6, 2008), available at <http://www.hks.harvard.edu/m-rcbg/Events/Papers/Willen,%20Subprime%20Mortgages.pdf> (on file with the *Columbia Law Review*) (describing how negative externalities, particularly in poor, urban neighborhoods, arise “during a housing downturn, when clusters of vacant, neglected properties develop from widespread foreclosures”).

214. See Dreier, *supra* note 80 at 10, 10–11 (discussing barriers to tenant voting and proposing reform of complex, burdensome voter registration laws).

215. See *Dunn v. Blumstein*, 405 U.S. 330, 358–60 (1972) (requiring “durational residency requirements . . . to further a compelling state interest”). In the wake of *Dunn v. Blumstein*, states changed their voting residency requirements to thirty days or less. See *Residency Requirements for Voting*, available at <http://www.infoplease.com/ipa/A0781452.html> (surveying state laws).

216. See *supra* note 181 and accompanying text (discussing Saguaro Seminar).

The overriding importance of length of residence to most civic behaviors raises the question of whether government should subsidize or otherwise incentivize residential stability. Although typically not discussed in these terms, government subsidies for homeownership indirectly incentivize residential stability by subsidizing a property form that increases the costs of exit. As scholars have recognized, disincentives to exit are problematic because they limit preference-satisfaction, life-cycle changes, and labor-market mobility.<sup>217</sup> There may be countervailing concerns that justify the use of exit constraints (e.g., communities in extreme distress due to high turnover), but presumably the justification should be quite strong to outweigh the costs of distorting mobility choices. A more productive path may be to refine proposals for nontraditional ownership that grant owner-occupants unilateral control over mobility decisions (subject to debt obligations). In addition, land use regulations that facilitate building alterations due to changing life cycle needs, cohousing, and renting out rooms and other cost-savings measures may increase the ability of occupants to exercise preferences for stability.<sup>218</sup>

The political barriers to decreasing global homeownership subsidies and directing greater funding to targeted incentives are substantial, but not insurmountable. Tax reforms, such as income phaseouts for deductions and the Alternative Minimum Tax, have been circumspectly eroding the value of homeownership deductions for middle- and upper-income taxpayers for several years.<sup>219</sup> And now the housing crisis has created an unusual political moment where citizens, government, advocacy groups, and scholars are reevaluating homeownership's privileged position with greater openness toward reform.<sup>220</sup>

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217. See, e.g., Fennell & Roin, *supra* note 8, at 164–65 (describing housing distortions from rent control).

218. Land use regulations that limit building alterations, handicapped accessibility, cohabitation, or renting out rooms may make it difficult even for owners to age in place; removing or limiting these restrictions enables people to exercise preferences for residential stability.

219. See Internal Revenue Serv., Topic 556—Alternative Minimum Tax, at <http://www.irs.gov/taxtopics/tc556.html> (on file with the *Columbia Law Review*) (last updated Mar. 15, 2011) (explaining how Alternative Minimum Tax “attempts to ensure that anyone who benefits” from deductions and credits nonetheless “pays at least a minimum amount of tax”).

220. For a discussion of the recent mortgage meltdown as a “property moment” enabling reevaluation of property norms, see Nestor M. Davidson & Rashmi Dyal-Chand, Property in Crisis, 78 *Fordham L. Rev.* 1607, 1636–59 (2010) (reconsidering property rights through prism of foreclosure crisis).

C. *Envisioning a World with Less (Traditional) Homeownership:  
Alternatives to Ownership and Nontraditional Ownership Forms*

Recently, there has been increasing scholarly attention to alternatives to ownership and nontraditional ownership forms.<sup>221</sup> Yet the vision of homeownership's social benefits, coupled with generous subsidies, has made the development of alternative tenure forms, risk-sharing arrangements, and more sophisticated long-term renting a distant political priority. The concern, expressed in both academic and political commentary, is that ownership forms that lessen investment stake or only partially confer the social status of homeowner will reduce local civic participation and contribution.<sup>222</sup>

Nontraditional forms of ownership include shared equity mortgages that enable coinvestment and equity financing,<sup>223</sup> land trusts that grant the owner title to the residence but retain title to the land and limit profit on resale,<sup>224</sup> limited equity cooperatives that enable owners to buy shares in what is typically a nonprofit housing corporation and impose limitations on resale profit,<sup>225</sup> and proposed ownership forms that separate occupancy and investment interests.<sup>226</sup> There have also been pilot experiments that offer public insurance against housing price decline.<sup>227</sup> With respect to alternatives to homeownership, the major

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221. See, e.g., Andrew Caplin et al., *Fannie Mae Found., Shared-Equity Mortgages, Housing Affordability, and Homeownership* 17–22 (2007), available at <http://cess.nyu.edu/caplin/SEM2007.pdf> [hereinafter Caplin et al., *Shared-Equity Mortgages*] (on file with the *Columbia Law Review*) (describing shared equity mortgages); Fennell, *Unbounded Home*, supra note 136, at 197–205 (proposing new homeownership form that separates possession and occupancy from investment risk); J. Peter Byrne & Michael Diamond, *Affordable Housing, Land Tenure, and Urban Policy: The Matrix Revealed*, 34 *Fordham Urb. L.J.* 527, 548–49 (2007) (discussing limited equity cooperative).

222. See, e.g., Fennell, *Unbounded Home*, supra note 136, at 178–95 (addressing these concerns with respect to author's proposed form of homeownership separating investment risk from possessory and consumption rights); Fischel, supra note 4, at 4–18 (hypothesizing homeowners drive efficient and socially beneficial provision of amenities at local suburban level); Vale, supra note 3, at 17–25 (reviewing commentary describing social pitfalls of tenancy).

223. See Caplin et al., *Shared-Equity Mortgages*, supra note 221, at 5 (considering role of shared equity mortgages in achieving affordable housing goals).

224. See Jennifer Cohoon McStotts, *Dwelling Together: Using Cooperative Housing to Abate the Affordable Housing Shortage in Canada and the United States*, 32 *Ga. J. Int'l & Comp. L.* 131, 149 (2004) (noting land trust initiatives are public initiatives similar to nonstandard mortgage products in private sector that blur line between owning and renting).

225. See Byrne & Diamond, supra note 221, at 548–49 (describing legal structure of limited equity cooperative ownership and governance).

226. See Fennell, *Unbounded Home*, supra note 136, at 197–205 (proposing investment interests keyed to resale as well as carving homeownership into dual interests in occupying and improving).

227. See Andrew Caplin et al., *Home Equity Insurance: A Pilot Project 2–5* (Yale Int'l Ctr. for Fin., Working Paper No. 03-12, 2003), available at

alternative is renting or variants on renting, such as more sophisticated and flexible long-term rental contracts and options arrangements.<sup>228</sup> Long-term contracting is common in commercial real estate and could be imported at a lower level of complexity to the residential market, perhaps through default forms with certain provisions for renewal options.<sup>229</sup>

A close look at not just the effect but also the *effect size* of homeownership gains (in domains where such gains accrue) weakens objections to nontraditional ownership on the basis of civic benefits. The modest and uneven pattern of citizenship effects reported in the research indicates that localism and citizenship concerns generally should not hamper the evolution of new tenure forms and alternatives to traditional ownership. This is particularly true in light of the availability of direct subsidies and legal and institutional substitutes for homeownership effects.<sup>230</sup>

Alternatives to ownership are unlikely to hinder most local citizenship activity unless these forms substantially decrease residential stability. Nontraditional ownership forms and alternatives to homeownership that increase residential duration relative to typical residential leasing capture most of the benefits of homeownership, which operate primarily through length of residence or personal traits correlated with stability (though if the effect is due entirely to personal traits the availability of long-term alternative forms will shift the distribution of these personality types across housing forms rather than increase net civic contribution).<sup>231</sup> For example, Lee Anne Fennell's proposed tenure form separating interests in housing consumption and on-site risk (allocated to the resident) from resale risk and off-site risk (allocated to an

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[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=410141](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=410141) (on file with the *Columbia Law Review*) (outlining "the process by which the broad idea of house price insurance . . . has evolved into a product that is currently available for purchase in the city of Syracuse, New York").

228. There has been a proposal in the legal literature for modified versions of rent control with slightly longer lease options of one to five years. See Arlo Chase, *Rethinking the Homeownership Society: Rental Stability Alternative*, 18 *J.L. & Pol'y* 61, 95–99 (2009) (discussing advantages of longer lease terms). There have also been proposals for options contracts for tenants. See Robert I. Lerman & Signe-Mary McKernan, *Urban Inst., Promoting Neighborhood Improvement While Protecting Low-Income Families 2* (2007), available at [http://www.urban.org/UploadedPDF/311457\\_Promoting\\_Neighborhood.pdf](http://www.urban.org/UploadedPDF/311457_Promoting_Neighborhood.pdf) (on file with the *Columbia Law Review*) (discussing options for tenants based on area rents).

229. See Stern, *Residential Protectionism*, *supra* note 19, at 1129 (discussing application of aspects of commercial leases to residential leases in order to provide longer terms and renewal options).

230. See *supra* Part V.B (discussing options for increasing civic benefits by targeting subsidies and legal reforms to specific citizenship behaviors).

231. See DiPasquale & Glaeser, *supra* note 5, at 356 (finding in half of their measures more than 50% of effect of homeownership operates through length of residence in community).

investing entity) capitalizes on duration effects.<sup>232</sup> The resident-owner, unlike a tenant subject to a lease and landlord, elects when to leave, and the resident-owner also has the ability to modify housing with life or family changes.<sup>233</sup> With respect to renting, in their present incarnations residential leases typically do not secure long-term tenancies for tenants who desire them. However, greater use of flexible, long-term contracting, including options to renew held by the tenant and even build-out provisions, has the potential to substantially increase tenant longevity.

### CONCLUSION

The “citizen virtues” of ownership are cherished tenets of belief. Yet a closer examination of the research reveals a modest, and in many respects quite weak, pattern of citizenship effects. The research findings call into question the prevailing theoretical accounts of homeownership’s citizen virtues as well as the forceful government promotion of traditional homeownership. The seeming puzzle of disparate ownership effects illuminates potential psychological, historical, social, and economic influences underlying citizenship behavior. A particularized, behavior-specific account of homeownership effects addresses, and dissipates, many of the citizenship and localism concerns that have impeded proposals for housing policy reform and nontraditional ownership.

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232. See Fennell, *Unbounded Home*, *supra* note 136, at 197–205 (describing proposed new ownership form).

233. *Id.*